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DIGITAL MILLENNIUM COPYRIGHT ACT—CONFERENCE REPORT

Mr. HATCH. Mr. President, I submit a report of the committee of conference on the bill (H.R. 2281) amend title 17, United States Code, to implement the World Intellectual Property Organization Copyright Treaty and Performance and Phonograms Treaty, and for other purposes, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2281), have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 8, 1998.)

Mr. KOHL. Mr. President, I rise to express my support for the Conference Report on the Digital Millennium Copyright Act (H.R. 2281). In my view, we need this measure to stop an epidemic of illegal copying of protected works—such as movies, books, musical recordings, and software—and to limit, in a balanced and thoughtful way, the infringement liability of online service providers. The copyright industry is one of our most thriving businesses. But we still lose more than $15 billion each year due to foreign copyright piracy, according to some estimates.

And foreign piracy is just out of control. For example, one of my staffers investigating video piracy on a trip to China walked into a Hong Kong arcade and bought three bootlegged computer games—including ''Toy Story'' and ''NBA '97''—for just $10. These games, combined, normally sell for about $100. Indeed, the manager was so brazen about it, he even agreed to give out a receipt.

Illegal copying has been a longstanding concern to me. I introduced one of the precursors to this bill, the Motion Picture Anti-Piracy Act (in the 101st Congress), which in principle has been incorporated into this measure. And I was one of the cosponsors of the original proposed WIPO implementing legislation, the preliminary version of this proposal.

In my opinion, this bill achieves a fair balance by taking steps to effectively deter piracy, while still allowing fair use of protected materials. It is the product of intensive negotiations between all of the interested parties—including the copyright industry, telephone companies, libraries, universities and device manufacturers. And virtually every major concern raised during that process was addressed.

Unfortunately, however, the Conference dropped what I believe were crucial protections for databases. It is my understanding, though, that the Committee will be ''fast tracking'' consideration of database protection next Congress. I look forward to working with Chairman HATCH to move forward on this matter early next year.

In sum, Mr. President, I am confident that this bill will reduce piracy and strengthen one of our biggest export industries. It deserves our support and the President's signature.

Mr. ASHCROFT. Mr. President, I rise in support of the conference report on H.R. 2281, a bill to implement the World Intellectual Property Organization copyright treaties. I am pleased that the final product of the many months of negotiations has produced a bill of appropriate scope and balance, and reflects many of the priorities I established through the introduction of my own bill to implement the WIPO copyright treaties, to begin updating the Copyright Act for the digital era, and to address the potential problem of on-line servicer liability.

First, with respect to ''fair use,'' the conferees adopted an alternative to section 1201(a)(1) that would authorize the Librarian of Congress to selectively waive the prohibition against the act of circumvention to prevent a diminution in the availability to individual users (including institutions) of a particular category of copyrighted materials. As originally proposed by the Administration and adopted by the Senate, this section would have established a flat prohibition on the circumvention of technological protection measures to gain access to works for any purpose, and thus raised the specter of moving our Nation towards a ''pay-per-use'' society. Under the compromise embodied in the conference report, the Librarian of Congress would have authority to address the concerns of libraries, educational institutions, and other information consumers potentially threatened with a denial of access to categories of works in circumstances that otherwise would be lawful today. I trust that the Librarian of Congress will implement this provision in a way that will ensure information consumers may exercise their centuries-old fair use privilege to continue to gain access to copyrighted works.

Second, the conferees made an important contribution by clarifying the ''no mandate'' provision of the bill. Because the conference report is silent, I thought that I should explain this provision in some detail. As my colleagues may recall, I had been very concerned that S. 2037 could be interpreted as a mandate on product manufacturers to design products so as to affirmatively

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

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respond to or accommodate technological protection measures that copyright owners might use to deny access to or the copying of their works. To address this potential problem, I authored an amendment providing that nothing in the bill required that the design of, or design and selection of parts and components for, a consumer electronics, telecommunications, or computing product provide for a response to any particular technological protection measure. The amendment reflected my belief that product manufacturers should remain free to design and produce the best, most advanced consumer electronics, telecommunications, and computing products without the threat of incurring liability for their design decisions. Creative engineers—not risk-averse lawyers—should be principally responsible for product design. As important, the amendment reflected the working assumption of all of my colleagues that this bill is aimed fundamentally at so-called ''black boxes'' and not at legitimate products that have substantial noninfringing uses.

As my colleagues know, there had been some concern expressed that the ''so long as'' clause of section 1201(c)(3) made the provision appear to be circular in its logic. In other words, there was concern that the entire provision could be read to provide in essence that manufacturers were not under any design mandate to respond to technological measures, as long as they ''otherwise'' designed their devices to respond to existing technological measures. I never shared that perspective. To eliminate any uncertainty, the House Commerce Committee simply deleted the ''so long as'' clause. As I explained on the floor in September, that change merely confirmed my original conception of the amendment. Now that the conferees have adopted a provision requiring certain analog videocassette recorders to respond to certain existing analog protection measures, the ''so long as'' clause has a meaning that all should agree is logical: Manufacturers of consumer electronics, telecommunications, and computer products are not under a design mandate generally, but they are otherwise subject to a single, very limited, and carefully defined mandate to design certain analog videocassette recorders to respond to existing analog protection measures. Quite importantly from my perspective, this provision is limited so as not to impair the reasonable and accustomed home taping practices of consumers recognized in the Supreme Court's Betamax decision.

It thus should be about as clear as can be to a judge or jury that, unless otherwise specified, nothing in this legislation should be interpreted to limit manufacturers of legitimate products with substantial noninfringing uses—such as VCRs and personal computers—in making fundamental design decision or revisions, whether in selecting certain components over others or in choosing particular combinations of parts.

Third, I am pleased to see that the conferees have addressed the device ''playability'' problem. As I pointed out in my floor speech just prior to final passage of S. 2037, ''playability'' problems may arise at two levels. Technological measures may cause noticeable and recurring adverse effects on the normal operation of products, and thus adjustments may be necessary at the factory levels to ensure consumers get what they expect. In addition, adjustments to specific products may be necessary after sale to a consumer to maintain their normal, authorized functioning. Subsequently, I was pleased to see that the Commerce Committee's report explicitly reaffirmed my interpretation.

I also was pleased that the conferees shared my perspective on encouraging all interested parties to strive to work together through a consultative approach before new technological measures are introduced in the market. As the conferees pointed out, one of the benefits of such consultations is to allow the testing of proposed technologies to determine whether they create playability problems, and to have an opportunity to take steps to eliminate or substantially mitigate such adverse effects before new technologies are introduced. As the conferees recognized, however, persons may choose to implement a new technological measure (or copyright management information system) without vetting it through an inter-industry consultative process, or without regard to the input of the affected parties.

Whether introduced unilaterally or developed with the input of experts in the field, a new protection technology coming to market might materially degrade or otherwise cause recurring appreciable adverse effects on the authorized performance or display of works. Given the multiplicity of ways in which devices might be interconnected, some playability problems may not be foreseeable. I was thus pleased that the conference report unambiguously provides that manufacturers and persons servicing popular consumer electronics, telecommunications, or computing products who make product adjustments solely to mitigate a playability problem—whether or not taken in combination with other lawful product modifications—shall not be deemed to have violated either section 1201(a) or section 1201(b). Having heard directly from a major trade association representing professional servicers, I am pleased we could include such strong language so that they can go about their business without fear of facing crippling liability.

Fourth, the conferees adopted specific provisions making it clear that the bill is not intended to prohibit legitimate encryption research or security systems testing. As my colleagues know, Senators BURNS, LEAHY, and I have lead the effort in the Senate to ensure that U.S. business can develop and export world-class encryption products. by explicitly fashioning an affirmative encryption research defense, the conferees made an important contribution to our overall efforts to ensure that U.S. industry remains at the forefront in developing secure encryption methods. In addition, by including a security system testing amendment, the conferees have confirmed that professional consultants and other well-established, responsible corporate citizens can survey and test IT security systems for vulnerabilities.

Finally, the conferees built on my efforts to ensure that this legislation would not harm the efforts of consumers to protect their personal privacy by including two important amendments proposed by the House Commerce Committee. The first amendment would create incentives for website operators to disclose whenever they use technological measures that have the capability to gather personal data, and to give consumers a means of disabling them. The second amendment strengthened section 1202 of this legislation by making explicit that the term ''copyright management information'' does not include ''any personally identifying information about a user of a work or a copy, phonorecord, performance, or display of a work.'' In my view, these amendments will help preserve the critical balance that we must maintain between the interests of copyright owners and the privacy interests of information users.

We should all be gratified that so much has been done to appropriately calibrate the WIPO copyright treaties implementing legislation. Each of us, working alone, would undoubtedly have produced a different bill. But we have a good bill, perhaps one more balanced and limited in scope than might have been thought possible at times throughout the debate. I therefore urge my colleagues to vote in favor of the conference report.

Mr. THURMOND. Mr. President, I wish to express my strong support for the Conference Report to the Digital Millennium Copyright Act. As one of the conferees, I believe this bill represents a fair compromise between the House and Senate versions of this most significant legislation.

Intellectual property is an increasingly important part of the American economy. This bill recognizes the significance of our copyright laws as America and the world have become increasingly computerized. The Internet is rapidly changing our lives, and our copyright laws must keep pace.

This legislation implements the WIPO treaties to help protect the property rights of the creative community in our global environment. It also clarifies the liability of on-line and Internet service providers regarding their liability for copyright infringement and permits fair use of works. Together, these provisions do a great deal

to accommodate the interests of the owners of copyrighted works with those who use or facilitate the use of those works in the digital age.

A final title of the bill is the Vessel Hull Design Protection Act. Although it was not part of the Senate version of the legislation, it was accepted at conference. I share Senator HATCH's concerns about this controversial title. It contains not only industrial design protection, which itself has created controversy in the past because of its impact on consumers and others, but it protects functionality of vessel hulls in addition to aesthetic aspects. It is my understanding that functionality is protected from copying through patent, and this title is a significant departure from that principle, although for a specific narrow area.

Also, I wish to note that although data base protection is not included in this bill, I think it is important that we make every effort to address this significant issue next year.

In closing, I wish to thank the Chairman of the conference, Senator HATCH, and all of the other members of the conference for their cooperation in resolving this matter. I am very pleased with the outcome.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent the conference report be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the conference report be printed in the RECORD.

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

The conference report was agreed to.

Mr. HATCH. Mr. President, in the wining days of a Congress, so many important measures need attention that the significance of individual bills is often not appreciated. This is even more true for a bill that has copyright as its subject matter, such as the Digital Millennium Copyright Act, the conference report which passed the Senate today by unanimous consent. But the DMCA is one of the most important bills passed this session, as the distinguished majority leader stated yesterday.

''Digital Millennium'' may seem grandiose, but in fact it accurately describes the purpose of the bill—to set copyright law up to meet the promise and the challenge of the digital world in the new millennium. Digital ''world'' is appropriate here, because the Internet has made it possible for information—including valuable American copyrighted works—to flow around the globe in a matter of hours, and Internet end users can receive copies of movies, music, software, video games and literary and graphic works that are as good as the originals. Indeed, the initial impetus for the DMCA was the implementation of the World Intellectual Property Organization (WIPO) treaties on copyright and on performances and phonorecords.

The WIPO treaties and the DMCA will protect the property rights of Americans in their work as they move in the global, digital marketplace, and, by doing so, continue to encourage the creation of new works to inspire and delight us and to improve the quality of our lives.

In addition to securing copyright in the global, digital environment, the DMCA also clarifies the liability of online and Internet service providers—OSPs and ISPs—for copyright infringement liability. The OSPs and ISPs needed more certainty in this area in order to attract the substantial investments necessary to continue the expansion and upgrading of the Internet.

The final component of the DMCA is the Vessel Hull Design Protection, Act (VHDPA). This legislation was not part of the Senate-passed version of the DMCA; rather, it was accepted by the Senate conferees in deference to the House of Representatives. Although I support the idea of industrial design protection as a legal regime outside of patent law, I appreciate how controversial it is, and I think that the Senate should act circumspectly. Furthermore, I am concerned that this bill is not like traditional industrial design protection in that the VHDPA protects the functionality of vessel hulls, not only its aesthetic aspects.

But because the VHDPA is limited only to boat hulls, I felt that I could acquiesce in including it in the conference report as a limited experiment in design protection. In order to make it truly experimental, I suggested, and the conferees adopted, modifications that ''sunset'' the bill two years after enactment and that require two studies of its effect. Therefore, in the future, we will be able to re-evaluate the Act, and we will have the benefit of two studies—both of them conducted jointly by the Register of Copyrights and the Commissioner of Patents and Trademarks—to help us make the right decision.

In the nearer future—early in the next session—I intend to focus my attention on database protection legislation. The House bill on this issue, which was attached by the House to the WIPO implementation legislation, was a good start toward tackling the problem of database piracy. It was quite controversial, however, so I asked the parties to sit down with me to work out a compromise bill, so that disagreements on database protection would not jeopardize the DMCA. This effort resulted in a bill draft that attempted to accommodate the diverging interests. The scientific research community, in particular, favored my approach because it allayed many of their fears that recognizing a property right in databases would hamper scientific research.

Neither the House bill nor my proposal was accepted by the conferees, but I am determined to work on this issue in the next Congress. Indeed, I intend to introduce a bill based on my proposal, have a hearing on database protection, and move database legislation as quickly as possible. We need to encourage the substantial investment of money, time and labor that it takes to gather and organize information and at the same time address the reasonable concerns of information users. In our global, high tech era, information will be the coin of the realm, and I see database protection as the next step in moving the law into the digital millennium.

In closing, I would like to recognize the many people who brought this bill to a successful conclusion. First, I would like to thank my colleague, Senator PATRICK LEAHY, the distinguished ranking member of the Judiciary Committee, who was of invaluable assistance in getting this important piece of legislation passed. Two other distinguished colleagues, Senator STORM THURMOND and Senator JOHN ASHCROFT, participated in the refining process that made the DMCA a better bill.

Second, I want to thank the House conferees, especially Congressman HENRY HYDE, the distinguished chairman of the Judiciary Committee, Congressman HOWARD COBLE, the distinguished chairman of the Subcommittee on Courts and Intellectual Property, and Congressman TOM BLILEY, the distinguished chairman of the Commerce Committee for their willingness to consider the Senate's views objectively and dispassionately. They too wanted to get this done, and it was the spirit of cooperation on both sides that produced this admirable result.

Finally, I would like to acknowledge the hard work done by the Senate and House staffs. There were so many who worked on this bill that it would take a column of the CONGRESSIONAL RECORD to list them. But I would like to mention just a few. Manus Cooney, the staff director and chief counsel of the Senate Judiciary Committee, was the staff pilot for the DMCA. He was ably assisted by Edward Damich, Chief Intellectual Property Counsel of the Committee, and Staff Assistant Troy Dow. Senator THURMOND was ably assisted in the conference committee by his Judiciary Committee Counsel, Garry Malphus.

Bruce Cohen, Minority Chief Counsel and Staff Director of the Judiciary Committee, Beryl Howell, Minority General Counsel, and Marla Grossman, Minority Counsel, provided invaluable assistance on all levels. We had superb cooperation from the minority, and the DMCA is truly a bipartisan bill.

Turning to the House side, I want to express my appreciation for the contributions of Mitch Glazier, Chief Counsel of the Subcommittee on Courts and Intellectual Property, Debra Laman, Counsel of the Subcommittee, Robert Raben, Minority Counsel of the Subcommittee, Justin Lilley, General Counsel of the Commerce Committee, and Andrew Levin, Minority Counsel of that Committee.

Mr. President, this bill, the Digital Millennium Copyright Act, is one of the most important bills in this whole Congress. It has taken a tremendous amount of effort from all of us to be able to put this together. It is going to make a difference in so many ways—in the protection of copyrighted works, in digital communication and otherwise—throughout the world, that I feel very, very happy to be able to say that this is being enacted into law at this particular point.

I would like to state my agreement with certain important points that Senator LEAHY made in his remarks about Section 1201(k), ''Certain Analog Devices and Certain Technological Measures.'' The Senator emphasized that that section establishes requirements only for analog videocassette recorders, analog videocassette camcorders and professional analog videocassette recorders. It is also my understanding that the intent of the conferees is that these provisions apply only to analog video recording devices.

In addition, because innovation and technological development thrive in unregulated environments, this section should not be misconstrued as providing any impetus or precedent for regulating or otherwise dictating to the computer software industry technological standards. I agree fully with the assessment of the conferees that technology develops best and most rapidly in response to marketplace forces. For these reasons, this section applies to analog technologies only, and it is entirely without prejudice to digital technologies.

Let me just say that I am disappointed that we were not able to include database protection in this bill this year. There are so many people who would like to have that done, on the floor and in the business world and elsewhere, but we were unable to get it done because of objections and because of some dissent. But I would like to put everybody on notice that, shortly after we get back next year, I will file a database protection bill. I believe my colleague from Vermont will join me in this. That, hopefully, will be a bill that everybody can support, because it is absolutely critical that we get this done.

It will be one of the highest orders of priority that we will have on the Senate Judiciary Committee next year. It was one of the things that I feel disappointed we were unable to get done on this particular bill. It just could not be done at this time. I know there are people who are disappointed, but we will get it done next year—we will do everything we can to get it done, and I hope we can call upon industry and everyone else interested in this issue throughout the country to help us in this matter. I hope our colleagues will, because it is very, very important.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Vermont.

Mr. LEAHY. Mr. President, America's founders recognized and valued the creativity of this nation's citizens to such an extent that intellectual property rights are rooted in the Constitution. Article I, Section 8, Clause 8 of the Constitution states that

> The Congress shall have power . . . [t]o promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.

The Continental Congress proclaimed,

> Nothing is more properly a man's own than the fruit of his study.''

Protecting intellectual property rights is just as important today as it was when America was a fledgling nation.

It is for this reason I am pleased that the Senate has today passed the Conference Report on the Digital Millennium Copyright Act (DMCA), H.R. 2281.

Title I of the DMCA will implement the two World Intellectual Property Organization (WIPO) copyright treaties. These treaties will fortify intellectual property rights around the world and will help unleash the full potential of America's most creative industries, including the computer software, publishing, movie, recording and other copyrighted industries that are subject to online piracy. By insuring better protection of the creative works available online, the DMCA will also encourage the continued growth of the Internet and the global information infrastructure. It will encourage the ingenuity of the American people, and will send a powerful message to intellectual property pirates that we will not tolerate theft.

I should note that there are provisions in Title I that address certain technologies used to control copying of motion pictures in analog form on video cassette recorders which were not part of either the original Senate or House DMCA bills. These provisions establish certain requirements only for analog videocassette recorders, analog videocassette camcorders and professional analog videocassette recorders. It is my understanding that these provisions do not establish any obligations with respect to digital technologies, including computers or software.

It is also my understanding that the intent of the conferees is that these provisions neither establish, nor should be interpreted as establishing, a precedent for Congress to legislate specific standards or specific technologies to be used as technological protection measures, particularly with respect to computers and software. Generally, Congress should not establish technology specific rules; technology develops best and most rapidly in response to marketplace forces.

Title II of the DMCA will limit the infringement liability of online service providers. This title is intended to preserve incentives for online service providers and copyright owners to cooperate to detect and address copyright infringements that occur in the digital networked environment.

Title III will provide a minor, yet important, clarification in section 117 of the Copyright Act to ensure that the lawful owner or lessee of a computer machine may authorize an independent service provider, a person unaffiliated with either the owner or lessee of the machine, to activate the machine for the sole purpose of servicing its hardware components.

Title IV will begin to update our nation's copyright laws with respect to library, archives, and educational uses of copyrighted works in a digital environment. It includes provisions relating to the Commissioner of Patents and Trademarks and the Register of Copyrights, and clarifies the role of the Copyright Office. It also addresses the assumption of contractual obligations related to the transfer of rights in motion pictures. Finally, this title creates a fair and efficient licensing mechanism to address the complex issues facing copyright owners and users of copyrighted materials as a result of the rapid growth of digital audio services.

Title V, the ''Vessel Hull Design Protection Act,'' creates a new form of sui generis intellectual property protection for vessel hull designs. By adoption of this title, however, the Conferees wisely took no position on the advisability or propriety of adopting broader design protection for other useful articles. Indeed, when broad industrial design legislation was considered by the Congress in the late 1980s and early 1990s, a number of legitimate concerns were raised about the effects such legislation would have, particularly on the cost of auto repairs. Establishing narrow protection for vessel hulls in the conference report should not be interpreted as signaling support, or setting a precedent, for broader design protection that could negatively affect the ability of consumers to obtain economical, quality auto repairs.

The Senate today is passing a balanced and important package. Certain issues that the House had included in the version it passed on August 4, 1998, were eliminated to allow consideration of the rest of the package in a timely manner.

One of the issues dropped was that of database protection. Title V of the House passed DMCA bill created a new federal prohibition against the misappropriation of databases that are the product of substantial investment, with both civil remedies and criminal penalties. The argument for enhanced database protection is that legal rulings and technological developments have eroded protections against database theft. Companies may be able to copy significant portions of established databases and sell them, avoiding the substantial cost of creating and verifying the databases themselves. I appreciate that the threat to U.S. databases has been magnified because database protection laws recently implemented in European Union countries will not be available to U.S. publishers unless comparable legislation is enacted in the U.S.

I have therefore been and continue to be supportive of legislation to provide database producers with adequate protection from database piracy.

I am also sensitive, however, to the concerns about the House-passed database bill that were raised by the Administration, the libraries, certain educational institutions, and the scientific community. The Department of Justice, in a memorandum dated July 28, 1998, concluded that the House passed database bill, H.R. 2652, which was later incorporated in Title V of the House DMCA, raised difficult and novel constitutional questions.

The Department of Commerce has also advised me that while the Administration supports legal protection against commercial misappropriation of collections of information, the Administration has a number of concerns with H.R. 2652, including that the Constitution imposes significant constraints upon Congress' power to enact legislation of this sort.

Just this week, the Department of Commerce told me in a letter that:

> Given the critical importance of implementing the WIPO treaties, and the short time remaining in the Session, we urge the Conferees to focus on issues germane to these treaties, rather than unrelated matters.

Although there was not enough time before the end of this Congress to give this important issue due consideration, it is my hope that the Senate Judiciary Committee will promptly commence hearings on the issue and move expeditiously to enact further legislation on the matter at the beginning of the 106th Congress. The work that the Committee did this year on the issue should be viewed as a beginning, and we are committed to making more progress as quickly as possible.

The legislation that the Senate passed today is the culmination of several years' work, both domestically and internationally, to ensure that the appropriate copyright protections are in place around the world to foster the enormous growth of the Internet and other digital computer networks.

Much of the credit for this legislation is due to the hard work and dedication of the Chairman of the Senate Judiciary Committee, Senator HATCH. This is another example of when we work together, we get good things done. It was also a pleasure to serve on the Conference with Senator THURMOND, former Chairman the Senate Judiciary Committee and a force in his own right.

The Chairman and Ranking Member of the House Judiciary Committee—Chairman HYDE and Congressman CONYERS—and the Chairman and Ranking Member of the Subcommittee on Courts and Intellectual Property—Chairman COBLE and Congressman FRANK—deserve particular recognition and praise for their fine work. Although Congressman FRANK was not on the Conference Committee, his tremendous efforts on behalf of the WIPO implementing language as well as on the other matters in the DMCA are very much appreciated. Congressman GOODLATTE and BERMAN also contributed considerable time and talent to the benefit of all who participated in the process.

Although I had not previously had the pleasure of working on WIPO with the Chairman and Ranking Member of the House Commerce Committee—Chairman BLILEY and Congressman DINGELL—or the Chairman of the Telecommunications, Trade and Consumer Protection Subcommittee, Chairman TAUZIN, I would like to acknowledge their significant contributions to the final package.

The staff of all of the Conferees deserve special recognition. Manus Cooney, Edward Damich, Troy Dow, Garry Malphrus, Mitch Glazier, Debbie Laman, Robert Raben, Bari Schwartz, David Lehman, Ben Cline, Justin Lilley, Andy Levin, Mike O'Rielly, and Whitney Fox spent countless hours on this bill, when it was pending in Committee, on the floor and, finally, in conference. Without their labor and talent, we would not be here today considering the DMCA.

The DMCA also reflects the recommendations and hard work of the Copyright Office. Specifically, Marybeth Peters, Shira Perlmutter, David Carson, Jesse Feder, Carolina Saez, Sayuri Rajapakse, Rachel Goslins and Jule Sigall were invaluable on this legislation. The Copyright Office was there at every step along the way—from the negotiation of the WIPO treaties to the negotiations and the drafting of the implementing legislation and the other issues in the DMCA. Given their expertise in copyright law, they will play a significant role in the implementation of the legislation, particularly with regards to the rulemaking on the circumvention of technological measures that effectively control access to a copyrighted work and the studies mandated by the bill.

The Clinton Administration deserves praise for the role it played in making this legislation a reality. I would especially like to thank Secretary Daley, Andy Pincus, Ellen Bloom, Jennifer Conovitz and Justin Hughes of the Department of Commerce, as well as Brian Kahin and Thomas Kalil for all of their hard work on the DMCA.

From my perspective, those who deserve the most thanks are my Judiciary Committee staff who have assisted me during the hearings, debates, negotiations, and conference on this bill. Bruce Cohen, Beryl Howell and Marla Grossman have worked tirelessly to ensure that this bill was well crafted and lived up to its promise.

This legislation is an important step for protecting American ingenuity and creative expression. It addresses the needs of creators, consumers and commerce in the digital age and well into the next century. I am proud that the Senate has passed this legislation today.

Mr. President, so Senators will know, the distinguished senior Senator from Utah and I spent enormous amounts of time on this piece of legislation working to get us to this point. We both share great concerns about the database part. We understood that we would not be able to get the bill passed had that stayed in the bill.

The distinguished Senator from Utah and I will work between the time we go out and the time we come back in January to put together database legislation. There will be a strong effort, I know, on my side of the aisle, as there will be on his. We hope the Senate will be able to vote on that and the House, too, early next year. I say this because I do not want anybody to think that this has now disappeared because the rest of the legislation has gone through.

With that, I yield the floor.

Mr. DEWINE. Mr. President, I rise today in support of the conference report to implement the WIPO treaties. I also strongly support the copyright term extension legislation that we recently passed by voice vote.

While I would like to congratulate the conferees and their staff for working out a consensus on so many controversial provisions, I feel it is necessary to express my disappointment that we are unable to pass some form of database protection this year. It is unfortunate that a consensus could not be reached on an issue that is so vital to so many people in our country. Agricultural databases, for example, are relied upon by our farmers and by others in our farming supply industry. While computers and the Internet make access to information available at our fingertips, we need to provide adequate protection for those who compile that information in such a user friendly format. Such easy access is essential to health care workers, for example, who need to have fast access to accurate information about which drugs have adverse reactions to other drugs or which antidotes are most effective in counteracting certain poisons.

I see my friend from Utah, Senator HATCH, the chairman of the Judiciary Committee, is on the floor, and I would like to ask if he would agree that Congress should pass database legislation as early as possible next year to ensure that those who invest their time, money and effort in compiling and updating databases are protected from having their work pirated both domestically and internationally? Would the Senator from Utah agree that without such protections, database creators may decide that the risk of loss from piracy outweighs any potential gains from creating or updating databases.

Mr. HATCH. Mr. President, as my colleague well knows, I have facilitated a number of meetings with interested parties from all sides of this issue to try to work out a consensus bill. Obviously more work needs to be done to pass a bill that is acceptable to all sides. This is an important issue, and I

think everyone understands that. The Senator from Ohio has my assurance that I will continue to work with him on this issue.

Mr. DEWINE. I again commend the Senator from Utah and the other WIPO conferees and their staff, especially Senator LEAHY, for their tireless efforts to reach consensus on so many complex issues. I would simply like to ask my friend from Utah to work with those of us on the Judiciary Committee to introduce and seek passage of legislation early next year that protects our databases.

Mr. HATCH. Mr. President, let me assure my friend from Ohio that I have spoken to our colleagues on the House side, Congressmen HYDE and COBLE, and we have agreed to work together to introduce and seek passage of database protection legislation early next year. I will continue to work with the Senator from Ohio and our Senate and House colleagues and address this issue early next year.

Mr. DEWINE. I thank the Senator from Utah for his comments.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia has the floor.

Mr. HATCH. Will the Senator yield?

Mr. WARNER. Without losing my right to the floor.

Mr. HATCH. As I understand, the conference report has been agreed to. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. I thank my friend, the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HATCH. Will my colleague yield for 1 other minute? I promised I would yield to the distinguished Senator from Arizona.

Mr. WARNER. I will be happy to yield to the distinguished Senator from Arizona, provided I do not lose my right of recognition.

The PRESIDING OFFICER. The Senator from Arizona.

MEDICARE BENEFICIARY FREEDOM TO CONTRACT ACT

Mr. KYL. I thank the Senator from Utah.

Mr. President, I rise with several of my fellow Senators in support of S. 1194, the Medicare Beneficiary Freedom to Contract Act. S. 1194 currently has 48 Senate and 192 House cosponsors.

We believe that Medicare beneficiaries should have the same right to obtain health care from the physician or provider of their choice as do Members of Congress and virtually all other Americans.

It is dangerous to have the government control health care decisions in a free society.

What is the problem addressed by this legislation?

The problem is simply one of health care choice for seniors—a problem which has been brought to our attention by countless constituents all over America.

As I have mentioned on the Senate floor several times, this problem was first brought to my attention in a letter I received from Mr. and Mrs. C.B. Howard of Prescott.

Mary Ann Howard is a diabetic. The medicine she was taking was not working, and she wanted to change doctors to one who specialized in treating diabetics.

Her doctor told her that this was not possible. Amazed, Mary Ann asked why, and her original doctor replied that, due to the regulatory and administrative burdens of the Medicare system, the specialist cannot afford to take any more Medicare patients.

When Mary Ann—who had recently turned 65 and enrolled in Medicare—asked the specialist if she could pay for the treatment out of pocket, the specialist said no. ''If I accept you as a patient, I would be accused of Medicare fraud.''

Yes, it's true: Because of a flawed interpretation of the Medicare law, the government has barred Medicare beneficiaries from using their own money to receive treatment from the doctor of their choice. It's Medicare or no care!

To end this unfairness, the Senate passed the Kyl amendment to the Balanced Budget Act of 1997 that would allow health care choice for seniors.

But the Administration threatened to veto the entire budget over this provision, and forced the Senate-House conference committee to include a poison pill:

In order to enter into a private contract, a physician or other provider would have to sign out of Medicare for two years.

The two-year exclusion presents your doctor with a difficult choice: He can either treat you, his patient of 30 years, on a private contract basis, and drop his other Medicare patients for two years; or refuse to treat you in favor of his current Medicare patients.

Over 96 percent of doctors accept some Medicare patients and would not likely be willing to impose such a hardship on their current patients.

So your options will likely be reduced.

To remove this ''two year'' limitation on patient-choice, House Ways and Means Chairman BILL ARCHER and I introduced the Medicare Beneficiaries Freedom to Contract Act.

The bill removes the two-year exclusion and ensure that any Medicare beneficiary can enter into an agreement with the provider of his or her choice for any health care service.

In his 1998 State of the Union address, President Clinton said that all Americans ''should have the right to choose the doctor they want for the care they need.''

We could not agree more. But as of January 1 of this year, seniors no longer have this right because, as I mentioned, the President insisted last year's Balanced Budget Act be changed to effectively preclude seniors from going outside of Medicare—even if they are willing to pay for the care themselves.

S. 1194 could also be referred to as the Senior Citizens ''Medicare Point of Service Option.''

Just as with a Point of Service Option in a private plan, this ''Medicare Point of Service Option'' would allow seniors to go outside of the Medicare network to obtain care from the doctors of their choice.

The only real difference is that the senior-patient would pay 100 percent of the cost of exercising this right, whereas the private plan would subsidize this choice to some degree.

Sandra Butler, president of United Seniors Association, represents the organization's 640,000 members who strongly support this bill.

United Seniors Association members believe that the government's view of private contracting ''violates a basic—no, *the* basic—principle of American life: freedom.''

In addition, a broad array of organizations have expressed support for the case to overturn current law.

This group includes the Christian Coalition, the American Civil Liberties Union, the Heritage Foundation, the American Enterprise Institute, National Right to Life Committee, the American Medical Association, the American Conservative Union, Citizens Against Government Waste, and the National Center for Policy Analysis.

Opponents of the bill make three basic arguments: the bill will increase fraud, will put seniors at the mercy of doctors and other providers, and will hurt Medicare.

1. With respect to fraud, the bill contains extensive anti-fraud measures, including the requirement of a written contract with clear terms, such as the fact that the service could be paid for by Medicare.

2. Others believe that unethical doctors would take advantage of vulnerable seniors.

Common experience with medical professionals who save lives without reimbursement in emergency situations, and seniors who read and question virtually every line in their Medicare bill, clearly refute this claim.

Further, a senior can for any reason terminate the contract prospectively and return to Medicare for the covered benefit.

3. Some believe private contracting will destroy Medicare.

However, private contracting will result in fewer claims being paid out of the near-bankrupt Medicare trust fund.

We believe that the right of seniors to choose the health care provider and benefits that suit their individual needs is essential to our Nation's concept of liberty.

In fact, there is no more fundamental principle at stake in any legislative issue before the Congress.

We must not be the Congress that denied seniors the right to spend money they may have saved for years on a medical procedure needed for themselves or a loved one.

Imagine a law that made it illegal for seniors to supplement their Social Security check with private funds!

In sum, Mr. President, we believe that the Congress should enact legislation that ensures that seniors have the right to see the physician or health-care provider they want, and not be limited in such right by the imposition of unreasonable conditions on providers who are willing to treat seniors on a private basis.

Even Great Britain's system of socialized medicine gives its beneficiaries this freedom.

Senators and their staffs have this freedom. Surely, America should do no less for its seniors.

Mr. President, I take this opportunity to express my appreciation for my colleagues' willingness to work with me to ensure seniors the critical right of health-care choice.

I am joined by many of my colleagues in the Senate to ask the Majority Leader, Senator LOTT, and Senate Finance Committee Chairman ROTH, to work with us and the numerous outside organizations to address this issue of Medicare freedom of health-care choice as soon as is reasonable in the 106th Congress.

As we know, President Clinton and some of our colleagues on both sides of the aisle want the government to continue to control all medical decisions of seniors.

We must not rest until seniors are granted this basic civil right to choose the doctors and benefits that best address their particular health needs.

Mr. ROTH. Mr. President, I thank the majority leader and my colleagues for bringing the important issue of Medicare private contracting to my attention in this constructive way. The individual stories described today on the floor illustrate why private contracting has generating intense interest and deserves careful study. Organizations including the United Seniors Association, American Civil Liberties Union, Christian Coalition, American Conservative Union, Heritage Foundation, National Right to Life Committee, CATO Institute, and Citizens Against Government waste share the concerns with current law and the belief that Medicare beneficiaries should be provided more freedom-of-choice in Medicare. In the months ahead, I intend to work closely with my colleagues here in the Senate to review the private contracting provisions of the Balanced Budget Act of 1997.

(At the request of Mr. KYL, the following statement was ordered to be printed in the RECORD.)

● Mr. HOLLINGS. Mr. President, I want to express my continuing support for S. 1194, the Medicare Beneficiary Freedom to Contract Act.

It is ironic that the Balanced Budget Act—which purported to expand seniors' freedom of choice—took away most of the rights they already had to spend their own dollars to purchase health care of their choosing. Many senior citizens and disabled individuals in my state are outraged at this loss, and justifiably so. I must concur with the comments made recently by Art Spitzer, legal director of the American Civil Liberties Union of the National Capitol Area in an amici curiae brief in United Seniors Association vs. Donna Shalala:

''. . . the government should be able to say 'We are going to provide a certain amount of health care, and that is how much we will provide and we are not going to provide more than that.' But it seems quite outrageous to us . . . that the government could say 'and you may not get any more health care than we are willing to provide you, even if you and your doctor agree that it would be good for you, even if you are able to pay for it with your own funds.'''

I ask that a letter I recently sent to the ranking member of the Senate Finance Committee be printed in the RECORD.

The letter follows:

U.S. SENATE,
Washington, DC, October 5, 1998.

Hon. DANIEL PATRICK MOYNIHAN,
Ranking Member, Senate Finance Committee, Washington, DC.

DEAR PAT: As you know, the American Civil Liberties Union of the National Capital Area has joined as an amici curiae participant in the United Seniors Association vs Donna Shalala lawsuit to enjoin enforcement of Section 4507 of the Balanced Budget Act of 1997. I support the views expressed in this lawsuit that Congress made a mistake in the Balanced Budget Act by disallowing seniors from making the broadest array of physician and medical point-of-service choices in instances where they want or need services out of the Medicare system badly enough to spend their own money. It stepped far over the bounds of ''protection'' into erosion of freedom.

I strongly supported requirements that physicians file Medicare claims on behalf of beneficiaries. We've gotten the program so complicated that hardly anyone understands it, but doctors are better able to fight complex coding disputes and coverage rules than their patients. Also, not getting paid adds the incentive to resolve claim disputes while keeping money in beneficiaries' pockets. Little did I realize this protection would be used to restrict access to care. Section 4507 is an unwarranted intrusion on freedom of choice for physicians and Medicare beneficiaries and adds unnecessary costs to the Medicare that is already suffering financial problems that scream for resolution.

While most of us are able to find satisfactory care for which we are glad to have Medicare pay, many of my constituents have given reasons why an individual may choose to go outside the Medicare system from time to time. Take the example of a Federal employee who retired to the Charleston area after living sixty years in Washington. She wanted to return to have eye surgery at the Wilmer Eye Institute at Johns Hopkins but was prohibited from doing so because the surgeon did not accept Medicare patients. She wrote me that she is not wealthy and has chosen to live frugally so that she has something left over after living expenses to spend as she sees fit. ''What right does the Government have to tell me I can't spend my own money to buy the health care that I think I need,'' she asks. I have to agree that the Federal Government telling us senior citizens what we can do with our own money is simply unacceptable.

A great deal of confusion about Section 4507 remains. I continue to believe we can reach a consensus that will permit private contracting for seniors who choose to do so while providing adequate protection for Medicare beneficiaries and request that you give this matter your much respected expert consideration early in the 106th Congress. If I can answer any questions or be of any help, please don't hesitate to call on me.

With kindest regards, I am,

Sincerely,

ERNEST F. HOLLINGS.

Mr. HOLLINGS. Mr. President, we clearly cannot move forward with Medicare+Choice until the confusion over Section 4507 is resolved, and I join my colleagues in urging your earliest consideration of this matter in the 106th Congress.●

Mr. GORTON. Mr. President, I speak today in defense of an essential freedom—the right to make health care decisions outside of the governmental bureaucracy. Yet there is a segment of our population—our seniors—who have lost that freedom. At the administration's insistence a provision was included in the budget reconciliation bill of 1997 that prohibits physicians from participating in the Medicare program for two years if they accept private payment for services normally covered under the Medicare program from a patient who is eligible for Medicare—essentially trapping our seniors in a government controlled health care program.

It is clear that the provisions included in the Balanced Budget Act are hurting seniors. One of my constituents stories was featured in the Reader's Digest. Ray Perry wanted to pay for routine screening tests for he and his wife because years before, prior to enrolling in Medicare, the Perry's had conducted a similar series of tests and were able to detect his wife's lymphatic leukemia very early when it was still treatable. Medicare decided not to pay for the tests because the Perrys didn't have certain symptoms that would indicate these tests were required. But, when the Perrys offered to pay out of their own pocket, the doctor still wouldn't order the tests for fear of being penalized by Medicare. While both the Perrys and their doctor wanted medical services that were clearly reasonable, and the Perrys were willing to pay for these services, the restrictions currently found in Medicare prevented them from getting the kind of health care they needed.

It is unconscionable that in a nation founded on the principles of freedom that we would limit the freedom of the Perrys and millions of American seniors just like them.

Mr. CRAIG. Mr. President, I rise today to make a few remarks concerning the Medicare Beneficiary Freedom

to Contract Act. Most Americans believe that should control their health care to the greatest extent possible. Others continue to favor comprehensive federal control of seniors, health care which results in rationing. All patients should be able to choose their own doctors and have complete freedom to supplement their insurance, including Medicare, as they see fit. The right of seniors to pay out of their own pocket for the health care of their choice is an essential element of our nation's concept of liberty.

Under this Act, Medicare would pay the standard fee for the standard procedures by the standard practitioner with private contracting reserved for more specialized procedures. While it would be a right that—because of economics—would be exercised only in special circumstances, private contracting is a basic right every senior should have. And importantly, it would provide a safeguard from government manipulation—something which under the Clinton Administration is an all-too-real possibility.

Under this act, seniors would be even less likely to privately contract than they are to go to nonparticipating physician, because with private contracting they agree to pay the full cost of the service themselves (just as they historically have.) In fact, if the desire to pay out-of-pocket were widespread, seniors wouldn't join Part B (which is voluntary) at all. But seniors overwhelmingly choose Part B insurance—just as most other Americans do in choosing doctor-visit coverage in their health plans.

President Clinton said in the State of the Union that all Americans must have the right to doctor choice, and assess to specialists without referral. Why not seniors, too?

Mr. President, I believe that Americans are right when they tell me in letters and phone calls and personal visits that they do not want to be trapped by a one-tiered Medicare program. I think I am correct in stating that senior citizens over age 64 are right in being angry at all members of Congress and the Clinton Administration for denying them their right to make any medical choice for themselves, to see any physician they want for any service they want if they want to spend their own money. It is for this reason, that I ask all my colleagues to work with us to restore to seniors their right to privately contract for any medical service with physicians of their choice. I look forward to working with the distinguished Chairman of the Senate Finance Committee, Senator ROTH, and other Members of the Senate toward that goal.

Mr. NICKLES. Mr. President, I thank the Chairman for his work and support of this very important legislation.

I also thank Senator KYL for his dedicated work on this issue. I was pleased to join him as an original cosponsor of this bill, because I believe that this is a fundamental issue of freedom for all senior citizens. Every senior citizen should have the fundamental right to pay out of their own pocket for the health care they want from the physician they choose.

President Clinton has repeatedly stated, most recently in his State of the Union address, that ''all Americans should have the right to choose the doctor they want for the care they need.'' But apparently, the administration does not believe this should apply to Medicare beneficiaries. In fact, during the debate on the Balanced Budget Act (BBA) of 1997, the administration repeatedly stated their opposition to giving his unfettered freedom to senior citizens.

Finally, the administration agreed to drop their objections to this provision if the BBA would grant seniors only limited freedom with certain restrictions. In the spirit of compromise, the BBA included a limited provision to allow physicians to enter into private contracts for Medicare-covered services. Unfortunately, the provision in the BBA did not go far enough.

Under BBA 97, in order to enter into these contracts, a physician or other provider would have to opt out of Medicare for two years and sign an affidavit, approved by HCFA, to ensure that no Medicare patients were treated. But the two-year exclusion presents the doctor with a difficult choice: either treat the patient on a private contract and drop all other Medicare patients for two years; or refuse to treat the patient in favor of current Medicare patients. This is a difficult decision that neither a physician or beneficiary should be required to make.

Now, one can argue that the reforms in the BBA were a step forward for Medicare private contracting. If is true that HCFA had interpreted Medicare law, prior to the passage of BBA 97, as effectively prohibiting private contracts. In fact, HCFA had gone as far as threatening physicians and other providers with fines and exclusion from Medicare and even criminal prosecution. So if HCFA's interpretation was correct, perhaps the provisions included in BBA 97 were a step forward.

On the other hand, many respected Medicare experts have suggested that HCFA did, in fact, misinterpret the Medicare statute. In other words, Medicare law did not prohibit private contracts, but rather it was silent on the issue. As I read the Medicare law, prior to BBA, I see nothing that prohibits Medicare beneficiaries and providers from entering into these private arrangements. So if this interpretation is correct, the provisions included in BBA could be viewed as a step backward.

In either case, the right thing to do is to allow seniors unfettered, unrestricted access to the doctor of their choice. The Kyl legislation does just that. It would extend this right to Medicare beneficiaries with no limitation, allowing Medicare beneficiaries to be treated for Medicare-covered services by the physicians of their choice on a ''case-by-case'' and a ''patient-by-patient'' basis. No doctor who chooses to enter into a private contracting arrangement with a senior would be faced with fines or expulsion from the Medicare program.

Opponents of private contracting make two primary arguments against this legislation: unethical doctors will take advantage of seniors to increase their income; and it will result in excessive fraud and abuse in the Medicare program.

The argument that perplexes me the most is the concern that unethical doctors would take advantage of vulnerable seniors and use private contracts to increase their annual income. If I were a Medicare beneficiary I would be offended by the notion that I am unable to make my own financial and medical decision. Senior citizens are some of the most frugal and well informed health care shoppers in the country. Additionally, if I were a physician, I would be offended by the assumption that most doctors are unethical in their professional activities. Any physician that were to engage in unethical or coercive practices faces tremendous risks, including the loss of their medical license for ethical violations.

I assume that those who believe physicians will use the Kyl legislation to line their pockets would also be concerned with new federal coverage mandates on private health insurance. Every federal coverage mandate we place on health insurance providers increases the cost of health insurance and increases the revenues of physicians. But I haven't heard many members who are concerned that federal mandates which require insurance companies to pay for a variety of treatments may increase the profits of physicians. Do we assume that physicians and other practitioners will be ethical when an insurance company is paying the bill and unethical when a vulnerable senior is paying the bill? The fact is that the opponents of this legislation simply want more control over the health care of senior citizens.

The bill also contains strong consumer protection standards to ensure that Medicare beneficiaries are not exploited. Private contracts must be in writing, signed by the beneficiary, and identify the services covered by the contract. It prohibits private contracts in emergency situations, unless the contract was entered into before the onset of the emergency medical condition.

Private contracts may only be entered into on a prospective basis and may not apply to services rendered prior to the signing of the contract. Such contracts must also notify the beneficiary that Medicare is not responsible for the payment of any services covered under the contract and that the beneficiary has the right to have such services provided by other physicians or practitioners to whom Medicare payment would be made.

Other opponents of this legislation argue that private contracting will result in double billing and outright fraud. Perhaps the opponents haven't looked closely at the extensive anti-fraud measures included in this legislation. The legislation prohibits double payments by requiring physicians and practitioners entering into private contracts to submit to the Secretary such information as may be necessary to avoid any payment under Part A or Part B for services covered under the contract. Fraudulent billing would be detected and punished through existing fraud and abuse laws and standard auditing procedures used by Medicare and private plans. If Medicare did pay for a service, the patient would receive a statement and could easily notify Medicare of the payment error.

Mr. President, this legislation adequately addresses the concerns that have been raised by the opponents. The integrity of Medicare system is not at issue here. The defining issue is really quite simple. This is a fundamental issue of individual freedom. Do you support giving senior citizens the freedom to pay out of their own pocket for the health care they want from the physician they choose? Or do you support limiting that freedom and restricting the health care choices available to senior citizens? I hope my colleagues will join Senator Kyl in supporting this legislation and supporting individual freedom for every senior citizen.

Mr. ALLARD. Mr. President, I rise today in support of Senator KYL's initiative to provide more choice for our nation's senior citizens. I encourage the majority leader and Senate Finance Committee Chairman ROTH to continue to work to address the issue of private contracting so that S. 1194 can be enacted into law.

I believe that our seniors should have the right to make their own decisions when it comes to matters of their health. Somewhere along the way, it has been mistakenly assumed that once a person reaches 65, they no longer are able to make their own decisions and do not desire the freedom of choice that others enjoy. Since when did the seniors of our nation become so helpless? Shouldn't seniors be afforded the same rights that the rest of us enjoy—to determine what is in their best interest?

Current law does not permit seniors to purchase their own health care services if those services are covered under Medicare and provided by a physician who accepts Medicare payments. This is ludicrous. Not only does this law take away rights of senior citizens, but these types of regulations within the Medicare system also discourage the participation of doctors. If a physician decides to accept a private contracting fee, the doctor must give up all Medicare patients for two years. In effect, this law has the potential of limiting physicians who participate in the Medicare program. This could consequently decrease the quality of physicians in the Medicare system because doctors refuse to be part of such an oppressive system.

This issue is one of fundamental rights. No other government program restricts the participants as does Medicare—including Medicaid and health programs for government employees. Medicare beneficiaries should be given the right to pay out-of-pocket and to choose their own health care provider.

One of the guiding principles of this nation is individual freedom. Congress should not support measures that clearly restrict freedom. I urge the enactment of S. 1194, the Medicare Beneficiaries Freedom to Contract Act.

Mr. MACK. Mr. President, I am pleased to be a co-sponsor of the Medicare Beneficiary Freedom to Contract Act. I want to commend the efforts of Senator KYL, who introduced this important legislation and who has worked so hard to secure its passage.

The central questions with respect to the issue of Medicare private contracting are clear. It is the proper role of the Federal government to deny Medicare beneficiaries the ability to use their own money to get the health care services they believe they need? Is it good public health policy to force doctors who treat Medicare beneficiaries on a private-pay basis out of Medicare for two years?

I think these questions must be answered with a resounding ''no''. If a Medicare patient—or any patient, for that matter—wants to spend his or her own money to pay for a health care service, it should be their decision and not the government's decision. I also believe it is wrong to put a doctor in the position of having to decide between treating a Medicare patient who chooses to pay out-of-pocket, or stop treating all their other Medicare patients for two years.

The administration makes the argument that its opposition to this legislation is based upon its desire to ''protect senior citizens''. I certainly don't question the sincerity of their concern. However, judging from the response my office has received, seniors neither want nor need the Federal government to ''protect them'' from themselves. Florida is home to the second largest Medicare beneficiary population in the nation. My office has been deluged with thousands of letters, telephone calls, faxes, postcards and telegrams from Medicare beneficiaries who are, quite frankly, outraged that the Administration is opposed to this legislation.

The communications I have received from seniors in Florida all have common themes—How can something like this be happening in America? Is this not a profound assault on the freedom of American citizens? What right do you people in Washington have to tell me what I can and can't do with my own money when it comes to my own health care? Who asked you to make this decision for me?

I couldn't agree with them more. It is clearly wrong to take important health care decisions out of the hands of patients and put them into the hands of the Federal government. Moreover, this policy results in a two-tiered system for those Americans who receive their health care from the Federal government. Patients who are beneficiaries of Medicaid, CHAMPUS, the Indian Health Service and Federal workers who participate in the FEHBP, which includes most of us in Congress and our staffs, may legally enter into private contracts with physicians of our choice. But this is not the case for Medicare beneficiaries—because the government supposedly knows what is best for them.

Isn't it also ironic that a citizen of Great Britain, with its socialized health care delivery system, has the ability to privately pay for medical services, but Medicare patients in the United States are denied the ability to make this decision for themselves unless their physician is willing to opt-out of Medicare for two years?

To me, this issue exemplifies one of the most fundamental differences I have with this Administration when it comes to either health care policy or the proper role of the Federal government in general. This absurd policy is simply another example of big government run amok, and it's time to put a stop to it. The Senate should pass the Medicare Beneficiary Freedom to Contract Act now.

Mr. GRASSLEY. Mr. President, the issue of private contracting in the Medicare program is very important to my constituents in Iowa. I have received hundreds of letters asking Congress to repeal the provisions in the Balanced Budget Act of 1997 requiring physicians who enter into a private contract with beneficiaries to opt out of the Medicare program for two years. Seniors in my state believe it is not the role of the federal government to interfere with relationship with their physician. They want to have as many choices and options as possible. I want to make sure their freedom is protected. That is why I want to thank the majority leader, Senator LOTT, and the chairman of the Senate Finance Committee, Senator ROTH, for recognizing the importance of this issue to our nation's seniors and for agreeing to address this problem next Congress. I want to offer my support to help with these efforts as a cosponsor of Senator KYL'S legislation and as the Chairman of the Senate Special Committee on Aging and senior member of the Senate Finance Committee.

Mr. BENNETT. Mr. President, I rise to thank my colleague from Delaware, Mr. ROTH, for his commitment to look further into the issue of medicare private contracting and to thank the honorable Senator from Arizona, Mr. KYL, for his leadership as the sponsor of S. 1194, the Medicare Beneficiaries Freedom to Contract Act. As one of 48 cosponsors of Mr. KYL'S bill, I believe that we need to take steps to maximize choice, access and care for Medicare

patients, not restrict them in the name of patient protection. I have been contacted by hundreds of seniors from my state who understandably expressed outrage that Congress had passed a law that will inevitably restrict access to health care from the provider of their choice even when they are willing to pay for the care out of their own pocket. We have been told that this provision was included in the Balanced Budget Act as a protection for Medicare patients. However, I believe we can protect Medicare patients from fraud and abuse without restricting their access to desired care.

Mr. President, I thank my colleagues, once again, for their commitment and leadership and I look forward to working with them in the near future to address this important issue.

Mr. INHOFE. Mr. President, I, too, rise in support of S. 1194, the Medicare Beneficiaries Freedom to Contract Act.

You and I, Mr. President, and all other Americans not covered under Medicare, may obtain health services without informing the federal government. However, our nation's senior citizens must first seek out Washington's approval—even when they prefer to pay for those services out of their own pocket.

Congress intended to correct this situation by permitting private contracts. Unfortunately, the President insisted he would veto the entire 1997 Balanced Budget Act unless this fundamental right of all Americans was eliminated or severely limited for senior citizens.

Medicare beneficiaries should have the same freedom to obtain the health care they choose from the physician or provider of their choice—as do Members of Congress and virtually all other Americans. It's ridiculous that this right was taken away and unfortunate that it's taken so long to correct.

Mr. President, I thank the majority leader, Senator LOTT, and Senate Finance Committee Chairman ROTH for acknowledging the importance of this issue and for pledging to look into it further next year in the 106th Congress.

Mr. SHELBY. Mr. President, I thank my distinguished friend, Senator KYL, for introducing S. 1194—the Medicare Beneficiary Freedom to Contract Act and for his leadership on this issue.

I firmly believe it is my obligation, as an elected member of the United States Senate, to defend the liberty of the constituents that put me in office. Freedom manifests itself in various ways, but one fundamental concept of importance in America is the protection of one's discretion over one's financial resources. I often raise this issue in the context of taxes, but in addition to allowing one to reap what one sows, it is equally important that people have the ability to spend their earnings as they see fit.

I want to be perfectly clear what I think the essence is of what we are discussing when the issue of Medicare private contracting arises. We are talking about allowing people to spend their money as they see fit. This is a very simple, yet important, freedom that people enjoy. We are not talking about letting people buy illegal products, but rather about the right of people to spend their money on health care. Only in Washington DC could such a notion be considered controversial. But to those who have little regard for individual freedom, and who have a vested interest in seeing the scope and power of government grow, this is a controversial matter.

H.L. Menken once said that ''the most dangerous man, to any government, is the man who is able to think things out for himself.'' That is the threat, Mr. President. Those that favor the Medicare monopoly, often even to the detriment of Medicare beneficiaries, resist the freedom of people to make these private decisions, because it threatens the government's control of health care delivery.

Unfortunately the era of big government is not over. In fact, it is alive and well and is embodied in Section 4507 of last year's Balanced Budget Act. Therefore, I want to request that Majority Leader LOTT and Finance Committee Chairman ROTH help us attach S. 1194 to the first appropriate legislative vehicle, so that we can repeal Section 4507. Mr. President, we must restore the right of our elderly to buy the health care they feel they need, without any ''big government'' constraints on their decisions. This effort is important not only to our ensuring quality health care to our elderly, but also to the larger battle of defending freedom in America.

Mr. KYL. Mr. President, I thank the majority leader, Senator LOTT, and Finance Committee chairman, Senator ROTH, for recognizing the problem of many seniors who are not afforded choice in determining where they get their health care and on agreeing to address this problem in the 106th Congress.

I also thank Senators HOLLINGS, ROTH, GORTON, CRAIG, NICKLES, ALLARD, MACK, GRASSLEY, BENNETT, INHOFE and SHELBY for participating with statements for the RECORD. We do intend to address this problem in the next session of the Congress because we could not get it done this session. I appreciate my colleagues' commitment to doing that and, again, thank the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

KOSOVO

Mr. WARNER. Mr. President, I wish to continue a series of remarks that I have placed before the Senate in the past several weeks regarding the increasing problems relating to Kosovo. Together, with other Senators, I have tried to avail myself of every opportunity to learn about this situation. Just weeks ago, I made a trip myself into the region, accompanied by two outstanding ambassadors, Miles and Hill, and had an opportunity to get firsthand impressions. My trip included Bosnia, Belgrade, Macedonia, and Kosovo.

Those impressions, together with many years of really hard work studying the Balkan region, having first gone, in September 1992, into Sarajevo, I have even greater concern today about the implications of the problems unfolding in Kosovo and the necessity for the world to respond to stop the tragic killing that is taking place every day.

I commend the majority leader—indeed, I am sure there are others who have worked diligently on this—but he has, in this busiest of all weeks of the year in the Senate, found time to convene in his office and otherwise meet with people—and I have joined him on several occasions—about this situation. Indeed, a few days ago a group of us sent a letter to the President of the United States expressing our concerns. This was a letter that followed the briefing by the Secretaries of State and Defense, with the National Security Adviser and the Vice Chairman of the Joint Chiefs.

Mr. President, I will address particular parts of that letter to the President and his response. The response was quite comprehensive.

Further today, I, and I am sure other Members of the Senate, have received drafts of proposed resolutions put forth by a Member on that side of the aisle and a Member on this side of the aisle. Given that they are drafts, and I don't know what the ultimate intention of the drafters will be, I will not identify the persons who distributed the drafts as a senatorial courtesy, but I would like to address my concerns relevant to both drafts.

The purpose today is, again, to give my personal views regarding the plan of operation that has been laid before us publicly by this administration, by the NATO commanders and, indeed, by one or more of our allies, notably Great Britain.

I commend their Minister for National Security and Defense. He has spoken most forthrightly. Indeed, I think his views closely match my own, and that is, any planning to go forward to correct the problems that exist in Kosovo today has to be, in my judgment, and in his, twofold—ground as well as air.

One, a very decisive series of airstrikes, which I support. I believe, and others believe, that a necessary second component of any military action, to back up the airstrikes, has to be the quick placement of a stabilization ground force into Kosovo, into the region, primarily the capital, Pristina. If that is not done, Mr. President, the goals of the airstrikes can not have been fulfilled in my opinion.

In my judgment, the predominant number of military units involved in that airstrike would be American, because of our specialized aircraft and air-to-ground precision ordinance. Our

Allies in NATO will provide other important air assets. I think in order to consolidate the gains that we can anticipate from those air strikes, a stabilization force has to be put in place on the ground.

The main urgency of the moment—is some approximately quarter of a million Kosovars, Albanians who have been driven from their homes and villages into the hills who are confronting now another enemy. Once it was the Milosevic police, the Milosevic regular army, but now it is weather that is forcing these tragic people to endure conditions which will be severely injurious to their health and safety.

Food, medicine, and shelter must be brought in beginning immediately, to alleviate that crisis. And secondly, we want to have a cessation to the conflicts that have gone on between these peoples for these many months which have resulted in some 2,000-plus deaths, largely again suffered by the Albanians, the 90 percent of the population. But, indeed, there are incidents where the KLA, the insurgent forces within the Albanian population, have got to answer, themselves, for their responsibility for certain tragic killings of Serbs in this area. There are not clean hands on either side.

But again, to summarize the objectives: Get immediate relief in for these refugees; and, secondly, stabilize the fighting among the minority Serbians and the majority Albanians.

If that is not done, if that stabilization force is not quickly put in, this situation could even escalate in terms of the killing, because you will have removed that military force, i.e., the Serbian paramilitary police, and indeed the regular army, and the remnants that will be left of the Serbian people, such police that are left, will then be faced with the preponderance of a 90 percent ethnic Albanian population coming down out of the hills. And I doubt that they will come down and shake hands with their former Serbian neighbors—finding their homes ravaged, destroyed, their livestock killed, their fields burned. It will not be, Mr. President, a very peaceful setting once the air seals off the flow of heavy armaments and military down from Belgrade.

Mr. President, herein is the problem as I see it. Our administration, regrettably—and I will refer to their letter momentarily—regrettably, has evaded, in my judgment, a full debate on the issue of the need for a stabilization force. They have focused the public attention in our country solely on the need for an airstrike, leaving out what I think should be responsible dialogue, beginning with the President and the Secretaries of State and Defense, on the need for a stabilization force.

Yesterday, I met with a senior officer from NATO, together with other Senators, and he clearly understood the necessity for that stabilization force. Indeed, I happen to know firsthand NATO has studied the need for it. NATO has contingency plans to address that. The plans range all the way from taking the indigenous KDOM, which is a very interesting creation in this conflict—it is a combination of military people from the United States, Canada, and certain other European nations, and indeed I think some Russians, together with diplomatic officials from those nations who go out into this region, unarmed, for the purpose of reporting back on what is taking place in terms of the ravaging of the countryside, the condition of those who have been driven into the hills. And it has been a very valuable source of information for the free world to have had the reports of KDOM. I traveled with them; they are a brave lot.

One option is to enlarge the KDOM. But again, KDOM is not there for military purposes. They are not trained as policemen. They are not trained as security forces. The individual military officers may have some training, but certainly by design and in terms of the logistic equipment, and the like, they are not prepared, in my judgment, to take on the potential parameters of conflicts that could break out following air strikes.

Next it is thought that one or more organizations, like the O.S.C.E. in Europe, could come in and take over this situation to provide a stabilizing force. But that organization has no history. It has no history of taking on an operation of this magnitude. It has no logistical support. It has no experience in coordinating, bringing in troops from other countries.

And so after dialogue with our guests yesterday, and dialogue with many others, it is my judgment that only NATO can provide such stabilization force as will be necessary in the immediate aftermath of a series of airstrikes—I repeat that—only NATO. I believe it unwise for the Administration now to rule out U.S. ground forces as being a part of a stabilization force composed of several NATO members.

When we had the Secretary of Defense before the Armed Services Committee the other day, regrettably, he did not respond with the precision I would have liked regarding U.S. participation. Indeed, I think the record reflects statements to the effect that there will be no U.S. participation should a ground element for stabilization be necessary.

Mr. President, I do not think that we should embark—I want to repeat that—I do not think we should embark on these airstrikes without a resolution of how that stabilization force is to be constituted and whether or not the United States will be a part of that force, because we will have started a situation of hitting a sovereign country. We have done that twice already here in the past month or two—hitting a sovereign nation with predominantly U.S. air assets—with really no clear understanding of what is going to take place immediately afterwards on the ground in Kosovo.

We talk about a peace settlement. All of us would like to have a peace settlement, but I cannot believe that if you inflict severe air damage of the magnitude it will take to bring Milosevic, the principal wrongdoer in this whole situation—the principal wrongdoer for years and years, beginning back in Bosnia —you cannot suddenly expect him to come to the negotiating table in a matter of days. And it is within those days that the instability could grow in the Kosovo region. That is my concern.

This instability could spread over into Albania, which is already torn by civil strife. Refugees could begin to flow into Montenegro. Montenegro is now burdened, heavily burdened, with refugees from Albania. More refugees into Macedonia. This whole region could be destabilized unless a stabilization force is put into Kosovo in a timely way.

And further, in my judgment, the work that we have done, together with our allies over many years, to secure Bosnia, to the extent we achieved any results there—certainly relative peace compared to the war of several years ago—that could well be undermined, because if the insurgents down in Kosovo are not contained, that will spread into Bosnia and begin to undo what we have achieved, what little we have achieved thus far, toward the implementation of the Dayton accords.

So my purpose in addressing Kosovo, again, is twofold. These resolutions in draft form call for only U.S. participation in airstrikes. I mean, it is very clearly laid out in both these resolutions. One of them states that: Whereas the Secretary of Defense, William Cohen, opposes the deployment of ground forces in Kosovo, as reflected in his testimony before Congress on October 6, and clearly says that while we support the use of air, it will be air, and air alone.

That I think is an unwise position for the U.S. to take.

Let me give you an example. Should it be the consensus of NATO that you have to bring a NATO ground force into Kosovo for stabilization, which is my judgment, and you plant the NATO flag, and the U.S. flag is not on the staff, we are not represented there, the question arises why? I mean, we bring into question, who is the commander in chief of NATO? It is an American officer. An American officer is to command of a stabilization force put into a hostile region, and there is not a single additional American there in that force! We should not take that position now.

I fought for many years placing the ground troops in Bosnia. Year after year I voted against it. It was only on the last vote where I joined Senator Dole that I relented. I had no desire to see Americans go in there. I questioned, in some way, the vital security interests. But that s history; we are on the ground in Bosnia and our troops, with other SFOR elements are working

to secure a lasting peace. NATO's credibility is on the line now in Kosovo, for only a credible threat to use force can move settlement talks in Belgrade.

If NATO leaders, upon failure of diplomacy, launch a NATO air operation, the credibility of NATO is on the line.

I think you should not start the air until we have fully answered the question: How do you secure the benefits flowing from the air operation and stabilize that region until the negotiators can come to the table and work out a cease fire.

The other resolution being circulated today, likewise, calls solely for air, very explicitly. It has another provision in here which troubles me a great deal; that is, you can only use air for 6 months unless there is further consideration by the Congress.

Mr. President, we have known for a long time that setting deadlines with regard to troops just does not work. Therefore, the placing of a deadline in connection with the use of air and limiting it to 6 months, to me, is not a wise way to proceed. Therefore, I have indicated I would not participate; indeed, I would vote against either of these resolutions should they come back in this form. Both resolutions limit the U.S. participation to air. The President is authorized to use the U.S. Armed Forces for the purpose only of conducting air operations and missile strikes against the Federal Republic of Yugoslavia.

Again, you cannot plan an air operation without a concomitant means to secure the ground.

Let me pose the hypothetical: Suppose you strike with air and you are successful in destroying certain targets, then is Milosevic likely to sit there and do nothing? He could counterattack. His only means of counterattack, in all probability, given his air capability is largely destroyed, his naval capability is hopefully bottled up in the caves or elsewhere, his only avenue to retaliate would be on the ground; perhaps, once again, send out his column of tanks and his column of heavy artillery. Bad weather and darkness of night travel could inhibit air operations.

Air could interdict, I am sure, much of it, but it might require a ground force at some point to interdict such actions as may be taken in retaliation by Milosevic.

I urge the Senate to be very, very cautious as we proceed. I hope to continue our debate with other Senators here as it relates to this situation.

I turn to the response of the President. As I said, it contained specific responses. This is the President speaking. On page 4 he states:

Second, on the question of ground force, although NATO planners reviewed a broad range of options, some of which would involve grounding forces and hostile circumstances. I can assure you [this is written to all nine of us] the United States would not support these options and there is currently no sentiment in NATO for such a mission. The mission under consideration involves the use of graduated air power, not military forces on the ground.

Now, to me, that is just faulty planning.

I do support the use of force to stop the killing, to enable the NGOs and others to have an environment into which they can bring supplies to help these people. I do not give my support unless a convincing argument is put forth about a stabilizing force and the need to have that force in order to secure the Kosovo region.

We have to be very careful that the credibility of NATO is protected. It is on the line. We cannot allow the NATO force to be considered as acting in concert with the KLA. That is a tough call. Try and find a KLA leader. They are difficult to find. I am not talking about Rugova in Pristina. He has been accessible to all. These militants, the heads of the KLA troops, in this area of Kosovo are not well defined, not well known, and not well coordinated. It is a problem to contain them once we begin to use our air. We cannot seem to be coming in here with a military hand to support Kosovo gaining independence from the Federal Republic of Yugoslavia. That is not our goal.

Again, only a ground force containing this situation in Kosovo, until such time as a settlement can be worked out at the table, is the only way, in my judgment, that this matter can be resolved.

I hope other Senators will come forward and give their views because this could break in military action any day now. I don't predict in any way when the strike may begin. Hopefully, diplomatic efforts, which are still ongoing, can prevent the necessity of the use of force. It is only that credible determination to use force, as perceived in Belgrade, that will bring about successful diplomatic negotiations.

Mr. President, I ask unanimous consent to have the letter to the President and his response to the majority leader, which I referred to earlier, printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follos:

U.S. SENATE,
OFFICE OF THE MAJORITY LEADER,
Washington, DC, October 2, 1998.

Hon. WILLIAM JEFFERSON CLINTON,
The White House, Washington, DC

DEAR MR. PRESIDENT: We are writing to express our concerns about your Administration's policy toward Kosovo. Since the Serbian military offensive began in Kosovo more than seven months ago, senior Administration officials have repeatedly stated that Serbian actions would not be tolerated. For example, in March 1998, Secretary of State Albright stated, ''We are not going to stand by and watch the Serbian authorities do in Kosovo what they can no longer get away with in Bosnia.'' The same month, your Special Representative threatened ''the most dire consequences imaginable'' in response to Serbian offensives. Since these statements, many of us indicated we would support military action to halt Serbian ethnic cleansing. However, it is now more difficult for us to have confidence that military action accomplish the stated goals. U.S. credibility has suffered great damage because U.S. threats have not been carried out. Milosevic has had the luxury of time to accomplish his goals in Kosovo.

We listened carefully as your senior national security officials briefed Senators yesterday. Clearly, we recognize the stakes involved in Kosovo, including the danger the conflict will spread to neighboring countries, the importance for our credibility and for that of the NATO alliance, and the ongoing human tragedy created by months of ruthless attacks by Serbian forces. We also recognize the seriousness of the action you are contemplating. It means, as Senator LUGAR stated yesterday, going to war with an attack on a sovereign country. We do not believe you have taken the necessary steps to prepare the Congress and the American people for such a weightily decision. In fact you have not even asked the Congress to authorize the use of military force.

We are troubled by a number of aspects of the plans and policies contemplated by your Administration.

First, we cannot support military operations by U.S. Armed Forces in Kosovo unless and until you commit to request a significant increase in the defense budget to address the shortfalls in military readiness, personnel and modernization recently acknowledged by the Joint Chiefs of Staff. The crisis in military readiness that has only belatedly been acknowledged by your Administration is grave. To support ongoing operations around the world, our men and women in uniform are deployed away from their homes and families for unprecedented lengths of time during peacetime. Morale among the troops is suffering, and recruiting and retention statistics are dangerously low. Modernization of the force is seriously underfunded across the services. Training in many of the combatant commands must halt well before the end of the fiscal year due to funding and supply shortages. Nearly 12,000 military families rely on food stamps. Failing to provide additional funding for a potentially costly military operation in Kosovo, while U.S. forces are about to complete three years in Bosnia at a cost of nearly $10 billion, will severely and perhaps irreparably exacerbate this critical readiness crisis.

Second, the issue of potential deployment of U.S. ground forces was not adequately addressed in yesterday's briefing. Press accounts report that detailed plans for nearly 50,000 ground troops in Kosovo have been developed. Yet Secretary of Defense Cohen stated that there has been no discussion of deploying U.S. ground forces in Kosovo. We believe that a ground force in Kosovo, which could be a likely follow-on to airstrikes, should be European, not American.

Third, we are concerned about the proposed use of NATO airpower. Press reports contain information about U.S. targeting plans that was not discussed in the briefing. To the extent we understand the proposed strikes, they appear to envision gradual and incremental measures. General Ralston discussed a ''limited option'' that may or may not achieve its stated objectives. A more ''robust'' option is under consideration but apparently has not yet been finalized. We believe any air attack should be sustained and overwhelming. Air attacks should be designed to decimate Milosevic's forces in Kosovo and in Serbia—in order to permanently end his ability to perpetuate the conflict in Kosovo.

Finally and most importantly, we are concerned that U.S. policy is not based on a coherent and convincing plan and neither protects our interests nor recognizes the danger of becoming involved in another open-ended

military commitment in the Balkans. Your policy seems to recognize that Milosevic is the problem but also proposes to make him part of the solution. By so doing, your policy helps to perpetuate his hold on power, your Administration has yet to formulate a policy for replacing Milosevic with a democratic government.

Yesterday, your officials stated that the credible threat of force was necessary to induce Milosevic to negotiate seriously. Yet in June, Secretary of State Albright stated, ''The issue here is that we want a diplomatic solution. And I don't want to threaten strikes when what I'm trying to do is get a diplomatic solution.'' This is a disturbing and confusing inconsistency. A central question involves subsequent actions if any use of military force is not immediately successful in accomplishing its stated objective. If Milosevic does not accept U.S. or NATO demands either before or after the employment of military force, what is our next step? It is not sufficient to state, as Secretary of Defense Cohen did yesterday, that you have not reached that decision point.

Your policy apparently envisions a status of limited autonomy for Kosovo, a status that both parties have shed blood to reject. Independence has been the choice of the majority of inhabitants in Kosovo. Serb assaults since February have served to increase this sentiment. Your policy currently opposes independence for Kosovo but we are concerned that you do not have an achievable program to implement your policy.

Mr. President, we believe in bipartisanship in foreign policy. We will not support any plan that requires American military personnel alone to bear the burden of the sacrifice and risk involved. To the contrary, we expect other members of NATO and their military personnel to share the sacrifice and risk. We stand ready to work with you and your officials to protect American interests in southeastern Europe.

Sincerely,

STROM THURMOND, CHUCK HAGEL, PETE V. DOMENICI, TED STEVENS, DON NICKLES, TRENT LOTT, JOHN WARNER, RICHARD G. LUGAR, JESSE HELMS.

THE WHITE HOUSE,
Washington, DC, October 6, 1998.

Hon. TRENT LOTT,
Majority Leader, U.S. Senate, Washington, DC

DEAR MR. LEADER: Thank you for your letter about Kosovo. You have raised a number of critical issues. Before addressing your specific concerns, I believe it is appropriate to lead-off by describing our overall approach and the vital interests at stake.

We are entering a crucial period regarding the crisis in Kosovo. Serb repression and violence, clear evidence of atrocities, the uncertain fate of more than 250,000 displaced persons and the approach of winter have coalesced an international consensus behind U.S. efforts to resolve the conflict. In United Nations Security Council Resolution 1199, adopted on September 23, 1998, the international community reaffirmed in clear terms what steps Milosevic must take:

Immediately cease offensive operations;

Withdraw security forces;

Allow full access to international monitors and relief agencies; and

Negotiate a settlement with the Kosovar Albanians.

Since, as of now, Milosevic has not complied with these requirements, we and our NATO allies will soon consider the potential use of force. I want to provide you and others in the Congress our full thinking and strategy on this issue.

As your letter recognizes, the crisis in Kosovo began when Serbian special police launched an offensive against the Kosovo insurgents in February of this year. In the seven months that have followed, Serbian military and police have steadily escalated their systematic campaign of violence and expulsions designed to terrorize the local populations and suppress armed insurgent groups. The roots of the current crisis can be traced back to 1989, when Slobodan Milosevic revoked the autonomous status that Kosovo had enjoyed since 1974. My Administration has long pressed Belgrade to restore the rights and freedoms of the Kosovar Albanians, making clear that this was a prerequisite to Serbia's reintegration into the international community. However, Belgrade resisted our support for building an effective dialogue with the Kosovars, instead escalating the fighting by targeting civilians with increasing brutality.

Over the past several months, we have endeavored to contain and ultimately resolve the conflict through extensive humanitarian and diplomatic efforts. On the humanitarian track, we have committed more than $45 million in emergency relief funds and other types of assistance and we have urged the UNHCR and other international agencies and donors to do the same. On the diplomatic front, Ambassador Chris Hill has had some success, pulling together a Kosovar Albanaian negotiating team under Ibrahim Rugova and obtaining Milosevic's acknowledgment of an ''interim'' agreement that would allow for self-government. Ambassador Hill has also worked with Contact Group countries to develop the text of a settlement that they now have endorsed. This settlement would allow the people of Kosovo to administer their own local affairs, including education, justice and a separate police force, while protecting the human rights and cultural sites of all ethnic groups, including the small Serb minority. It would do so while preserving the FRY's territorial integrity, we believe that an independent Kosovo could not survive as a viable state. Moreover, independence would send entirely the wrong signal to those in the region calling for a ''greater Albania,'' and to minorities elsewhere in Europe, leading to greater instability. However, our humanitarian and diplomatic efforts have been thwarted by the tactics of Milosevic's security forces.

In recent days, the intensifying threat of NATO military action has caused Milosevic to throttle back the operations of his security forces; some withdrawals have begun to occur. However, he has not done enough to come into full compliance with UNSC Resolution 1199. We cannot accept hollow promises or half steps that leave open the prospect of renewed hostilities in the coming weeks, or after this winter.

It is important to focus on U.S. national interests that are at stake here.

First, Kosovo is a tinderbox that could ignite a wider European war with dangerous consequences for the United States. Throughout Balkan history, ethnic conflicts often have been used for political manipulation. The violence directed against ethnic Albanians in Kosovo already has exacerbated political tensions and civil disorder in neighboring Albania. Continuation of the fighting in Kosovo likely would trigger further refugee flows into Albania and the Former Yugoslav Republic of Macedonia, with dangerously destabilizing consequences. Wider instability and refugee flows further south would threaten the differing regional interests of NATO allies Greece and Turkey, exacerbating tensions in the Aegean. The radicalization of ethnic Albanians also could support radical Islamic fundamentalist efforts to establish a foothold in southeastern Europe, potentially creating new sources of instability and increasing the threat of terrorism to us and our allies in Europe.

Second, we are faced with a major humanitarian and human rights crisis that could soon become a catastrophe. Yesterday, the United Nations Secretary General's report on the crisis condemned the wanton killing and destruction perpetrated by security forces in Kosovo. These forces have destroyed at least one quarter of the homes in over 200 villages. They have committed atrocities, including the mutilation and execution of senior citizens, women and children. We must act to prevent widespread deaths with the onset of winter, to prevent further atrocities and to demonstrate that the international community will not tolerate such acts.

Third, it is important to sustain NATO's credibility as the principal peace and security instrument in Europe. Just as NATO's effective response in Bosnia has had a stabilizing influence throughout Europe, so too will NATO's efficacy in responding to Kosovo help achieve our long-term goals for Europe. Moreover, as the situation in Kosovo has deteriorated, the credibility of U.S. warnings to Milosevic first issued by President Bush in 1992, and reaffirmed by me, also are challenged.

We prefer to advance each of these interests through diplomacy that leads to a peaceful and principled settlement, as our negotiating efforts have sought to accomplish. But largely as a result of Milosevic's assault, those negotiating efforts are impossible to pursue under these circumstances. I believe the credible threat, and therefore the willingness to use force, has become necessary. It now appears that our NATO allies share this view.

I will now turn to the four specific issues raised in your letter.

First, I too am concerned about military readiness, as I discussed at length with the Chiefs and CINCs recently. As noted in my letters to Congress and Secretary Cohen, we have moved promptly to address these concerns, building on efforts initiated by my Administration over the past several months to support military operations. For example, in FY 1998 we worked with Congress to secure a $1 billion reprogramming that reallocated funds to readiness programs and a $1.85 billion emergency funding package to cover the unanticipated costs of the Bosnia and Southwest Asia contingencies. For FY 1999, I have proposed a $1.9 billion emergency funding measure to cover the continuing costs of our Bosnia deployment. To preclude serious readiness problems in FY 1999, I again urge Congress to approve this measure.

In addition to these actions, I committed my Administration to work with Congress to provide adequate resources for readiness and other defense programs in FY 1999 and beyond. For the short term, I proposed that members of my Administration work with you prior to the Congressional adjournment to craft a $1 billion supplemental package that will augment FY 1999 funding for key readiness programs. For the longer term, the Office of Management and Budget and the National Security Council have been instructed to work with Secretary Cohen and the Joint Chiefs to develop a multi-year plan that provides the resources necessary to preserve military readiness, support our troops, and modernize aging weapons systems. This plan will be incorporated in my FY 2000 defense budget request to Congress. As I wrote you last month, the men and women of our armed forces will have the resources they need to do their job.

The cost of potential military operations in Kosovo would be a function of the scope and intensity of such operations. My Administration will work with the Congress to ensure timely passage of appropriate funding measures and that this does not come at the expense of our defense program.

Second, on the question of ground forces, although NATO planners have reviewed a broad range of options, some of which would involve ground forces in hostile circumstances, I can assure you the United States would not support these options and there currently is no sentiment in NATO for such a mission. The mission under consideration involves the use of graduated air power, not military forces on the ground.

In the event that Milosevic agrees to comply with UNSCR 1199, and if there is a subsequent political settlement, some form of international presence may be needed. Whether this can be done entirely by international civilian personnel and whether Americans should participate are matters we will need to consider in the context of any such agreement and with full consultations with the Congress.

Third, regarding the nature of the air campaign in Kosovo, NATO has developed a clear military plan. It entails the graduated but effective use of air power harnessed to two achievable objectives. The primary objective is by threat of force, or its use, to persuade Milosevic to comply with the demands of United Nations Security Council Resolution 1199. If initial use of air power does not result in compliance, NATO's secondary objective is to strike Belgrade's military capabilities in ways that will damage his ability to conduct repressive operations in Kosovo, the same objective you identify in your letter.

Let me assure you that NATO planning provides for air power to be used effectively. There will be no ''pin prick'' strikes. Even the initial use of air power will send a very clear signal of our ability to disrupt operations by the FRY military and special police, and follow-on phases will progressively expand in their scale and scope. These operations are planned to involve virtually all NATO allies.

Finally, regarding your desire for a clear policy linked to our national interests and a defined end-state, NATO air power will be used as part of a broader political strategy to advance our overall objectives of promoting a political settlement and averting a humanitarian catastrophe. We are not replacing diplomacy with military force; rather we are combining the two to achieve our objectives. Secretary Albright recently dispatched Ambassador Holbrooke to the region to make crystal clear to Milosevic what steps he needs under UNSC 1199 to take to avoid NATO air strikes. Even if Milosevic gives NATO no choice but to execute air strikes, we will use them in a way designed to help bring an end to Serbian operations in Kosovo, voluntarily or involuntarily.

Our desired end-state in Kosovo is clear, comprising three parts. Our immediate objective is to achieve full compliance with UN Security Council resolution 1199, thus reducing the risk of wider conflict, averting a humanitarian catastrophe and lessening the chance of further atrocities. Our mid-term objective is to secure a political settlement that grants broad autonomy to the Kosovars, while keeping Kosovo within the FRY. In particular, the agreement should ensure that the Kosovars have their own bodies of government and police. Our longer-term objective is a FRY that is democratic and on the path to European integration. This requires a responsible government that is accountable to its own citizens, of all ethnic backgrounds, and that carries out its obligations abroad, including in Bosnia. In this regard, we continue to support opposition parties and free and independent media in the FRY. Further efforts in these areas are an important part of our broader strategy.

The United Nations, the Contact Group, NATO and my Administration all agree that Milosevic bears primary responsibility for the current situation including the brutal tactics of his security forces. Not only has he displaced a quarter million of his own citizens, but he has also suppressed the human rights of all citizens of the FRY and forced them to bear the burden of the current conflict, of UN economic sanctions and of isolation from the rest of Europe.

While Milosevic bears primary responsibility for the current crisis, there are others whose actions could prolong and exacerbate it. I am referring in particular to the various armed insurgent groups in Kosovo, including the Kosovar Liberation Army, or UCK. Ambassador Holbrooke this week delivered a firm message to these groups to cooperate in bringing about a peaceful solution. Armed reprisals against Serb civilians, or the continued pursuit of independence by military means, will only shatter a cease-fire and the hopes of attaining a political settlement that gives Kosovo true autonomy. We have told them that failure to cooperate will cause us to reassess our operations against the Serbs.

Larry Eagleburger, our former ambassador to Yugoslavia, once said that the war in Yugoslavia began in Kosovo and will ultimately end there. His prediction was correct. Our job is to bring that war to an end, to keep it from destabilizing the region and to avert a humanitarian catastrophe. I appreciate your willingness to work with the Administration to protect American interests in southeastern Europe. We will continue to consult closely with you in the critical days and weeks ahead.

Sincerely,

BILL CLINTON.

TRIBUTE TO ADMIRAL T. JOSEPH LOPEZ ON THE OCCASION OF HIS RETIREMENT

Mr. WARNER. Mr. President, I rise today to pay tribute to Admiral Joe Lopez on the occasion of his Change of Command as Commander of Allied Forces, Southern Europe and U.S. Naval Forces, Europe and his retirement from the United States Navy after 39 years of dedicated service to the nation.

Joe Lopez joined the United States Navy to see the world—and see the world he did. A native of Powellton, West Virginia, he enlisted in the Navy in September 1959. In 1964, he was commissioned an Ensign via the Seaman-to-Admiral Program and upon commissioning, he was assigned first to the U.S.S. *Eugene A. Greene* (DD 711) and then to the U.S.S. *Lind* (DD 703). While onboard both of these destroyers, he saw action in Vietnam.

Admiral Lopez received his first command in September 1969, when he assumed the duties as Commander, River Assault Division 153, which operated in the Mekong Delta in Vietnam and as part of a counter-offensive into Cambodia in May 1970. Admiral Lopez was the only Navy commanding officer to lead a river assault into Cambodia.

Following tours of duty at the Naval Postgraduate School, the Armed Forces Staff College, and as Flag Secretary and Staff Officer for Commander, Cruiser-Destroyer Group Eight, Admiral Lopez served as the Executive Officer onboard the U.S.S. *Truett* (FF 1095) from 1977 to 1979. While he was XO, the *Truett* operated in the Mediterranean and Red Seas.

Admiral Lopez commanded the U.S.S. *Stump* (DD 978) from September 1982 to November 1984. As the CO of *Stump* he completed a Persian Gulf deployment. Admiral Lopez' next command tour was as Commander, Destroyer Squadron 32, which deployed to the Mediterranean Sea. He followed his Squadron Commander assignment with duties as Executive Assistant to the Deputy Chief of Naval Operations for Manpower, Personnel and Training and as Executive Assistant to the Vice Chief of Naval Operations.

Admiral Lopez was promoted to Rear Admiral in July 1989. He served as Defense Secretary Dick Cheney's senior military assistant from July 1990 to July 1992 including during the Persian Gulf Conflict. From July 1992 to December 1993, he commanded the United States Sixth Fleet and NATO's Striking and Support Forces, Southern Europe, homeported in Gaeta, Italy.

For the next three years he served as the Navy's senior acquisition official, the Deputy Chief of Naval Operations for Resources, Warfare Requirements and Assessments. He led the Navy's transition to a force that is able to operate effectively in the littorals. His accomplishments include helping to develop the next generation of nuclear-powered attack submarines, the recently named *Virginia* class of fast attack subs, which are being built jointly by Newport News Shipbuilding and Electric Boat.

Admiral Lopez became Commander in Chief, U.S. Naval Forces, Europe and Commander in Chief, Allied Forces, Southern Europe on 31 July 1996. As CINC AFSOUTH, he commanded the Peace Implementation Forces (IFOR) in Bosnia-Herzegovina from July 1996 to November 1996.

Tomorrow, at a ceremony at Headquarters AFSOUTH in Naples Italy, after more than two years as the senior military commander in NATO's southern region, Admiral Lopez will relinquish command to Admiral James O. Ellis, Jr. The ceremony will also mark the retirement of Admiral Joe Lopez after a 39-year Navy career.

Mr. President, Admiral Lopez has had a tremendous career and I wish to thank him for the superb job he has done as Commander in Chief of Allied Forces, Southern Europe and U.S. Naval Forces Europe. He demonstrated outstanding leadership as commander of the NATO forces in charge of enforcing the Dayton Peace Agreement. In my travels to that war-torn region of the world I have come to know Admiral Lopez well. We have traveled together on official business. On many occasions, I have visited Joe and his wife Vivian at their quarters in Naples, and have sought the Admiral's counsel, especially on the volatile situations in the Balkans. Admiral Joe Lopez is a man of vision and an astute realist. I will continue to seek his counsel during his retirement.

I congratulate Joe and Vivian Lopez upon the completion of their active duty Navy career and thank them for their service to the country. And finally, I want to thank Admiral Lopez for his friendship and honest counsel over the years. Since the closing days of World War II, 1945, I have known and served with many sailors. I rank him at the top, a ''4.0 seaman patriot.''

DEVELOPMENTS IN KOSOVO

Mr. WELLSTONE. Mr. President, I thank Senator WARNER for speaking about Kosovo. I am disappointed that the Senate has not brought a resolution to the floor and had a debate about what our response should be as a Nation to what is happening in Kosovo. I think it is a profound mistake on our part not to have this discussion given the fact that we are going to adjourn within the next couple of days.

Mr. President, I want to be held accountable. I think we should all be held accountable as to what our viewpoints are and what we think our country should or should not do.

Mr. President, while there have been some indications in recent days that the slaughter of innocent civilians has slowed—at least temporarily—we cannot afford to turn our attention away from the situation there.

President Milosevic claims to have ordered some units of his army back to their barracks, but it is too early to tell exactly what these actions mean and whether Milosevic actually intends to cease his brutal offensive against the Albanian Kosovars. There is considerable evidence that he may not be truly pulling back in accordance with Western demands, but rather taking halfway measures that would allow his troops and tanks to return to the fighting almost immediately. UN Secretary General Annan reported earlier this week that there is still a significant presence of Serb armed forces in Kosovo, and that some special police units are continuing punitive operations against the local population. I remain deeply skeptical about Milosevic's intentions.

We have had too much experience with Milosevic to take his statements at face value and to assume that the killing has really ended. We have seen his defiance of world opinion and international law for years. Recently we were all shocked by the horrific massacres of civilians—the massacre of women, elderly men, even young children and infants. These killings, attributed to Serb security forces, are an affront to the international community.

Now it looks as if Milosevic may have ordered a partial withdrawal of his attack forces, hoping to avoid imminent military action by NATO. He may believe that if the killings stop for a time, the attention of NATO and the U.S. will turn elsewhere. We must not allow that to happen. We must keep our focus on the crisis in Kosovo, and not become distracted by other issues.

Unless immediate action is taken to forestall a humanitarian tragedy, we may soon see even more disturbing and gruesome pictures from Kosovo. With an estimated 150,000 people in Kosovo living out in the open without any shelter and with winter approaching, international relief agencies now fear that tens of thousands of those displaced persons could face severe hardship and some even death from exposure unless they can return to their homes or be provided adequate shelter within the next couple of weeks.

The situation on the ground in Kosovo is heartbreaking. According to a report from a representative of the International Rescue Committee who recently visited the Kosovo countryside, young children are wandering around in the hills barefoot or in ripped sandals. Extended families of several generations are sleeping 15 to 20 to a tent. The tents are clear plastic supported only by bent saplings. Mothers are desperate to return home. Even if their houses are burned they would rather sleep in tents in their own yards then in the inhospitable hills. But they are afraid to return home, because every time they try to return snipers shoot at them.

As the IRC report relates, these displaced Kosovars are trying to survive in areas where there is no food, no shelter, no schools for the children, no latrine system, and no other basic infrastructure. They have only the clothes they were wearing when they fled in the summer. The children have diarrhea from the dirty water and lack of sanitation. Parents watch, worried, as their children vomit all night and become dehydrated. Soon they will also have to face snow and freezing cold.

These appalling conditions cannot continue. We must get aid to this terrorized population swiftly. But we can only get relief to them if Milosevic ceases his repression and allows relief agencies unfettered access.

The Administration and our NATO allies must keep the pressure on Milosevic to put an end to Serb military action in Kosovo and to comply with the demands of the UN Security Council resolution of September 23. That resolution demands that both parties cease hostilities and maintain a cease-fire. The resolution also calls on Belgrade to (1) cease all action by the security forces affecting the civilian population and order the withdrawal of security forces used for civilian repression; (2) allow free access for international diplomatic monitors in Kosovo and unimpeded access for humanitarian organizations and supplies to Kosovo and; (3) make rapid progress on a clear timetable in conducting autonomy talks with the Kosovo Albanian community.

I have also been encouraged that NATO has instructed its military commanders to begin preparations for possible military action and that NATO members have informed NATO Command what forces and equipment they are prepared to supply for actions in the Kosovo region.

I have always been a Senator who insists that military actions abroad should always be a last resort. I still hope and pray, as a Senator from Minnesota, that in this situation we will not have to resort to force. I view it as a last option if we cannot resolve this situation by diplomatic means. But I also recognize that we cannot rule out the use of force, including the use of air strikes, in this situation. If the killing resumes or if Milosevic prevents relief from getting to the displaced Kosovars and fails to comply with the UN resolution and the demands of the international community, we may have to resort to military action.

I met with Milosevic once. I wanted to see firsthand the genocide of several years ago. He was the first and only person I have met that I would not shake hands with. I don't think he can be believed, and I think that we have to send him a forceful message.

To prepare for possible implementation of more forceful options developed by NATO planners, we should continue to move forward now, under NATO auspices, with pre-deployment in the region of appropriate levels of NATO military equipment and forces. This would include such actions as pre-positioning aircraft and naval vessels, and deployment of necessary materiel to support NATO troops.

These moves would be intended to send another clear message to Milosevic that he must comply with the UN Security Council Resolution immediately. If he does not respond we must be ready to take further steps to force compliance as necessary.

At the same time, we need to take other actions to keep the pressure on Milosevic. The U.S. should press forward on an intensified multilateral effort, at the United Nations and through regional bodies like the European Union, to firmly tighten the existing sanctions regime on Serbia, to re-impose other sanctions lifted after signing of the Dayton Peace Accord, and to otherwise increase pressure on Milosevic to comply.

We must also accelerate U.S. and NATO logistical support for the ongoing international humanitarian aid effort in Kosovo, including pre-deployment of humanitarian supplies in Kosovo in anticipation of winter distribution by non-governmental organizations, while ensuring the safety and security of those who will rely on such aid.

There must be no repeat of the disgraceful Bosnian ''safe haven'' disaster of Srebrenica.

The U.S. and NATO must also press for immediate and unrestricted access in Kosovo for internationally-recognized human rights monitoring organizations, including the Organization for Security and Cooperation in Europe, and increase aid and intelligence support to the International Criminal Tribunal for the Former Yugoslavia.

Mr. President, the U.S. and NATO are right to move forward now to send a clear and forceful message to Milosevic that he can no longer brazenly defy world opinion. The brutal slaughter of innocent non-combatants in Kosovo must stop now. If it continues, the West must have the resolve to do what is necessary to bring it to an end. And, if necessary, I want to say as a U.S. Senator, I think there should be airstrikes.

I wanted to speak out before we leave and I want the RECORD to show that I have spoken out. I wish that the U.S. Senate had brought this matter up. Other Senators would have very different points of view, and I understand that. But it really troubles me, saddens me, that the Senate as a body has not had a thorough discussion and debate about what is a life-or-death matter. I wanted to at least have a chance to speak out. I thank my colleague from Oklahoma for giving me some time.

Mr. SPECTER. Parliamentary inquiry: I have been asked to propound a unanimous consent request which relates to another bill. Would it be in order at this time to ask unanimous consent that it may be considered separately?

The PRESIDING OFFICER. The Senator may make the request.

OPERATION DESERT SHIELD AVIATION CONTINUATION PAY

Mr. SPECTER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 2584.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2584) to provide aviator continuation pay for military members killed in Operation Desert Shield.

There being no objection, the Senate proceeded to consider the bill.

Mr. SPECTER. Mr. President, this legislation is introduced to correct a legislative inequity that has adversely affected one of my constituents, Mrs. Vicki Reid of Dauphin, Pennsylvania.

At the time of his death in Operation Desert Shield, Captain Frederick Reid was serving as a United States Air Force pilot. The Air Force had authorized an Aviator Continuation Pay contract contingent upon his continuing to serve in the Air Force. Unfortunately, on October 10, 1990, Captain Reid was killed during a flight training operation.

The Defense Department policy at the time was that one's death precluded receiving the continuation pay. Congress responded by enacting the Mack Amendment, under which families of pilots killed in action during Operation Desert Storm are entitled to the deceased pilot's Aviator Continuation Pay. This provision of the fiscal year 1992 Defense Appropriations Act (P.L. 102–172) stipulates that in order to collect the Aviator Continuation Pay, the pilot must have died during Operation Desert Storm (on or after January 17, 1991), but excludes those pilots killed in Operation Desert Shield.

By letter to me dated August 3, 1998 from Under Secretary Rudy De Leon, the Department of Defense has confirmed that Captain Reid was the only U.S. Air Force pilot killed in Operation Desert Shield who was entitled to Aviator Continuation Pay and that approximately $58,000 of Captain Reid's Aviator Continuation Pay was unpaid at the time of his death. In a September 11, 1998 letter to me, the Air Force has expressed its support for an extension of the Mack Amendment to cover the Reid case.

While private relief legislation is a last resort to be used sparingly by the Congress, Captain Reid's service and dedication to his country are laudatory. Had he died only a few months later, his widow would have been justly compensated. Accordingly, I am introducing this bill today.

Mr. President, I ask unanimous consent that a letter from the Department of Defense and a letter from the Air Force be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF DEFENSE,
UNDER SECRETARY OF DEFENSE,
Washington, DC, August 3, 1998.

Hon. ARLEN SPECTER,
U.S. Senate,
Washington, DC.

DEAR SENATOR SPECTER: This responds to your letter of July 2, 1998, to Secretary Cohen concerning Aviation Continuation Pay (ACP) due to pilots at the time of their death while serving in Operation Desert Shield.

A review of files pertaining to the members who died while serving in Desert Shield indicate that, of the eight pilots who died during that operation, only Captain Reid was serving under an ACP bonus contract at the time of his death. Approximately $58,000 of that bonus was left unpaid due to Captain Reid's death and would be payable to his widow should legislation be enacted to extend the Mack Amendment to P.L. 102–172 to cover members killed in Operation Desert Shield.

I appreciate the concern you have shown about this issue. Please contact me if you require any further information.

Sincerely,

RUDY DE LEON.

DEPARTMENT OF DEFENSE,
DEPARTMENT OF THE AIR FORCE,
Washington, DC, September 11, 1998.

Hon. ARLEN SPECTER,
U.S. Senator,
Philadelphia, PA.

DEAR MR. SPECTER: This responds to your inquiry for Ms. Vicki Reid and the possibility of receiving the remaining portion of her late husband's, Captain Frederick Reid, Aviator Continuation Pay (ACP).

As currently codified in Section 301b, Title 37, United States Code, ACP is paid upon the acceptance of a written agreement to remain on active duty. Members who do not complete the total period of service under the terms of that agreement, even as a result of death while in military service, are not entitled to the unearned portion of the compensation. Current law does not permit the Air Force to pay Ms. Reid the approximately $58,000 remaining on her husband's agreement.

Air Force officials are aware of the possibility of extending the Mack Amendment to cover members killed in Operation Desert Shield and strongly support this initiative. The Air Force officials sincerely appreciate the dedication to duty exemplified by Captain Reid.

We trust you will find this information helpful.

Sincerely,

MARCIA ROSSI,
Lt. Col. USAF, Congressional Inquiry Division, Office of Legislative Liaison.

Mr. SPECTER. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

Mr. DORGAN. Mr. President, reserving the right to object—I will not object—I want to inquire, has that been cleared on this side?

Mr. SPECTER. It has been cleared on the other side of the aisle. It provides for aviator continuation pay for Air Force personnel killed in Operation Desert Shield. It is for a Pennsylvania constituent, as I understand it, the only one who has not been so compensated.

Mr. DORGAN. I thank the Senator.

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

The bill (S. 2584) was passed, as follows:

S. 2584

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

SECTION 1. OPERATION DESERT SHIELD AVIATOR CONTINUATION PAY.

Section 8135(b) of the Department of Defense Appropriations Act, 1992 (Public Law 102–172; 105 Stat. 1212; 37 U.S.C. 301b note) is amended—

(1) by striking out ''January 17, 1991'' and inserting in lieu thereof ''August 2, 1990''; and

(2) by inserting ''(regardless of the date of the commencement of combatant activities in such zone as specified in that Executive Order)'' after ''as a combat zone''.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1999—CONFERENCE REPORT

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of the conference report to accompany H.R. 3694, the intelligence authorization bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3694), have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 5, 1998.)

Mr. SHELBY. Mr. President, I rise today to ask that my colleagues support the Conference Report on the Intelligence Authorization Act for Fiscal Year 1999.

I want to thank Chairman YOUNG for his leadership in the Conference, and note for my colleagues that Chairman GOSS was unable to chair the conference due to a serious medical condition in his family. We all wish Mrs. Goss a speedy recovery.

I believe that the Conference Committee put together a solid package for consideration by the full Senate that fairly represents the intelligence priorities set forth in both the Senate and House versions of the Intelligence Authorization Act. I am pleased to report that the Conference Committee accomplished its task in a strong bipartisan manner, and I want to thank my colleague from Nebraska, Senator KERREY, for working so closely with me to produce this legislation.

I believe that the Conference Report embraces many of the key recommendations that the Senate adopted in its version of the bill.

We recommended significant increases in funding for high-priority projects aimed at better positioning the Intelligence Community for the threats of the 21st Century, while at the same time reducing funds for programs and activities that were not adequately justified or redundant.

The Conference Report includes key initiatives that I believe are vital for the future of our Intelligence Community.

These initiatives include: bolstering advanced research and development across the Community, to facilitate, among other things, the modernization of NSA and CIA; strengthening efforts in counter-proliferation, counter-terrorism, counter-narcotics, counter-intelligence, and effective covert action; expanding the collection and exploitation of measurements and signatures intelligence, especially ballistic missile intelligence; developing reconnaissance systems based on new small satellite technologies that provide flexible, affordable collection from space with radars to detect moving targets; boosting education, recruiting, and technical training for Intelligence Community personnel; enhancing analytical capabilities; streamlining dissemination of intelligence products; and providing new tools for information operations.

The conferees have provided the funds and guidance to ensure that military commanders and national policymakers continue to receive timely, accurate information on threats to our security.

At the same time, we have found some critical areas within the Community that are in need of major improvements.

First, the CIA's foremost mission of providing timely intelligence based on human sources (''HUMINT'') is in grave jeopardy. CIA case officers today do not have the training or the equipment needed to keep their true identities hidden, to communicate covertly with agents, or to plant sophisticated listening devices and other collection tools that will provide timely intelligence on an adversary's intentions.

Second, what many see as the ''crown jewel'' of U.S. Intelligence—the National Security Agency's signals intelligence capability—likewise is in dire need of modernization. The digital and fiber optic revolutions are here-and-now, but NSA is still predominantly oriented toward cold war-era threats.

The Director of NSA has recommended major changes in how NSA performs its mission—changes we endorse—but those recommendations were not adequately addressed in the President's budget.

Third, promising technologies and systems for detecting missiles and other threats were short-changed in the President's budget request. Likewise, robust funding for new tools for conducting information warfare, new sensors to detect and counter proliferation, and a demonstration of radar technology on small and affordable satellites were not adequately addressed in the budget request.

And fourth, the declining quality of analysis within the Intelligence Community is cause for great concern.

Responding to the failure to predict the Indian nuclear tests, the Director of Central Intelligence commissioned retired Admiral David Jeremiah to review what went wrong and why. Among other findings, Admiral Jeremiah concluded that Intelligence Community analysts were complacent; they based their analyses on faulty assumptions; and engaged in wishful thinking. It is my belief that such is the state of analysis as it relates to many issues and problems, including political-military developments in China, the ballistic missile threat, and more. We can and should expect more from the Intelligence Community.

And as we demand more from our Intelligence Community in a number of areas, we also demand fiscal responsibility. The Conference Report includes a number of reductions to programs that were not adequately justified or were redundant with other elements within the Intelligence Community.

The Conference Report also places some fiscal restraints on programs that have historically been allowed to grow unbounded. These programs are primarily in the area of technical satellite collection, and the conferees placed a cost cap on the National Reconnaissance Office's next generation imagery satellite constellation, called the Future Imagery Architecture. I believe that this action is necessary to ensure that the program stays on a solid fiscal footing from the start, and focuses on the key performance parameters generated by the Intelligence Community and the Department of Defense's Joint Requirements Oversight Council.

Finally, the Conference Report includes a provision to name the CIA Headquarters Compound after President George Bush. I am happy that we were able to recognize President Bush's service to this country as both Director of Central Intelligence and as President. As DCI, Mr. Bush brought innovation to the CIA, and dramatically improved the morale within the Agency.

He demonstrated leadership and integrity at a time when both were desperately needed to help restore confidence in the CIA and the other elements that make up the Intelligence Community. It is a fitting tribute that we designate CIA headquarters the George Bush Center for Intelligence.

Mr. President, the Conference Committee worked closely together, in a strong bipartisan fashion, to produce a comprehensive Intelligence Authorization Act, and I urge my colleagues to support its adoption.

Mr. KERREY. Mr. President, I urge my colleagues to vote for this conference report and I urge the President to sign this bill into law. This legislation is an essential part of Congress' annual duty to provide and direct the resources which safeguard the independence of the United States and the lives and livelihoods of the American people. Chairman SHELBY'S leadership and sustained effort throughout this year come to fruition in this excellent bill and I congratulate him. I also appreciate the vision and hard work of Chairman GOSS and Ranking Member DICKS of the House Committee, together with the leadership of Chairman YOUNG at the conference.

This legislation, like the intelligence agencies it authorizes, seeks to maximize America's capabilities against today's threats while simultaneously building capability against the threats of 2010 and beyond. The Intelligence Community cannot be pulled back from its deployed status for retraining and retooling. It is operating tonight around the world, seeking to monitor every environment which could threaten America or our allies. But the Intelligence Community must also be able to master the steadily more complex technologies which will be tomorrow's threat environments. The outlines of the new century are apparent, as we see the continuing explosion of communications media, the global growth of strong encryption, and the increasing porosity of international borders, to mention just of the future that are already upon us. In response to challenges like these, the conference authorized the start or continuation of a number of new technology initiatives, including most of those the Senate supported previously.

The Committee's efforts to advance intelligence technology were greatly assisted by a group of outside experts who formed a Technical Advisory Group to the Committee. They helped the Committee focus on the future of signals intelligence and the necessity

for the National Security Agency to modernize itself, as well as how technology could better support human intelligence. Their contribution of time and expertise is paying off already for the country, and they deserve the thanks of all of us.

Throughout the authorization process, the two intelligence committees have understood that their efforts to prepare U.S. intelligence to master the future must be bounded by budgetary realities. Most of the intelligence budget is dependent on a defense budget which, as we all know, is under severe pressure. The intelligence agencies have ambitious projects, and it is part of our job to set financial limits and time constraints and closely oversee the progress of these projects. The conferees placed a cost cap on the National Reconnaissance Office's Future Imagery Architecture for this reason.

The bill also encourages competitive analysis of important and difficult intelligence topics. The Jeremiah Report which reviewed intelligence community performance following this year's Indian nuclear test and the Rumsfeld panel report on the ballistic missile threat both stress the need to use competitive analysis drawing on experts from both within and outside the government. This bill encourages that process.

Analysis will grow stronger in the coming year, not only because of this legislation, but because there is now in place, under the Director of Central Intelligence, an Assistant Director for Analysis and Production. This official has not been confirmed by the Senate, although he may well be in the coming year, but he is already using the Director's authorities to make analysis in the Intelligence community more effective and efficient. He and his counterpart, the Assistant Director for Collection Management, and their supervisor, the Deputy Director for Community Management, are already by their actions validating Congress' wisdom in creating these positions. As I go to briefings and learn how these officials are marshaling resources in times of crisis, setting priorities, and identifying gaps, I am pleased with the work we did two years ago.

Another aspect of the intelligence business should be praised, Mr. President, and that is the unparalleled level of cooperation between the agencies these days. The relationship between FBI and the CIA is particularly strong and it has paid off most recently in the investigation of the attacks on our embassies in Kenya and Tanzania. Director Tenet and Director Freeh have overcome corporate cultures and bureaucratic impulses to forge a strong team for America and they deserve our thanks.

Team-building and sound oversight both depend on the flow of information. The Senate had gone on record three times in defense of a Federal employee's right to bring classified information on wrongdoing to the appropriate committees of Congress. The House had devised a process by which such information could come to Congress while insuring the employee's privacy, making the employee's agency aware the information was going to Congress, and insuring the protection of sources and methods. The conference modified the House provision and agreed to make the information process faster. As one who has argued several times on this floor for the right of Congress to be informed, I am pleased with the conference outcome on this provision and with the work of both bodies.

This legislation also recognizes the accomplishments of a great patriot, former President Bush, by naming the CIA Headquarters complex in his honor. From his initial service in World War II, President Bush has always stepped forward to do hard and sometimes dangerous work for his country. Leadership of the CIA has both characteristics. President Bush distinguished himself in that job, as in all his service, and I am pleased this legislation will honor him.

Mr. THURMOND. Mr. President, I rise to address an issue of serious consequence in the Intelligence Authorization Conference Report. Although I have signed the conference report and intend to support it on the Senate floor, I feel compelled to voice my concern over the manner in which the conference report deals with the Future Imagery Architecture, a program managed by the National Reconnaissance Office. I make these remarks with the complete understanding that conference is always difficult, and always improve compromises.

Although there are reasons to be concerned about cost growth in the FIA program, I am just as concerned that the intelligence conference report will have negative and unforeseen consequences for this important program. The conference report mandates fixed deployment dates, fixed costs, and fixed portions of the budget for subsidizing the commercial sector. Perhaps more troubling, the conference report fences one hundred percent of the FIA budget for fiscal year 1999 pending the completion of several significant tasks, a number of which are outside the purview of the NRO. Since FY 1999 has already commenced, this means that none of the FIA budget can be accessed for many months, even to support completion of the tasks that the conference report has mandated. In my view, imposing such limitations before a contract has even been awarded is an unprecedented and unwarranted degree of micro-management.

Based on my concerns, I have requested the views of the Department of Defense and the Joint Chiefs of Staff. The preliminary report that I have received indicates that OSD and JCS have serious concerns similar to mine.

It has been asserted that the FIA program must live under a congressionally imposed cost cap in order to prevent it from ''eating'' the entire National Foreign Intelligence Program. Some who make this argument, however, also want to see FIA's capabilities to support military users reduced so that savings can be used to support other programs within the NFIP that have a more ''national'' orientation. The fact of the matter is, however, even though FIA is funded in the NFIP, by its nature and the mission of the NRO, it must provide robust support to military forces. The Intelligence Committees must ensure that their bill supports these military missions as well as the other programs and missions funded within the NFIP.

INTELLIGENCE COMMUNITY WHISTLEBLOWER PROTECTION ACT OF 1998

Mr. SHELBY. Mr. President, I want to take a moment to discuss language that has been added to the Intelligence Authorization Act for Fiscal Year 1999. The language, establishing the ''Intelligence Community Whistleblower Act of 1998,'' creates a process by which employees of intelligence agencies can provide information to Congress about certain potential problems without fear of reprisal or threats or reprisal.

Some of these provisions create duties for the Inspectors General (IGs) of the Department of Defense and the Department of Justice, and modify the Inspector General Act of 1978. As a result, they fall squarely within the jurisdiction of the Committee on Governmental Affairs, which is the Senate's primary oversight committee for the IG community.

However, Senator THOMPSON, the chairman of the Governmental Affairs Committee, worked with me to ensure that the language comports with the overall framework of the Inspector General Act. I thank my colleague for his participation in this issue.

Mr. THOMPSON. Mr. President, I thank my colleague from Alabama for his cooperation on this matter. The Committee on Governmental Affairs, which I chair, has long been a supporter and friend of the Inspector General (IG) community. Twenty years ago, the Committee's leadership led to passage of the Inspector General Act, legislation which has served Congress, the executive branch, and the public well. As their primary committee of jurisdiction, the Committee has a longstanding and abiding interest in the IGs.

Thus, the Committee has an interest in any legislation that affects the duties of the IGs. Portions of the ''Intelligence Community Whistleblower Protection Act of 1998'' amend the IG Act by vesting the Defense Department and Justice Department IGs with authority to act upon allegations received from intelligence community whistleblowers who wish to complain to Congress about problems they see in certain sensitive areas. Recognizing the Committee's jurisdiction and interest in this matter, Senator SHELBY solicited my views on how the whistleblower provisions fit within the existing IG statute. I thank Senator SHELBY for offering me

the opportunity to work with him on this important issue.

S.C. SECRECY REFORM ACT

Mr. MOYNIHAN. Mr. President, today the Senate Select Committee on Intelligence brings to the floor the conference report on the intelligence authorization bill. While I commend the Committee for bringing this legislation to the floor, I would like to take this opportunity to discuss a bill that the committee did not act on this year: the government Secrecy Reform Act (S. 712).

This legislation stems from the unanimous recommendation of the Commission on Protecting and Reducing Government Secrecy. Senator JESSE HELMS and I, and Representatives LARRY COMBEST and LEE HAMILTON (all Commissioners), introduced the Government Secrecy Act in May 1997. The bill sets out a new legislative framework to govern our secrecy system. Our core objective is to ensure that secrecy proceed according to law. The proposed statute can help ensure that the present regulatory regime will not simply continue to flourish without any restraint and without meaningful oversight and accountability.

A trenchant example of the need for reform in this area came last week by way of the Assassination Records Review Board. The Board has now completed its congressionally mandated review and release of documents related to President Kennedy's assassination. It has assembled at the National Archives a thorough collection of documents and evidence that was previously secret and scattered about the government. The Review Board found that while the public continues to search for answers over the past thirty-five years:

> [T]he official record on the assassination of President Kennedy remained shrouded in secrecy and mystery.
>
> The suspicions created by government secrecy eroded confidence in the truthfulness of federal agencies in general and damaged their credibility.

Credibility eroded needlessly, as most of the documents which the Board reviewed were declassified. And at considerable cost, as it represents the best-known and most notorious conspiracy theory now extant: the unwillingness on the part of the vast majority of the American public to accept that President Kennedy was assassinated in 1963 by Lee Harvey Oswald, acting alone.

Conspiracy theories have been with us since the birth of the Republic. This one seems to have only grown. A poll taken in 1966, two years after release of the Warren Commission report concluding that Oswald had acted alone, found that 36 percent of respondents accepted this finding, while 50 percent believed others had been involved in a *conspiracy* to kill the President. by 1978 only 18 percent responded that they believed the assassination had been the act of one man; fully 75 percent believed there had been a broader plot. The numbers have remained relatively steady since; a 1993 poll also found that three-quarters of those surveyed believed (consistent with the film JFK, released that year) that there had been a conspiracy.

It so happens that I was in the White House at the hour of the President's death (I was an assistant labor secretary at the time). I feared what would become of him if he were not protected, and I pleaded that we must get custody of Oswald. But no one seemed to be able to hear. Presently Oswald was killed, significantly complicating matters.

I did not think there had been a conspiracy to kill the president, but I was convinced that the American people would sooner or later come to believe that there had been one unless we investigated the event with exactly that presumption in mind. The Warren Commission report and the other subsequent investigations, with their nearly universal reliance on secrecy, did not dispel any such fantasies.

In conducting this document-by-document review of classified information, the Board reports that ''the federal government needlessly and wastefully classified and then withheld from public access countless important records that did not require such treatment.'' How to explain this?

Beginning with the concept that secrecy should be understood as a form of government regulation. This was an insight of the Commission on Protecting and Reducing Government Secrecy, which I chaired, building on the work of the great German sociologist Max Weber, who wrote some eight decades ago:

> The pure interest of the bureaucracy in power, however, is efficacious far beyond those areas where purely functional interests make for secrecy. The concept of the 'official secret' is the specific invention of bureaucracy, and nothing is so fantastically defended by the bureaucracy as this attitude, which cannot be substantially defended beyond these specifically qualified areas.

What we traditionally think of in this country as regulation concerns how citizens are to behave. Whereas public regulation involves what the citizen may do, secrecy concerns what that citizen may know. And the citizen does not know what may not be known. As our Commission stated: ''Americans are familiar with the tendency to overregulate in other areas. What is different with secrecy is that the public cannot know the extent or the content of the regulation.''

Thus, secrecy is the ultimate mode of regulation; the citizen does not even know that he or she is being regulated! It is a parallel regulatory regime with a far greater potential for damage if it malfunctions. In our democracy, where the free exchange of ideas is so essential, it can be suffocating.

And so the Commission recommended that legislation must be enacted. The Majority and Minority Leaders have been persuaded on the necessity of such legislation and are cosponsors of the bill. On March 3, 1998, we engaged in a colleague on the bill with the two Leaders, along with myself, Senators HELMS, THOMPSON, GLENN, SHELBY, and KERREY. At that time we all agreed on the importance of considering the bill in this session. The Majority Leader stated, ''I hope that this process of committee consideration can be completed this spring and that we can expeditiously schedule floor time for legislation addressing this important issue. The Senate Governmental Affairs Committee, chaired by Senator THOMPSON, considered the bill and approved it unanimously on July 22. In its report to accompany the bill, the Committee had this important insight:

> Our liberties depend on the balanced structure created by James Madison and the other framers of the Constitution. The national security information system has not had a clear legislative foundation, but . . . has been developed through a series of executive orders. It is time to bring this executive monopoly over the issue to an end, and to begin to engage in the same sort of dialogue between Congress and the executive that characterizes the development of government policy in all other means.

We are not proposing putting an end to government secrecy. Far from it. It is at times terribly necessary and used for the most legitimate reasons—ranging from military operations to diplomatic endeavors. Indeed, much of our Commission's report is devoted to explaining the varied circumstances in which secrecy is most essential. Yet, the bureaucratic attachment to secrecy has become so warped that, in the words of Kermit Hall, a member of the Assassination Records Review Board, it has transformed into ''a deeply ingrained commitment to secrecy as a form of patriotism.''

Secrecy need not remain the only norm—particularly when one considers that the current badly overextended system frequently fails to protect its most important secrets adequately. We must develop what might be termed a competing ''culture of openness''—fully consistent with our interests in protecting national security, but in which power and authority are no longer derived primarily from one's ability to withhold information from others in government and the public at large.

Unfortunately, the Intelligence Committee did not take up this bill. Part of the delay was a result of the tardy administration response to the changes made by the Governmental Affairs Committee. A formal letter on the bill was not delivered until September 17. In addition, this letter sought the removal of the ''balancing test'' contained in the bill, a change that the administration had not previously sought.

Nevertheless, we were on the threshold of reaching agreement on the bill. The Intelligence Committee has been reviewing the bill informally, and I hope the Chairman will agree that the difference between us are not that great, and that we can pass the bill early in the 106th Congress.

I ask unanimous consent that the letter expressing the administration views on the bill be printed in the RECORD at this point, along with comments on the letter made in a joint letter by the National Security Archives and the Federation of American Scientists, and a letter by Representative LEE HAMILTON.

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

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 2, 1998.

Mr. STEVEN AFTERGOOD,
Federation of American Scientists, 307 Massachusetts, Ave., NE., Washington, DC.

DEAR MR. AFTERGOOD, Thank you for your letter of September 24, 1998, concerning National Security Adviser Sandy Berger's letter to me with the Administration's views on S.712, The Government Secrecy Reform Act of 1998.

I agree with you. I think it is a serious mistake to accept the elimination of the public-interest balancing test as the price for Administration support of the bill. To agree with the Administration's proposed changes would amount to gutting the bill. It would amount to a codification of existing procedures in the Executive branch, and a rejection of the work of the Secrecy Commission. I want to work with the Administration in support of secrecy reform, but I cannot accept a revised bill that does not change the unacceptable status quo on classification and declassification.

As I read it, secrecy reform is dead in the current Congress. In the absence of Administration support, moving the bill forward just will not be possible.

On a personal note, I want to say that the efforts of you and your organization have been very helpful to me and to advocates of secrecy reform, and I wish you every success in the 106th Congress.

With best regards,
Sincerely,

LEE H. HAMILTON,
Ranking Democratic Member.

SEPTEMBER 24, 1998.

Re S. 712, the Government Secrecy Reform Act of 1998

Hon. DANIEL PATRICK MOYNIHAN,
United States Senate, Washington, DC.

DEAR SENATOR MOYNIHAN: As three public-interest organizations that have collectively spent more than 50 years battling excessive government secrecy imposed in the name of national security, we write to applaud S. 712, the Government Secrecy Reform Act of 1998, as a truly important and unprecedented step towards reforming the Cold War secrecy system.

The bill includes the critical ingredient for any real reform, namely the public-interest balancing test and judicial review under the Freedom of Information Act applying that test. The public-interest balancing test—whereby classification standards must incorporate a weighing of the public interest in knowing the information against the harm to the national security from disclosure—was one of the key recommendations of the Commission on Protecting and Reducing Government Secrecy in 1997. And the experience of the past 20 years confirms that Congress was correct in 1974, when it recognized that an essential element for an effective Freedom of Information Act is judicial review of whether classification standards are being properly applied when government agencies refuse to release information.

For these reasons, we are deeply disappointed that the Administration objects to the bill's inclusion of the public-interest balancing test for declassification and the concomitant amendment to the Freedom of Information Act. (Letter from Samuel R. Berger to Lee Hamilton, September 17, 1998; secs 2(c) and (f) in S. 712 as reported out of the Senate Committee on Governmental Affairs.) The Administration's demand to eliminate from the bill the balancing test and its enforcement under the FOIA threatens to eviscerate the bill and to gut any real reform. If the bill were to be passed without these provisions, we fear that secrecy reform would suffer a grievous setback. The historic opportunity carved out by the Commission to advance reform beyond the status quo will have been missed, and instead the Congress risks codifying a Cold War understanding of national security secrecy that ill serves democratic principles.

While we understand that the Administration's objections may make it difficult to pass the bill as reported out of Committee in this session of Congress, we urge you to insist on keeping these provisions in the bill.

We believe that the administration's objections can be overridden, if not in this Congress, then in the next one. The objections are based on a dangerous and erroneous view that the President has absolute and unreviewable authority over national security information. This view of exclusive authority challenges not only the judiciary's constitutional role in enforcing the law but also Congress' shared responsibility for national security information. It is inconsistent with the Supreme Court precedent, (See, *EPA v. Mink*, 410 U.S. 73 (1973) and contradicts decades of congressional legislating. (Most recently, the Nazi War Crimes Disclosure Act, but also the JFK Assassinations Records Collection Act, the Foreign Relations Authorization Act of 1992 (concerning the Department of State's Foreign Relations of the United States series), and the Intelligence Oversight Act, among others.) Indeed, this same argument was rejected by the Congress in 1974 when it overrode President Ford's veto of the amendment to the Freedom of Information Act providing that federal courts should determine whether information is properly classified. In now objection to judicial review, the administration is seeking to repeal the most important element of the FOIA.

Moreover, the oft-cited specter of ''judicial intrusion on the President's constitutional authority'' is not grounded in any real historical experience. The bill would authorize judicial review to determine whether mid-level agency officials have correctly applied declassification standards. In reality, no federal court is ever going to release national security information over the objection of the President or even the head of an agency, and certainly no appeals court would uphold any such decision. At the same time, experience confirms that it is only the availability of judicial review that ensures that agencies do, in fact, live up to their legal obligations under the FOIA. For example, only when the CIA was forced to defend its withholding of the aggregate intelligence budget in 1997 in court did the agency finally release the information.

As you have written, ''[s]ecrecy can be a source of dangerous ignorance. . . . It is time. . . . to assert certain American fundamentals, foremost of which is the right to know what government is doing, and the corresponding ability to judge its performance.'' These key provisions of the bill are essential to allow the public to do just that—to participate effectively in the political process and to engage in democratic decision making on fundamental issues of foreign policy and national security.

Thank you for considering our views.

Sincerely yours,

KATE MARTIN,
Center for National Security Studies.
STEVEN AFTERGOOD,
Federation of American Scientists.
THOMAS BLANTON,
National Security Archive.

THE WHITE HOUSE,
Washington, September 17, 1998.

Hon. LEE HAMILTON,
Ranking Democratic Member,
Committee on International Relations,
House of Representatives,
Washington, DC.

DEAR LEE: Thank you for your letter inquiring about the Administration's views on S. 712, the Government Secrecy Reform Act of 1998, which was reported out of the Senate Committee on Governmental Affairs in July. I wrote to Chairman Thompson on May 11, 1998, conveying Administration views on this legislation; a copy of that letter is enclosed.

The amended version of S. 712 incorporates most of the Administration's recommendations regarding the Office of National Classification and Declassification Oversight (NCDO); the use of classification and declassification guidance; and the need to ensure that declassification decisions are made only by the originating agency. The Committee also clearly tried to address our concerns about new rights of judicial review, but further clarification on this vital point is necessary.

The additional improvements in S. 712 that we believe are essential are discussed below. Based on recent discussions with staff of Chairman Thompson. Senator Moynihan, and the Senate Select Committee on Intelligence, I am hopeful that needed changes can be made that would enable the Administration to endorse this legislation. For each of the key issues, our suggestions are included in a line-in/line-out version of S. 712 enclosed with this letter.

1. The bill must be modified to make it unambiguously clear that this legislation confers no new rights of judicial review. While the text of Section 6 attempts to limit judicial review, the interplay of other sections would create new substantive and procedural rights. Section 2(c), which requires a national security/public interest balancing test before classifying or declassifying any information, also sets forth specific standards for defining harm to national security and the public interest. Section 2(f), which amends the FOIA, clearly would make the application of a balancing test subject to judicial review under FOIA. Indeed, the Government Affairs Committee Report states that ''the legislation necessarily imports into its new secrecy regime the judicial review available under the Freedom of Information Act (FOIA). For example, proper application of the public interest/national security balancing test would be within the scope of judicial review for Freedom of Information Act requests for classified information. * * *'' Since the bill was reported, we have considered several approaches to revising the balancing test language or adding additional language to limit judicial review. None of these approaches completely addresses the concern that legislating a mandatory balancing test could encourage judicial intrusion on the President's constitutional authority and transform the nature of judicial review of classification and declassification decisions in FOIA litigation. We have concluded that the balancing test must be eliminated in order to protect essential Presidential authority and to ensure that the legislation introduces no new rights of judicial review.

2. Section 2(d) would forbid the classification of any information for more than 10

years, without the concurrence of the head of the NCDO and a written certification to the President. Since over half of all original classification decisions made under E.O. 12958 are properly designated for more than 10 years (down from 95% under the previous Executive Order), implementation of this requirement would be unworkable without the employment of a huge new bureaucracy at the NCDO and hundreds of new certification writers at the agencies. The standards for duration of classification must be rewritten to make them compatible with the E.O. 12958 standards.

3. Section 4 establishes a Classification and Declassification Review Board, consisting exclusively of non-Government employees, to decide appeals from the public or agencies of decisions made by agencies or the NCDO. Agencies may appeal decisions of this Board only to the President. Given the new oversight authority assigned to the Director of the NCDO, and the existing rights of FOIA or Executive Order appeal, this new entity is redundant and unnecessary, and it is likely to be quite costly to operate. At a minimum, the legislation must be amended to permit the President to appoint Review Board members of his choosing, including current Government employees.

4. S. 712 locates the NCDO within the EOP, which is highly problematic given the traditional constraints on the budget and staffing levels of the EOP. Therefore, we believe the best organizational placement for the NCDO is the National Archives and Records Administration, which has a strong institutional commitment to declassifying public records as expeditiously as possible consistent with protecting national security interests. That said, we also would recommend the addition of language that would codify an ongoing NSC role in providing policy guidance to the NCDO and would enhance the prospects of adequate funding for the NCDO. With a continued NSC imprimatur and adequate assured funding, organizational placement outside the EOP would be a much less difficult issue.

5. Section 2(c)(4) requiring detailed written justifications for all classification decisions is the kind of administrative detail that should be left to the discretion of the executive branch. As drafted, this provision would increase paperwork and cost, without any assurance of improving classification decisions or the management of the program. However, we agree that it would make sense to require detailed justifications whenever classification decisions are incorporated into an agency's classification guide.

6. Section 3(d)(7) should be modified to limit NCDO access to the most sensitive records associated with a special access program. Limiting access to such records is consistent with E.O. 12958 but will not undermine the NCDO's ability to oversee special access programs.

I appreciate your continuing leadership on this matter. By working together on the difficult remaining issues, I think we have a chance to establish a statutory framework for the classification and declassification program that enhances the President's authority to manage the program effectively.

Sincerely,

SAMUEL R. BERGER,
Assistant to the President for National Security Affairs.

Mr. NICKLES. I ask unanimous consent that the conference report be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the conference report be printed in the RECORD.

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

The conference report was agreed to.

UNANIMOUS CONSENT AGREEMENT—CONFERENCE REPORT TO ACCOMPANY H.R. 1853

Mr. NICKLES. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Democratic leader, may turn to the consideration of the conference report accompanying H.R. 1853, the Carl D. Perkins Vocational-Technical Education Act Amendments, and that the reading of the conference report be waived. I further ask unanimous consent that there be 30 minutes for debate equally divided between Senators JEFFORDS and KENNEDY, and that at the conclusion or yielding back of the time, the Senate proceed to vote on adoption of the conference report, without any intervening action or debate.

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

UNANIMOUS CONSENT AGREEMENT—H.R. 2431

Mr. NICKLES. Mr. President, I ask unanimous consent the Senate turn to H.R. 2431, that the cloture motion be vitiated, and that Senator LOTT or his designee be recognized to offer a substitute amendment; that there be 2½ hours of debate on the substitute amendment to be equally divided between the majority and minority leaders or their designees; and that following the expiration or yielding back of time, the substitute amendment be agreed to, that the motion to reconsider be laid upon the table, and that an amendment to the title then be offered and agreed to, the motion to reconsider be laid upon the table, the bill be advanced to third reading, and the Senate vote on final passage of H.R. 2431, as amended, without any intervening action or debate.

Mr. SPECTER. Mr. President, reserving the right to object, and I shall not object. When this unanimous consent agreement was propounded initially, the distinguished assistant majority leader and I talked about including 20 minutes for me to speak. Will the Senator modify his request so that I may be recognized as soon as the Senator from Minnesota finishes his comments?

Mr. NICKLES. Mr. President, I so modify the request.

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

Mr. NICKLES. Mr. President, we are ready to begin consideration on the International Religious Freedom Act.

FREEDOM FROM RELIGIOUS PERSECUTION ACT OF 1998

The PRESIDING OFFICER. The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (H.R. 2431) to establish an Office of Religious Persecution Monitoring, to provide for the imposition of sanctions against countries engaged in a pattern of religious persecution, and for other purposes.

The Senate proceeded to consider the bill.

AMENDMENT NO. 3789

(Purpose: To express United States foreign policy with respect to, and to strengthen United States advocacy on behalf of, individuals persecuted in foreign countries on account of religion; to authorize United States actions in response to violations of the right to religious freedom in foreign countries; to establish an Ambassador at Large for International Religious Freedom within the Department of State, a Commission on International Religious Freedom, and a Special Adviser on International Religious Freedom within the National Security Council; and for other purposes)

Mr. NICKLES. I send a substitute amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES] proposes an amendment numbered 3789.

Mr. NICKLES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

(The text of the amendment (No. 3789) is printed in today's RECORD under ''Amendments Submitted.'')

Mr. NICKLES. Mr. President, I thank my colleagues for their participation and cooperation in making this act a reality, and particularly my colleague, Senator LIEBERMAN, for cosponsoring this. We have 29 cosponsors of this bill.

Certainly, one of the principal cosponsors and leaders on combating religious persecution and promoting religious freedom throughout the world has been Senator SPECTER, the original cosponsor of the Specter–Wolf bill which passed the House overwhelmingly. I commend Congressman WOLF for his leadership and for the enormous vote they had in the House. I commend Senator SPECTER for combating religious persecution and promoting religious freedom throughout the world.

I yield 20 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. At the outset, I congratulate my distinguished colleague from Oklahoma, Senator NICKLES, for his leadership on this important measure, along with Senator LIEBERMAN and Senator COATS.

This is a very important piece of legislation, which now appears to be near fruition, with joint action by the House of Representatives. This legislation, the International Religious Freedom Act, constitutes a very firm stand by the United States against religious persecution worldwide. A bipartisan group of Senators have spearheaded this effort, and the outcome is one in which the Senate can be proud.

The rockbed of America is religious freedom. That is the reason that the pilgrims came to this country, to the

settlements in Virginia in 1607 and in Massachusetts with the pilgrims in 1620. That was also the reason that my father, Harry Specter, came to this country in 1911 at the age of 18, and my mother, Lillie Shanin Specter, came to this country at the age of 5 with her family which had lived in a small town on the Russian-Polish border. Freedom of religion is the heart of the first amendment, the provisions for religious freedom.

We have seen worldwide unspeakable religious persecution. We have seen Catholic clerics mistreated and tortured in China. We have seen Christians sold into slavery in the Sudan. We have seen the risk of the death penalty in Egypt and in Saudi Arabia for those of the Islam faith who seek to convert to Christianity.

This legislation is a very forceful statement by the United States of America that religious persecution is intolerable wherever it exists, whether it is against Christians, whether it is against Jews, or whether it is against those of the Islam faith, Buddhist, or whatever the religious persuasion may be, it is intolerable. This issue, as I have already noted, goes to my own personal roots. I was motivated to act for legislative relief by a distinguished American named Michael Horowitz, who came to see me in early 1997 and said that there had been enormous support from the international Christian community to protect Soviet Jewry, and that there ought to be a firm, responsive action by those of the Jewish faith to try to help on the issue of persecution of Christians. It soon expanded beyond persecution of Christians to people of any religious persuasion.

I have been working in the Senate on the issue of religious persecution for several years now. At the end of the 104th Congress, I introduced Senate Resolution 283, which detailed the need for quick, decisive action and called upon the President to appoint a White House advisor on religious persecution. After that, I worked with Senators NICKLES, NUNN, and COATS on a broader Senate resolution, S. Con. Res. 71, which included my provisions on a White House Senior Advisor on religious persecution and expressed the sense of the Senate regarding persecution of Christians worldwide. S. Con. Res. 71, which I cosponsored, passed the Senate by voice vote but there was insufficient time remaining in the 104th Congress to secure passage in the House.

In collaboration with Congressman FRANK WOLF of Virginia, on May 21, 1997, I introduced legislation in the Senate, S. 772, and Congressman WOLF introduced companion legislation in the House of Representatives. We introduced a bill that directly confronted the horrendous situation in many countries. This legislation targeted those countries that engaged in the most egregious acts of persecution such as torture, slavery and forcible acts of conversion. The legislation was passed in the House of Representatives on May 14, 1998 by a vote of 375–41. The matter has been under consideration by the Senate. The provisions of Senate bill 772, which I introduced, had been criticized, or concerns were raised because of the sanctions which had been imposed.

There is a widespread concern in Congress—and in the Senate, at least among some Senators—that the sanctions are counterproductive and that they ought not to be entertained.

My own personal view is that the sanctions would have been appropriate. But I think it is worthwhile to take two-thirds of a loaf, 70 percent of a loaf, I think substantially more than half a loaf, in the accommodation which we are making here in the legislation which has been introduced today.

Margaret Chase Smith, a distinguished Senator from Maine, articulated a very important concept talking about the principle of compromise as opposed to the compromise of principle. And in the legislation which is being advanced today there is not a compromise of principle, but we are making accommodations to put this legislation through.

Over the past 2 years, I have conducted four hearings throughout Pennsylvania to hear from panelists who have witnessed or experienced personally the horrors of religious persecution. These hearings were held in the Pittsburgh area, the Harrisburg area, Allentown/Reading area and the Wilkes-Barre/Scranton area. In addition, I have had several meetings with evangelical leaders and leaders of missionary organizations who have been striving to expose those governments and other organizations that tolerate or perpetuate serious, physical acts of religious persecution against their own population.

It is clear from my meetings with religious leaders in Pennsylvania that there are regions of the world where the situation is particularly abhorrent. In China, the government distinguishes between ''Patriotic'' Catholic and Protestant churches that are endorsed by the government and the more than 50 million ''House'' church Christian Churches. The Chinese government recognizes officially only the Patriotic churches. Members of the House churches—those who refuse to register in a state religion, or who remain faithful to the Vatican—are regularly imprisoned for having bibles or holding worship services without permission.

Just over two years ago in August 1996, I traveled to China and met with Chinese Vice-Premier Qian Qichen to express my strong concerns about religious persecution in his country. The next month, however, the Chinese Government released a statement warning the Chinese people that open exercise of their religion could result in harsh retribution. This Summer, when President Clinton traveled to China there was real hope that the Chinese Government would begin to reverse decades of religious intolerance and persecution. Sadly, recent reports indicate that the situation has improved little.

This past January, I traveled to the Mideast and Africa to gather evidence on such practices in Saudi Arabia, Sudan, Egypt and neighboring countries. I met with religious leaders and governmental officials in Egypt, Saudi Arabia, Ethiopia, Eritrea and Yemen. I had wanted to visit Sudan to investigate persecution of Christians by the fundamentalist Islamic Sudanese government, but was told by the State Department that Sudan was unsafe for American delegations. I did meet with the Sudanese government-in-exile in neighboring Eritrea, and discussed reports of Sudanese persecution with His Holiness Abuna Paulos, the Patriarch of the Ethiopian Orthodox Church, and with the leadership of the Ethiopian Supreme Islamic Council in Addis Ababa. My fact finding corroborated the widespread reports of bias, mistreatment and persecution of religious minorities in these countries. It is now a well known fact that the government of Sudan has supported a campaign of forced enslavement and conversion of the Christian population in southern Sudan. Literally thousands of Christian children have been taken as slaves in the last six years. The government of Sudan permits the torture and forcible conversion of Christian worshipers.

I heard reports from Egyptian evangelicals who cited cases of eight and nine months in jail for Muslims who sought conversion to Christianity. Many of them complained about the long time it took to secure official permission to build churches. Eritrean Christians confirmed claims of Sudanese children being sold into slavery. They attributed it to profiteering by militia as part of the booty of war. One Eritrean Christian commented on Sudanese government action in closing churches in 1997.

Egyptian President Mubarak and Saudi Arabian Intelligence Director Prince Turki told me that public intolerance toward non-Muslim religions springs from the Koran. Conversion from Islam to Christianity or any other religion carries the death penalty under Muslim laws that are based on teachings of the Koran.

In Egypt, I talked to the Copts, saw situations where religious persecution was present. Congressman WOLF and I have talked about being criticized in the Egyptian press for our advocacy of religious freedom around the world. As the saying goes, you can tell a man or woman by their friends. And you can tell a man or woman by their enemies as well. Perhaps it is a mark of distinction to have been criticized, as Congressman WOLF and I had been in the Egyptian press, for articulating and pushing the principles of religious freedom.

In Saudi Arabia, I talked to Christians and Jews who had been persecuted there, and was outraged to find

that if you were a Christian in Saudi Arabia, you could not have a Christmas tree in your window, which could be viewed from the outside; that the Jewish men and women who are stationed there in the American forces did not want to wear their dog tags, their identification, because the indication of being Jewish was a source of possible reprisal.

I heard conflicting statements in Saudi Arabia about whether the death penalty is actually imposed on conversion. In some cases there is question about whether individuals are put to death solely because of their faith, or if other charges are involved. There is no doubt, however, that the religious police in Saudi Arabia are very repressive against Christians.

While in Saudi Arabia, I visited a tent city right in the center of the desert where we have 5,000 American soldiers who are there to protect the Saudis, living under I think intolerable conditions, where they cannot have an open exercise of their religious faith, be they Jewish or Christian.

From my discussions with foreign leaders and religious minorities, it was clear that the introduction of the Specter-Wolf bill has had a beneficial impact by raising the issue's visibility. For example, Archbishop Silvano Tomasi, Vatican Ambassador to Ethiopia, complimented the proposed legislation for raising the level of dialogue, adding that, if it were enacted with a ''little bite,'' then so much the better.

I think this measure goes a long way in articulating the basic principles of religious freedom, which we prize so highly in America, and that we are exporting a fundamental American value. The bill I think would have been preferable to have sanctions. But it would be impossible to move it through the Senate. So we are taking a very substantial step forward in the legislation as it is currently framed. The legislation brings fair and honest fact finding to the situation of religious minorities around the world. It provides the necessary balance of respecting cultural differences and promoting religious tolerance throughout the world. The legislation provides for a strong, independent commission that can make recommendations based on honest facts.

I want to compliment and commend especially New York Times columnist A.M. Rosenthal, who has had a very profound influence on the formulation of this legislation. You see his articles from time to time, or you see a column from time to time, and there may be some impact. But Mr. Rosenthal has published column after column and has brought to the American people through the impressive op-ed page, or editorial page of the New York Times, discussions of the problems of religious persecution around the world. I think it has had significant effect in moving this legislation forward.

In our discussions, again, I compliment our distinguished colleague from Oklahoma, Senator NICKLES, for his leadership, along with Senator LIEBERMAN. Senator COATS has been a tower of strength. There have been a number of kudos and compliments to Senator COATS as he leaves the U.S. Senate. However many compliments there have been, they are insufficient, because he has made a tremendous contribution to the U.S. Senate. But I believe that this bill will be a tribute, in effect, to Senator DAN COATS and I think to all of those who have worked so hard for its enactment.

Mr. President, how much of my 20 minutes remains?

The PRESIDING OFFICER. The Senator has 16 minutes remaining.

Mr. SPECTER. Will the Chair doublecheck that? I have spoken very fast if I have said all of that in 4 minutes.

The PRESIDING OFFICER. The Senator has consumed 9 minutes. He has 11 minutes remaining.

Mr. SPECTER. I thank the Chair.

The PRESIDING OFFICER. You would have done better on the first one.

Mr. SPECTER. It all depends on what is ''better,'' Mr. President.

Mr. SPECTER. Mr. President, I thank the Senator from Oklahoma for permitting me to speak at the outset.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I want to again thank my colleague from Pennsylvania for his support of this bill and for his leadership on the bill that passed the House of Representatives.

I will mention and compare a little bit between the House bill and the Senate bill.

The House bill passed with an overwhelming vote. It came down very hard with punitive actions against countries that had gross violations of religious freedom, or had a lot of punitive action towards those countries that participated in really the most atrocious type of religious persecution—death, torture, imprisonment.

Again, I compliment Representative WOLF and Senator SPECTER for bringing that issue to the attention of the American people, maybe to the world's attention, because a lot of people didn't know that people were going to jail, that they were imprisoned for long periods of time, they might be tortured, they might be actually killed for their religious beliefs. This bill goes a little bit further than that. It might be a little milder on the sanctions side because it gives the President a lot of options, and I would agree and I happen to think that is the right action, but we also provide that we should recognize violations of religious freedom including violations such as assembling for peaceful religious activities, for speaking out on one's religion, for changing one's religious beliefs, for possessing or distributing religious materials or raising one's children in the religion of your choice.

In other words, we believe religious freedom should be a basic right for all Americans, for all people worldwide, and the United Nation's declaration includes such freedom. Countries that join the United Nations say, yes, we believe in religious freedom, but yet we find these things happening all the time.

As Members of the Senate and Members of the House, many of us have been engaged in trying to protect religious freedom when we find that maybe our constituents are denied access, denied the opportunity to worship, maybe put in prison because they share their faith or they wish to worship in a particular country and they find that it is not even available. So our bill goes a little bit further than the House bill in the fact that we include a lot of other violations of religious freedom.

I might mention a few other things, Mr. President, maybe outline some of the things that our bill does in comparison—not necessarily a comparison with what the House did but an explanation of what our bill does.

Mr. DORGAN. Mr. President, I wonder if the Senator from Oklahoma will yield for a question?

Mr. NICKLES. I would like to make a presentation of what is in the bill. I will be happy to yield.

Mr. DORGAN. I will wait until the gentleman is finished. I am going to ask a question about what is in the bill. I support the bill, but I want to have just a brief discussion of something.

Let me ask the Senator from Oklahoma to finish, and then if he will yield for a question, I would appreciate it.

Mr. NICKLES. I will be happy to.

Let me give a little rundown of what this bill does. And, again, I thank my colleague, Senator LIEBERMAN, for cosponsoring it and for his work. I will tell all my colleagues there has been a significant amount of work that has gone into this bill. Questions have been raised. We tried to alleviate some of those concerns.

I also wish to thank Senator BIDEN, Senator FEINSTEIN, Senator HAGEL, Senator GRAMM, and others who have raised questions and who have worked with us to try to solve some of those.

This bill creates a position with Ambassador rank called Ambassador at Large for International Religious Freedom. This Ambassador will serve as a full-time, high-level, single-issue diplomat working with the State Department, trying to find out what religious persecution is happening in various places around the world and to represent the administration.

We also set up a Commission on International Religious Liberty. This is a 10-member, bipartisan commission with appointments from Congress and the President. It will provide an outside independent voice investigating religious persecution incidents, raising the profile of religious persecution while making substantive policy recommendations to the Congress and the White House.

On this commission of 10-members, the Ambassador at Large will be a nonvoting member. The President or the executive branch will be entitled to three commissioners and in Congress the President's party in each House will be entitled to an additional position on both sides for a total of five, and the opposing party, in this case it would be the Republicans—Democrats control the White House—the Republicans would be entitled to two appointments from both the House and the Senate, for four.

This commission, being an independent commission, will have the authority to investigate, to conduct hearings to find out what is happening with religious freedom around the world, and be able to make a report to the administration on their recommendations on how to alleviate religious persecution.

I might mention our goal is not to punish any country that is violating or persecuting anybody because of their religious beliefs. The goal is not to punish anybody. Our goal is to change behavior. Our goal is to eliminate religious persecution. Our goal is to expand religious freedom worldwide, and we have gone to great lengths to do that.

Our bill says the commission will make its recommendations to the President and to Congress by May 1. There is also an additional report that is made by the State Department on the advice of the Ambassador at Large, and the State Department gives a country-by-country review of religious freedom. They report that yes, there has been progress in some countries or no, there has not been progress, but rather significant persecution in basically all countries with whom we have relations.

I might mention we have human rights reports right now, human rights reports that cover these countries. But for the most part, in many cases, we have been silent on religious freedom in those countries. So now we will be talking about an annual report on religious freedom and persecution.

And then we talk about responses, what can we do if we find that some countries are violating individuals' or people's religious freedom. Under the proposal, we have some positive things to promote religious freedom.

The International Religious Freedom Act has several measures to promote religious liberty abroad. We have USAID funding for legal protection of religious freedoms in restrictive countries. International broadcasting can be used to promote religious freedom. Fulbright exchanges, for example, of religious leaders and scholars and legal experts can be used. Religious freedom awards and performance pay for meritorious Foreign Service officers; equal access to embassies for U.S. citizens at the embassy's discretion for nationals for religious activities on terms not less favorable for other nongovernmental activities; training for Foreign Service officers and refugee and asylum personnel to ensure the promotion of religious liberty, and accurate reporting of religious persecution and relief for victims of persecution.

We also have steps to directly target those agents and those countries that are responsible for religious persecution, and we have several of those. Some people have said, well, those are various sanctions. And these people, talking about sanctions, they usually think, well, we are going to have a wheat embargo. That is what happened during the Carter administration when the Soviet Union invaded Afghanistan. I don't see that happening.

There are several items, so-called sanctions. We have 1 through 15, and I might mention the first one is a private demarche. The second one is an official demarche. Those can be letters to the embassy: We have reports of people being persecuted; we hope you don't do that anymore. It might be a call to the Ambassador. It might be a call to the Secretary of State or to the diplomatic personnel that there are reports of religious persecution; we want that to be changed. Or it could be more serious. We could cancel a scientific visit. We could have cancellation of a cultural exchange. We could deny one or more State visits. We can cancel State visits. We can do several things.

And then we go into the possible range of economic sanctions. Some people say, well, wait a minute, should you do this? Let's talk about it. These economic sanctions are only for the most egregious or the more, what we define under our bill as particularly severe violations of religious freedom. And particularly severe violations of religious freedom deals again with torture, imprisonment, deals with death, again the most egregious forms of religious persecution. And in those areas we have some economics—the withdrawal, limitation or suspension of development assistance. We have direction of the director of OPEC or TDA or EXIM not to approve guarantees, or we have the withdrawal, limitation or suspension of security assistance. I might mention it says ''limitation.'' It wouldn't have to be 100 percent. It could be 5 percent or it could be a little bit more.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

Mr. NICKLES. I object.

The PRESIDING OFFICER. Objection is heard.

The bill clerk continued with the call of the roll.

Mr. LOTT. Mr. President, I ask——

Mr. GRAMM. I object.

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

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

ORDER OF PROCEDURE

Mr. LOTT. So that everybody will relax, I understand when I make some remarks and schedule announcements we will go back in a quorum. Nobody is disadvantaged. Nothing is going to change.

I have requested this time for two purposes.

No. 1, to say that we do have a lot of work we need to do. One of the things I am considering doing here momentarily is going to a nomination so we will have time to work through and agree on a unanimous consent request.

But the other thing is, I think right now we are seeing the worst of the Senate, the worst of the Senate on all sides. We have work to do. We have about 48 hours left. We have several bills that people want to get done, vocational education, religious persecution—a number of other bills that have been worked on all over this Capitol. Many of them will be overwhelmingly or unanimously supported. And here we are, now, locked in a procedure where neither side will agree to anything. I just don't think it is in the best tradition of the Senate. I realize the Senate always works at the pleasure of any one Senator, but I think we also work because we always seek consensus.

I am for H.R. 10. I have been for that legislation from the beginning. I have given a lot of time to try to move it forward. I know there are people who have objections to it. As a matter of fact, some of the objections that they have, I agree with. It is not a perfect bill. But I think that we need to try to find a way to work through this, where we can continue to do business. I will do everything I can to make sure that neither side is disadvantaged. I have two of my very closest friends and colleagues that have major problems with this bill, but I am also very committed to dealing fairly with those who are for the bill. I want to try to continue to work to find a way to get it done. So I don't think it really serves either side to just shut us down here at 6:15, 2 days before we go out, and not allow us to get anything else done tonight.

So, I am going to appeal to both sides to work with me, to try to find a way to get this business done that we can do, some nominations that are not controversial on either side, and the religious persecution bill, and vocational education—and without disadvantages to anybody. So I ask Senators on both sides to do that. I appeal to them. And I will help try to make this happen.

But I want to go on the record saying that I think this spectacle that we are seeing right now is very unbecoming of the Senate, and rather than just steam about it, I thought I would say it publicly. I feel better now, Mr. President.

Momentarily I will move to a nomination or I will ask for a unanimous consent agreement that will allow us to complete action on the religious persecution bill. But I must say to both sides, I will not let either side gridlock the Senate. I will not do it. I will use

every tool at my disposal and I will also do everything publicly I can to make sure people understand who is not being cooperative in this effort.

I observe the absence of a quorum.

Mr. NICKLES. Will the majority leader withhold that request? One of the things we probably should have done a little earlier—I didn't know we were going to get stuck in this mess—would the majority leader go ahead and propound the unanimous consent request that we go ahead and vote tomorrow morning at 9:30 on the Religious Freedom Act, because I don't think there is any objection to that. I don't know how long this little debate will go, but I want to make sure we get that request made.

Mr. LOTT. I ask unanimous consent that the recorded vote on religious persecution occur at 9:30 on Friday morning.

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

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

Mr. LEVIN. Will the majority leader withhold just for a moment?

Mr. LOTT. I will be glad to.

Mr. LEVIN. During this quorum call, would anyone be inconvenienced if some of us who want to speak as in morning business be allowed to speak?

Mr. LOTT. There is a problem with doing that until we get this agreement worked out. We would actually go to H.R. 10, as I understand it. I would like for us to use this time, but both sides are still apprehensive about it. I asked for this time as majority leader and got it but I think, beyond that—we cannot do it

Mr. LEVIN. Again, reserving the right to object, I obviously won't, would the majority leader then, in the UC that you are working on, make provision, then, for 30 minutes for morning business for me at the end of whatever else is going to be done here?

Mr. LOTT. I will be glad to do that. And I would like for other Senators who might have a need for morning business time to get that time. We will block that in before we finish up with the UC.

Mr. LEAHY. Mr. President, reserving the right to object, I will not, but will we also at sometime before the chariots suddenly disappear on Sunday or Monday or whenever it happens—will we go to some of the judges?

Mr. LOTT. We are working now to go to No. 597, which is a State Justice Institute position. And we are working to try to go to the nomination of Mr. Paez. There are those who want time to talk about that. I hope we could do that tonight and tomorrow. But we will continue to try to get agreement on Paez. That is the one we are working on right now. We will either get to debate and vote on that tonight or, more likely, it looks like now, tomorrow.

Mr. LEAHY. If I may comment further, Mr. President, I will not delay this further. We have about 25 on the calendar itself —judges. I hope during the next few hours, or early tomorrow, the majority leader and I and a couple of others who are interested in this—Senator HATCH I am sure is—and others, that we might have a chance to talk about moving some of these other judges.

Mr. LOTT. Mr. President, I observe the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS CONSENT AGREEMENT

Mr. LOTT. Mr. President, I ask unanimous consent that H.R. 10 now be the pending business, and immediately following the reporting by the clerk, the Senate resume H.R. 2431—that is the religious persecution bill—and that following the conclusion or yielding back of the time, the previous consent governing H.R. 2431, commence. I further ask that following the disposition of time on H.R. 2431 this evening, the clerk then report H.R. 10, and the Senate then proceed immediately to a period for morning business.

Mr. SARBANES. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. I would like to inquire of the majority leader, I take it, then, that it is not the intention of the majority leader to file a cloture motion on H.R. 10 this evening.

Mr. LOTT. It is not my intention to do that.

Mr. SARBANES. It is, therefore, the intention of the majority leader to let this day pass and go over into another day; in other words, we lose a day on a cloture motion if one were to be filed.

Mr. LOTT. We do, because as I have assessed the situation, there are enough opportunities for cloture votes and delays that it would take us into next week. If you just look at the math, that is where it would go. You can go back and examine how we got in this position, and the answer is very simple: We have been trying to do other bills.

The only way we are going to get H.R. 10 now is by concession and by consensus, which is quite often the way the Senate works. We are going to have to see if we can find a way for Democrats who have worked on this bill and Republicans who have worked on it, some who have problems with it on both sides, can come together. There is also a concern from Secretary Rubin about a provision in the bill. But I would like to get it done. But we are not going to get it done by cloture motions. Therefore, I have no problem with going over another day and continuing to work and hope that we can find a way to come to an agreement on this bill.

Mr. SARBANES. I simply point out to the majority leader that the bill came out of the committee 16 to 2; that the relevant cloture vote we had where people differed was 88 to 11. There is extremely strong support for this legislation. It is obviously being frustrated and thwarted by a handful of people.

It was my concern that the opportunity to file this cloture motion not pass. In view of the statement of the majority leader that he has no intention to do that, to file the cloture motion, I am not going to object to the consent request, and then we move over until tomorrow. I wanted to keep this window of opportunity available, and now that I know that the majority leader has no intention of availing himself of it, I am prepared to agree to this consent request.

Mr. LOTT. If the Senator from Maryland is trying to get the majority leader to take full responsibility for not filing cloture today, I accept it. It is my goal to get a bill, and I concluded that another cloture motion at this time on this bill is fruitless. I am perfectly willing to accept that responsibility.

Mr. SARBANES. Let me also point out to the majority leader that the effort to try to develop accommodations has to be a broad-based effort.

Mr. LOTT. It surely does.

Mr. SARBANES. When we come in with 88 people on one side of the equation, if the 11 are going to hold us hostage or some of the 11 hostage—actually the word ''extortion'' was used in another context in the debate on the floor of the Senate.

Mr. LOTT. You wouldn't want to use that word. I think I have a card here I can call you on.

Mr. SARBANES. People are going to be highly resistant, I might say to the majority leader.

Mr. LOTT. I want to remind the Senator from Maryland, I was one of the 88, not one of the 11, but the 11 is on both sides of the aisle. We are never going to get an agreement until we get the 11 to feel comfortable that they have the opportunity that they are entitled to under the rules to make their point. It is the wonderful way the Senate works.

Mr. SARBANES. I know, but a lot of us have given at the committee over and over again to get the bill where it is.

Mr. LOTT. That is the price you pay for that wonderful assignment. It is a great committee to be on. You get all that good stuff. We did the credit union bill this year. A lot of credit goes to everybody for that.

Mr. SARBANES. We did the housing bill.

Mr. LOTT. Housing bill, you have done a lot of good stuff.

Mr. SARBANES. A lot of good work.

Mr. LOTT. I think I want on that committee next year.

Mr. SARBANES. We would welcome you. You would be a valuable addition

to the committee, and you can see the inner dynamics of the committee that result in the kind of problem we are now facing on the floor of the Senate. It would be welcomed for you to be in that cockpit seeing what takes place.

Mr. LOTT. I appreciate that invitation, but I want to assure the Senator from Maryland that Senator DASCHLE and I get to see the dynamics of such meetings every day in more ways than you would ever want to know.

(Laughter.)

Mr. SARBANES. That may be, but I don't think unless you are actually there to see it firsthand you can fully appreciate exactly what takes place.

The PRESIDING OFFICER. Is there objection?

Mr. SARBANES. I withdraw my objection.

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

Mr. LOTT. I thank my colleagues on both sides of the aisle. I say to Senator NICKLES, thanks for your diligent work. I say to Senator SARBANES, Senator GRAMM and Senator SHELBY thanks for your cooperation at this time. And we hope we will have it again tomorrow.

I yield the floor.

FINANCIAL SERVICES ACT OF 1998

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 10) to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; PURPOSES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Financial Services Act of 1998''.

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

(1) To enhance competition in the financial services industry, in order to foster innovation and efficiency.

(2) To ensure the continued safety and soundness of depository institutions.

(3) To provide necessary and appropriate protections for investors and ensure fair and honest markets in the delivery of financial services.

(4) To avoid duplicative, potentially conflicting, and overly burdensome regulatory requirements through the creation of a regulatory framework for financial holding companies that respects the divergent requirements of each of the component businesses of the holding company, and that is based upon principles of strong functional regulation and enhanced regulatory coordination.

(5) To reduce and, to the maximum extent practicable, to eliminate the legal barriers preventing affiliation among depository institutions, securities firms, insurance companies, and other financial service providers and to provide a prudential framework for achieving that result.

(6) To enhance the availability of financial services to citizens of all economic circumstances and in all geographic areas.

(7) To enhance the competitiveness of United States financial service providers internationally.

(8) To ensure compliance by depository institutions with the provisions of the Community Reinvestment Act of 1977 and enhance the ability of depository institutions to meet the capital and credit needs of all citizens and communities, including underserved communities and populations.

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

Sec. 1. Short title; purposes; table of contents.

TITLE I—FACILITATING AFFILIATION AMONG SECURITIES FIRMS, INSURANCE COMPANIES, AND DEPOSITORY INSTITUTIONS

Subtitle A—Affiliations

Sec. 101. Glass-Steagall Act reformed.
Sec. 102. Activity restrictions applicable to bank holding companies which are not financial holding companies.
Sec. 103. Financial holding companies.
Sec. 104. Operation of State law.
Sec. 105. Mutual bank holding companies authorized.
Sec. 106. Prohibition on deposit production offices.
Sec. 107. Clarification of branch closure requirements.
Sec. 108. Amendments relating to limited purpose banks.
Sec. 109. Reports on ongoing FTC study of consumer privacy issues.
Sec. 110. GAO study of economic impact on community banks and other small financial institutions.

Subtitle B—Streamlining Supervision of Financial Holding Companies

Sec. 111. Streamlining financial holding company supervision.
Sec. 112. Elimination of application requirement for financial holding companies.
Sec. 113. Authority of State insurance regulator and Securities and Exchange Commission.
Sec. 114. Prudential safeguards.
Sec. 115. Examination of investment companies.
Sec. 116. Limitation on rulemaking, prudential, supervisory, and enforcement authority of the Board.
Sec. 117. Interagency consultation.
Sec. 118. Equivalent regulation and supervision.
Sec. 119. Prohibition on FDIC assistance to affiliates and subsidiaries.

Subtitle C—Subsidiaries of National Banks

Sec. 121. Permissible activities for subsidiaries of national banks.
Sec. 122. Misrepresentations regarding depository institution liability for obligations of affiliates.
Sec. 123. Repeal of stock loan limit in Federal Reserve Act.

Subtitle D—Wholesale Financial Holding Companies; Wholesale Financial Institutions

CHAPTER 1—WHOLESALE FINANCIAL HOLDING COMPANIES

Sec. 131. Wholesale financial holding companies established.
Sec. 132. Authorization to release reports.
Sec. 133. Conforming amendments.

CHAPTER 2—WHOLESALE FINANCIAL INSTITUTIONS

Sec. 136. Wholesale financial institutions.

Subtitle E—Preservation of FTC Authority

Sec. 141. Amendment to the Bank Holding Company Act of 1956 to modify notification and post-approval waiting period for section 3 transactions.
Sec. 142. Interagency data sharing.
Sec. 143. Clarification of status of subsidiaries and affiliates.
Sec. 144. Annual GAO report.

Subtitle F—Applying the Principles of National Treatment and Equality of Competitive Opportunity to Foreign Banks and Foreign Financial Institutions

Sec. 151. Applying the principles of national treatment and equality of competitive opportunity to foreign banks that are financial holding companies.
Sec. 152. Applying the principles of national treatment and equality of competitive opportunity to foreign banks and foreign financial institutions that are wholesale financial institutions.
Sec. 153. Representative offices.

Subtitle G—Federal Home Loan Bank System Modernization

Sec. 161. Short title.
Sec. 162. Definitions.
Sec. 163. Savings association membership.
Sec. 164. Advances to members; collateral.
Sec. 165. Eligibility criteria.
Sec. 166. Management of banks.
Sec. 167. Resolution Funding Corporation.

Subtitle H—Direct Activities of Banks

Sec. 181. Authority of national banks to underwrite certain municipal bonds.

Subtitle I—Deposit Insurance Funds

Sec. 186. Study of safety and soundness of funds.

Subtitle J—Effective Date of Title

Sec. 191. Effective date.

TITLE II—FUNCTIONAL REGULATION

Subtitle A—Brokers and Dealers

Sec. 201. Definition of broker.
Sec. 202. Definition of dealer.
Sec. 203. Registration for sales of private securities offerings.
Sec. 204. Sales practices and complaint procedures.
Sec. 205. Information sharing.
Sec. 206. Definition and treatment of banking products.
Sec. 207. Derivative instrument and qualified investor defined.
Sec. 208. Government securities defined.
Sec. 209. Effective date.
Sec. 210. Rule of construction.

Subtitle B—Bank Investment Company Activities

Sec. 211. Custody of investment company assets by affiliated bank.
Sec. 212. Lending to an affiliated investment company.
Sec. 213. Independent directors.
Sec. 214. Additional SEC disclosure authority.
Sec. 215. Definition of broker under the Investment Company Act of 1940.
Sec. 216. Definition of dealer under the Investment Company Act of 1940.
Sec. 217. Removal of the exclusion from the definition of investment adviser for banks that advise investment companies.
Sec. 218. Definition of broker under the Investment Advisers Act of 1940.
Sec. 219. Definition of dealer under the Investment Advisers Act of 1940.
Sec. 220. Interagency consultation.
Sec. 221. Treatment of bank common trust funds.
Sec. 222. Investment advisers prohibited from having controlling interest in registered investment company.
Sec. 223. Conforming change in definition.
Sec. 224. Conforming amendment.
Sec. 225. Effective date.

Subtitle C—Securities and Exchange Commission Supervision of Investment Bank Holding Companies

Sec. 231. Supervision of investment bank holding companies by the Securities and Exchange Commission.

Subtitle D—Studies
Sec. 241. Study of methods to inform investors and consumers of uninsured products.
Sec. 242. Study of limitation on fees associated with acquiring financial products.
TITLE III—INSURANCE
Subtitle A—State Regulation of Insurance
Sec. 301. State regulation of the business of insurance.
Sec. 302. Mandatory insurance licensing requirements.
Sec. 303. Functional regulation of insurance.
Sec. 304. Insurance underwriting in national banks.
Sec. 305. Title insurance activities of national banks and their affiliates.
Sec. 306. Expedited and equalized dispute resolution for financial regulators.
Sec. 307. Consumer protection regulations.
Sec. 308. Certain State affiliation laws preempted for insurance companies and affiliates.
Subtitle B—National Association of Registered Agents and Brokers
Sec. 321. State flexibility in multistate licensing reforms.
Sec. 322. National Association of Registered Agents and Brokers.
Sec. 323. Purpose.
Sec. 324. Relationship to the Federal Government.
Sec. 325. Membership.
Sec. 326. Board of Directors.
Sec. 327. Officers.
Sec. 328. Bylaws, rules, and disciplinary action.
Sec. 329. Assessments.
Sec. 330. Functions of the NAIC.
Sec. 331. Liability of the Association and the directors, officers, and employees of the Association.
Sec. 332. Elimination of NAIC oversight.
Sec. 333. Relationship to State law.
Sec. 334. Coordination with other regulators.
Sec. 335. Judicial review.
Sec. 336. Definitions.
TITLE IV—UNITARY SAVINGS AND LOAN HOLDING COMPANIES
Sec. 401. Prevention of creation of new savings and loan holding companies with commercial affiliates.
Sec. 402. Optional conversion of Federal savings associations to national banks.
Sec. 403. Retention of ''Federal'' in name of converted Federal savings association.
TITLE V—FINANCIAL INFORMATION PRIVACY
Sec. 501. Financial information privacy.
Sec. 502. Report to Congress on financial privacy.
TITLE VI—MISCELLANEOUS
Sec. 601. Grand jury proceedings.
Sec. 602. Sense of the Committee on Banking, Housing, and Urban Affairs of the Senate.
Sec. 603. Investments in Government sponsored enterprises.
Sec. 604. Repeal of savings bank provisions in the Bank Holding Company Act of 1956.

TITLE I—FACILITATING AFFILIATION AMONG SECURITIES FIRMS, INSURANCE COMPANIES, AND DEPOSITORY INSTITUTIONS

Subtitle A—Affiliations

SEC. 101. GLASS-STEAGALL ACT REFORMED.

(a) SECTION 20 REPEALED.—Section 20 (12 U.S.C. 377) of the Banking Act of 1933 (commonly referred to as the ''Glass-Steagall Act'') is repealed.

(b) SECTION 32 REPEALED.—Section 32 (12 U.S.C. 78) of the Banking Act of 1933 is repealed.

SEC. 102. ACTIVITY RESTRICTIONS APPLICABLE TO BANK HOLDING COMPANIES WHICH ARE NOT FINANCIAL HOLDING COMPANIES.

(a) IN GENERAL.—Section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)) is amended to read as follows:

''(8) shares of any company the activities of which had been determined by the Board by regulation under this paragraph as of the day before the date of the enactment of the Financial Services Act of 1998, to be so closely related to banking as to be a proper incident thereto (subject to such terms and conditions contained in such regulation, unless modified by the Board);''.

(b) CONFORMING CHANGES TO OTHER STATUTES.—

(1) AMENDMENT TO THE BANK HOLDING COMPANY ACT AMENDMENTS OF 1970.—Section 105 of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1850) is amended by striking '', to engage directly or indirectly in a nonbanking activity pursuant to section 4 of such Act,''.

(2) AMENDMENT TO THE BANK SERVICE COMPANY ACT.—Section 4(f) of the Bank Service Company Act (12 U.S.C. 1864(f)) is amended by striking the period and adding at the end the following: ''as of the day before the date of enactment of the Financial Services Act of 1998.''.

SEC. 103. FINANCIAL HOLDING COMPANIES.

The Bank Holding Company Act of 1956 is amended by inserting after section 5 (12 U.S.C. 1844) the following new section:

''SEC. 6. FINANCIAL HOLDING COMPANIES.

''(a) FINANCIAL HOLDING COMPANY DEFINED.—For purposes of this section, the term 'financial holding company' means a bank holding company which meets the requirements of subsection (b).

''(b) ELIGIBILITY REQUIREMENTS FOR FINANCIAL HOLDING COMPANIES.—

''(1) IN GENERAL.—No bank holding company may engage in any activity or directly or indirectly acquire or retain shares of any company under this section unless the bank holding company meets the following requirements:

''(A) All of the subsidiary depository institutions of the bank holding company are well capitalized.

''(B) All of the subsidiary depository institutions of the bank holding company are well managed.

''(C) All of the subsidiary depository institutions of the bank holding company have achieved a rating of 'satisfactory record of meeting community credit needs', or better, at the most recent examination of each such institution under the Community Reinvestment Act of 1977.

''(D) The company has filed with the Board a declaration that the company elects to be a financial holding company and certifying that the company meets the requirements of subparagraphs (A) through (C).

''(2) FOREIGN BANKS AND COMPANIES.—For purposes of paragraph (1), the Board shall establish and apply comparable capital and other operating standards to a foreign bank that operates a branch or agency or owns or controls a bank or commercial lending company in the United States, and any company that owns or controls such foreign bank, giving due regard to the principle of national treatment and equality of competitive opportunity.

''(3) LIMITED EXCLUSIONS FROM COMMUNITY NEEDS REQUIREMENTS FOR NEWLY ACQUIRED DEPOSITORY INSTITUTIONS.—

''(A) IN GENERAL.—If the requirements of subparagraph (B) are met, any depository institution acquired by a bank holding company during the 24-month period preceding the submission of a declaration under paragraph (1)(E) and any depository institution acquired after the submission of such declaration may be excluded for purposes of paragraph (1)(C) until the later of—

''(i) the end of the 24-month period beginning on the date the acquisition of the depository institution by such company is consummated; or

''(ii) the date of completion of the first examination of such depository institution under the Community Reinvestment Act of 1977 which is conducted after the date of the acquisition of the depository institution.

''(B) REQUIREMENTS.—The requirements of this subparagraph are met with respect to any bank holding company referred to in subparagraph (A) if—

''(i) the bank holding company has submitted an affirmative plan to the appropriate Federal banking agency to take such action as may be necessary in order for such institution to achieve a rating of 'satisfactory record of meeting community credit needs', or better, at the next examination of the institution under the Community Reinvestment Act of 1977; and

''(ii) the plan has been approved by such agency.

''(c) ENGAGING IN ACTIVITIES THAT ARE FINANCIAL IN NATURE.—

''(1) FINANCIAL ACTIVITIES.—

''(A) IN GENERAL.—Notwithstanding section 4(a), a financial holding company and a wholesale financial holding company may engage in any activity, and acquire and retain the shares of any company engaged in any activity, that the Board has determined (by regulation or order) to be financial in nature or incidental to such financial activities.

''(B) COORDINATION BETWEEN THE BOARD AND THE DEPARTMENT OF THE TREASURY.—

''(i) PROPOSALS RAISED BEFORE THE BOARD.—

''(I) CONSULTATION.—The Board shall notify the Secretary of the Treasury of, and consult with the Secretary of the Treasury concerning, any request, proposal, or application under this subsection for a determination of whether an activity is financial in nature or incidental to such a financial activity.

''(II) TREASURY VIEW.—The Board shall not determine that any activity is financial in nature or incidental to a financial activity under this subsection if the Secretary of the Treasury notifies the Board in writing, not later than 30 days after the date of receipt of the notice described in subclause (I) (or such longer period as the Board determines to be appropriate in light of the circumstances) that the Secretary of the Treasury believes that the activity is not financial in nature or incidental to a financial activity.

''(ii) PROPOSALS RAISED BY THE TREASURY.—

''(I) TREASURY RECOMMENDATION.—The Secretary of the Treasury may, at any time, recommend in writing that the Board find an activity to be financial in nature or incidental to a financial activity.

''(II) TIME PERIOD FOR BOARD ACTION.—Not later than 30 days after the date of receipt of a written recommendation from the Secretary of the Treasury under subclause (I) (or such longer period as the Secretary of the Treasury and the Board determine to be appropriate in light of the circumstances), the Board shall determine whether to initiate a public rulemaking proposing that the subject recommended activity be found to be financial in nature or incidental to a financial activity under this subsection, and shall notify the Secretary of the Treasury in writing of the determination of the Board and, in the event that the Board determines not to seek public comment on the proposal, the reasons for that determination.

''(2) FACTORS TO BE CONSIDERED.—In determining whether an activity is financial in nature or incidental to financial activities, the Board shall take into account—

''(A) the purposes of this Act and the Financial Services Act of 1998;

''(B) changes or reasonably expected changes in the marketplace in which bank holding companies compete;

''(C) changes or reasonably expected changes in the technology for delivering financial services; and

''(D) whether such activity is necessary or appropriate to allow a bank holding company and the affiliates of a bank holding company to—

''(i) compete effectively with any company seeking to provide financial services in the United States;

''(ii) use any available or emerging technological means, including any application necessary to protect the security or efficacy of systems for the transmission of data or financial transactions, in providing financial services; and

''(iii) offer customers any available or emerging technological means for using financial services.

''(3) ACTIVITIES THAT ARE FINANCIAL IN NATURE.—The following activities shall be considered to be financial in nature:

''(A) Lending, exchanging, transferring, investing for others, or safeguarding money or securities.

''(B) Insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability, or death, or providing and issuing annuities, and acting as principal, agent, or broker for purposes of the foregoing.

''(C) Providing financial, investment, or economic advisory services, including advising an investment company (as defined in section 3 of the Investment Company Act of 1940).

''(D) Issuing or selling instruments representing interests in pools of assets permissible for a bank to hold directly.

''(E) Underwriting, dealing in, or making a market in securities.

''(F) Engaging in any activity that the Board has determined, by order or regulation that is in effect on the date of enactment of the Financial Services Act of 1998, to be so closely related to banking or managing or controlling banks as to be a proper incident thereto (subject to the same terms and conditions contained in such order or regulation, unless modified by the Board).

''(G) Engaging, in the United States, in any activity that—

''(i) a bank holding company may engage in outside the United States; and

''(ii) the Board has determined, under regulations issued pursuant to section 4(c)(13) of this Act (as in effect on the day before the date of enactment of the Financial Services Act of 1998) to be usual in connection with the transaction of banking or other financial operations abroad.

''(H) Directly or indirectly acquiring or controlling, whether as principal, on behalf of 1 or more entities (including entities, other than a depository institution or subsidiary of a depository institution, that the bank holding company controls) or otherwise, shares, assets, or ownership interests (including without limitation debt or equity securities, partnership interests, trust certificates or other instruments representing ownership) of a company or other entity, whether or not constituting control of such company or entity, engaged in any activity not authorized pursuant to this section if—

''(i) the shares, assets, or ownership interests are not acquired or held by a depository institution or subsidiary of a depository institution;

''(ii) such shares, assets, or ownership interests are acquired and held by a securities affiliate or an affiliate thereof as part of a bona fide underwriting or merchant banking activity, including investment activities engaged in for the purpose of appreciation and ultimate resale or disposition of the investment;

''(iii) such shares, assets, or ownership interests, are held only for such a period of time as will permit the sale or disposition thereof on a reasonable basis consistent with the nature of the activities described in clause (ii); and

''(iv) during the period such shares, assets, or ownership interests are held, the bank holding company does not actively participate in the day to day management or operation of such company or entity, except insofar as necessary to achieve the objectives of clause (ii).

''(I) Directly or indirectly acquiring or controlling, whether as principal, on behalf of 1 or more entities (including entities, other than a depository institution or subsidiary of a depository institution, that the bank holding company controls) or otherwise, shares, assets, or ownership interests (including without limitation debt or equity securities, partnership interests, trust certificates or other instruments representing ownership) of a company or other entity, whether or not constituting control of such company or entity, engaged in any activity not authorized pursuant to this section if—

''(i) the shares, assets, or ownership interests are not acquired or held by a depository institution or a subsidiary of a depository institution;

''(ii) such shares, assets, or ownership interests are acquired and held by an insurance company that is predominantly engaged in underwriting life, accident and health, or property and casualty insurance (other than credit-related insurance);

''(iii) such shares, assets, or ownership interests represent an investment made in the ordinary course of business of such insurance company in accordance with relevant State law governing such investments; and

''(iv) during the period such shares, assets, or ownership interests are held, the bank holding company does not directly or indirectly participate in the day-to-day management or operation of the company or entity except insofar as necessary to achieve the objectives of clauses (ii) and (iii).

''(4) ACTIONS REQUIRED.—The Board shall, by regulation or order, define, consistent with the purposes of this Act, the following activities as, and the extent to which such activities are, financial in nature or incidental to activities which are financial in nature:

''(A) Lending, exchanging, transferring, investing for others, or safeguarding financial assets other than money or securities.

''(B) Providing any device or other instrumentality for transferring money or other financial assets.

''(C) Arranging, effecting, or facilitating financial transactions for the account of third parties.

''(5) POST-CONSUMMATION NOTIFICATION.—

''(A) IN GENERAL.—A financial holding company and a wholesale financial holding company that acquires any company, or commences any activity, pursuant to this subsection shall provide written notice to the Board describing the activity commenced or conducted by the company acquired no later than 30 calendar days after commencing the activity or consummating the acquisition.

''(B) APPROVAL NOT REQUIRED FOR CERTAIN FINANCIAL ACTIVITIES.—Except as provided in section 4(j) with regard to the acquisition of a savings association or in paragraph (6) of this subsection, a financial holding company and a wholesale financial holding company may commence any activity, or acquire any company, pursuant to paragraph (3) or any regulation prescribed or order issued under paragraph (4), without prior approval of the Board.

''(6) NOTICE REQUIRED FOR LARGE COMBINATIONS.—

''(A) IN GENERAL.—No financial holding company or wholesale financial holding company shall directly or indirectly acquire, and no company that becomes a financial holding company or a wholesale financial holding company shall directly or indirectly acquire control of, any company in the United States, including through merger, consolidation, or other type of business combination, that—

''(i) is engaged in activities permitted under this subsection or subsection (g); and

''(ii) has consolidated total assets in excess of $40,000,000,000,

unless such holding company has provided notice to the Board, not later than 60 days prior to such proposed acquisition or prior to becoming a financial holding company or wholesale financial holding company, and during that time period, or such longer time period not exceeding an additional 60 days, as established by the Board, the Board has not issued a notice disapproving the proposed acquisition or retention.

''(B) FACTORS FOR CONSIDERATION.—In reviewing any prior notice filed under this paragraph, the Board shall take into consideration—

''(i) whether the company is in compliance with all applicable criteria set forth in subsection (b) and the provisions of subsection (d);

''(ii) whether the proposed combination represents an undue aggregation of resources;

''(iii) whether the proposed combination poses a risk to the deposit insurance system;

''(iv) whether the proposed combination poses a risk to State insurance guaranty funds;

''(v) whether the proposed combination can reasonably be expected to be in the best interests of depositors or policyholders of the respective entities; and

''(vi) whether the proposed transaction can reasonably be expected to produce benefits to the public.

''(C) REQUIRED INFORMATION.—The Board may disapprove any prior notice filed under this paragraph if the company submitting such notice neglects, fails, or refuses to furnish to the Board all relevant information required by the Board.

''(D) SOLICITATION OF VIEWS OF OTHER SUPERVISORY AGENCIES.—

''(i) IN GENERAL.—Upon receiving a prior notice under this paragraph, in order to provide for the submission of their views and recommendations, the Board shall give notice of the proposal to—

''(I) the appropriate Federal banking agency of any bank involved;

''(II) the appropriate functional regulator of any functionally regulated nondepository institution (as defined in section 5(c)(1)(C)) involved; and

''(III) the Secretary of the Treasury, the Department of Justice, and the Federal Trade Commission.

''(ii) TIMING.—The views and recommendations of any agency provided notice under this paragraph shall be submitted to the Board not later than 30 calendar days after the date on which notice to the agency was given, unless the Board determines that another shorter time period is appropriate.

''(d) PROVISIONS APPLICABLE TO FINANCIAL HOLDING COMPANIES THAT FAIL TO MEET REQUIREMENTS.—

''(1) IN GENERAL.—If the Board finds that a financial holding company is not in compliance with the requirements of subparagraph (A), (B), (C), or (D) of subsection (b)(1), the Board shall give notice of such finding to the company.

''(2) AGREEMENT TO CORRECT CONDITIONS REQUIRED.—

''(A) IN GENERAL.—Not later than 45 days after receipt by a financial holding company of a notice given under paragraph (1) (or such additional period as the Board may permit), the company shall execute an agreement acceptable to the Board to comply with the requirements applicable to a financial holding company.

''(B) CERTAIN FAILURES TO COMPLY.—A financial holding company shall not be required to divest any company held, or terminate any activity conducted pursuant to, subsection (c) solely because of a failure to comply with subsection (b)(1)(C).

''(3) BOARD MAY IMPOSE LIMITATIONS.—Until the conditions described in a notice to a financial holding company under paragraph (1) are corrected, the Board may impose such limitations on the conduct or activities of the company or any affiliate of the company as the Board determines to be appropriate under the circumstances.

''(4) FAILURE TO CORRECT.—If, after receiving a notice under paragraph (1), a financial holding company does not—

''(A) execute and implement an agreement in accordance with paragraph (2);

''(B) comply with any limitations imposed under paragraph (3);

''(C) in the case of a notice of failure to comply with subsection (b)(1)(A), restore each depository institution subsidiary to well capitalized status before the end of the 180-day period beginning on the date such notice is received by the company (or such other period permitted by the Board); or

''(D) in the case of a notice of failure to comply with subparagraph (B) or (D) of subsection (b)(1), restore compliance with any such subparagraph on or before the date on which the next examination of the depository institution subsidiary is completed or by the end of such other period as the Board determines to be appropriate,

the Board may require such company, under such terms and conditions as may be imposed by the Board and subject to such extension of time as may be granted in the Board's discretion, to divest control of any depository institution subsidiary or, at the election of the financial holding company, instead to cease to engage in any activity conducted by such company or its subsidiaries pursuant to this section.

''(5) CONSULTATION.—In taking any action under this subsection, the Board shall consult with all relevant Federal and State regulatory agencies.

''(e) SAFEGUARDS FOR BANK SUBSIDIARIES.—A financial holding company shall assure that—

''(1) the procedures of the holding company for identifying and managing financial and operational risks within the company, and the subsidiaries of such company, adequately protect the subsidiaries of such company which are insured depository institutions from such risks;

''(2) the holding company has reasonable policies and procedures to preserve the separate corporate identity and limited liability of such company and the subsidiaries of such company, for the protection of the company's subsidiary insured depository institutions; and

''(3) the holding company complies with this section.

''(f) AUTHORITY TO RETAIN LIMITED NONFINANCIAL ACTIVITIES AND AFFILIATIONS.—

''(1) IN GENERAL.—Notwithstanding section 4(a), a company that is not a bank holding company or a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978) and becomes a financial holding company after the date of the enactment of the Financial Services Act of 1998 may continue to engage in any activity and retain direct or indirect ownership or control of shares of a company engaged in any activity if—

''(A) the holding company lawfully was engaged in the activity or held the shares of such company on September 30, 1997;

''(B) the holding company is predominantly engaged in financial activities as defined in paragraph (2); and

''(C) the company engaged in such activity continues to engage only in the same activities that such company conducted on September 30, 1997, and other activities permissible under this Act.

''(2) PREDOMINANTLY FINANCIAL.—For purposes of this subsection, a company is predominantly engaged in financial activities if the annual gross revenues derived by the holding company and all subsidiaries of the holding company (excluding revenues derived from subsidiary depository institutions), on a consolidated basis, from engaging in activities that are financial in nature or are incidental to activities that are financial in nature under subsection (c) represent at least 85 percent of the consolidated annual gross revenues of the company.

''(3) NO EXPANSION OF GRANDFATHERED COMMERCIAL ACTIVITIES THROUGH MERGER OR CONSOLIDATION.—A financial holding company that engages in activities or holds shares pursuant to this subsection, or a subsidiary of such financial holding company, may not acquire, in any merger, consolidation, or other type of business combination, assets of any other company which is engaged in any activity which the Board has not determined to be financial in nature or incidental to activities that are financial in nature under subsection (c).

''(4) CONTINUING REVENUE LIMITATION ON GRANDFATHERED COMMERCIAL ACTIVITIES.—Notwithstanding any other provision of this subsection, a financial holding company may continue to engage in activities or hold shares in companies pursuant to this subsection only to the extent that the aggregate annual gross revenues derived from all such activities and all such companies does not exceed 15 percent of the consolidated annual gross revenues of the financial holding company (excluding revenues derived from subsidiary depository institutions).

''(5) CROSS MARKETING RESTRICTIONS APPLICABLE TO COMMERCIAL ACTIVITIES.—A depository institution controlled by a financial holding company shall not—

''(A) offer or market, directly or through any arrangement, any product or service of a company whose activities are conducted or whose shares are owned or controlled by the financial holding company pursuant to this subsection or subparagraph (H) or (I) of subsection (c)(3); or

''(B) permit any of its products or services to be offered or marketed, directly or through any arrangement, by or through any company described in subparagraph (A).

''(6) TRANSACTIONS WITH NONFINANCIAL AFFILIATES.—An insured depository institution controlled by a financial holding company or wholesale financial holding company may not engage in a covered transaction (as defined by section 23A(b)(7) of the Federal Reserve Act) with any affiliate controlled by the company pursuant to section 10(c), this subsection, or subparagraph (H) or (I) of subsection (c)(3).

''(7) SUNSET OF GRANDFATHER.—A financial holding company engaged in any activity, or retaining direct or indirect ownership or control of shares of a company, pursuant to this subsection, shall terminate such activity and divest ownership or control of the shares of such company before the end of the 10-year period beginning on the date of the enactment of the Financial Services Act of 1998. The Board may, upon application by a financial holding company, extend such 10-year period by not to exceed an additional 5 years if such extension would not be detrimental to the public interest.

''(g) DEVELOPING ACTIVITIES.—A financial holding company and a wholesale financial holding company may engage directly or indirectly, or acquire shares of any company engaged, in any activity that the Board has not determined to be financial in nature or incidental to financial activities under subsection (c) if—

''(1) the holding company reasonably concludes that the activity is financial in nature or incidental to financial activities;

''(2) the gross revenues from all activities conducted under this subsection represent less than 5 percent of the consolidated gross revenues of the holding company;

''(3) the aggregate total assets of all companies the shares of which are held under this subsection do not exceed 5 percent of the holding company's consolidated total assets;

''(4) the total capital invested in activities conducted under this subsection represents less than 5 percent of the consolidated total capital of the holding company;

''(5) the Board has not determined that the activity is not financial in nature or incidental to financial activities under subsection (c);

''(6) the holding company is not required to provide prior written notice of the transaction to the Board under subsection (c)(6); and

''(7) the holding company provides written notification to the Board describing the activity commenced or conducted by the company acquired no later than 10 business days after commencing the activity or consummating the acquisition.''.

SEC. 104. OPERATION OF STATE LAW.

(a) AFFILIATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), no State may, by statute, regulation, order, interpretation, or other action, prevent or restrict an insured depository institution or wholesale financial institution, or a subsidiary or affiliate thereof, from being affiliated directly or indirectly or associated with any person or entity, as authorized or permitted by this Act or any other provision of Federal law.

(2) INSURANCE.—With respect to affiliations between insured depository institutions or wholesale financial institutions, or any subsidiary or affiliate thereof, and persons or entities engaged in the business of insurance, paragraph (1) does not prohibit any State from—

(A) requiring any person or entity that proposes to acquire control of an entity that is engaged in the business of insurance and domiciled in that State (hereafter in this subparagraph referred to as the ''insurer'') to furnish to the insurance regulatory authority of that State, on or before the date on which notification is given under section 7(a) of the Clayton Act (15 U.S.C. 18(a))—

(i) the name and address of each person by whom, or on whose behalf, the affiliation referred to in this subparagraph is to be effected (hereafter in this subparagraph referred to as the ''acquiring party'');

(ii) if the acquiring party is an individual, his or her principal occupation and all offices and positions held during the 5 years preceding the date of notification, and any conviction of crimes other than minor traffic violations during the 10 years preceding the date of notification;

(iii) if the acquiring party is not an individual—

(I) a report of the nature of its business operations during the 5 years preceding the date of notification, or for such shorter period as such person and any predecessors thereof shall have been in existence;

(II) an informative description of the business intended to be done by the acquiring party and any subsidiary thereof; and

(III) a list of all individuals who are, or who have been selected to become, directors or executive officers of the acquiring party or who perform, or will perform, functions appropriate to such positions, including, for each such individual, the information required by clause (ii);

(iv) the source, nature, and amount of the consideration used, or to be used, in effecting the merger or other acquisition of control, a description of any transaction wherein funds were, or are to be, obtained for any such purpose, and the identity of persons furnishing such consideration, except that, if a source of such consideration is a loan made in the lender's ordinary course of business, the identity of the lender shall remain confidential if the person filing such statement so requests;

(v) fully audited financial information as to the earnings and financial condition of each acquiring party for the 5 fiscal years preceding the date of notification of each such acquiring party, or for such lesser period as such acquiring party and any predecessors thereof shall have been in existence, and similar unaudited information as of a date not earlier than 90 days before the date of notification, except that, in the case of an acquiring party that is an insurer actively engaged in the business of insurance, the financial statements of such insurer need not be audited, but such audit may be required if the need therefor is determined by the insurance regulatory authority of the State;

(vi) any plans or proposals that each acquiring party may have to liquidate such insurer, to sell its assets, or to merge or consolidate it with any person or to make any other material change in its business or corporate structure or management;

(vii) the number of shares of any security of the insurer that each acquiring party proposes

to acquire, the terms of any offer, request, invitation, agreement, or acquisition, and a statement as to the method by which the fairness of the proposal was arrived at;

(viii) the amount of each class of any security of the insurer that is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party;

(ix) a full description of any contracts, arrangements, or understandings with respect to any security of the insurer in which any acquiring party is involved, including transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies, and identification of the persons with whom such contracts, arrangements, or understandings have been entered into;

(x) a description of the purchase of any security of the insurer during the 12-month period preceding the date of notification by any acquiring party, including the dates of purchase, names of the purchasers, and consideration paid, or agreed to be paid, therefor;

(xi) a description of any recommendations to purchase any security of the insurer made during the 12-month period preceding the date of notification by any acquiring party or by any person based upon interviews or at the suggestion of such acquiring party;

(xii) copies of all tender offers for, requests or invitations for tenders of, exchange offers for and agreements to acquire or exchange any securities of the insurer and, if distributed, of additional soliciting material relating thereto; and

(xiii) the terms of any agreement, contract, or understanding made with any broker-dealer as to solicitation of securities of the insurer for tender and the amount of any fees, commissions, or other compensation to be paid to broker-dealers with regard thereto;

(B) requiring an entity that is acquiring control of an entity that is engaged in the business of insurance and domiciled in that State to maintain or restore the capital requirements of that insurance entity to the level required under the capital regulations of general applicability in that State to avoid the requirement of preparing and filing with the insurance regulatory authority of that State a plan to increase the capital of the entity, except that any determination by the State insurance regulatory authority with respect to such requirement shall be made not later than 60 days after the date of notification under subparagraph (A); or

(C) taking actions with respect to the receivership or conservatorship of any insurance company.

(b) ACTIVITIES.—

(1) IN GENERAL.—Except as provided in paragraph (3), and except with respect to insurance sales, solicitation, and cross marketing activities covered under paragraph (2), no State may, by statute, regulation, order, interpretation, or other action, prevent or restrict an insured depository institution, wholesale financial institution, or subsidiary or affiliate thereof from engaging directly or indirectly, either by itself or in conjunction with a subsidiary, affiliate, or any other entity or person, in any activity authorized or permitted under this Act.

(2) INSURANCE SALES.—

(A) IN GENERAL.—No State may, by statute, regulation, order, interpretation, or other action, prevent or significantly interfere with the ability of an insured depository institution or wholesale financial institution, or a subsidiary or affiliate thereof, to engage, directly or indirectly, either by itself or in conjunction with a subsidiary, affiliate, or any other party, in any insurance sales, solicitation, or cross-marketing activity.

(B) CERTAIN STATE LAWS PRESERVED.—Notwithstanding subparagraph (A), a State may impose—

(i) restrictions prohibiting the rejection of an insurance policy solely because the policy has been issued or underwritten by any person who is not associated with such insured depository institution or wholesale financial institution, or any subsidiary or affiliate thereof, when such insurance is required in connection with a loan or extension of credit;

(ii) restrictions prohibiting a requirement for any debtor, insurer, or insurance agent or broker to pay a separate charge in connection with the handling of insurance that is required in connection with a loan or other extension of credit or the provision of another traditional banking product, unless such charge would be required when the insured depository institution or wholesale financial institution, or any subsidiary or affiliate thereof, is the licensed insurance agent or broker providing the insurance;

(iii) restrictions prohibiting the use of any advertisement or other insurance promotional material by an insured depository institution or wholesale financial institution, or any subsidiary or affiliate thereof, that would cause a reasonable person to believe mistakenly that—

(I) a State or the Federal Government is responsible for the insurance sales activities of, or stands behind the credit of, the institution, affiliate, or subsidiary; or

(II) a State, or the Federal Government guarantees any returns on insurance products, or is a source of payment on any insurance obligation of or sold by the institution, affiliate, or subsidiary;

(iv) restrictions prohibiting the payment or receipt of any commission or brokerage fee for services as a licensed agent or broker to or by any person, unless such person holds a valid State license regarding the applicable class of insurance at the time at which the services are performed, except that, in this clause, the term ''services as a licensed agent or broker'' does not include a referral by an unlicensed person of a customer or potential customer to a licensed insurance agent or broker that does not include a discussion of specific insurance policy terms and conditions;

(v) restrictions prohibiting any compensation paid to or received by any individual who is not licensed to sell insurance, for the referral of a customer that seeks to purchase, or seeks an opinion or advice on, any insurance product to a person that sells or provides opinions or advice on such product, based on the purchase of insurance by the customer;

(vi) restrictions prohibiting the release of the insurance information of a customer (defined as information concerning the premiums, terms, and conditions of insurance coverage, including expiration dates and rates, and insurance claims of a customer contained in the records of the insured depository institution or wholesale financial institution, or a subsidiary or affiliate thereof) to any person or entity other than an officer, director, employee, agent, subsidiary, or affiliate of an insured depository institution or a wholesale financial institution, for the purpose of soliciting or selling insurance, without the express consent of the customer, other than a provision that prohibits—

(I) a transfer of insurance information to an unaffiliated insurance company, agent, or broker in connection with transferring insurance in force on existing insureds of the insured depository institution or wholesale financial institution, or subsidiary or affiliate thereof, or in connection with a merger with or acquisition of an unaffiliated insurance company, agent, or broker; or

(II) the release of information as otherwise authorized by State or Federal law;

(vii) restrictions prohibiting the use of health information obtained from the insurance records of a customer for any purpose, other than for its activities as a licensed agent or broker, without the express consent of the customer;

(viii) restrictions prohibiting the extension of credit or any product or service that is equivalent to an extension of credit, or fixing or varying the consideration for any such extension of credit, on the condition or requirement that the customer obtain insurance from the insured depository institution, wholesale financial institution, a subsidiary or affiliate thereof, or a particular insurer, agent, or broker, other than a prohibition that would prevent any insured depository institution or wholesale financial institution, or any subsidiary or affiliate thereof—

(I) from engaging in any activity that would not violate section 106 of the Bank Holding Company Act Amendments of 1970, as interpreted by the Board of Governors of the Federal Reserve System; or

(II) from informing a customer or prospective customer that insurance is required in order to obtain a loan or credit, that loan or credit approval is contingent upon the procurement by the customer of acceptable insurance, or that insurance is available from the insured depository institution or wholesale financial institution, or any subsidiary or affiliate thereof;

(ix) restrictions requiring, when an application by a consumer for a loan or other extension of credit from an insured depository institution or wholesale financial institution is pending, and insurance is offered to the consumer or is required in connection with the loan or extension of credit by the insured depository institution or wholesale financial institution, that a written disclosure be provided to the consumer indicating that his or her choice of an insurance provider will not affect the credit decision or credit terms in any way, except that the insured depository institution or wholesale financial institution, or subsidiary or affiliate thereof, may impose reasonable requirements concerning the creditworthiness of the insurance provider and scope of coverage chosen;

(x) restrictions requiring clear and conspicuous disclosure, in writing, where practicable, to the customer prior to the sale of any insurance policy that such policy—

(I) is not a deposit;

(II) is not insured by the Federal Deposit Insurance Corporation;

(III) is not guaranteed by the insured depository institution or wholesale financial institution or, if appropriate, its subsidiaries or affiliates or any person soliciting the purchase of or selling insurance on the premises thereof; and

(IV) where appropriate, involves investment risk, including potential loss of principal;

(xi) restrictions requiring that, when a customer obtains insurance (other than credit insurance or flood insurance) and credit from an insured depository institution or wholesale financial institution, or any subsidiary or affiliate thereof, or any person soliciting the purchase of or selling insurance on the premises thereof, the credit and insurance transactions be completed through separate documents;

(xii) restrictions prohibiting, when a customer obtains insurance (other than credit insurance or flood insurance) and credit from an insured depository institution or wholesale financial institution or its subsidiaries or affiliates, or any person soliciting the purchase of or selling insurance on the premises thereof, inclusion of the expense of insurance premiums in the primary credit transaction without the express written consent of the customer; and

(xiii) restrictions requiring maintenance of separate and distinct books and records relating to insurance transactions, including all files relating to and reflecting consumer complaints, and requiring that such insurance books and records be made available to the appropriate State insurance regulator for inspection upon reasonable notice.

(C) LIMITATIONS.—

(i) OCC DEFERENCE.—Section 307(e) does not apply with respect to any State statute, regulation, order, interpretation, or other action regarding insurance sales, solicitation, or cross marketing activities described in subparagraph (A) that was issued, adopted, or enacted before September 3, 1998, and that is not described in subparagraph (B).

(ii) NONDISCRIMINATION.—Subsection (c) does not apply with respect to any State statute, regulation, order, interpretation, or other action regarding insurance sales, solicitation, or cross marketing activities described in subparagraph (A) that was issued, adopted, or enacted before September 3, 1998, and that is not described in subparagraph (B).

(iii) CONSTRUCTION.—Nothing in this paragraph shall be construed to limit the applicability of the decision of the Supreme Court in Barnett Bank of Marion County N.A. v. Nelson, 116 S. Ct. 1103 (1996) with respect to a State statute, regulation, order, interpretation, or other action that is not described in subparagraph (B).

(iv) LIMITATION ON INFERENCES.—Nothing in this paragraph shall be construed to create any inference with respect to any State statute, regulation, order, interpretation, or other action that is not referred to or described in this paragraph.

(3) INSURANCE ACTIVITIES OTHER THAN SALES.—State statutes, regulations, interpretations, orders, and other actions shall not be preempted under subsection (b)(1) to the extent that they—

(A) relate to, or are issued, adopted, or enacted for the purpose of regulating the business of insurance in accordance with the Act of March 9, 1945 (commonly known as the ''McCarran-Ferguson Act'');

(B) apply only to entities that are not insured depository institutions or wholesale financial institutions, but that are directly engaged in the business of insurance (except that they may apply to depository institutions engaged in providing savings bank life insurance as principal to the extent of regulating such insurance);

(C) do not relate to or directly or indirectly regulate insurance sales, solicitations, or cross-marketing activities; and

(D) are not prohibited under subsection (c).

(c) NONDISCRIMINATION.—Except as provided in any restrictions described in subsection (b)(2)(B), no State may, by statute, regulation, order, interpretation, or other action, regulate the insurance activities authorized or permitted under this Act or any other provision of Federal law of an insured depository institution or wholesale financial institution, or subsidiary or affiliate thereof, to the extent that such statute, regulation, order, interpretation, or other action—

(1) distinguishes by its terms between insured depository institutions or wholesale financial institutions, or subsidiaries or affiliates thereof, and other persons or entities engaged in such activities, in a manner that is in any way adverse to any such insured depository institution or wholesale financial institution, or subsidiary or affiliate thereof;

(2) as interpreted or applied, has or will have an impact on depository institutions or wholesale financial institutions, or subsidiaries or affiliates thereof, that is substantially more adverse than its impact on other persons or entities providing the same products or services or engaged in the same activities that are not insured depository institutions, wholesale financial institutions, or subsidiaries or affiliates thereof, or persons or entities affiliated therewith;

(3) effectively prevents a depository institution or wholesale financial institution, or subsidiary or affiliate thereof, from engaging in insurance activities authorized or permitted by this Act or any other provision of Federal law; or

(4) conflicts with the intent of this Act generally to permit affiliations that are authorized or permitted by Federal law between insured depository institutions or wholesale financial institutions, or subsidiaries or affiliates thereof, and persons and entities engaged in the business of insurance.

(d) DEFINITION.—For purposes of this section, the term ''State'' means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

SEC. 105. MUTUAL BANK HOLDING COMPANIES AUTHORIZED.

Section 3(g)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(g)(2)) is amended to read as follows:

''(2) REGULATIONS.—A bank holding company organized as a mutual holding company shall be regulated on terms, and shall be subject to limitations, comparable to those applicable to any other bank holding company.''.

SEC. 106. PROHIBITION ON DEPOSIT PRODUCTION OFFICES.

(a) IN GENERAL.—Section 109(d) of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (12 U.S.C. 1835a(d)) is amended—

(1) by inserting '', the Financial Services Act of 1998,'' after ''pursuant to this title''; and

(2) by inserting ''or such Act'' after ''made by this title''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 109(e)(4) of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (12 U.S.C. 1835a(e)(4)) is amended by inserting ''and any branch of a bank controlled by an out-of-State bank holding company (as defined in section 2(o)(7) of the Bank Holding Company Act of 1956)'' before the period.

SEC. 107. CLARIFICATION OF BRANCH CLOSURE REQUIREMENTS.

Section 42(d)(4)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1831r–1(d)(4)(A)) is amended by inserting ''and any bank controlled by an out-of-State bank holding company (as defined in section 2(o)(7) of the Bank Holding Company Act of 1956)'' before the period.

SEC. 108. AMENDMENTS RELATING TO LIMITED PURPOSE BANKS.

(a) IN GENERAL.—Section 4(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)) is amended—

(1) in paragraph (2)(A)(ii)—

(A) by striking ''and'' at the end of subclause (IX);

(B) by inserting ''and'' after the semicolon at the end of subclause (X); and

(C) by inserting after subclause (X) the following new subclause:

''(XI) consumer loan assets that are derived from or incidental to activities in which institutions described in subparagraph (F) or (H) of section 2(c)(2) are permitted to engage;'';

(2) in paragraph (2), by striking subparagraph (B) and inserting the following new subparagraphs:

''(B) any bank subsidiary of such company engages in any activity in which the bank was not lawfully engaged as of March 5, 1987, unless the bank is well managed and well capitalized;

''(C) any bank subsidiary of such company both—

''(i) accepts demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties; and

''(ii) engages in the business of making commercial loans (and, for purposes of this clause, loans made in the ordinary course of a credit card operation shall not be treated as commercial loans); or

''(D) after the date of the enactment of the Competitive Equality Amendments of 1987, any bank subsidiary of such company permits any overdraft (including any intraday overdraft), or incurs any such overdraft in such bank's account at a Federal reserve bank, on behalf of an affiliate, other than an overdraft described in paragraph (3).''; and

(3) by striking paragraphs (3) and (4) and inserting the following new paragraphs:

''(3) PERMISSIBLE OVERDRAFTS DESCRIBED.—For purposes of paragraph (2)(D), an overdraft is described in this paragraph if—

''(A) such overdraft results from an inadvertent computer or accounting error that is beyond the control of both the bank and the affiliate; or

''(B) such overdraft—

''(i) is permitted or incurred on behalf of an affiliate which is monitored by, reports to, and is recognized as a primary dealer by the Federal Reserve Bank of New York; and

''(ii) is fully secured, as required by the Board, by bonds, notes, or other obligations which are direct obligations of the United States or on which the principal and interest are fully guaranteed by the United States or by securities and obligations eligible for settlement on the Federal Reserve book entry system.

''(4) DIVESTITURE IN CASE OF LOSS OF EXEMPTION.—If any company described in paragraph (1) fails to qualify for the exemption provided under such paragraph by operation of paragraph (2), such exemption shall cease to apply to such company and such company shall divest control of each bank it controls before the end of the 180-day period beginning on the date that the company receives notice from the Board that the company has failed to continue to qualify for such exemption, unless before the end of such 180-day period, the company has—

''(A) corrected the condition or ceased the activity that caused the company to fail to continue to qualify for the exemption; and

''(B) implemented procedures that are reasonably adapted to avoid the reoccurrence of such condition or activity.''.

(b) INDUSTRIAL LOAN COMPANIES AFFILIATE OVERDRAFTS.—Section 2(c)(2)(H) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(H)) is amended by inserting before the period at the end '', or that is otherwise permissible for a bank controlled by a company described in section 4(f)(1)''.

SEC. 109. REPORTS ON ONGOING FTC STUDY OF CONSUMER PRIVACY ISSUES.

With respect to the ongoing multistage study being conducted by the Federal Trade Commission on consumer privacy issues, the Commission shall submit to the Congress an interim report on the findings and conclusions of the Commission, together with such recommendations for legislative and administrative action as the Commission determines to be appropriate, at the conclusion of each stage of such study and a final report at the conclusion of the study.

SEC. 110. GAO STUDY OF ECONOMIC IMPACT ON COMMUNITY BANKS AND OTHER SMALL FINANCIAL INSTITUTIONS.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study of the projected economic impact that the enactment of this Act will have on financial institutions which have total assets of $100,000,000 or less.

(b) REPORT TO THE CONGRESS.—The Comptroller General of the United States shall submit a report to the Congress before the end of the 6-month period beginning on the date of the date of the enactment of this Act containing the findings and conclusions of the Comptroller General with regard to the study required under subsection (a) and such recommendations for legislative or administrative action as the Comptroller General may determine to be appropriate.

Subtitle B—Streamlining Supervision of Financial Holding Companies

SEC. 111. STREAMLINING FINANCIAL HOLDING COMPANY SUPERVISION.

Section 5(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(c)) is amended to read as follows:

''(c) REPORTS AND EXAMINATIONS.—

''(1) REPORTS.—

''(A) IN GENERAL.—The Board from time to time may require any bank holding company and any subsidiary of such company to submit reports under oath to keep the Board informed as to—

''(i) its financial condition, systems for monitoring and controlling financial and operating risks, and transactions with depository institution subsidiaries of the holding company; and

''(ii) compliance by the company or subsidiary with applicable provisions of this Act.

''(B) USE OF EXISTING REPORTS.—

''(i) IN GENERAL.—The Board shall, to the fullest extent possible, accept reports in fulfillment of the Board's reporting requirements under this paragraph that a bank holding company or any subsidiary of such company has provided or been required to provide to other Federal and State supervisors or to appropriate self-regulatory organizations.

''(ii) AVAILABILITY.—A bank holding company or a subsidiary of such company shall provide to the Board, at the request of the Board, a report referred to in clause (i).

''(iii) REQUIRED USE OF PUBLICLY REPORTED INFORMATION.—The Board shall, to the fullest extent possible, accept in fulfillment of any reporting or recordkeeping requirements under this Act information that is otherwise required to be reported publicly and externally audited financial statements.

''(iv) REPORTS FILED WITH OTHER AGENCIES.—In the event the Board requires a report from a functionally regulated nondepository institution subsidiary of a bank holding company of a kind that is not required by another Federal or State regulator or appropriate self-regulatory organization, the Board shall request that the appropriate regulator or self-regulatory organization obtain such report. If the report is not made available to the Board, and the report is necessary to assess a material risk to the bank holding company or its subsidiary depository institution or compliance with this Act, the Board may require such subsidiary to provide such a report to the Board.

''(C) DEFINITION.—For purposes of this subsection, the term 'functionally regulated nondepository institution' means—

''(i) a broker or dealer registered under the Securities Exchange Act of 1934;

''(ii) an investment adviser registered under the Investment Advisers Act of 1940, or with any State, with respect to the investment advisory activities of such investment adviser and activities incidental to such investment advisory activities;

''(iii) an insurance company subject to supervision by a State insurance commission, agency, or similar authority; and

''(iv) an entity subject to regulation by the Commodity Futures Trading Commission, with respect to the commodities activities of such entity and activities incidental to such commodities activities.

''(2) EXAMINATIONS.—

''(A) EXAMINATION AUTHORITY.—

''(i) IN GENERAL.—The Board may make examinations of each bank holding company and each subsidiary of a bank holding company.

''(ii) FUNCTIONALLY REGULATED NONDEPOSITORY INSTITUTION SUBSIDIARIES.—Notwithstanding clause (i), the Board may make examinations of a functionally regulated nondepository institution subsidiary of a bank holding company only if—

''(I) the Board has reasonable cause to believe that such subsidiary is engaged in activities that pose a material risk to an affiliated depository institution, or

''(II) based on reports and other available information, the Board has reasonable cause to believe that a subsidiary is not in compliance with this Act or with provisions relating to transactions with an affiliated depository institution and the Board cannot make such determination through examination of the affiliated depository institution or bank holding company.

''(B) LIMITATIONS ON EXAMINATION AUTHORITY FOR BANK HOLDING COMPANIES AND SUBSIDIARIES.—Subject to subparagraph (A)(ii), the Board may make examinations under subparagraph (A)(i) of each bank holding company and each subsidiary of such holding company in order to—

''(i) inform the Board of the nature of the operations and financial condition of the holding company and such subsidiaries;

''(ii) inform the Board of—

''(I) the financial and operational risks within the holding company system that may pose a threat to the safety and soundness of any subsidiary depository institution of such holding company; and

''(II) the systems for monitoring and controlling such risks; and

''(iii) monitor compliance with the provisions of this Act and those governing transactions and relationships between any subsidiary depository institution and its affiliates.

''(C) RESTRICTED FOCUS OF EXAMINATIONS.—The Board shall, to the fullest extent possible, limit the focus and scope of any examination of a bank holding company to—

''(i) the bank holding company; and

''(ii) any subsidiary of the holding company that, because of—

''(I) the size, condition, or activities of the subsidiary;

''(II) the nature or size of transactions between such subsidiary and any depository institution which is also a subsidiary of such holding company; or

''(III) the centralization of functions within the holding company system,

could have a materially adverse effect on the safety and soundness of any depository institution affiliate of the holding company.

''(D) DEFERENCE TO BANK EXAMINATIONS.—The Board shall, to the fullest extent possible, use, for the purposes of this paragraph, the reports of examinations of depository institutions made by the appropriate Federal and State depository institution supervisory authority.

''(E) DEFERENCE TO OTHER EXAMINATIONS.—The Board shall, to the fullest extent possible, address the circumstances which might otherwise permit or require an examination by the Board by forgoing an examination and instead reviewing the reports of examination made of—

''(i) any registered broker or dealer by or on behalf of the Securities and Exchange Commission;

''(ii) any registered investment adviser properly registered by or on behalf of either the Securities and Exchange Commission or any State;

''(iii) any licensed insurance company by or on behalf of any state regulatory authority responsible for the supervision of insurance companies; and

''(iv) any other subsidiary that the Board finds to be comprehensively supervised by a Federal or State authority.

''(3) CAPITAL.—

''(A) IN GENERAL.—The Board shall not, by regulation, guideline, order or otherwise, prescribe or impose any capital or capital adequacy rules, guidelines, standards, or requirements on any subsidiary of a financial holding company that is not a depository institution and—

''(i) is in compliance with applicable capital requirements of another Federal regulatory authority (including the Securities and Exchange Commission) or State insurance authority; or

''(ii) is properly registered as an investment adviser under the Investment Advisers Act of 1940, or with any State.

''(B) RULE OF CONSTRUCTION.—Subparagraph (A) shall not be construed as preventing the Board from imposing capital or capital adequacy rules, guidelines, standards, or requirements with respect to activities of a registered investment adviser other than investment advisory activities or activities incidental to investment advisory activities.

''(C) LIMITATIONS ON INDIRECT ACTION.—In developing, establishing, or assessing holding company capital or capital adequacy rules, guidelines, standards, or requirements for purposes of this paragraph, the Board shall not take into account the activities, operations, or investments of an affiliated investment company registered under the Investment Company Act of 1940, if the investment company is not—

''(i) a bank holding company; or

''(ii) controlled by a bank holding company by reason of ownership by the bank holding company (including through all of its affiliates) of 25 percent or more of the shares of the investment company, where the shares owned by the bank holding company have a market value equal to more than $1,000,000.

''(4) TRANSFER OF BOARD AUTHORITY TO APPROPRIATE FEDERAL BANKING AGENCY.—

''(A) IN GENERAL.—In the case of any bank holding company which is not significantly engaged in nonbanking activities, the Board, in consultation with the appropriate Federal banking agency, may designate the appropriate Federal banking agency of the lead insured depository institution subsidiary of such holding company as the appropriate Federal banking agency for the bank holding company.

''(B) AUTHORITY TRANSFERRED.—An agency designated by the Board under subparagraph (A) shall have the same authority as the Board under this Act to—

''(i) examine and require reports from the bank holding company and any affiliate of such company (other than a depository institution) under section 5;

''(ii) approve or disapprove applications or transactions under section 3;

''(iii) take actions and impose penalties under subsections (e) and (f) of section 5 and section 8; and

''(iv) take actions regarding the holding company, any affiliate of the holding company (other than a depository institution), or any institution-affiliated party of such company or affiliate under the Federal Deposit Insurance Act and any other statute which the Board may designate.

''(C) AGENCY ORDERS.—Section 9 (of this Act) and section 105 of the Bank Holding Company Act Amendments of 1970 shall apply to orders issued by an agency designated under subparagraph (A) in the same manner such sections apply to orders issued by the Board.

''(5) FUNCTIONAL REGULATION OF SECURITIES AND INSURANCE ACTIVITIES.—The Board shall defer to—

''(A) the Securities and Exchange Commission with regard to all interpretations of, and the enforcement of, applicable Federal securities laws (and rules, regulations, orders, and other directives issued thereunder) relating to the activities, conduct, and operations of registered brokers, dealers, investment advisers, and investment companies;

''(B) the relevant State securities authorities with regard to all interpretations of, and the enforcement of, applicable State securities laws (and rules, regulations, orders, and other directives issued thereunder) relating to the activities, conduct, and operations of registered brokers, dealers, and investment advisers; and

''(C) the relevant State insurance authorities with regard to all interpretations of, and the enforcement of, applicable State insurance laws (and rules, regulations, orders, and other directives issued thereunder) relating to the activities, conduct, and operations of insurance companies and insurance agents.''.

SEC. 112. ELIMINATION OF APPLICATION REQUIREMENT FOR FINANCIAL HOLDING COMPANIES.

(a) PREVENTION OF DUPLICATIVE FILINGS.—Section 5(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(a)) is amended by adding the following new sentence at the end: ''A declaration filed in accordance with section 6(b)(1)(E) shall satisfy the requirements of this subsection with regard to the registration of a bank holding company but not any requirement to file an application to acquire a bank pursuant to section 3.''.

(b) DIVESTITURE PROCEDURES.—Section 5(e)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(e)(1)) is amended—

(1) by striking ''Financial Institutions Supervisory Act of 1966, order'' and inserting ''Financial Institutions Supervisory Act of 1966, at the election of the bank holding company—

''(A) order''; and

(2) by striking ''shareholders of the bank holding company. Such distribution'' and inserting ''shareholders of the bank holding company; or

''(B) order the bank holding company, after due notice and opportunity for hearing, and after consultation with the primary supervisor for the bank, which shall be the Comptroller of the Currency in the case of a national bank, and the Federal Deposit Insurance Corporation and the appropriate State supervisor in the case of an insured nonmember bank, to terminate (within 120 days or such longer period as the Board may direct) the ownership or control of any such bank by such company.

''The distribution referred to in subparagraph (A)''.

SEC. 113. AUTHORITY OF STATE INSURANCE REGULATOR AND SECURITIES AND EXCHANGE COMMISSION.

Section 5 of the Bank Holding Company Act of 1956 (12 U.S.C. 1844) is amended by adding at the end the following new subsection:

''(g) AUTHORITY OF STATE INSURANCE REGULATOR AND THE SECURITIES AND EXCHANGE COMMISSION.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, any regulation, order, or other action of the Board which requires a bank holding company to provide funds or other assets to a subsidiary insured depository institution shall not be effective nor enforceable if—

''(A) such funds or assets are to be provided by—

''(i) a bank holding company that is an insurance company or is a broker or dealer registered under the Securities Exchange Act of 1934; or

''(ii) an affiliate of the depository institution which is an insurance company or a broker or dealer registered under such Act; and

''(B) the State insurance authority for the insurance company or the Securities and Exchange Commission for the registered broker or dealer, as the case may be, determines in writing sent to the holding company and the Board that the holding company shall not provide such funds or assets because such action would have a material adverse effect on the financial condition of the insurance company or the broker or dealer, as the case may be.

''(2) NOTICE TO STATE INSURANCE AUTHORITY OR SEC REQUIRED.—If the Board requires a bank holding company, or an affiliate of a bank holding company, which is an insurance company or a broker or dealer described in paragraph (1)(A) to provide funds or assets to an insured depository institution subsidiary of the holding company pursuant to any regulation, order, or other action of the Board referred to in paragraph (1), the Board shall promptly notify the State insurance authority for the insurance company or the Securities and Exchange Commission, as the case may be, of such requirement.

''(3) DIVESTITURE IN LIEU OF OTHER ACTION.—If the Board receives a notice described in paragraph (1)(B) from a State insurance authority or the Securities and Exchange Commission with regard to a bank holding company or affiliate referred to in that paragraph, the Board may order the bank holding company to divest the insured depository institution not later than 180 days after receiving the notice, or such longer period as the Board determines consistent with the safe and sound operation of the insured depository institution.

''(4) CONDITIONS BEFORE DIVESTITURE.—During the period beginning on the date an order to divest is issued by the Board under paragraph (3) to a bank holding company and ending on the date the divestiture is completed, the Board may impose any conditions or restrictions on the holding company's ownership or operation of the insured depository institution, including restricting or prohibiting transactions between the insured depository institution and any affiliate of the institution, as are appropriate under the circumstances.''.

SEC. 114. PRUDENTIAL SAFEGUARDS.

Section 5 of the Bank Holding Company Act of 1956 (12 U.S.C. 1844) is amended by inserting after subsection (g) (as added by section 113 of this subtitle) the following new subsection:

''(h) PRUDENTIAL SAFEGUARDS.—

''(1) IN GENERAL.—The Board may, by regulation or order, impose restrictions or requirements on relationships or transactions between a depository institution subsidiary of a bank holding company and any affiliate of such depository institution (other than a subsidiary of such institution) which the Board finds is consistent with the public interest, the purposes of this Act, the Financial Services Act of 1998, the Federal Reserve Act, and other Federal law applicable to depository institution subsidiaries of bank holding companies and the standards in paragraph (2).

''(2) STANDARDS.—The Board may exercise authority under paragraph (1) if the Board finds that such action would—

''(A) avoid any significant risk to the safety and soundness of depository institutions or any Federal deposit insurance fund;

''(B) enhance the financial stability of bank holding companies;

''(C) avoid conflicts of interest or other abuses;

''(D) enhance the privacy of customers of depository institutions; or

''(E) promote the application of national treatment and equality of competitive opportunity between nonbank affiliates owned or controlled by domestic bank holding companies and nonbank affiliates owned or controlled by foreign banks operating in the United States.

''(3) REVIEW.—The Board shall regularly—

''(A) review all restrictions or requirements established pursuant to paragraph (1) to determine whether there is a continuing need for any such restriction or requirement to carry out the purposes of the Act, including any purpose described in paragraph (2); and

''(B) modify or eliminate any restriction or requirement the Board finds is no longer required for such purposes.

''(4) FOREIGN BANKS.—The Board may, by regulation or order, impose restrictions or requirements on relationships or transactions between a foreign bank and any affiliate in the United States of such foreign bank that the Board finds are consistent with the public interest, the purposes of this Act, the Financial Services Act of 1998, the Federal Reserve Act, and other Federal law applicable to foreign banks and their affiliates in the United States, and the standards in paragraphs (2) and (3).''.

SEC. 115. EXAMINATION OF INVESTMENT COMPANIES.

(a) EXCLUSIVE COMMISSION AUTHORITY.—

(1) IN GENERAL.—The Commission shall be the sole Federal agency with authority to inspect and examine any registered investment company that is not a bank holding company.

(2) PROHIBITION ON BANKING AGENCIES.—A Federal banking agency may not inspect or examine any registered investment company that is not a bank holding company.

(b) EXAMINATION RESULTS AND OTHER INFORMATION.—The Commission shall provide to any Federal banking agency, upon request, the results of any examination, reports, records, or other information with respect to any registered investment company to the extent necessary for the agency to carry out its statutory responsibilities.

(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) BANK HOLDING COMPANY.—The term ''bank holding company'' has the same meaning as in section 2 of the Bank Holding Company Act of 1956.

(2) COMMISSION.—The term ''Commission'' means the Securities and Exchange Commission.

(3) FEDERAL BANKING AGENCY.—The term ''Federal banking agency'' has the same meaning as in section 3(z) of the Federal Deposit Insurance Act.

(4) REGISTERED INVESTMENT COMPANY.—The term ''registered investment company'' means an investment company which is registered with the Commission under the Investment Company Act of 1940.

SEC. 116. LIMITATION ON RULEMAKING, PRUDENTIAL, SUPERVISORY, AND ENFORCEMENT AUTHORITY OF THE BOARD.

The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended by inserting after section 10 the following new section:

''SEC. 10A. LIMITATION ON RULEMAKING, PRUDENTIAL, SUPERVISORY, AND ENFORCEMENT AUTHORITY OF THE BOARD.

''(a) LIMITATION ON DIRECT ACTION.—

''(1) IN GENERAL.—The Board may not prescribe regulations, issue or seek entry of orders, impose restraints, restrictions, guidelines, requirements, safeguards, or standards, or otherwise take any action under or pursuant to any provision of this Act or section 8 of the Federal Deposit Insurance Act against or with respect to a regulated subsidiary of a bank holding company unless the action is necessary to prevent or redress an unsafe or unsound practice or breach of fiduciary duty by such subsidiary that poses a material risk to—

''(A) the financial safety, soundness, or stability of an affiliated depository institution; or

''(B) the domestic or international payment system.

''(2) CRITERIA FOR BOARD ACTION.—The Board shall not take action otherwise permitted under paragraph (1) unless the Board finds that it is not reasonably possible to effectively protect against the material risk at issue through action directed at or against the affiliated depository institution or against depository institutions generally.

''(b) LIMITATION ON INDIRECT ACTION.—The Board may not prescribe regulations, issue or seek entry of orders, impose restraints, restrictions, guidelines, requirements, safeguards, or standards, or otherwise take any action under or pursuant to any provision of this Act or section 8 of the Federal Deposit Insurance Act against or with respect to a financial holding company or a wholesale financial holding company where the purpose or effect of doing so would be to take action indirectly against or with respect to a regulated subsidiary that may not be taken directly against or with respect to such subsidiary in accordance with subsection (a).

''(c) ACTIONS SPECIFICALLY AUTHORIZED.—Notwithstanding subsection (a), the Board may take action under this Act or section 8 of the Federal Deposit Insurance Act to enforce compliance by a regulated subsidiary with Federal law that the Board has specific jurisdiction to enforce against such subsidiary.

''(d) REGULATED SUBSIDIARY DEFINED.—For purposes of this section, the term 'regulated subsidiary' means any company that is not a bank holding company and is—

''(1) a broker or dealer registered under the Securities Exchange Act of 1934;

''(2) a registered investment adviser, properly registered by or on behalf of either the Securities and Exchange Commission or any State, with respect to the investment advisory activities of such investment adviser and activities incidental to such investment advisory activities;

''(3) an investment company registered under the Investment Company Act of 1940;

''(4) an insurance company or an insurance agency subject to supervision by a State insurance commission, agency, or similar authority; or

''(5) an entity subject to regulation by the Commodity Futures Trading Commission, with respect to the commodities activities of such entity and activities incidental to such commodities activities.''.

SEC. 117. INTERAGENCY CONSULTATION.

(a) PURPOSE.—It is the intention of Congress that the Board of Governors of the Federal Reserve System, as the umbrella supervisor for financial holding companies, and the State insurance regulators, as the functional regulators of companies engaged in insurance activities, coordinate efforts to supervise companies that control both a depository institution and a company engaged in insurance activities regulated under State law. In particular, Congress believes that the Board and the State insurance regulators should share, on a confidential basis, information relevant to the supervision of companies that control both a depository institution and a company engaged in insurance activities, including information regarding the financial health of the consolidated organization and information regarding transactions and relationships between insurance companies and affiliated depository institutions. The appropriate Federal banking agencies for depository institutions should also share, on a confidential basis, information with the relevant State insurance regulators regarding transactions and relationships between depository institutions and affiliated companies engaged in insurance activities. The purpose of this section is to encourage this coordination and confidential sharing of information, and to thereby improve both the efficiency and the quality of the supervision of financial holding companies and their affiliated depository institutions and companies engaged in insurance activities.

(b) EXAMINATION RESULTS AND OTHER INFORMATION.—

(1) INFORMATION OF THE BOARD.—Upon the request of the appropriate insurance regulator of any State, the Board may provide any information of the Board regarding the financial condition, risk management policies, and operations of any financial holding company that controls a company that is engaged in insurance activities and is regulated by such State insurance regulator, and regarding any transaction or relationship between such an insurance company and any affiliated depository institution. The Board may provide any other information to the appropriate State insurance regulator that the Board believes is necessary or appropriate to permit the State insurance regulator to administer and enforce applicable State insurance laws.

(2) BANKING AGENCY INFORMATION.—Upon the request of the appropriate insurance regulator of any State, the appropriate Federal banking agency may provide any information of the agency regarding any transaction or relationship between a depository institution supervised by such Federal banking agency and any affiliated company that is engaged in insurance activities regulated by such State insurance regulator. The appropriate Federal banking agency may provide any other information to the appropriate State insurance regulator that the agency believes is necessary or appropriate to permit the State insurance regulator to administer and enforce applicable State insurance laws.

(3) STATE INSURANCE REGULATOR INFORMATION.—Upon the request of the Board or the appropriate Federal banking agency, a State insurance regulator may provide any examination or other reports, records, or other information to which such insurance regulator may have access with respect to a company which—

(A) is engaged in insurance activities and regulated by such insurance regulator; and

(B) is an affiliate of an insured depository institution, wholesale financial institution, or financial holding company.

(c) CONSULTATION.—Before making any determination relating to the initial affiliation of, or the continuing affiliation of, an insured depository institution, wholesale financial institution, or financial holding company with a company engaged in insurance activities, the appropriate Federal banking agency shall consult with the appropriate State insurance regulator of such company and take the views of such insurance regulator into account in making such determination.

(d) EFFECT ON OTHER AUTHORITY.—Nothing in this section shall limit in any respect the authority of the appropriate Federal banking agency with respect to an insured depository institution, wholesale financial institution, or bank holding company or any affiliate thereof under any provision of law.

(e) CONFIDENTIALITY AND PRIVILEGE.—

(1) CONFIDENTIALITY.—The appropriate Federal banking agency shall not provide any information or material that is entitled to confidential treatment under applicable Federal banking agency regulations, or other applicable law, to a State insurance regulator unless such regulator agrees to maintain the information or material in confidence and to take all reasonable steps to oppose any effort to secure disclosure of the information or material by the regulator. The appropriate Federal banking agency shall treat as confidential any information or material obtained from a State insurance regulator that is entitled to confidential treatment under applicable State regulations, or other applicable law, and take all reasonable steps to oppose any effort to secure disclosure of the information or material by the Federal banking agency.

(2) PRIVILEGE.—The provision pursuant to this section of information or material by a Federal banking agency or State insurance regulator shall not constitute a waiver of, or otherwise affect, any privilege to which the information or material is otherwise subject.

(f) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) APPROPRIATE FEDERAL BANKING AGENCY; INSURED DEPOSITORY INSTITUTION.—The terms ''appropriate Federal banking agency'' and ''insured depository institution'' have the same meanings as in section 3 of the Federal Deposit Insurance Act.

(2) BOARD; FINANCIAL HOLDING COMPANY; AND WHOLESALE FINANCIAL INSTITUTION.—The terms ''Board'', ''financial holding company'', and ''wholesale financial institution'' have the same meanings as in section 2 of the Bank Holding Company Act of 1956.

SEC. 118. EQUIVALENT REGULATION AND SUPERVISION.

Notwithstanding any other provision of law, the provisions of—

(1) section 5(c) of the Bank Holding Company Act of 1956 (as amended by this Act) that limit the authority of the Board of Governors of the Federal Reserve System to require reports from, to make examinations of, or to impose capital requirements on bank holding companies and their nonbank subsidiaries; and

(2) section 10A of the Bank Holding Company Act of 1956 (as added by this Act) that limit whatever authority the Board might otherwise have to take direct or indirect action with respect to bank holding companies and their nonbank subsidiaries,

shall also limit whatever authority that the Comptroller of the Currency and the Director of the Office of Thrift Supervision might otherwise have under any statute to require reports, make examinations, impose capital requirements or take any other direct or indirect action with respect to bank holding companies and their nonbank subsidiaries (including nonbank subsidiaries of depository institutions), subject to the same standards and requirements as are applicable to the Board under such provisions.

SEC. 119. PROHIBITION ON FDIC ASSISTANCE TO AFFILIATES AND SUBSIDIARIES.

Section 11(a)(4)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(4)(B)) is amended by striking ''to benefit any shareholder of'' and inserting ''to benefit any shareholder, affiliate (other than an insured depository institution that receives assistance in accordance with the provision of this Act), or subsidiary of''.

Subtitle C—Subsidiaries of National Banks

SEC. 121. PERMISSIBLE ACTIVITIES FOR SUBSIDIARIES OF NATIONAL BANKS.

(a) FINANCIAL SUBSIDIARIES OF NATIONAL BANKS.—Chapter one of title LXII of the Revised Statutes of United States (12 U.S.C. 21 et seq.) is amended—

(1) by redesignating section 5136A as section 5136C; and

(2) by inserting after section 5136 (12 U.S.C. 24) the following new section:

''SEC. 5136A. SUBSIDIARIES OF NATIONAL BANKS.

''(a) SUBSIDIARIES OF NATIONAL BANKS AUTHORIZED TO ENGAGE IN FINANCIAL ACTIVITIES.—

''(1) EXCLUSIVE AUTHORITY.—No provision of section 5136 or any other provision of this title LXII of the Revised Statutes shall be construed as authorizing a subsidiary of a national bank to engage in, or own any share of or any other interest in any company engaged in, any activity that—

''(A) is not permissible for a national bank to engage in directly; or

''(B) is conducted under terms or conditions other than those that would govern the conduct of such activity by a national bank,

unless a national bank is specifically authorized by the express terms of a Federal statute and not by implication or interpretation to acquire shares of or an interest in, or to control, such subsidiary, such as by paragraph (2) of this subsection and section 25A of the Federal Reserve Act.

''(2) SPECIFIC AUTHORIZATION TO CONDUCT AGENCY ACTIVITIES WHICH ARE FINANCIAL IN NATURE.—A national bank may control a company that engages in agency activities that have been determined to be financial in nature or incidental to such financial activities pursuant to and in accordance with section 6(c) of the Bank Holding Company Act of 1956 if—

''(A) the company engages in such activities solely as agent and not directly or indirectly as principal;

''(B) the national bank is well capitalized and well managed, and has achieved a rating of satisfactory or better at the most recent examination of the bank under the Community Reinvestment Act of 1977;

''(C) all depository institution affiliates of the national bank are well capitalized and well managed, and have achieved a rating of satisfactory or better at the most recent examination of each such depository institution under the Community Reinvestment Act of 1977; and

''(D) the bank has received the approval of the Comptroller of the Currency.

''(3) RATING DOES NOT REQUIRE DIVESTITURE.—A national bank shall not be required to divest any subsidiary held pursuant to paragraph (2) solely based on a rating described in subparagraph (B) or (C) of paragraph (2), other than a rating described in paragraph (4)(C).

''(4) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

''(A) COMPANY; CONTROL; AFFILIATE; SUBSIDIARY.—The terms 'company', 'control', 'affiliate', and 'subsidiary' have the same meanings as in section 2 of the Bank Holding Company Act of 1956.

''(B) WELL CAPITALIZED.—The term 'well capitalized' has the same meaning as in section 38 of the Federal Deposit Insurance Act and, for purposes of this section, the Comptroller shall have exclusive jurisdiction to determine whether a national bank is well capitalized.

''(C) WELL MANAGED.—The term 'well managed' means—

''(i) in the case of a depository institution that has been examined, unless otherwise determined in writing by the appropriate Federal banking agency—

''(I) the achievement of a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating under an equivalent rating system) in connection with

the most recent examination or subsequent review of the depository institution; and

''(II) at least a rating of 2 for management, if that rating is given; or

''(ii) in the case of any depository institution that has not been examined, the existence and use of managerial resources that the appropriate Federal banking agency determines are satisfactory.

''(D) INCORPORATED DEFINITIONS.—The terms 'appropriate Federal banking agency' and 'depository institution' have the same meanings as in section 3 of the Federal Deposit Insurance Act.

''(b) LIMITED EXCLUSIONS FROM COMMUNITY NEEDS REQUIREMENTS FOR NEWLY ACQUIRED DEPOSITORY INSTITUTIONS.—Any depository institution which becomes affiliated with a national bank during the 24-month period preceding the submission of an application to acquire a subsidiary under subsection (a)(2), and any depository institution which becomes so affiliated after the approval of such application, may be excluded for purposes of subsection (a)(2)(C) during the 24-month period beginning on the date of such acquisition if—

''(1) the depository institution has submitted an affirmative plan to the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) to take such action as may be necessary in order for such institution to achieve a 'satisfactory record of meeting community credit needs', or better, at the next examination of the institution under the Community Reinvestment Act of 1977; and

''(2) the plan has been approved by the appropriate Federal banking agency.''.

(b) LIMITATION ON CERTAIN ACTIVITIES IN SUBSIDIARIES.—Section 21(a)(1) of the Banking Act of 1933 (12 U.S.C. 378(a)(1)) is amended—

(1) by inserting '', or to be a subsidiary of any person, firm, corporation, association, business trust, or similar organization engaged (unless such subsidiary (A) was engaged in such securities activities as of September 15, 1997, or (B) is a nondepository subsidiary of (i) a foreign bank and is not also a subsidiary of a domestic depository institution, or (ii) an unincorporated private bank that is not insured under the Federal Deposit Insurance Act),'' after ''to engage at the same time''; and

(2) by inserting ''or any subsidiary of such bank, company, or institution'' after ''or private bankers''.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) ANTITYING.—Section 106(a) of the Bank Holding Company Act Amendments of 1970 is amended by adding at the end the following new sentence: ''For purposes of this section, a subsidiary of a national bank which engages in activities as an agent pursuant to section 5136A(a)(2) shall be deemed to be a subsidiary of a bank holding company, and not a subsidiary of a bank.''.

(2) SECTION 23B.—Section 23B(a) of the Federal Reserve Act (12 U.S.C. 371c–1(a)) is amended by adding at the end the following new paragraph:

''(4) SUBSIDIARY OF NATIONAL BANK.—For purposes of this section, a subsidiary of a national bank which engages in activities as an agent pursuant to section 5136A(a)(2) shall be deemed to be an affiliate of the national bank and not a subsidiary of the bank.''.

(d) CLERICAL AMENDMENT.—The table of sections for chapter one of title LXII of the Revised Statutes of the United States is amended—

(1) by redesignating the item relating to section 5136A as section 5136C; and

(2) by inserting after the item relating to section 5136 the following new item:

''5136A. Financial subsidiaries of national banks.''.

SEC. 122. MISREPRESENTATIONS REGARDING DEPOSITORY INSTITUTION LIABILITY FOR OBLIGATIONS OF AFFILIATES.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by inserting after section 1007 the following new section:

''§1008. Misrepresentations regarding financial institution liability for obligations of affiliates

''(a) IN GENERAL.—No institution-affiliated party of an insured depository institution or institution-affiliated party of a subsidiary or affiliate of an insured depository institution shall fraudulently represent that the institution is or will be liable for any obligation of a subsidiary or other affiliate of the institution.

''(b) CRIMINAL PENALTY.—Whoever violates subsection (a) shall be fined under this title, imprisoned for not more than 1 year, or both.

''(c) INSTITUTION-AFFILIATED PARTY DEFINED.—For purposes of this section, the term 'institution-affiliated party' with respect to a subsidiary or affiliate has the same meaning as in section 3 of the Federal Deposit Insurance Act, except that references to an insured depository institution shall be deemed to be references to a subsidiary or affiliate of an insured depository institution.

''(d) OTHER DEFINITIONS.—For purposes of this section, the terms 'affiliate', 'insured depository institution', and 'subsidiary' have same meanings as in section 3 of the Federal Deposit Insurance Act.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1007 the following new item:

''1008. Misrepresentations regarding financial institution liability for obligations of affiliates.''.

SEC. 123. REPEAL OF STOCK LOAN LIMIT IN FEDERAL RESERVE ACT.

Section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended by striking the paragraph designated as ''(m)'' and inserting ''(m) [Repealed]''.

Subtitle D—Wholesale Financial Holding Companies; Wholesale Financial Institutions

CHAPTER 1—WHOLESALE FINANCIAL HOLDING COMPANIES

SEC. 131. WHOLESALE FINANCIAL HOLDING COMPANIES ESTABLISHED.

(a) DEFINITION AND SUPERVISION.—Section 10 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended to read as follows:

''SEC. 10. WHOLESALE FINANCIAL HOLDING COMPANIES.

''(a) COMPANIES THAT CONTROL WHOLESALE FINANCIAL INSTITUTIONS.—

''(1) WHOLESALE FINANCIAL HOLDING COMPANY DEFINED.—The term 'wholesale financial holding company' means any company that—

''(A) is registered as a bank holding company;

''(B) is predominantly engaged in financial activities as defined in section 6(g)(2);

''(C) controls 1 or more wholesale financial institutions;

''(D) does not control—

''(i) a bank other than a wholesale financial institution;

''(ii) an insured bank other than an institution permitted under subparagraph (D), (F), or (G) of section 2(c)(2); or

''(iii) a savings association; and

''(E) is not a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978).

''(2) SAVINGS ASSOCIATION TRANSITION PERIOD.—Notwithstanding paragraph (1)(D)(iii), the Board may permit a company that controls a savings association and that otherwise meets the requirements of paragraph (1) to become supervised under paragraph (1), if the company divests control of any such savings association within such period, not to exceed 5 years after becoming supervised under paragraph (1), as permitted by the Board.

''(b) SUPERVISION BY THE BOARD.—

''(1) IN GENERAL.—The provisions of this section shall govern the reporting, examination, and capital requirements of wholesale financial holding companies.

''(2) REPORTS.—

''(A) IN GENERAL.—The Board from time to time may require any wholesale financial holding company and any subsidiary of such company to submit reports under oath to keep the Board informed as to—

''(i) the company's or subsidiary's activities, financial condition, policies, systems for monitoring and controlling financial and operational risks, and transactions with depository institution subsidiaries of the holding company; and

''(ii) the extent to which the company or subsidiary has complied with the provisions of this Act and regulations prescribed and orders issued under this Act.

''(B) USE OF EXISTING REPORTS.—

''(i) IN GENERAL.—The Board shall, to the fullest extent possible, accept reports in fulfillment of the Board's reporting requirements under this paragraph that the wholesale financial holding company or any subsidiary of such company has provided or been required to provide to other Federal and State supervisors or to appropriate self-regulatory organizations.

''(ii) AVAILABILITY.—A wholesale financial holding company or a subsidiary of such company shall provide to the Board, at the request of the Board, a report referred to in clause (i).

''(C) EXEMPTIONS FROM REPORTING REQUIREMENTS.—

''(i) IN GENERAL.—The Board may, by regulation or order, exempt any company or class of companies, under such terms and conditions and for such periods as the Board shall provide in such regulation or order, from the provisions of this paragraph and any regulation prescribed under this paragraph.

''(ii) CRITERIA FOR CONSIDERATION.—In making any determination under clause (i) with regard to any exemption under such clause, the Board shall consider, among such other factors as the Board may determine to be appropriate, the following factors:

''(I) Whether information of the type required under this paragraph is available from a supervisory agency (as defined in section 1101(7) of the Right to Financial Privacy Act of 1978) or a foreign regulatory authority of a similar type.

''(II) The primary business of the company.

''(III) The nature and extent of the domestic and foreign regulation of the activities of the company.

''(3) EXAMINATIONS.—

''(A) LIMITED USE OF EXAMINATION AUTHORITY.—The Board may make examinations of each wholesale financial holding company and each subsidiary of such company in order to—

''(i) inform the Board regarding the nature of the operations and financial condition of the wholesale financial holding company and its subsidiaries;

''(ii) inform the Board regarding—

''(I) the financial and operational risks within the wholesale financial holding company system that may affect any depository institution owned by such holding company; and

''(II) the systems of the holding company and its subsidiaries for monitoring and controlling those risks; and

''(iii) monitor compliance with the provisions of this Act and those governing transactions and relationships between any depository institution controlled by the wholesale financial holding company and any of the company's other subsidiaries.

''(B) RESTRICTED FOCUS OF EXAMINATIONS.—The Board shall, to the fullest extent possible, limit the focus and scope of any examination of a wholesale financial holding company under this paragraph to—

''(i) the holding company; and

''(ii) any subsidiary (other than an insured depository institution subsidiary) of the holding company that, because of the size, condition, or activities of the subsidiary, the nature or size of transactions between such subsidiary and any affiliated depository institution, or the centralization of functions within the holding company system, could have a materially adverse effect on the safety and soundness of any depository institution affiliate of the holding company.

''(C) DEFERENCE TO BANK EXAMINATIONS.—The Board shall, to the fullest extent possible, use the reports of examination of depository institutions made by the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision or the appropriate State depository institution supervisory authority for the purposes of this section.

''(D) DEFERENCE TO OTHER EXAMINATIONS.—The Board shall, to the fullest extent possible, address the circumstances which might otherwise permit or require an examination by the Board by forgoing an examination and by instead reviewing the reports of examination made of—

''(i) any registered broker or dealer or any registered investment adviser by or on behalf of the Commission; and

''(ii) any licensed insurance company by or on behalf of any State government insurance agency responsible for the supervision of the insurance company.

''(E) CONFIDENTIALITY OF REPORTED INFORMATION.—

''(i) IN GENERAL.—Notwithstanding any other provision of law, the Board shall not be compelled to disclose any nonpublic information required to be reported under this paragraph, or any information supplied to the Board by any domestic or foreign regulatory agency, that relates to the financial or operational condition of any wholesale financial holding company or any subsidiary of such company.

''(ii) COMPLIANCE WITH REQUESTS FOR INFORMATION.—No provision of this subparagraph shall be construed as authorizing the Board to withhold information from the Congress, or preventing the Board from complying with a request for information from any other Federal department or agency for purposes within the scope of such department's or agency's jurisdiction, or from complying with any order of a court of competent jurisdiction in an action brought by the United States or the Board.

''(iii) COORDINATION WITH OTHER LAW.—For purposes of section 552 of title 5, United States Code, this subparagraph shall be considered to be a statute described in subsection (b)(3)(B) of such section.

''(iv) DESIGNATION OF CONFIDENTIAL INFORMATION.—In prescribing regulations to carry out the requirements of this subsection, the Board shall designate information described in or obtained pursuant to this paragraph as confidential information.

''(F) COSTS.—The cost of any examination conducted by the Board under this section may be assessed against, and made payable by, the wholesale financial holding company.

''(4) CAPITAL ADEQUACY GUIDELINES.—

''(A) CAPITAL ADEQUACY PROVISIONS.—Subject to the requirements of, and solely in accordance with, the terms of this paragraph, the Board may adopt capital adequacy rules or guidelines for wholesale financial holding companies.

''(B) METHOD OF CALCULATION.—In developing rules or guidelines under this paragraph, the following provisions shall apply:

''(i) FOCUS ON DOUBLE LEVERAGE.—The Board shall focus on the use by wholesale financial holding companies of debt and other liabilities to fund capital investments in subsidiaries.

''(ii) NO UNWEIGHTED CAPITAL RATIO.—The Board shall not, by regulation, guideline, order, or otherwise, impose under this section a capital ratio that is not based on appropriate risk-weighting considerations.

''(iii) NO CAPITAL REQUIREMENT ON REGULATED ENTITIES.—The Board shall not, by regulation, guideline, order or otherwise, prescribe or impose any capital or capital adequacy rules, standards, guidelines, or requirements upon any subsidiary that—

''(I) is not a depository institution; and

''(II) is in compliance with applicable capital requirements of another Federal regulatory authority (including the Securities and Exchange Commission) or State insurance authority.

''(iv) CERTAIN SUBSIDIARIES.—The Board shall not, by regulation, guideline, order or otherwise, prescribe or impose any capital or capital adequacy rules, standards, guidelines, or requirements upon any subsidiary that is not a depository institution and that is registered as an investment adviser under the Investment Advisers Act of 1940, except that this clause shall not be construed as preventing the Board from imposing capital or capital adequacy rules, guidelines, standards, or requirements with respect to activities of a registered investment adviser other than investment advisory activities or activities incidental to investment advisory activities.

''(v) LIMITATIONS ON INDIRECT ACTION.—In developing, establishing, or assessing holding company capital or capital adequacy rules, guidelines, standards, or requirements for purposes of this paragraph, the Board shall not take into account the activities, operations, or investments of an affiliated investment company registered under the Investment Company Act of 1940, if the investment company is not—

''(I) a bank holding company; or

''(II) controlled by a bank holding company by reason of ownership by the bank holding company (including through all of its affiliates) of 25 percent or more of the shares of the investment company, where the shares owned by the bank holding company have a market value equal to more than $1,000,000.

''(vi) APPROPRIATE EXCLUSIONS.—The Board shall take full account of—

''(I) the capital requirements made applicable to any subsidiary that is not a depository institution by another Federal regulatory authority or State insurance authority; and

''(II) industry norms for capitalization of a company's unregulated subsidiaries and activities.

''(vii) INTERNAL RISK MANAGEMENT MODELS.—The Board may incorporate internal risk management models of wholesale financial holding companies into its capital adequacy guidelines or rules and may take account of the extent to which resources of a subsidiary depository institution may be used to service the debt or other liabilities of the wholesale financial holding company.

''(c) NONFINANCIAL ACTIVITIES AND INVESTMENTS.—

''(1) GRANDFATHERED ACTIVITIES.—

''(A) IN GENERAL.—Notwithstanding section 4(a), a company that becomes a wholesale financial holding company may continue to engage, directly or indirectly, in any activity and may retain ownership and control of shares of a company engaged in any activity if—

''(i) on the date of the enactment of the Financial Services Act of 1998, such wholesale financial holding company was lawfully engaged in that nonfinancial activity, held the shares of such company, or had entered into a contract to acquire shares of any company engaged in such activity; and

''(ii) the company engaged in such activity continues to engage only in the same activities that such company conducted on the date of the enactment of the Financial Services Act of 1998, and other activities permissible under this Act.

''(B) NO EXPANSION OF GRANDFATHERED COMMERCIAL ACTIVITIES THROUGH MERGER OR CONSOLIDATION.—A wholesale financial holding company that engages in activities or holds shares pursuant to this paragraph, or a subsidiary of such wholesale financial holding company, may not acquire, in any merger, consolidation, or other type of business combination, assets of any other company which is engaged in any activity which the Board has not determined to be financial in nature or incidental to activities that are financial in nature under section 6(c).

''(C) LIMITATION TO SINGLE EXEMPTION.—No company that engages in any activity or controls any shares under subsection (f) of section 6 may engage in any activity or own any shares pursuant to this paragraph.

''(2) COMMODITIES.—

''(A) IN GENERAL.—Notwithstanding section 4(a), a wholesale financial holding company which was predominately engaged as of January 1, 1997, in financial activities in the United States (or any successor to any such company) may engage in, or directly or indirectly own or control shares of a company engaged in, activities related to the trading, sale, or investment in commodities and underlying physical properties that were not permissible for bank holding companies to conduct in the United States as of January 1, 1997, if such wholesale financial holding company, or any subsidiary of such holding company, was engaged directly, indirectly, or through any such company in any of such activities as of January 1, 1997, in the United States.

''(B) LIMITATION.—The attributed aggregate consolidated assets of a wholesale financial holding company held under the authority granted under this paragraph and not otherwise permitted to be held by all wholesale financial holding companies under this section may not exceed 5 percent of the total consolidated assets of the wholesale financial holding company, except that the Board may increase such percentage of total consolidated assets by such amounts and under such circumstances as the Board considers appropriate, consistent with the purposes of this Act.

''(3) CROSS MARKETING RESTRICTIONS.—A wholesale financial holding company shall not permit—

''(A) any company whose shares it owns or controls pursuant to paragraph (1) or (2) to offer or market any product or service of an affiliated wholesale financial institution; or

''(B) any affiliated wholesale financial institution to offer or market any product or service of any company whose shares are owned or controlled by such wholesale financial holding company pursuant to such paragraphs.

''(d) QUALIFICATION OF FOREIGN BANK AS WHOLESALE FINANCIAL HOLDING COMPANY.—

''(1) IN GENERAL.—Any foreign bank, or any company that owns or controls a foreign bank, that operates a branch, agency, or commercial lending company in the United States, including a foreign bank or company that owns or controls a wholesale financial institution, may request a determination from the Board that such bank or company be treated as a wholesale financial holding company (other than for purposes of subsection (c)), subject to such conditions as the Board deems appropriate, giving due regard to the principle of national treatment and equality of competitive opportunity and the requirements imposed on domestic banks and companies.

''(2) CONDITIONS FOR TREATMENT AS A WHOLESALE FINANCIAL HOLDING COMPANY.—A foreign bank and a company that owns or controls a foreign bank may not be treated as a wholesale financial holding company unless the bank and company meet and continue to meet the following criteria:

''(A) NO INSURED DEPOSITS.—No deposits held directly by a foreign bank or through an affiliate (other than an institution described in subparagraph (D) or (F) of section 2(c)(2)) are insured under the Federal Deposit Insurance Act.

''(B) CAPITAL STANDARDS.—The foreign bank meets risk-based capital standards comparable

to the capital standards required for a wholesale financial institution, giving due regard to the principle of national treatment and equality of competitive opportunity.

''(C) TRANSACTION WITH AFFILIATES.—Transactions between a branch, agency, or commercial lending company subsidiary of the foreign bank in the United States, and any securities affiliate or company in which the foreign bank (or any company that owns or controls such foreign bank), that engages in any activity authorized only as a result of the application of subsection (c) or (g) of section 6, comply with the provisions of sections 23A and 23B of the Federal Reserve Act in the same manner and to the same extent as such transactions would be required to comply with such sections if the foreign bank were a member bank.

''(3) TREATMENT AS A WHOLESALE FINANCIAL INSTITUTION.—Any foreign bank which is, or is affiliated with a company which is, treated as a wholesale financial holding company under this subsection shall be treated as a wholesale financial institution for purposes of paragraphs (1)(C) and (3) of section 9B(c) of the Federal Reserve Act, and any such foreign bank or company shall be subject to paragraphs (3), (4), and (5) of section 9B(d) of the Federal Reserve Act, except that the Board may adopt such modifications, conditions, or exemptions as the Board deems appropriate, giving due regard to the principle of national treatment and equality of competitive opportunity.

''(4) SUPERVISION OF FOREIGN BANK WHICH MAINTAINS NO BANKING PRESENCE OTHER THAN CONTROL OF A WHOLESALE FINANCIAL INSTITUTION.—A foreign bank that owns or controls a wholesale financial institution but does not operate a branch, agency, or commercial lending company in the United States (and any company that owns or controls such foreign bank) may request a determination from the Board that such bank or company be treated as a wholesale financial holding company, except that such bank or company shall be subject to the restrictions of paragraphs (2)(A) and (3) of this subsection.

''(5) NO EFFECT ON OTHER PROVISIONS.—This section shall not be construed as limiting the authority of the Board under the International Banking Act of 1978 with respect to the regulation, supervision, or examination of foreign banks and their offices and affiliates in the United States.''.

(b) UNINSURED STATE BANKS.—Section 9 of the Federal Reserve Act (U.S.C. 321 et seq.) is amended by adding at the end the following new paragraph:

''(24) ENFORCEMENT AUTHORITY OVER UNINSURED STATE MEMBER BANKS.—Section 3(u) of the Federal Deposit Insurance Act, subsections (j) and (k) of section 7 of such Act, and subsections (b) through (n), (s), (u), and (v) of section 8 of such Act shall apply to an uninsured State member bank in the same manner and to the same extent such provisions apply to an insured State member bank and any reference in any such provision to 'insured depository institution' shall be deemed to be a reference to 'uninsured State member bank' for purposes of this paragraph.''.

SEC. 132. AUTHORIZATION TO RELEASE REPORTS.

(a) FEDERAL RESERVE ACT.—The last sentence of the eighth undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 326) is amended to read as follows: ''The Board of Governors of the Federal Reserve System, at its discretion, may furnish reports of examination or other confidential supervisory information concerning State member banks or any other entities examined under any other authority of the Board to any Federal or State authorities with supervisory or regulatory authority over the examined entity, to officers, directors, or receivers of the examined entity, and to any other person that the Board determines to be proper.''.

(b) COMMODITY FUTURES TRADING COMMISSION.—The Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.) is amended—

(1) in section 1101(7) (12 U.S.C. 3401(7))—

(A) by redesignating subparagraphs (G) and (H) as subparagraphs (H) and (I), respectively; and

(B) by inserting after subparagraph (F) the following new subparagraph:

''(G) the Commodity Futures Trading Commission; or''; and

(2) in section 1112(e) (12 U.S.C. 3412(e)), by striking ''and the Securities and Exchange Commission'' and inserting '', the Securities and Exchange Commission, and the Commodity Futures Trading Commission''.

SEC. 133. CONFORMING AMENDMENTS.

(a) BANK HOLDING COMPANY ACT OF 1956.—

(1) DEFINITIONS.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended by adding at the end the following new subsections:

''(p) WHOLESALE FINANCIAL INSTITUTION.—The term 'wholesale financial institution' means a wholesale financial institution subject to section 9B of the Federal Reserve Act.

''(q) COMMISSION.—The term 'Commission' means the Securities and Exchange Commission.

''(r) DEPOSITORY INSTITUTION.—The term 'depository institution'—

''(1) has the same meaning as in section 3 of the Federal Deposit Insurance Act; and

''(2) includes a wholesale financial institution.''.

(2) DEFINITION OF BANK INCLUDES WHOLESALE FINANCIAL INSTITUTION.—Section 2(c)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(1)) is amended by adding at the end the following new subparagraph:

''(C) A wholesale financial institution.''.

(3) INCORPORATED DEFINITIONS.—Section 2(n) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(n)) is amended by inserting ''insured bank','' after ''in danger of default',''.

(4) EXCEPTION TO DEPOSIT INSURANCE REQUIREMENT.—Section 3(e) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(e)) is amended by adding at the end the following: ''This subsection shall not apply to a wholesale financial institution.''.

(b) FEDERAL DEPOSIT INSURANCE ACT.—Section 3(q)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)(2)(A)) is amended to read as follows:

''(A) any State member insured bank (except a District bank) and any wholesale financial institution as authorized pursuant to section 9B of the Federal Reserve Act;''.

CHAPTER 2—WHOLESALE FINANCIAL INSTITUTIONS

SEC. 136. WHOLESALE FINANCIAL INSTITUTIONS.

(a) NATIONAL WHOLESALE FINANCIAL INSTITUTIONS.—

(1) IN GENERAL.—Chapter one of title LXII of the Revised Statutes of the United States (12 U.S.C. 21 et seq.) is amended by inserting after section 5136A (as added by section 121(a) of this title) the following new section:

''SEC. 5136B. NATIONAL WHOLESALE FINANCIAL INSTITUTIONS.

''(a) AUTHORIZATION OF THE COMPTROLLER REQUIRED.—A national bank may apply to the Comptroller on such forms and in accordance with such regulations as the Comptroller may prescribe, for permission to operate as a national wholesale financial institution.

''(b) REGULATION.—A national wholesale financial institution may exercise, in accordance with such institution's articles of incorporation and regulations issued by the Comptroller, all the powers and privileges of a national bank formed in accordance with section 5133 of the Revised Statutes of the United States, subject to section 9B of the Federal Reserve Act and the limitations and restrictions contained therein.

''(c) COMMUNITY REINVESTMENT ACT OF 1977.—A national wholesale financial institution shall be subject to the Community Reinvestment Act of 1977, only if the wholesale financial institution has an affiliate that is an insured depository institution or that operates an insured branch, as those terms are defined in section 3 of the Federal Deposit Insurance Act.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter one of title LXII of the Revised Statutes of the United States is amended by inserting after the item relating to section 5136A (as added by section 121(d) of this title) the following new item:

''5136B. National wholesale financial institutions.''.

(b) STATE WHOLESALE FINANCIAL INSTITUTIONS.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended by inserting after section 9A the following new section:

''SEC. 9B. WHOLESALE FINANCIAL INSTITUTIONS.

''(a) APPLICATION FOR MEMBERSHIP AS WHOLESALE FINANCIAL INSTITUTION.—

''(1) APPLICATION REQUIRED.—

''(A) IN GENERAL.—Any bank may apply to the Board of Governors of the Federal Reserve System to become a wholesale financial institution and, as a wholesale financial institution, to subscribe to the stock of the Federal reserve bank organized within the district where the applying bank is located.

''(B) TREATMENT AS MEMBER BANK.—Any application under subparagraph (A) shall be treated as an application under, and shall be subject to the provisions of section 9.

''(2) INSURANCE TERMINATION.—No bank the deposits of which are insured under the Federal Deposit Insurance Act may become a wholesale financial institution unless it has met all requirements under that Act for voluntary termination of deposit insurance.

''(b) GENERAL REQUIREMENTS APPLICABLE TO WHOLESALE FINANCIAL INSTITUTIONS.—

''(1) FEDERAL RESERVE ACT.—Except as otherwise provided in this section, wholesale financial institutions shall be member banks and shall be subject to the provisions of this Act that apply to member banks to the same extent and in the same manner as State member insured banks, except that a wholesale financial institution may terminate membership under this Act only with the prior written approval of the Board and on terms and conditions that the Board determines are appropriate to carry out the purposes of this Act.

''(2) PROMPT CORRECTIVE ACTION.—A wholesale financial institution shall be deemed to be an insured depository institution for purposes of section 38 of the Federal Deposit Insurance Act except that—

''(A) the relevant capital levels and capital measures for each capital category shall be the levels specified by the Board for wholesale financial institutions; and

''(B) all references to the appropriate Federal banking agency or to the Corporation in that section shall be deemed to be references to the Board.

''(3) ENFORCEMENT AUTHORITY.—Subsections (j) and (k) of section 7, subsections (b) through (n), (s), and (v) of section 8, and section 19 of the Federal Deposit Insurance Act shall apply to a wholesale financial institution in the same manner and to the same extent as such provisions apply to State member insured banks and any reference in such sections to an insured depository institution shall be deemed to include a reference to a wholesale financial institution.

''(4) CERTAIN OTHER STATUTES APPLICABLE.—A wholesale financial institution shall be deemed to be a banking institution, and the Board shall be the appropriate Federal banking agency for such bank and all such bank's affiliates, for purposes of the International Lending Supervision Act.

''(5) BANK MERGER ACT.—A wholesale financial institution shall be subject to sections 18(c) and 44 of the Federal Deposit Insurance Act in the same manner and to the same extent the

wholesale financial institution would be subject to such sections if the institution were a State member insured bank.

''(6) BRANCHING.—Notwithstanding any other provision of law, a wholesale financial institution may establish and operate a branch at any location on such terms and conditions as established by the Board and, in the case of a State-chartered wholesale financial institution, with the approval of the Board, and, in the case of a national bank wholesale financial institution, with the approval of the Comptroller of the Currency.

''(7) ACTIVITIES OF OUT-OF-STATE BRANCHES OF WHOLESALE FINANCIAL INSTITUTIONS.—

''(A) GENERAL.—A State-chartered wholesale financial institution shall be deemed to be a State bank and an insured State bank for purposes of paragraphs (1), (2), and (3) of section 24(j) of the Federal Deposit Insurance Act, and a national wholesale financial institution shall be deemed to be a national bank for purposes of section 5155(f) of the Revised Statutes of the United States.

''(B) DEFINITIONS.—The following definitions shall apply solely for purposes of applying paragraph (1):

''(i) HOME STATE.—The term 'home State' means—

''(I) with respect to a national wholesale financial institution, the State in which the main office of the institution is located; and

''(II) with respect to a State-chartered wholesale financial institution, the State by which the institution is chartered.

''(ii) HOST STATE.—The term 'host State' means a State, other than the home State of the wholesale financial institution, in which the institution maintains, or seeks to establish and maintain, a branch.

''(iii) OUT-OF-STATE BANK.—The term 'out-of-State bank' means, with respect to any State, a wholesale financial institution whose home State is another State.

''(8) DISCRIMINATION REGARDING INTEREST RATES.—Section 27 of the Federal Deposit Insurance Act shall apply to State-chartered wholesale financial institutions in the same manner and to the same extent as such provisions apply to State member insured banks and any reference in such section to a State-chartered insured depository institution shall be deemed to include a reference to a State-chartered wholesale financial institution.

''(9) PREEMPTION OF STATE LAWS REQUIRING DEPOSIT INSURANCE FOR WHOLESALE FINANCIAL INSTITUTIONS.—The appropriate State banking authority may grant a charter to a wholesale financial institution notwithstanding any State constitution or statute requiring that the institution obtain insurance of its deposits and any such State constitution or statute is hereby preempted solely for purposes of this paragraph.

''(10) PARITY FOR WHOLESALE FINANCIAL INSTITUTIONS.—A State bank that is a wholesale financial institution under this section shall have all of the rights, powers, privileges, and immunities (including those derived from status as a federally chartered institution) of and as if it were a national bank, subject to such terms and conditions as established by the Board.

''(11) COMMUNITY REINVESTMENT ACT OF 1977.—A State wholesale financial institution shall be subject to the Community Reinvestment Act of 1977, only if the wholesale financial institution has an affiliate that is an insured depository institution or that operates an insured branch, as those terms are defined in section 3 of the Federal Deposit Insurance Act.

''(c) SPECIFIC REQUIREMENTS APPLICABLE TO WHOLESALE FINANCIAL INSTITUTIONS.—

''(1) LIMITATIONS ON DEPOSITS.—

''(A) MINIMUM AMOUNT.—

''(i) IN GENERAL.—No wholesale financial institution may receive initial deposits of $100,000 or less, other than on an incidental and occasional basis.

''(ii) LIMITATION ON DEPOSITS OF LESS THAN $100,000.—No wholesale financial institution may receive initial deposits of $100,000 or less if such deposits constitute more than 5 percent of the institution's total deposits.

''(B) NO DEPOSIT INSURANCE.—Except as otherwise provided in section 8A(f) of the Federal Deposit Insurance Act, no deposits held by a wholesale financial institution shall be insured deposits under the Federal Deposit Insurance Act.

''(C) ADVERTISING AND DISCLOSURE.—The Board shall prescribe regulations pertaining to advertising and disclosure by wholesale financial institutions to ensure that each depositor is notified that deposits at the wholesale financial institution are not federally insured or otherwise guaranteed by the United States Government.

''(2) MINIMUM CAPITAL LEVELS APPLICABLE TO WHOLESALE FINANCIAL INSTITUTIONS.—The Board shall, by regulation, adopt capital requirements for wholesale financial institutions—

''(A) to account for the status of wholesale financial institutions as institutions that accept deposits that are not insured under the Federal Deposit Insurance Act; and

''(B) to provide for the safe and sound operation of the wholesale financial institution without undue risk to creditors or other persons, including Federal reserve banks, engaged in transactions with the bank.

''(3) ADDITIONAL REQUIREMENTS APPLICABLE TO WHOLESALE FINANCIAL INSTITUTIONS.—In addition to any requirement otherwise applicable to State member insured banks or applicable, under this section, to wholesale financial institutions, the Board may impose, by regulation or order, upon wholesale financial institutions—

''(A) limitations on transactions, direct or indirect, with affiliates to prevent—

''(i) the transfer of risk to the deposit insurance funds; or

''(ii) an affiliate from gaining access to, or the benefits of, credit from a Federal reserve bank, including overdrafts at a Federal reserve bank;

''(B) special clearing balance requirements; and

''(C) any additional requirements that the Board determines to be appropriate or necessary to—

''(i) promote the safety and soundness of the wholesale financial institution or any insured depository institution affiliate of the wholesale financial institution;

''(ii) prevent the transfer of risk to the deposit insurance funds; or

''(iii) protect creditors and other persons, including Federal reserve banks, engaged in transactions with the wholesale financial institution.

''(4) EXEMPTIONS FOR WHOLESALE FINANCIAL INSTITUTIONS.—The Board may, by regulation or order, exempt any wholesale financial institution from any provision applicable to a member bank that is not a wholesale financial institution, if the Board finds that such exemption is not inconsistent with—

''(A) the promotion of the safety and soundness of the wholesale financial institution or any insured depository institution affiliate of the wholesale financial institution;

''(B) the protection of the deposit insurance funds; and

''(C) the protection of creditors and other persons, including Federal reserve banks, engaged in transactions with the wholesale financial institution.

''(5) LIMITATION ON TRANSACTIONS BETWEEN A WHOLESALE FINANCIAL INSTITUTION AND AN INSURED BANK.—For purposes of section 23A(d)(1) of the Federal Reserve Act, a wholesale financial institution that is affiliated with an insured bank shall not be a bank.

''(6) NO EFFECT ON OTHER PROVISIONS.—This section shall not be construed as limiting the Board's authority over member banks under any other provision of law, or to create any obligation for any Federal reserve bank to make, increase, renew, or extend any advance or discount under this Act to any member bank or other depository institution.

''(d) CAPITAL AND MANAGERIAL REQUIREMENTS.—

''(1) IN GENERAL.—A wholesale financial institution shall be well capitalized and well managed.

''(2) NOTICE TO COMPANY.—The Board shall promptly provide notice to a company that controls a wholesale financial institution whenever such wholesale financial institution is not well capitalized or well managed.

''(3) AGREEMENT TO RESTORE INSTITUTION.—Not later than 45 days after the date of receipt of a notice under paragraph (2) (or such additional period not to exceed 90 days as the Board may permit), the company shall execute an agreement acceptable to the Board to restore the wholesale financial institution to compliance with all of the requirements of paragraph (1).

''(4) LIMITATIONS UNTIL INSTITUTION RESTORED.—Until the wholesale financial institution is restored to compliance with all of the requirements of paragraph (1), the Board may impose such limitations on the conduct or activities of the company or any affiliate of the company as the Board determines to be appropriate under the circumstances.

''(5) FAILURE TO RESTORE.—If the company does not execute and implement an agreement in accordance with paragraph (3), comply with any limitation imposed under paragraph (4), restore the wholesale financial institution to well capitalized status not later than 180 days after the date of receipt by the company of the notice described in paragraph (2), or restore the wholesale financial institution to well managed status within such period as the Board may permit, the company shall, under such terms and conditions as may be imposed by the Board and subject to such extension of time as may be granted in the Board's discretion, divest control of its subsidiary depository institutions.

''(6) WELL MANAGED DEFINED.—For purposes of this subsection, the term 'well managed' has the same meaning as in section 2 of the Bank Holding Company Act of 1956.

''(e) RESOLUTION OF WHOLESALE FINANCIAL INSTITUTIONS.—

''(1) CONSERVATORSHIP OR RECEIVERSHIP.—

''(A) APPOINTMENT.—The Board may appoint a conservator or receiver for a wholesale financial institution to the same extent and in the same manner as the Comptroller of the Currency may appoint a conservator or receiver for a national bank.

''(B) POWERS.—The conservator or receiver for a wholesale financial institution shall exercise the same powers, functions, and duties, subject to the same limitations, as a conservator or receiver for a national bank.

''(2) BOARD AUTHORITY.—The Board shall have the same authority with respect to any conservator or receiver appointed for a wholesale financial institution under paragraph (1), and the wholesale financial institution for which it has been appointed, as the Comptroller of the Currency has with respect to a conservator or receiver for a national bank and the national bank for which the conservator or receiver has been appointed.

''(3) BANKRUPTCY PROCEEDINGS.—The Comptroller of the Currency (in the case of a national wholesale financial institution) and the Board may direct the conservator or receiver of a wholesale financial institution to file a petition pursuant to title 11, United States Code, in which case, title 11, United States Code, shall apply to the wholesale financial institution in lieu of otherwise applicable Federal or State insolvency law.

''(f) EXCLUSIVE JURISDICTION.—Subsections (c) and (e) of section 43 of the Federal Deposit Insurance Act shall not apply to any wholesale financial institution.''.

(c) VOLUNTARY TERMINATION OF INSURED STATUS BY CERTAIN INSTITUTIONS.—

(1) SECTION 8 DESIGNATIONS.—Section 8(a) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)) is amended—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (10) as paragraphs (1) through (9), respectively.

(2) VOLUNTARY TERMINATION OF INSURED STATUS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 8 the following new section:

"SEC. 8A. VOLUNTARY TERMINATION OF STATUS AS INSURED DEPOSITORY INSTITUTION.

''(a) IN GENERAL.—Except as provided in subsection (b), an insured State bank or a national bank may voluntarily terminate such bank's status as an insured depository institution in accordance with regulations of the Corporation if—

''(1) the bank provides written notice of the bank's intent to terminate such insured status—

''(A) to the Corporation and the Board of Governors of the Federal Reserve System not less than 6 months before the effective date of such termination; and

''(B) to all depositors at such bank, not less than 6 months before the effective date of the termination of such status; and

''(2) either—

''(A) the deposit insurance fund of which such bank is a member equals or exceeds the fund's designated reserve ratio as of the date the bank provides a written notice under paragraph (1) and the Corporation determines that the fund will equal or exceed the applicable designated reserve ratio for the 2 semiannual assessment periods immediately following such date; or

''(B) the Corporation and the Board of Governors of the Federal Reserve System approved the termination of the bank's insured status and the bank pays an exit fee in accordance with subsection (e).

''(b) EXCEPTION.—Subsection (a) shall not apply with respect to—

''(1) an insured savings association; or

''(2) an insured branch that is required to be insured under subsection (a) or (b) of section 6 of the International Banking Act of 1978.

''(c) ELIGIBILITY FOR INSURANCE TERMINATED.—Any bank that voluntarily elects to terminate the bank's insured status under subsection (a) shall not be eligible for insurance on any deposits or any assistance authorized under this Act after the period specified in subsection (f)(1).

''(d) INSTITUTION MUST BECOME WHOLESALE FINANCIAL INSTITUTION OR TERMINATE DEPOSIT-TAKING ACTIVITIES.—Any depository institution which voluntarily terminates such institution's status as an insured depository institution under this section may not, upon termination of insurance, accept any deposits unless the institution is a wholesale financial institution subject to section 9B of the Federal Reserve Act.

''(e) EXIT FEES.—

''(1) IN GENERAL.—Any bank that voluntarily terminates such bank's status as an insured depository institution under this section shall pay an exit fee in an amount that the Corporation determines is sufficient to account for the institution's pro rata share of the amount (if any) which would be required to restore the relevant deposit insurance fund to the fund's designated reserve ratio as of the date the bank provides a written notice under subsection (a)(1).

''(2) PROCEDURES.—The Corporation shall prescribe, by regulation, procedures for assessing any exit fee under this subsection.

''(f) TEMPORARY INSURANCE OF DEPOSITS INSURED AS OF TERMINATION.—

''(1) TRANSITION PERIOD.—The insured deposits of each depositor in a State bank or a national bank on the effective date of the voluntary termination of the bank's insured status, less all subsequent withdrawals from any deposits of such depositor, shall continue to be insured for a period of not less than 6 months and not more than 2 years, as determined by the Corporation. During such period, no additions to any such deposits, and no new deposits in the depository institution made after the effective date of such termination shall be insured by the Corporation.

''(2) TEMPORARY ASSESSMENTS; OBLIGATIONS AND DUTIES.—During the period specified in paragraph (1) with respect to any bank, the bank shall continue to pay assessments under section 7 as if the bank were an insured depository institution. The bank shall, in all other respects, be subject to the authority of the Corporation and the duties and obligations of an insured depository institution under this Act during such period, and in the event that the bank is closed due to an inability to meet the demands of the bank's depositors during such period, the Corporation shall have the same powers and rights with respect to such bank as in the case of an insured depository institution.

''(g) ADVERTISEMENTS.—

''(1) IN GENERAL.—A bank that voluntarily terminates the bank's insured status under this section shall not advertise or hold itself out as having insured deposits, except that the bank may advertise the temporary insurance of deposits under subsection (f) if, in connection with any such advertisement, the advertisement also states with equal prominence that additions to deposits and new deposits made after the effective date of the termination are not insured.

''(2) CERTIFICATES OF DEPOSIT, OBLIGATIONS, AND SECURITIES.—Any certificate of deposit or other obligation or security issued by a State bank or a national bank after the effective date of the voluntary termination of the bank's insured status under this section shall be accompanied by a conspicuous, prominently displayed notice that such certificate of deposit or other obligation or security is not insured under this Act.

''(h) NOTICE REQUIREMENTS.—

''(1) NOTICE TO THE CORPORATION.—The notice required under subsection (a)(1)(A) shall be in such form as the Corporation may require.

''(2) NOTICE TO DEPOSITORS.—The notice required under subsection (a)(1)(B) shall be—

''(A) sent to each depositor's last address of record with the bank; and

''(B) in such manner and form as the Corporation finds to be necessary and appropriate for the protection of depositors.''.

(3) DEFINITION.—Section 19(b)(1)(A)(i) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)(i)) is amended by inserting '', or any wholesale financial institution subject to section 9B of this Act'' after ''such Act''.

(d) TECHNICAL AND CONFORMING AMENDMENTS TO THE BANKRUPTCY CODE.—

(1) BANKRUPTCY CODE DEBTORS.—Section 109(b)(2) of title 11, United States Code, is amended by striking ''; or'' and inserting the following: '', except that—

''(A) a wholesale financial institution established under section 5136B of the Revised Statutes of the United States or section 9B of the Federal Reserve Act may be a debtor if a petition is filed at the direction of the Comptroller of the Currency (in the case of a wholesale financial institution established under section 5136B of the Revised Statutes of the United States) or the Board of Governors of the Federal Reserve System (in the case of any wholesale financial institution); and

''(B) a corporation organized under section 25A of the Federal Reserve Act may be a debtor if a petition is filed at the direction of the Board of Governors of the Federal Reserve System; or''.

(2) CHAPTER 7 DEBTORS.—Section 109(d) of title 11, United States Code, is amended to read as follows:

''(d) Only a railroad and a person that may be a debtor under chapter 7 of this title, except that a stockbroker, a wholesale financial institution established under section 5136B of the Revised Statutes of the United States or section 9B of the Federal Reserve Act, a corporation organized under section 25A of the Federal Reserve Act, or a commodity broker, may be a debtor under chapter 11 of this title.''.

(3) DEFINITION OF FINANCIAL INSTITUTION.—Section 101(22) of title 11, United States Code, is amended to read as follows:

''(22) 'financial institution' means a person that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, wholesale financial institution established under section 5136B of the Revised Statutes of the United States or section 9B of the Federal Reserve Act, or corporation organized under section 25A of the Federal Reserve Act and, when any such person is acting as agent or custodian for a customer in connection with a securities contract, as defined in section 741 of this title, such customer,''.

(4) SUBCHAPTER V OF CHAPTER 7.—

(A) IN GENERAL.—Section 103 of title 11, United States Code, is amended—

(i) by redesignating subsections (e) through (i) as subsections (f) through (j), respectively; and

(ii) by inserting after subsection (d) the following:

''(e) Subchapter V of chapter 7 of this title applies only in a case under such chapter concerning the liquidation of a wholesale financial institution established under section 5136B of the Revised Statutes of the United States or section 9B of the Federal Reserve Act, or a corporation organized under section 25A of the Federal Reserve Act.''.

(B) WHOLESALE BANK LIQUIDATION.—Chapter 7 of title 11, United States Code, is amended by adding at the end the following:

''SUBCHAPTER V—WHOLESALE BANK LIQUIDATION

''§ 781. Definitions for subchapter

''In this subchapter—

''(1) the term 'Board' means the Board of Governors of the Federal Reserve System;

''(2) the term 'depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act, and includes any wholesale bank;

''(3) the term 'national wholesale financial institution' means a wholesale financial institution established under section 5136B of the Revised Statutes of the United States; and

''(4) the term 'wholesale bank' means a national wholesale financial institution, a wholesale financial institution established under section 9B of the Federal Reserve Act, or a corporation organized under section 25A of the Federal Reserve Act.

''§ 782. Selection of trustee

''Notwithstanding any other provision of this title, the conservator or receiver who files the petition shall be the trustee under this chapter, unless the Comptroller of the Currency (in the case of a national wholesale financial institution for which it appointed the conservator or receiver) or the Board (in the case of any wholesale bank for which it appointed the conservator or receiver) designates an alternative trustee. The Comptroller of the Currency or the Board (as applicable) may designate a successor trustee, if required.

''§ 783. Additional powers of trustee

''(a) The trustee under this subchapter has power, with permission of the court—

''(1) to sell the wholesale bank to a depository institution or consortium of depository institutions (which consortium may agree on the allocation of the wholesale bank among the consortium);

''(2) to merge the wholesale bank with a depository institution;

''(3) to transfer contracts to the same extent as could a receiver for a depository institution under paragraphs (9) and (10) of section 11(e) of the Federal Deposit Insurance Act;

''(4) to transfer assets or liabilities to a depository institution;

''(5) to distribute property not of the estate, including distributions to customers that are

mandated by subchapters III and IV of this chapter; or

''(6) to transfer assets and liabilities to a bridge bank as provided in paragraphs (1), (3)(A), (5), (6), and (9) through (13), and subparagraphs (A) through (H) and (K) of paragraph (4) of section 11(n) of the Federal Deposit Insurance Act, except that—

''(A) the bridge bank shall be treated as a wholesale bank for the purpose of this subsection; and

''(B) any references in any such provision of law to the Federal Deposit Insurance Corporation shall be construed to be references to the appointing agency and that references to deposit insurance shall be omitted.

''(b) Any reference in this section to transfers of liabilities includes a ratable transfer of liabilities within a priority class.

''§ 784. Right to be heard

''The Comptroller of the Currency (in the case of a national wholesale financial institution), the Board (in the case of any wholesale bank), or a Federal Reserve bank (in the case of a wholesale bank that is a member of that bank) may raise and may appear and be heard on any issue in a case under this subchapter.

''§ 785. Expedited transfers

''The trustee may make a transfer pursuant to section 783 without prior judicial approval, if the Comptroller of the Currency (in the case of a national wholesale financial institution for which it appointed the conservator or receiver) or the Board (in the case of any wholesale bank for which it appointed the conservator or receiver) determines that the transfer would be necessary to avert serious adverse effects on economic conditions or financial stability.''.

(C) CONFORMING AMENDMENT.—The table of sections for chapter 7 of title 11, United States Code, is amended by adding at the end the following:

''781. Definitions for subchapter.
''782. Selection of trustee.
''783. Additional powers of trustee.
''784. Right to be heard.
''785. Expedited transfers.''.

(e) RESOLUTION OF EDGE CORPORATIONS.—Section 25A(16) of the Federal Reserve Act (12 U.S.C. 624(16)) is amended to read as follows:

''(16) APPOINTMENT OF RECEIVER OR CONSERVATOR.—

''(A) IN GENERAL.—The Board may appoint a conservator or receiver for a corporation organized under the provisions of this section to the same extent and in the same manner as the Comptroller of the Currency may appoint a conservator or receiver for a national bank, and the conservator or receiver for such corporation shall exercise the same powers, functions, and duties, subject to the same limitations, as a conservator or receiver for a national bank.

''(B) EQUIVALENT AUTHORITY.—The Board shall have the same authority with respect to any conservator or receiver appointed for a corporation organized under the provisions of this section under this paragraph and any such corporation as the Comptroller of the Currency has with respect to a conservator or receiver of a national bank and the national bank for which a conservator or receiver has been appointed.

''(C) TITLE 11 PETITIONS.—The Board may direct the conservator or receiver of a corporation organized under the provisions of this section to file a petition pursuant to title 11, United States Code, in which case, title 11, United States Code, shall apply to the corporation in lieu of otherwise applicable Federal or State insolvency law.''.

Subtitle E—Preservation of FTC Authority

SEC. 141. AMENDMENT TO THE BANK HOLDING COMPANY ACT OF 1956 TO MODIFY NOTIFICATION AND POST-APPROVAL WAITING PERIOD FOR SECTION 3 TRANSACTIONS.

Section 11(b)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1849(b)(1)) is amended by inserting ''and, if the transaction also involves an acquisition under section 4 or section 6, the Board shall also notify the Federal Trade Commission of such approval'' before the period at the end of the first sentence.

SEC. 142. INTERAGENCY DATA SHARING.

To the extent not prohibited by other law, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the Board of Governors of the Federal Reserve System shall make available to the Attorney General and the Federal Trade Commission any data in the possession of any such banking agency that the antitrust agency deems necessary for antitrust review of any transaction requiring notice to any such antitrust agency or the approval of such agency under section 3, 4, or 6 of the Bank Holding Company Act of 1956, section 18(c) of the Federal Deposit Insurance Act, the National Bank Consolidation and Merger Act, section 10 of the Home Owners' Loan Act, or the antitrust laws.

SEC. 143. CLARIFICATION OF STATUS OF SUBSIDIARIES AND AFFILIATES.

(a) CLARIFICATION OF FEDERAL TRADE COMMISSION JURISDICTION.—Any person which directly or indirectly controls, is controlled directly or indirectly by, or is directly or indirectly under common control with, any bank or savings association (as such terms are defined in section 3 of the Federal Deposit Insurance Act) and is not itself a bank or savings association shall not be deemed to be a bank or savings association for purposes of the Federal Trade Commission Act or any other law enforced by the Federal Trade Commission.

(b) SAVINGS PROVISION.—No provision of this section shall be construed as restricting the authority of any Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) under any Federal banking law, including section 8 of the Federal Deposit Insurance Act.

(c) HART-SCOTT-RODINO AMENDMENT.—Section 7A(c)(7) of the Clayton Act (15 U.S.C. 18a(c)(7)) is amended by inserting before the semicolon at the end thereof the following: '', except that a portion of a transaction is not exempt under this paragraph if such portion of the transaction (A) requires notice under section 6 of the Bank Holding Company Act of 1956; and (B) does not require approval under section 3 or 4 of the Bank Holding Company Act of 1956''.

SEC. 144. ANNUAL GAO REPORT.

(a) IN GENERAL.—By the end of the 1-year period beginning on the date of the enactment of this Act and annually thereafter, the Comptroller General of the United States shall submit a report to the Congress on market concentration in the financial services industry and its impact on consumers.

(b) ANALYSIS.—Each report submitted under subsection (a) shall contain an analysis of—

(1) the positive and negative effects of affiliations between various types of financial companies, and of acquisitions pursuant to this Act and the amendments made by this Act to other provisions of law, including any positive or negative effects on consumers, area markets, and submarkets thereof or on registered securities brokers and dealers which have been purchased by depository institutions or depository institution holding companies;

(2) the changes in business practices and the effects of any such changes on the availability of venture capital, consumer credit, and other financial services or products and the availability of capital and credit for small businesses; and

(3) the acquisition patterns among depository institutions, depository institution holding companies, securities firms, and insurance companies including acquisitions among the largest 20 percent of firms and acquisitions within regions or other limited geographical areas.

Subtitle F—Applying the Principles of National Treatment and Equality of Competitive Opportunity to Foreign Banks and Foreign Financial Institutions

SEC. 151. APPLYING THE PRINCIPLES OF NATIONAL TREATMENT AND EQUALITY OF COMPETITIVE OPPORTUNITY TO FOREIGN BANKS THAT ARE FINANCIAL HOLDING COMPANIES.

Section 8(c) of the International Banking Act of 1978 (12 U.S.C. 3106(c)) is amended by adding at the end the following new paragraph:

''(3) TERMINATION OF GRANDFATHERED RIGHTS.—

''(A) IN GENERAL.—If any foreign bank or foreign company files a declaration under section 6(b)(1)(E) or which receives a determination under section 10(d)(1) of the Bank Holding Company Act of 1956, any authority conferred by this subsection on any foreign bank or company to engage in any activity which the Board has determined to be permissible for financial holding companies under section 6 of such Act shall terminate immediately.

''(B) RESTRICTIONS AND REQUIREMENTS AUTHORIZED.—If a foreign bank or company that engages, directly or through an affiliate pursuant to paragraph (1), in an activity which the Board has determined to be permissible for financial holding companies under section 6 of the Bank Holding Company Act of 1956 has not filed a declaration with the Board of its status as a financial holding company under such section or received a determination under section 10(d)(1) by the end of the 2-year period beginning on the date of enactment of the Financial Services Act of 1998, the Board, giving due regard to the principle of national treatment and equality of competitive opportunity, may impose such restrictions and requirements on the conduct of such activities by such foreign bank or company as are comparable to those imposed on a financial holding company organized under the laws of the United States, including a requirement to conduct such activities in compliance with any prudential safeguards established under section 5(h) of the Bank Holding Company Act of 1956.''.

SEC. 152. APPLYING THE PRINCIPLES OF NATIONAL TREATMENT AND EQUALITY OF COMPETITIVE OPPORTUNITY TO FOREIGN BANKS AND FOREIGN FINANCIAL INSTITUTIONS THAT ARE WHOLESALE FINANCIAL INSTITUTIONS.

Section 8A of the Federal Deposit Insurance Act (as added by section 136(c)(2) of this Act) is amended by adding at the end the following new subsection:

''(i) VOLUNTARY TERMINATION OF DEPOSIT INSURANCE.—The provisions on voluntary termination of insurance in this section shall apply to an insured branch of a foreign bank (including a Federal branch) in the same manner and to the same extent as they apply to an insured State bank or a national bank.''.

SEC. 153. REPRESENTATIVE OFFICES.

(a) DEFINITION OF ''REPRESENTATIVE OFFICE''.—Section 1(b)(15) of the International Banking Act of 1978 (12 U.S.C. 3101(15)) is amended by striking ''State agency, or subsidiary of a foreign bank'' and inserting ''or State agency''.

(b) EXAMINATIONS.—Section 10(c) of the International Banking Act of 1978 (12 U.S.C. 3107(c)) is amended by adding at the end the following: ''The Board may also make examinations of any affiliate of a foreign bank conducting business in any State in which the Board deems it necessary to determine and enforce compliance with this Act, the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), or other applicable Federal banking law.''.

Subtitle G—Federal Home Loan Bank System Modernization

SEC. 161. SHORT TITLE.

This subtitle may be cited as the ''Federal Home Loan Bank System Modernization Act of 1998''.

SEC. 162. DEFINITIONS.

Section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422) is amended—

(1) in paragraph (1), by striking ''term 'Board' means'' and inserting ''terms 'Finance Board' and 'Board' mean'';

(2) by striking paragraph (3) and inserting the following:

''(3) STATE.—The term 'State', in addition to the States of the United States, includes the District of Columbia, Guam, Puerto Rico, the United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.''; and

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

''(13) COMMUNITY FINANCIAL INSTITUTION.—

''(A) IN GENERAL.—The term 'community financial institution' means a member—

''(i) the deposits of which are insured under the Federal Deposit Insurance Act; and

''(ii) that has, as of the date of the transaction at issue, less than $500,000,000 in average total assets, based on an average of total assets over the 3 years preceding that date.

''(B) ADJUSTMENTS.—The $500,000,000 limit referred to in subparagraph (A)(ii) shall be adjusted annually by the Finance Board, based on the annual percentage increase, if any, in the Consumer Price Index for all urban consumers, as published by the Department of Labor.''.

SEC. 163. SAVINGS ASSOCIATION MEMBERSHIP.

(a) FEDERAL HOME LOAN BANK MEMBERSHIP.—Section 5(f) of the Home Owners' Loan Act (12 U.S.C. 1464(f)) is amended to read as follows:

''(f) FEDERAL HOME LOAN BANK MEMBERSHIP.—On and after January 1, 1999, a Federal savings association may become a member of the Federal Home Loan Bank System, and shall qualify for such membership in the manner provided by the Federal Home Loan Bank Act.''.

(b) WITHDRAWAL.—Section 6(e) of the Federal Home Loan Bank Act (12 U.S.C. 1426(e)) is amended by striking ''Any member other than a Federal savings and loan association may withdraw'' and inserting ''Any member may withdraw''.

SEC. 164. ADVANCES TO MEMBERS; COLLATERAL.

(a) IN GENERAL.—Section 10(a) of the Federal Home Loan Bank Act (12 U.S.C. 1430(a)) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and indenting appropriately;

(2) by striking ''(a) Each'' and inserting the following:

''(a) IN GENERAL.—

''(1) ALL ADVANCES.—Each'';

(3) by striking the second sentence and inserting the following:

''(2) PURPOSES OF ADVANCES.—A long-term advance may only be made for the purposes of—

''(A) providing funds to any member for residential housing finance; and

''(B) providing funds to any community financial institution for small businesses, agricultural, rural development, or low-income community development lending.'';

(4) by striking ''A Bank'' and inserting the following:

''(3) COLLATERAL.—A Bank'';

(5) in paragraph (3) (as so designated by paragraph (4) of this subsection)—

(A) in subparagraph (C) (as so redesignated by paragraph (1) of this subsection) by striking ''Deposits'' and inserting ''Cash or deposits'';

(B) in subparagraph (D) (as so redesignated by paragraph (1) of this subsection), by striking the second sentence; and

(C) by inserting after subparagraph (D) (as so redesignated by paragraph (1) of this subsection) the following new subparagraph:

''(E) Secured loans for small business, agriculture, rural development, or low-income community development, or securities representing a whole interest in such secured loans, in the case of any community financial institution.'';

(6) in paragraph (5)—

(A) in the second sentence, by striking ''and the Board'';

(B) in the third sentence, by striking ''Board'' and inserting ''Federal home loan bank''; and

(C) by striking ''(5) Paragraphs (1) through (4)'' and inserting the following:

''(4) ADDITIONAL BANK AUTHORITY.—Subparagraphs (A) through (E) of paragraph (3)''; and

(7) by adding at the end the following:

''(5) REVIEW OF CERTAIN COLLATERAL STANDARDS.—The Board may review the collateral standards applicable to each Federal home loan bank for the classes of collateral described in subparagraphs (D) and (E) of paragraph (3), and may, if necessary for safety and soundness purposes, require an increase in the collateral standards for any or all of those classes of collateral.

''(6) DEFINITIONS.—For purposes of this subsection, the terms 'small business', 'agriculture', 'rural development', and 'low-income community development' shall have the meanings given those terms by rule or regulation of the Finance Board.''.

(b) CLERICAL AMENDMENT.—The section heading for section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended to read as follows:

''SEC. 10. ADVANCES TO MEMBERS.''.

SEC. 165. ELIGIBILITY CRITERIA.

Section 4(a) of the Federal Home Loan Bank Act (12 U.S.C. 1424(a)) is amended—

(1) in paragraph (2)(A), by inserting, ''(other than a community financial institution)'' after ''institution''; and

(2) by adding at the end the following new paragraph:

''(3) LIMITED EXEMPTION FOR COMMUNITY FINANCIAL INSTITUTIONS.—A community financial institution that otherwise meets the requirements of paragraph (2) may become a member without regard to the percentage of its total assets that is represented by residential mortgage loans, as described in subparagraph (A) of paragraph (2).''.

SEC. 166. MANAGEMENT OF BANKS.

(a) BOARD OF DIRECTORS.—Section 7(d) of the Federal Home Loan Bank Act (12 U.S.C. 1427(d)) is amended—

(1) by striking ''(d) The term'' and inserting the following:

''(d) TERMS OF OFFICE.—The term''; and

(2) by striking ''shall be two years''.

(b) COMPENSATION.—Section 7(i) of the Federal Home Loan Bank Act (12 U.S.C. 1427(i)) is amended by striking '', subject to the approval of the board''.

(c) REPEAL OF SECTIONS 22A AND 27.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended by striking sections 22A (12 U.S.C. 1442a) and 27 (12 U.S.C. 1447).

(d) SECTION 12.—Section 12 of the Federal Home Loan Bank Act (12 U.S.C. 1432) is amended—

(1) in subsection (a)—

(A) by striking '', but, except'' and all that follows through ''ten years'';

(B) by striking '', subject to the approval of the Board'' each place that term appears;

(C) by striking ''and, by its Board of directors,'' and all that follows through ''agent of such bank,'' and inserting ''and, by the board of directors of the bank, to prescribe, amend, and repeal by-laws governing the manner in which its affairs may be administered, consistent with applicable laws and regulations, as administered by the Finance Board. No officer, employee, attorney, or agent of a Federal home loan bank''; and

(D) by striking ''Board of directors'' each place that term appears and inserting ''board of directors''; and

(2) in subsection (b), by striking ''loans banks'' and inserting ''loan banks''.

(e) POWERS AND DUTIES OF FEDERAL HOUSING FINANCE BOARD.—

(1) ISSUANCE OF NOTICES OF VIOLATIONS.—Section 2B(a) of the Federal Home Loan Bank Act (12 U.S.C. 1422b(a)) is amended by adding at the end the following new paragraphs:

''(5) To issue and serve a notice of charges upon a Federal home loan bank or upon any executive officer or director of a Federal home loan bank if, in the determination of the Finance Board, the bank, executive officer, or director is engaging or has engaged in, or the Finance Board has reasonable cause to believe that the bank, executive officer, or director is about to engage in, any conduct that violates any provision of this Act or any law, order, rule, or regulation or any condition imposed in writing by the Finance Board in connection with the granting of any application or other request by the bank, or any written agreement entered into by the bank with the agency, in accordance with the procedures provided in section 1371(c) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992. Such authority includes the same authority to take affirmative action to correct conditions resulting from violations or practices or to limit activities of a bank or any executive officer or director of a bank as appropriate Federal banking agencies have to take with respect to insured depository institutions under paragraphs (6) and (7) of section 8(b) of the Federal Deposit Insurance Act, and to have all other powers, rights, and duties to enforce this Act with respect to the Federal home loan banks and their executive officers and directors as the Office of Federal Housing Enterprise Oversight has to enforce the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, the Federal National Mortgage Association Charter Act, or the Federal Home Loan Mortgage Corporation Act with respect to the Federal housing enterprises under the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

''(6) To address any insufficiencies in capital levels resulting from the application of section 5(f) of the Home Owners' Loan Act.

''(7) To sue and be sued, by and through its own attorneys.''.

(2) TECHNICAL AMENDMENT.—Section 111 of Public Law 93–495 (12 U.S.C. 250) is amended by inserting ''Federal Housing Finance Board,'' after ''Director of the Office of Thrift Supervision,''.

(f) ELIGIBILITY TO SECURE ADVANCES.—

(1) SECTION 9.—Section 9 of the Federal Home Loan Bank Act (12 U.S.C. 1429) is amended—

(A) in the second sentence, by striking ''with the approval of the Board''; and

(B) in the third sentence, by striking '', subject to the approval of the Board,''.

(2) SECTION 10.—Section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended—

(A) in subsection (c)—

(i) in the first sentence, by striking ''Board'' and inserting ''Federal home loan bank''; and

(ii) in the second sentence, by striking ''held by'' and all that follows before the period;

(B) in subsection (d)—

(i) in the first sentence, by striking ''and the approval of the Board''; and

(ii) by striking ''Subject to the approval of the Board, any'' and inserting ''Any''; and

(C) in subsection (j)(1)—

(i) by striking ''to subsidize the interest rate on advances'' and inserting ''to provide subsidies, including subsidized interest rates on advances'';

(ii) by striking ''Pursuant'' and inserting the following:

''(A) ESTABLISHMENT.—Pursuant''; and

(iii) by adding at the end the following new subparagraph:

''(B) NONDELEGATION OF APPROVAL AUTHORITY.—Subject to such regulations as the Finance Board may prescribe, the board of directors of each Federal home loan bank may approve or disapprove requests from members for Affordable Housing Program subsidies, and may not delegate such authority.''.

(g) SECTION 16.—Section 16(a) of the Federal Home Loan Bank Act (12 U.S.C. 1436(a)) is amended—

(1) in the third sentence—

(A) by striking ''net earnings'' and inserting ''previously retained earnings or current net earnings''; and

(B) by striking '', and then only with the approval of the Federal Housing Finance Board''; and

(2) by striking the fourth sentence.

(h) SECTION 18.—Section 18(b) of the Federal Home Loan Bank Act (12 U.S.C. 1438(b)) is amended by striking paragraph (4).

SEC. 167. RESOLUTION FUNDING CORPORATION.

(a) IN GENERAL.—Section 21B(f)(2)(C) of the Federal Home Loan Bank Act (12 U.S.C. 1441b(f)(2)(C)) is amended to read as follows:

''(C) PAYMENTS BY FEDERAL HOME LOAN BANKS.—

''(i) IN GENERAL.—To the extent that the amounts available pursuant to subparagraphs (A) and (B) are insufficient to cover the amount of interest payments, each Federal home loan bank shall pay to the Funding Corporation in each calendar year, 20.75 percent of the net earnings of that bank (after deducting expenses relating to section 10(j) and operating expenses).

''(ii) ANNUAL DETERMINATION.—The Board annually shall determine the extent to which the value of the aggregate amounts paid by the Federal home loan banks exceeds or falls short of the value of an annuity of $300,000,000 per year that commences on the issuance date and ends on the final scheduled maturity date of the obligations, and shall select appropriate present value factors for making such determinations.

''(iii) PAYMENT TERM ALTERATIONS.—The Board shall extend or shorten the term of the payment obligations of a Federal home loan bank under this subparagraph as necessary to ensure that the value of all payments made by the banks is equivalent to the value of an annuity referred to in clause (ii).

''(iv) TERM BEYOND MATURITY.—If the Board extends the term of payments beyond the final scheduled maturity date for the obligations, each Federal home loan bank shall continue to pay 20.75 percent of its net earnings (after deducting expenses relating to section 10(j) and operating expenses) to the Treasury of the United States until the value of all such payments by the Federal home loan banks is equivalent to the value of an annuity referred to in clause (ii). In the final year in which the Federal home loan banks are required to make any payment to the Treasury under this subparagraph, if the dollar amount represented by 20.75 percent of the net earnings of the Federal home loan banks exceeds the remaining obligation of the banks to the Treasury, the Finance Board shall reduce the percentage pro rata to a level sufficient to pay the remaining obligation.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on January 1, 1999. Payments made by a Federal home loan bank before that effective date shall be counted toward the total obligation of that bank under section 21B(f)(2)(C) of the Federal Home Loan Bank Act, as amended by this section.

Subtitle H—Direct Activities of Banks

SEC. 181. AUTHORITY OF NATIONAL BANKS TO UNDERWRITE CERTAIN MUNICIPAL BONDS.

The paragraph designated the Seventh of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24(7)) is amended by adding at the end the following new sentence: ''In addition to the provisions in this paragraph for dealing in, underwriting or purchasing securities, the limitations and restrictions contained in this paragraph as to dealing in, underwriting, and purchasing investment securities for the national bank's own account shall not apply to obligations (including limited obligation bonds, revenue bonds, and obligations that satisfy the requirements of section 142(b)(1) of the Internal Revenue Code of 1986) issued by or on behalf of any state or political subdivision of a state, including any municipal corporate instrumentality of 1 or more states, or any public agency or authority of any state or political subdivision of a state, if the national banking association is well capitalized (as defined in section 38 of the Federal Deposit Insurance Act).''.

Subtitle I—Deposit Insurance Funds

SEC. 186. STUDY OF SAFETY AND SOUNDNESS OF FUNDS.

(a) STUDY REQUIRED.—The Board of Directors of the Federal Deposit Insurance Corporation shall conduct a study of the following issues with regard to the Bank Insurance Fund and the Savings Association Insurance Fund:

(1) SAFETY AND SOUNDNESS.—The safety and soundness of the funds and the adequacy of the reserve requirements applicable to the funds in light of—

(A) the size of the insured depository institutions which are resulting from mergers and consolidations since the effective date of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994; and

(B) the affiliation of insured depository institutions with other financial institutions pursuant to this Act and the amendments made by this Act.

(2) CONCENTRATION LEVELS.—The concentration levels of the funds, taking into account the number of members of each fund and the geographic distribution of such members, and the extent to which either fund is exposed to higher risks due to a regional concentration of members or an insufficient membership base relative to the size of member institutions.

(3) MERGER ISSUES.—Issues relating to the planned merger of the funds, including the cost of merging the funds and the manner in which such costs will be distributed among the members of the respective funds.

(b) REPORT REQUIRED.—

(1) IN GENERAL.—Before the end of the 9-month period beginning on the date of the enactment of this Act, the Board of Directors of the Federal Deposit Insurance Corporation shall submit a report to the Congress on the study conducted pursuant to subsection (a).

(2) CONTENTS OF REPORT.—The report shall include—

(A) detailed findings of the Board of Directors with regard to the issues described in subsection (a);

(B) a description of the plans developed by the Board of Directors for merging the Bank Insurance Fund and the Savings Association Insurance Fund, including an estimate of the amount of the cost of such merger which would be borne by Savings Association Insurance Fund members; and

(C) such recommendations for legislative and administrative action as the Board of Directors determines to be necessary or appropriate to preserve the safety and soundness of the deposit insurance funds, reduce the risks to such funds, provide for an efficient merger of such funds, and for other purposes.

(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) INSURED DEPOSITORY INSTITUTION.—The term ''insured depository institution'' has the same meaning as in section 3(c) of the Federal Deposit Insurance Act.

(2) BIF AND SAIF MEMBERS.—The terms ''Bank Insurance Fund member'' and ''Savings Association Insurance Fund member'' have the same meanings as in section 7(l) of the Federal Deposit Insurance Act.

Subtitle J—Effective Date of Title

SEC. 191. EFFECTIVE DATE.

Except with regard to any subtitle or other provision of this title for which a specific effective date is provided, this title and the amendments made by this title shall take effect at the end of the 270-day period beginning on the date of the enactment of this Act.

TITLE II—FUNCTIONAL REGULATION

Subtitle A—Brokers and Dealers

SEC. 201. DEFINITION OF BROKER.

Section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)) is amended to read as follows:

''(4) BROKER.—

''(A) IN GENERAL.—The term 'broker' means any person engaged in the business of effecting transactions in securities for the account of others.

''(B) EXCEPTION FOR CERTAIN BANK ACTIVITIES.—A bank shall not be considered to be a broker because the bank engages in any of the following activities under the conditions described:

''(i) THIRD PARTY BROKERAGE ARRANGEMENTS.—The bank enters into a contractual or other arrangement with a broker or dealer registered under this title under which the broker or dealer offers brokerage services on or off the premises of the bank if—

''(I) such broker or dealer is clearly identified as the person performing the brokerage services;

''(II) the broker or dealer performs brokerage services in an area that is clearly marked and, to the extent practicable, physically separate from the routine deposit-taking activities of the bank;

''(III) any materials used by the bank to advertise or promote generally the availability of brokerage services under the contractual or other arrangement clearly indicate that the brokerage services are being provided by the broker or dealer and not by the bank;

''(IV) any materials used by the bank to advertise or promote generally the availability of brokerage services under the contractual or other arrangement are in compliance with the Federal securities laws before distribution;

''(V) bank employees (other than associated persons of a broker or dealer who are qualified pursuant to the rules of a self-regulatory organization) perform only clerical or ministerial functions in connection with brokerage transactions including scheduling appointments with the associated persons of a broker or dealer, except that bank employees may forward customer funds or securities and may describe in general terms the range of investment vehicles available from the bank and the broker or dealer under the contractual or other arrangement;

''(VI) bank employees do not directly receive incentive compensation for any brokerage transaction unless such employees are associated persons of a broker or dealer and are qualified pursuant to the rules of a self-regulatory organization, except that the bank employees may receive compensation for the referral of any customer if the compensation is a nominal one-time cash fee of a fixed dollar amount and the payment of the fee is not contingent on whether the referral results in a transaction;

''(VII) such services are provided by the broker or dealer on a basis in which all customers which receive any services are fully disclosed to the broker or dealer;

''(VIII) the bank does not carry a securities account of the customer except in a customary custodian or trustee capacity; and

''(IX) the bank, broker, or dealer informs each customer that the brokerage services are provided by the broker or dealer and not by the bank and that the securities are not deposits or other obligations of the bank, are not guaranteed by the bank, and are not insured by the Federal Deposit Insurance Corporation.

''(ii) TRUST ACTIVITIES.—The bank effects transactions in a trustee capacity, or effects transactions in a fiduciary capacity in its trust department or other department that is regularly examined by bank examiners for compliance with fiduciary principles and standards, and (in either case)—

''(I) is primarily compensated for such transactions on the basis of an administration or annual fee (payable on a monthly, quarterly, or

other basis), a percentage of assets under management, or a flat or capped per order processing fee equal to not more than the cost incurred by the bank in connection with executing securities transactions for trustee and fiduciary customers, or any combination of such fees, consistent with fiduciary principles and standards; and

''(II) does not publicly solicit brokerage business, other than by advertising that it effects transactions in securities in conjunction with advertising its other trust activities.

''(iii) PERMISSIBLE SECURITIES TRANSACTIONS.—The bank effects transactions in—

''(I) commercial paper, bankers acceptances, or commercial bills;

''(II) exempted securities;

''(III) qualified Canadian government obligations as defined in section 5136 of the Revised Statutes, in conformity with section 15C of this title and the rules and regulations thereunder, or obligations of the North American Development Bank; or

''(IV) any standardized, credit enhanced debt security issued by a foreign government pursuant to the March 1989 plan of then Secretary of the Treasury Brady, used by such foreign government to retire outstanding commercial bank loans.

''(iv) CERTAIN STOCK PURCHASE PLANS.—

''(I) EMPLOYEE BENEFIT PLANS.—The bank effects transactions, as part of its transfer agency activities, in the securities of an issuer as part of any pension, retirement, profit-sharing, bonus, thrift, savings, incentive, or other similar benefit plan for the employees of that issuer or its subsidiaries, if—

(aa) the bank does not solicit transactions or provide investment advice with respect to the purchase or sale of securities in connection with the plan; and

''(bb) the bank's compensation for such plan or program consists primarily of administration fees, or flat or capped per order processing fees, or both.

''(II) DIVIDEND REINVESTMENT PLANS.—The bank effects transactions, as part of its transfer agency activities, in the securities of an issuer as part of that issuer's dividend reinvestment plan, if—

''(aa) the bank does not solicit transactions or provide investment advice with respect to the purchase or sale of securities in connection with the plan;

''(bb) the bank does not net shareholders' buy and sell orders, other than for programs for odd-lot holders or plans registered with the Commission; and

''(cc) the bank's compensation for such plan or program consists primarily of administration fees, or flat or capped per order processing fees, or both.

''(III) ISSUER PLANS.—The bank effects transactions, as part of its transfer agency activities, in the securities of an issuer as part of a plan or program for the purchase or sale of that issuer's shares, if—

''(aa) the bank does not solicit transactions or provide investment advice with respect to the purchase or sale of securities in connection with the plan or program;

''(bb) the bank does not net shareholders' buy and sell orders, other than for programs for odd-lot holders or plans registered with the Commission; and

''(cc) the bank's compensation for such plan or program consists primarily of administration fees, or flat or capped per order processing fees, or both.

''(IV) PERMISSIBLE DELIVERY OF MATERIALS.—The exception to being considered a broker for a bank engaged in activities described in subclauses (I), (II), and (III) will not be affected by a bank's delivery of written or electronic plan materials to employees of the issuer, shareholders of the issuer, or members of affinity groups of the issuer, so long as such materials are—

''(aa) comparable in scope or nature to that permitted by the Commission as of the date of the enactment of the Financial Services Act of 1998; or

''(bb) otherwise permitted by the Commission.

''(v) SWEEP ACCOUNTS.—The bank effects transactions as part of a program for the investment or reinvestment of bank deposit funds into any no-load, open-end management investment company registered under the Investment Company Act of 1940 that holds itself out as a money market fund.

''(vi) AFFILIATE TRANSACTIONS.—The bank effects transactions for the account of any affiliate of the bank (as defined in section 2 of the Bank Holding Company Act of 1956) other than—

''(I) a registered broker or dealer; or

''(II) an affiliate that is engaged in merchant banking, as described in section 6(c)(3)(H) of the Bank Holding Company Act of 1956.

''(vii) PRIVATE SECURITIES OFFERINGS.—The bank—

''(I) effects sales as part of a primary offering of securities not involving a public offering, pursuant to section 3(b), 4(2), or 4(6) of the Securities Act of 1933 or the rules and regulations issued thereunder; and

''(II) effects transactions exclusively with qualified investors.

''(viii) SAFEKEEPING AND CUSTODY ACTIVITIES.—

''(I) IN GENERAL.—The bank, as part of customary banking activities—

''(aa) provides safekeeping or custody services with respect to securities, including the exercise of warrants and other rights on behalf of customers;

''(bb) facilitates the transfer of funds or securities, as a custodian or a clearing agency, in connection with the clearance and settlement of its customers' transactions in securities;

''(cc) effects securities lending or borrowing transactions with or on behalf of customers as part of services provided to customers pursuant to division (aa) or (bb) or invests cash collateral pledged in connection with such transactions; or

''(dd) holds securities pledged by a customer to another person or securities subject to purchase or resale agreements involving a customer, or facilitates the pledging or transfer of such securities by book entry or as otherwise provided under applicable law.

''(II) EXCEPTION FOR CARRYING BROKER ACTIVITIES.—The exception to being considered a broker for a bank engaged in activities described in subclause (I) shall not apply if the bank, in connection with such activities, acts in the United States as a carrying broker (as such term, and different formulations thereof, are used in section 15(c)(3) and the rules and regulations thereunder) for any broker or dealer, unless such carrying broker activities are engaged in with respect to government securities (as defined in paragraph (42) of this subsection).

''(ix) BANKING PRODUCTS.—The bank effects transactions in traditional banking products, as defined in section 206(a) of the Financial Services Act of 1998.

''(x) DE MINIMIS EXCEPTION.—The bank effects, other than in transactions referred to in clauses (i) through (ix), not more than 500 transactions in securities in any calendar year, and such transactions are not effected by an employee of the bank who is also an employee of a broker or dealer.

''(C) BROKER DEALER EXECUTION.—The exception to being considered a broker for a bank engaged in activities described in clauses (ii), (iv), and (viii) of subparagraph (B) shall not apply if the activities described in such provisions result in the trade in the United States of any security that is a publicly traded security in the United States, unless—

''(i) the bank directs such trade to a registered or broker dealer for execution;

''(ii) the trade is a cross trade or other substantially similar trade of a security that—

''(I) is made by the bank or between the bank and an affiliated fiduciary; and

''(II) is not in contravention of fiduciary principles established under applicable Federal or State law; or

''(iii) the trade is conducted in some other manner permitted under rules, regulations, or orders as the Commission may prescribe or issue.

''(D) NO EFFECT OF BANK EXEMPTIONS ON OTHER COMMISSION AUTHORITY.—The exception to being considered a broker for a bank engaged in activities described in subparagraphs (B) and (C) shall not affect the commission's authority under any other provision of this Act or any other securities law.

''(E) FIDUCIARY CAPACITY.—For purposes of subparagraph (B)(ii), the term 'fiduciary capacity' means—

''(i) in the capacity as trustee, executor, administrator, registrar of stocks and bonds, transfer agent, guardian, assignee, receiver, or custodian under a uniform gift to minor act, or as an investment adviser if the bank receives a fee for its investment advice;

''(ii) in any capacity in which the bank possesses investment discretion on behalf of another; or

''(iii) in any other similar capacity.

''(F) EXCEPTION FOR ENTITIES SUBJECT TO SECTION 15(e).—The term 'broker' does not include a bank that—

''(i) was, immediately prior to the enactment of the Financial Services Act of 1998, subject to section 15(e); and

''(ii) is subject to such restrictions and requirements as the Commission considers appropriate.''.

SEC. 202. DEFINITION OF DEALER.

Section 3(a)(5) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(5)) is amended to read as follows:

''(5) DEALER.—

''(A) IN GENERAL.—The term 'dealer' means any person engaged in the business of buying and selling securities for such person's own account through a broker or otherwise.

''(B) EXCEPTION FOR PERSON NOT ENGAGED IN THE BUSINESS OF DEALING.—The term 'dealer' does not include a person that buys or sells securities for such person's own account, either individually or in a fiduciary capacity, but not as a part of a regular business.

''(C) EXCEPTION FOR CERTAIN BANK ACTIVITIES.—A bank shall not be considered to be a dealer because the bank engages in any of the following activities under the conditions described:

''(i) PERMISSIBLE SECURITIES TRANSACTIONS.—The bank buys or sells—

''(I) commercial paper, bankers acceptances, or commercial bills;

''(II) exempted securities;

''(III) qualified Canadian government obligations as defined in section 5136 of the Revised Statutes of the United States, in conformity with section 15C of this title and the rules and regulations thereunder, or obligations of the North American Development Bank; or

''(IV) any standardized, credit enhanced debt security issued by a foreign government pursuant to the March 1989 plan of then Secretary of the Treasury Brady, used by such foreign government to retire outstanding commercial bank loans.

''(ii) INVESTMENT, TRUSTEE, AND FIDUCIARY TRANSACTIONS.—The bank buys or sells securities for investment purposes—

''(I) for the bank; or

''(II) for accounts for which the bank acts as a trustee or fiduciary.

''(iii) ASSET-BACKED TRANSACTIONS.—The bank engages in the issuance or sale to qualified investors, through a grantor trust or otherwise, of securities backed by or representing an interest in notes, drafts, acceptances, loans, leases, receivables, other obligations, or pools of any such obligations predominantly originated by the bank, or a syndicate of banks of which the bank is a member, or an affiliate of any such bank other than a broker or dealer.

''(iv) BANKING PRODUCTS.—The bank buys or sells traditional banking products, as defined in section 206(a) of the Financial Services Act of 1998.

''(v) DERIVATIVE INSTRUMENTS.—The bank issues, buys, or sells any derivative instrument to which the bank is a party—

''(I) to or from a qualified investor, except that if the instrument provides for the delivery of one or more securities (other than a derivative instrument or government security), the transaction shall be effected with or through a registered broker or dealer;

''(II) to or from other persons, except that if the derivative instrument provides for the delivery of one or more securities (other than a derivative instrument or government security), or is a security (other than a government security), the transaction shall be effected with or through a registered broker or dealer; or

''(III) to or from any person if the instrument is neither a security nor provides for the delivery of one or more securities (other than a derivative instrument).''.

SEC. 203. REGISTRATION FOR SALES OF PRIVATE SECURITIES OFFERINGS.

Section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3) is amended by inserting after subsection (i) the following new subsection:

''(j) REGISTRATION FOR SALES OF PRIVATE SECURITIES OFFERINGS.—A registered securities association shall create a limited qualification category for any associated person of a member who effects sales as part of a primary offering of securities not involving a public offering, pursuant to section 3(b), 4(2), or 4(6) of the Securities Act of 1933 and the rules and regulations thereunder, and shall deem qualified in such limited qualification category, without testing, any bank employee who, in the six month period preceding the date of enactment of this Act, engaged in effecting such sales.''.

SEC. 204. SALES PRACTICES AND COMPLAINT PROCEDURES.

Section 18 of the Federal Deposit Insurance Act is amended by adding at the end the following new subsection:

''(s) SALES PRACTICES AND COMPLAINT PROCEDURES WITH RESPECT TO BANK SECURITIES ACTIVITIES.—

''(1) REGULATIONS REQUIRED.—Each Federal banking agency shall prescribe and publish in final form, not later than 6 months after the date of enactment of the Financial Services Act of 1998, regulations which apply to retail transactions, solicitations, advertising, or offers of any security by any insured depository institution or any affiliate thereof other than a registered broker or dealer or an individual acting on behalf of such a broker or dealer who is an associated person of such broker or dealer. Such regulations shall include—

''(A) requirements that sales practices comply with just and equitable principles of trade that are substantially similar to the Rules of Fair Practice of the National Association of Securities Dealers; and

''(B) requirements prohibiting (i) conditioning an extension of credit on the purchase or sale of a security; and (ii) any conduct leading a customer to believe that an extension of credit is conditioned upon the purchase or sale of a security.

''(2) PROCEDURES REQUIRED.—The appropriate Federal banking agencies shall jointly establish procedures and facilities for receiving and expeditiously processing complaints against any bank or employee of a bank arising in connection with the purchase or sale of a security by a customer, including a complaint alleging a violation of the regulations prescribed under paragraph (1), but excluding a complaint involving an individual acting on behalf of such a broker or dealer who is an associated person of such broker or dealer. The use of any such procedures and facilities by such a customer shall be at the election of the customer. Such procedures shall include provisions to refer a complaint alleging fraud to the Securities and Exchange Commission and appropriate State securities commissions.

''(3) REQUIRED ACTIONS.—The actions required by the Federal banking agencies under paragraph (2) shall include the following:

''(A) establishing a group, unit, or bureau within each such agency to receive such complaints;

''(B) developing and establishing procedures for investigating, and permitting customers to investigate, such complaints;

''(C) developing and establishing procedures for informing customers of the rights they may have in connection with such complaints;

''(D) developing and establishing procedures that allow customers a period of at least 6 years to make complaints and that do not require customers to pay the costs of the proceeding; and

''(E) developing and establishing procedures for resolving such complaints, including procedures for the recovery of losses to the extent appropriate.

''(4) CONSULTATION AND JOINT REGULATIONS.—The Federal banking agencies shall consult with each other and prescribe joint regulations pursuant to paragraphs (1) and (2), after consultation with the Securities and Exchange Commission.

''(5) PROCEDURES IN ADDITION TO OTHER REMEDIES.—The procedures and remedies provided under this subsection shall be in addition to, and not in lieu of, any other remedies available under law.

''(6) DEFINITION.—As used in this subsection—

''(A) the term 'security' has the same meaning as in section 3(a)(10) of the Securities Exchange Act of 1934;

''(B) the term 'registered broker or dealer' has the same meaning as in section 3(a)(48) of the Securities Exchange Act of 1934; and

''(C) the term 'associated person' has the same meaning as in section 3(a)(18) of the Securities Exchange Act of 1934.''.

SEC. 205. INFORMATION SHARING.

Section 18 of the Federal Deposit Insurance Act is amended by adding at the end the following new subsection:

''(t) RECORDKEEPING REQUIREMENTS.—

''(1) REQUIREMENTS.—Each appropriate Federal banking agency, after consultation with and consideration of the views of the Commission, shall establish recordkeeping requirements for banks relying on exceptions contained in paragraphs (4) and (5) of section 3(a) of the Securities Exchange Act of 1934. Such recordkeeping requirements shall be sufficient to demonstrate compliance with the terms of such exceptions and be designed to facilitate compliance with such exceptions. Each appropriate Federal banking agency shall make any such information available to the Commission upon request.

''(2) DEFINITIONS.—As used in this subsection the term 'Commission' means the Securities and Exchange Commission.''.

SEC. 206. DEFINITION AND TREATMENT OF BANKING PRODUCTS.

(a) DEFINITION OF TRADITIONAL BANKING PRODUCT.—For purposes of paragraphs (4) and (5) of section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a) (4), (5)), the term ''traditional banking product'' means—

(1) a deposit account, savings account, certificate of deposit, or other deposit instrument issued by a bank;

(2) a banker's acceptance;

(3) a letter of credit issued or loan made by a bank;

(4) a debit account at a bank arising from a credit card or similar arrangement;

(5) a participation in a loan which the bank or an affiliate of the bank (other than a broker or dealer) funds, participates in, or owns that is sold—

(A) to qualified investors; or

(B) to other persons that—

(i) have the opportunity to review and assess any material information, including information regarding the borrower's creditworthiness; and

(ii) based on such factors as financial sophistication, net worth, and knowledge and experience in financial matters, have the capability to evaluate the information available, as determined under generally applicable banking standards or guidelines;

(6) any derivative instrument, whether or not individually negotiated, involving or relating to—

(A) foreign currencies, except options on foreign currencies that trade on a national securities exchange;

(B) interest rates, except interest rate derivative instruments that—

(i) are based on a security or a group or index of securities (other than government securities or a group or index of government securities);

(ii) provide for the delivery of one or more securities (other than government securities); or

(iii) trade on a national securities exchange; or

(C) commodities, other rates, indices, or other assets, except derivative instruments that—

(i) are securities or that are based on a group or index of securities (other than government securities or a group or index of government securities);

(ii) provide for the delivery of one or more securities (other than government securities); or

(iii) trade on a national securities exchange; or

(7) any product or instrument that the Board of Governors of the Federal Reserve System (hereafter in this subsection referred to as the ''Board''), after consultation with the Securities and Exchange Commission (hereafter in this section referred to as the ''Commission'') determines to be a new banking product, by regulation or order published in the Federal Register.

(b) OBJECTION BY THE SEC.—

(1) FILING OF PETITION FOR REVIEW.—The Commission may obtain review of any regulation or order described in subsection (a)(7) in the United States Court of Appeals for the District of Columbia Circuit by filing in such court, not later than 60 days after the date of publication of the regulation or order, a written petition requesting that the regulation or order be set aside.

(2) TRANSMITTAL OF PETITION AND RECORD.—A copy of a petition described in paragraph (1) shall be transmitted as soon as possible by the Clerk of the Court, to an officer or employee of the Board designated for that purpose. Upon receipt of the petition, the Board shall file in the court the regulation or order under review and any documents referred to therein, and any other relevant materials prescribed by the court.

(3) EXCLUSIVE JURISDICTION.—On the date of the filing of the petition under paragraph (1), the court has jurisdiction, which becomes exclusive on the filing of the materials set forth in paragraph (2), to affirm and enforce or to set aside the regulation or order.

(4) STANDARD OF REVIEW.—

(A) IN GENERAL.—The court shall determine to affirm and enforce or set aside the regulation or order of the Board, based on the determination of the court as to whether the subject product or instrument would be more appropriately regulated under the Federal banking laws or the Federal securities laws, giving equal deference to the views of the Board and the Commission.

(B) CONSIDERATIONS.—In making a determination under subparagraph (A), the court shall consider—

(i) the nature of the subject product or instrument;

(ii) the history, purpose, extent, and appropriateness of the regulation of the product or instrument under the Federal banking laws; and

(iii) the history, purpose, extent, and appropriateness of the regulation of the product or instrument under the Federal securities laws.

(5) JUDICIAL STAY.—The filing of a petition pursuant to paragraph (1) shall operate as a judicial stay of—

(A) any Commission requirement that a bank register as a broker or dealer under section 15 of the Securities Exchange Act of 1934, because the bank engages in any transaction in, or buys or sells, the product or instrument that is the subject of the petition; and

(B) any Commission action against a bank for a failure to comply with a requirement described in subparagraph (A).

(c) CLASSIFICATION LIMITED.—Classification of a particular product as a traditional banking product pursuant to this section shall not be construed as finding or implying that such product is or is not a security for any purpose under the securities laws, or is or is not an account, agreement, contract, or transaction for any purpose under the Commodity Exchange Act.

(d) NO LIMITATION ON OTHER AUTHORITY TO CHALLENGE.—Nothing in this section shall affect the right or authority that the Securities and Exchange Commission, any appropriate Federal banking agency, or any interested party has under any other provision of law to object to or seek judicial review as to whether a product or instrument is or is not appropriately classified as a ''traditional banking product'' under paragraphs (1) through (7) of subsection (a).

(e) DEFINITIONS.—For purposes of this section—

(1) the term ''bank'' has the same meaning as in section 3(a)(6) of the Securities Exchange Act of 1934;

(2) the term ''qualified investor'' has the same meaning as in section 3(a)(55) of the Securities Exchange Act of 1934;

(3) the term ''government securities'' has the same meaning as in section 3(a)(42) of the Securities Exchange Act of 1934, and, for purposes of this subsection, commercial paper, bankers acceptances, and commercial bills shall be treated in the same manner as government securities;

(4) the term ''Federal banking agency'' has the same meaning as in section 3(z) of the Federal Deposit Insurance Act; and

(5) the term ''new banking product'' means a product or instrument that—

(A) was not subject to regulation by the Securities and Exchange Commission as a security under the Securities Exchange Act of 1934, before the date of enactment of this Act; and

(B) is not a traditional banking product, as defined in subparagraphs (A) through (F) of paragraph (1).

SEC. 207. DERIVATIVE INSTRUMENT AND QUALIFIED INVESTOR DEFINED.

Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end the following new paragraphs:

''(54) DERIVATIVE INSTRUMENT.—

''(A) DEFINITION.—The term 'derivative instrument' means any individually negotiated contract, agreement, warrant, note, or option that is based, in whole or in part, on the value of, any interest in, or any quantitative measure or the occurrence of any event relating to, one or more commodities, securities, currencies, interest or other rates, indices, or other assets, but does not include a traditional banking product, as defined in section 206(a) of the Financial Services Act of 1998.

''(B) CLASSIFICATION LIMITED.— Classification of a particular contract as a derivative instrument pursuant to this paragraph shall not be construed as finding or implying that such instrument is or is not a security for any purpose under the securities laws, or is or is not an account, agreement, contract, or transaction for any purpose under the Commodity Exchange Act.

''(55) QUALIFIED INVESTOR.—

''(A) DEFINITION.—For purposes of this title and section 206(a)(1)(E) of the Financial Services Act of 1998, the term 'qualified investor' means—

''(i) any investment company registered with the Commission under section 8 of the Investment Company Act of 1940;

''(ii) any issuer eligible for an exclusion from the definition of investment company pursuant to section 3(c)(7) of the Investment Company Act of 1940;

''(iii) any bank (as defined in paragraph (6) of this subsection), savings and loan association (as defined in section 3(b) of the Federal Deposit Insurance Act), broker, dealer, insurance company (as defined in section 2(a)(13) of the Securities Act of 1933), or business development company (as defined in section 2(a)(48) of the Investment Company Act of 1940);

''(iv) any small business investment company licensed by the United States Small Business Administration under section 301(c) or (d) of the Small Business Investment Act of 1958;

''(v) any State sponsored employee benefit plan, or any other employee benefit plan, within the meaning of the Employee Retirement Income Security Act of 1974, other than an individual retirement account, if the investment decisions are made by a plan fiduciary, as defined in section 3(21) of that Act, which is either a bank, savings and loan association, insurance company, or registered investment adviser;

''(vi) any trust whose purchases of securities are directed by a person described in clauses (i) through (v) of this subparagraph;

''(vii) any market intermediary exempt under section 3(c)(2) of the Investment Company Act of 1940;

''(viii) any associated person of a broker or dealer other than a natural person;

''(ix) any foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978);

''(x) the government of any foreign country;

''(xi) any corporation, company, or partnership that owns and invests on a discretionary basis, not less than $10,000,000 in investments;

''(xii) any natural person who owns and invests on a discretionary basis, not less than $10,000,000 in investments;

''(xiii) any government or political subdivision, agency, or instrumentality of a government who owns and invests on a discretionary basis not less than $50,000,000 in investments; or

''(xiv) any multinational or supranational entity or any agency or instrumentality thereof.

''(B) ADDITIONAL AUTHORITY.—The Commission may, by rule or order, define a 'qualified investor' as any other person, taking into consideration such factors as the financial sophistication of the person, net worth, and knowledge and experience in financial matters.''.

SEC. 208. GOVERNMENT SECURITIES DEFINED.

Section 3(a)(42) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(42)) is amended—

(1) by striking ''or'' at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting ''; or''; and

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

''(E) for purposes of section 15C as applied to a bank, a qualified Canadian government obligation as defined in section 5136 of the Revised Statutes.''.

SEC. 209. EFFECTIVE DATE.

This subtitle shall take effect at the end of the 270-day period beginning on the date of the enactment of this Act.

SEC. 210. RULE OF CONSTRUCTION.

Nothing in this Act shall supersede, affect, or otherwise limit the scope and applicability of the Commodity Exchange Act (7 U.S.C. 1 et seq.).

Subtitle B—Bank Investment Company Activities

SEC. 211. CUSTODY OF INVESTMENT COMPANY ASSETS BY AFFILIATED BANK.

(a) MANAGEMENT COMPANIES.—Section 17(f) of the Investment Company Act of 1940 (15 U.S.C. 80a–17(f)) is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) by striking ''(f) Every registered'' and inserting the following:

''(f) CUSTODY OF SECURITIES.—

''(1) Every registered'';

(3) by redesignating the second, third, fourth, and fifth sentences of such subsection as paragraphs (2) through (5), respectively, and indenting the left margin of such paragraphs appropriately; and

(4) by adding at the end the following new paragraph:

''(6) SERVICES AS TRUSTEE OR CUSTODIAN.—The Commission may adopt rules and regulations, and issue orders, consistent with the protection of investors, prescribing the conditions under which a bank, or an affiliated person of a bank, either of which is an affiliated person, promoter, organizer, or sponsor of, or principal underwriter for, a registered management company may serve as custodian of that registered management company.''.

(b) UNIT INVESTMENT TRUSTS.—Section 26 of the Investment Company Act of 1940 (15 U.S.C. 80a–26) is amended—

(1) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively; and

(2) by inserting after subsection (a) the following new subsection:

''(b) The Commission may adopt rules and regulations, and issue orders, consistent with the protection of investors, prescribing the conditions under which a bank, or an affiliated person of a bank, either of which is an affiliated person of a principal underwriter for, or depositor of, a registered unit investment trust, may serve as trustee or custodian under subsection (a)(1).''.

(c) FIDUCIARY DUTY OF CUSTODIAN.—Section 36(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–35(a)) is amended—

(1) in paragraph (1), by striking ''or'' at the end;

(2) in paragraph (2), by striking the period at the end and inserting ''; or''; and

(3) by inserting after paragraph (2) the following:

''(3) as custodian.''.

SEC. 212. LENDING TO AN AFFILIATED INVESTMENT COMPANY.

Section 17(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–17(a)) is amended—

(1) by striking ''or'' at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting ''; or''; and

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

''(4) to loan money or other property to such registered company, or to any company controlled by such registered company, in contravention of such rules, regulations, or orders as the Commission may prescribe or issue consistent with the protection of investors.''.

SEC. 213. INDEPENDENT DIRECTORS.

(a) IN GENERAL.—Section 2(a)(19)(A) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(19)(A)) is amended—

(1) by striking clause (v) and inserting the following new clause:

''(v) any person or any affiliated person of a person (other than a registered investment company) that, at any time during the 6-month period preceding the date of the determination of whether that person or affiliated person is an interested person, has executed any portfolio transactions for, engaged in any principal transactions with, or distributed shares for—

''(I) the investment company;

''(II) any other investment company having the same investment adviser as such investment company or holding itself out to investors as a related company for purposes of investment or investor services; or

''(III) any account over which the investment company's investment adviser has brokerage placement discretion,'';

(2) by redesignating clause (vi) as clause (vii); and

(3) by inserting after clause (v) the following new clause:

''(vi) any person or any affiliated person of a person (other than a registered investment company) that, at any time during the 6-month period preceding the date of the determination of whether that person or affiliated person is an interested person, has loaned money or other property to—

''(I) the investment company;

''(II) any other investment company having the same investment adviser as such investment company or holding itself out to investors as a related company for purposes of investment or investor services; or

''(III) any account for which the investment company's investment adviser has borrowing authority,''.

(b) CONFORMING AMENDMENT.—Section 2(a)(19)(B) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(19)(B)) is amended—

(1) by striking clause (v) and inserting the following new clause:

''(v) any person or any affiliated person of a person (other than a registered investment company) that, at any time during the 6-month period preceding the date of the determination of whether that person or affiliated person is an interested person, has executed any portfolio transactions for, engaged in any principal transactions with, or distributed shares for—

''(I) any investment company for which the investment adviser or principal underwriter serves as such;

''(II) any investment company holding itself out to investors, for purposes of investment or investor services, as a company related to any investment company for which the investment adviser or principal underwriter serves as such; or

''(III) any account over which the investment adviser has brokerage placement discretion,'';

(2) by redesignating clause (vi) as clause (vii); and

(3) by inserting after clause (v) the following new clause:

''(vi) any person or any affiliated person of a person (other than a registered investment company) that, at any time during the 6-month period preceding the date of the determination of whether that person or affiliated person is an interested person, has loaned money or other property to—

''(I) any investment company for which the investment adviser or principal underwriter serves as such;

''(II) any investment company holding itself out to investors, for purposes of investment or investor services, as a company related to any investment company for which the investment adviser or principal underwriter serves as such; or

''(III) any account for which the investment adviser has borrowing authority,''.

(c) AFFILIATION OF DIRECTORS.—Section 10(c) of the Investment Company Act of 1940 (15 U.S.C. 80a–10(c)) is amended by striking ''bank, except'' and inserting ''bank (together with its affiliates and subsidiaries) or any one bank holding company (together with its affiliates and subsidiaries) (as such terms are defined in section 2 of the Bank Holding Company Act of 1956), except''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect at the end of the 1-year period beginning on the date of enactment of this subtitle.

SEC. 214. ADDITIONAL SEC DISCLOSURE AUTHORITY.

Section 35(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–34(a)) is amended to read as follows:

''(a) MISREPRESENTATION OF GUARANTEES.—

''(1) IN GENERAL.—It shall be unlawful for any person, issuing or selling any security of which a registered investment company is the issuer, to represent or imply in any manner whatsoever that such security or company—

''(A) has been guaranteed, sponsored, recommended, or approved by the United States, or any agency, instrumentality or officer of the United States;

''(B) has been insured by the Federal Deposit Insurance Corporation; or

''(C) is guaranteed by or is otherwise an obligation of any bank or insured depository institution.

''(2) DISCLOSURES.—Any person issuing or selling the securities of a registered investment company that is advised by, or sold through, a bank shall prominently disclose that an investment in the company is not insured by the Federal Deposit Insurance Corporation or any other government agency. The Commission may adopt rules and regulations, and issue orders, consistent with the protection of investors, prescribing the manner in which the disclosure under this paragraph shall be provided.

''(3) DEFINITIONS.—The terms 'insured depository institution' and 'appropriate Federal banking agency' have the same meanings as in section 3 of the Federal Deposit Insurance Act.''.

SEC. 215. DEFINITION OF BROKER UNDER THE INVESTMENT COMPANY ACT OF 1940.

Section 2(a)(6) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(6)) is amended to read as follows:

''(6) The term 'broker' has the same meaning as in section 3 of the Securities Exchange Act of 1934, except that such term does not include any person solely by reason of the fact that such person is an underwriter for one or more investment companies.''.

SEC. 216. DEFINITION OF DEALER UNDER THE INVESTMENT COMPANY ACT OF 1940.

Section 2(a)(11) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(11)) is amended to read as follows:

''(11) The term 'dealer' has the same meaning as in section 3 of the Securities Exchange Act of 1934, but does not include an insurance company or investment company.''.

SEC. 217. REMOVAL OF THE EXCLUSION FROM THE DEFINITION OF INVESTMENT ADVISER FOR BANKS THAT ADVISE INVESTMENT COMPANIES.

(a) INVESTMENT ADVISER.—Section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(11)) is amended in subparagraph (A), by striking ''investment company'' and inserting ''investment company, except that the term 'investment adviser' includes any bank or bank holding company to the extent that such bank or bank holding company serves or acts as an investment adviser to a registered investment company, but if, in the case of a bank, such services or actions are performed through a separately identifiable department or division, the department or division, and not the bank itself, shall be deemed to be the investment adviser''.

(b) SEPARATELY IDENTIFIABLE DEPARTMENT OR DIVISION.—Section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)) is amended by adding at the end the following:

''(26) The term 'separately identifiable department or division' of a bank means a unit—

''(A) that is under the direct supervision of an officer or officers designated by the board of directors of the bank as responsible for the day-to-day conduct of the bank's investment adviser activities for one or more investment companies, including the supervision of all bank employees engaged in the performance of such activities; and

''(B) for which all of the records relating to its investment adviser activities are separately maintained in or extractable from such unit's own facilities or the facilities of the bank, and such records are so maintained or otherwise accessible as to permit independent examination and enforcement by the Commission of this Act or the Investment Company Act of 1940 and rules and regulations promulgated under this Act or the Investment Company Act of 1940.''.

SEC. 218. DEFINITION OF BROKER UNDER THE INVESTMENT ADVISERS ACT OF 1940.

Section 202(a)(3) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(3)) is amended to read as follows:

''(3) The term 'broker' has the same meaning as in section 3 of the Securities Exchange Act of 1934.''.

SEC. 219. DEFINITION OF DEALER UNDER THE INVESTMENT ADVISERS ACT OF 1940.

Section 202(a)(7) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(7)) is amended to read as follows:

''(7) The term 'dealer' has the same meaning as in section 3 of the Securities Exchange Act of 1934, but does not include an insurance company or investment company.''.

SEC. 220. INTERAGENCY CONSULTATION.

The Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) is amended by inserting after section 210 the following new section:

''SEC. 210A. CONSULTATION.

''(a) EXAMINATION RESULTS AND OTHER INFORMATION.—

''(1) The appropriate Federal banking agency shall provide the Commission upon request the results of any examination, reports, records, or other information to which such agency may have access with respect to the investment advisory activities—

''(A) of any—

''(i) bank holding company;

''(ii) bank; or

''(iii) separately identifiable department or division of a bank, that is registered under section 203 of this title; and

''(B) in the case of a bank holding company or bank that has a subsidiary or a separately identifiable department or division registered under that section, of such bank or bank holding company.

''(2) The Commission shall provide to the appropriate Federal banking agency upon request the results of any examination, reports, records, or other information with respect to the investment advisory activities of any bank holding company, bank, or separately identifiable department or division of a bank, any of which is registered under section 203 of this title.

''(b) EFFECT ON OTHER AUTHORITY.—Nothing in this section shall limit in any respect the authority of the appropriate Federal banking agency with respect to such bank holding company, bank, or department or division under any provision of law.

''(c) DEFINITION.—For purposes of this section, the term 'appropriate Federal banking agency' has the same meaning as in section 3 of the Federal Deposit Insurance Act.''.

SEC. 221. TREATMENT OF BANK COMMON TRUST FUNDS.

(a) SECURITIES ACT OF 1933.—Section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)) is amended by striking ''or any interest or participation in any common trust fund or similar fund maintained by a bank exclusively for the collective investment and reinvestment of assets contributed thereto by such bank in its capacity as trustee, executor, administrator, or guardian'' and inserting ''or any interest or participation in any common trust fund or similar fund that is excluded from the definition of the term 'investment company' under section 3(c)(3) of the Investment Company Act of 1940''.

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 3(a)(12)(A)(iii) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)(A)(iii)) is amended to read as follows:

''(iii) any interest or participation in any common trust fund or similar fund that is excluded from the definition of the term 'investment company' under section 3(c)(3) of the Investment Company Act of 1940;''.

(c) INVESTMENT COMPANY ACT OF 1940.—Section 3(c)(3) of the Investment Company Act of

1940 (15 U.S.C. 80a–3(c)(3)) is amended by inserting before the period the following: '', if—

''(A) such fund is employed by the bank solely as an aid to the administration of trusts, estates, or other accounts created and maintained for a fiduciary purpose;

''(B) except in connection with the ordinary advertising of the bank's fiduciary services, interests in such fund are not—

''(i) advertised; or

''(ii) offered for sale to the general public; and

''(C) fees and expenses charged by such fund are not in contravention of fiduciary principles established under applicable Federal or State law''.

SEC. 222. INVESTMENT ADVISERS PROHIBITED FROM HAVING CONTROLLING INTEREST IN REGISTERED INVESTMENT COMPANY.

Section 15 of the Investment Company Act of 1940 (15 U.S.C. 80a–15) is amended by adding at the end the following new subsection:

''(g) CONTROLLING INTEREST IN INVESTMENT COMPANY PROHIBITED.—

''(1) IN GENERAL.—If an investment adviser to a registered investment company, or an affiliated person of that investment adviser, holds a controlling interest in that registered investment company in a trustee or fiduciary capacity, such person shall—

''(A) if it holds the shares in a trustee or fiduciary capacity with respect to any employee benefit plan subject to the Employee Retirement Income Security Act of 1974, transfer the power to vote the shares of the investment company through to another person acting in a fiduciary capacity with respect to the plan who is not an affiliated person of that investment adviser or any affiliated person thereof; or

''(B) if it holds the shares in a trustee or fiduciary capacity with respect to any person or entity other than an employee benefit plan subject to the Employee Retirement Income Security Act of 1974—

''(i) transfer the power to vote the shares of the investment company through to—

''(I) the beneficial owners of the shares;

''(II) another person acting in a fiduciary capacity who is not an affiliated person of that investment adviser or any affiliated person thereof; or

''(III) any person authorized to receive statements and information with respect to the trust who is not an affiliated person of that investment adviser or any affiliated person thereof;

''(ii) vote the shares of the investment company held by it in the same proportion as shares held by all other shareholders of the investment company; or

''(iii) vote the shares of the investment company as otherwise permitted under such rules, regulations, or orders as the Commission may prescribe or issue consistent with the protection of investors.

''(2) EXEMPTION.—Paragraph (1) shall not apply to any investment adviser to a registered investment company, or any affiliated person of that investment adviser, that holds shares of the investment company in a trustee or fiduciary capacity if that registered investment company consists solely of assets held in such capacities.

''(3) SAFE HARBOR.—No investment adviser to a registered investment company or any affiliated person of such investment adviser shall be deemed to have acted unlawfully or to have breached a fiduciary duty under State or Federal law solely by reason of acting in accordance with clause (i), (ii), or (iii) of paragraph (1)(B).''.

SEC. 223. CONFORMING CHANGE IN DEFINITION.

Section 2(a)(5) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(5)) is amended by striking ''(A) a banking institution organized under the laws of the United States'' and inserting ''(A) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or a branch or agency of a foreign bank (as such terms are defined in section 1(b) of the International Banking Act of 1978)''.

SEC. 224. CONFORMING AMENDMENT.

Section 202 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2) is amended by adding at the end the following new subsection:

''(c) CONSIDERATION OF PROMOTION OF EFFICIENCY, COMPETITION, AND CAPITAL FORMATION.—Whenever pursuant to this title the Commission is engaged in rulemaking and is required to consider or determine whether an action is necessary or appropriate in the public interest, the Commission shall also consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.''.

SEC. 225. EFFECTIVE DATE.

This subtitle shall take effect 90 days after the date of the enactment of this Act.

Subtitle C—Securities and Exchange Commission Supervision of Investment Bank Holding Companies

SEC. 231. SUPERVISION OF INVESTMENT BANK HOLDING COMPANIES BY THE SECURITIES AND EXCHANGE COMMISSION.

(a) AMENDMENT.—Section 17 of the Securities Exchange Act of 1934 (15 U.S.C. 78q) is amended—

(1) by redesignating subsection (i) as subsection (l); and

(2) by inserting after subsection (h) the following new subsections:

''(i) INVESTMENT BANK HOLDING COMPANIES.—

''(1) ELECTIVE SUPERVISION OF AN INVESTMENT BANK HOLDING COMPANY NOT HAVING A BANK OR SAVINGS ASSOCIATION AFFILIATE.—

''(A) IN GENERAL.—An investment bank holding company that is not—

''(i) an affiliate of a wholesale financial institution, an insured bank (other than an institution described in subparagraph (D), (F), or (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956), or a savings association;

''(ii) a foreign bank, foreign company, or company that is described in section 8(a) of the International Banking Act of 1978; or

''(iii) a foreign bank that controls, directly or indirectly, a corporation chartered under section 25A of the Federal Reserve Act,

may elect to become supervised by filing with the Commission a notice of intention to become supervised, pursuant to subparagraph (B) of this paragraph. Any investment bank holding company filing such a notice shall be supervised in accordance with this section and comply with the rules promulgated by the Commission applicable to supervised investment bank holding companies.

''(B) NOTIFICATION OF STATUS AS A SUPERVISED INVESTMENT BANK HOLDING COMPANY.—An investment bank holding company that elects under subparagraph (A) to become supervised by the Commission shall file with the Commission a written notice of intention to become supervised by the Commission in such form and containing such information and documents concerning such investment bank holding company as the Commission, by rule, may prescribe as necessary or appropriate in furtherance of the purposes of this section. Unless the Commission finds that such supervision is not necessary or appropriate in furtherance of the purposes of this section, such supervision shall become effective 45 days after the date of receipt of such written notice by the Commission, or within such shorter time period as the Commission, by rule or order, may determine.

''(2) ELECTION NOT TO BE SUPERVISED BY THE COMMISSION AS AN INVESTMENT BANK HOLDING COMPANY.—

''(A) VOLUNTARY WITHDRAWAL.—A supervised investment bank holding company that is supervised pursuant to paragraph (1) may, upon such terms and conditions as the Commission deems necessary or appropriate, elect not to be supervised by the Commission by filing a written notice of withdrawal from Commission supervision. Such notice shall not become effective until one year after receipt by the Commission, or such shorter or longer period as the Commission deems necessary or appropriate to ensure effective supervision of the material risks to the supervised investment bank holding company and to the affiliated broker or dealer, or to prevent evasion of the purposes of this section.

''(B) DISCONTINUATION OF COMMISSION SUPERVISION.—If the Commission finds that any supervised investment bank holding company that is supervised pursuant to paragraph (1) is no longer in existence or has ceased to be an investment bank holding company, or if the Commission finds that continued supervision of such a supervised investment bank holding company is not consistent with the purposes of this section, the Commission may discontinue the supervision pursuant to a rule or order, if any, promulgated by the Commission under this section.

''(3) SUPERVISION OF INVESTMENT BANK HOLDING COMPANIES.—

''(A) RECORDKEEPING AND REPORTING.—

''(i) IN GENERAL.—Every supervised investment bank holding company and each affiliate thereof shall make and keep for prescribed periods such records, furnish copies thereof, and make such reports, as the Commission may require by rule, in order to keep the Commission informed as to—

''(I) the company's or affiliate's activities, financial condition, policies, systems for monitoring and controlling financial and operational risks, and transactions and relationships between any broker or dealer affiliate of the supervised investment bank holding company; and

''(II) the extent to which the company or affiliate has complied with the provisions of this Act and regulations prescribed and orders issued under this Act.

''(ii) FORM AND CONTENTS.—Such records and reports shall be prepared in such form and according to such specifications (including certification by an independent public accountant), as the Commission may require and shall be provided promptly at any time upon request by the Commission. Such records and reports may include—

''(I) a balance sheet and income statement;

''(II) an assessment of the consolidated capital of the supervised investment bank holding company;

''(III) an independent auditor's report attesting to the supervised investment bank holding company's compliance with its internal risk management and internal control objectives; and

''(IV) reports concerning the extent to which the company or affiliate has complied with the provisions of this title and any regulations prescribed and orders issued under this title.

''(B) USE OF EXISTING REPORTS.—

''(i) IN GENERAL.—The Commission shall, to the fullest extent possible, accept reports in fulfillment of the requirements under this paragraph that the supervised investment bank holding company or its affiliates have been required to provide to another appropriate regulatory agency or self-regulatory organization.

''(ii) AVAILABILITY.—A supervised investment bank holding company or an affiliate of such company shall provide to the Commission, at the request of the Commission, any report referred to in clause (i).

''(C) EXAMINATION AUTHORITY.—

''(i) FOCUS OF EXAMINATION AUTHORITY.—The Commission may make examinations of any supervised investment bank holding company and any affiliate of such company in order to—

''(I) inform the Commission regarding—

''(aa) the nature of the operations and financial condition of the supervised investment bank holding company and its affiliates;

''(bb) the financial and operational risks within the supervised investment bank holding company that may affect any broker or dealer controlled by such supervised investment bank holding company; and

''(cc) the systems of the supervised investment bank holding company and its affiliates for monitoring and controlling those risks; and

''(II) monitor compliance with the provisions of this subsection, provisions governing transactions and relationships between any broker or dealer affiliated with the supervised investment bank holding company and any of the company's other affiliates, and applicable provisions of subchapter II of chapter 53, title 31, United States Code (commonly referred to as the 'Bank Secrecy Act') and regulations thereunder.

''(ii) RESTRICTED FOCUS OF EXAMINATIONS.—The Commission shall limit the focus and scope of any examination of a supervised investment bank holding company to—

''(I) the company; and

''(II) any affiliate of the company that, because of its size, condition, or activities, the nature or size of the transactions between such affiliate and any affiliated broker or dealer, or the centralization of functions within the holding company system, could, in the discretion of the Commission, have a materially adverse effect on the operational or financial condition of the broker or dealer.

''(iii) DEFERENCE TO OTHER EXAMINATIONS.—For purposes of this subparagraph, the Commission shall, to the fullest extent possible, use the reports of examination of an institution described in subparagraph (D), (F), or (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956 made by the appropriate regulatory agency, or of a licensed insurance company made by the appropriate State insurance regulator.

''(4) HOLDING COMPANY CAPITAL.—

''(A) AUTHORITY.—If the Commission finds that it is necessary to adequately supervise investment bank holding companies and their broker or dealer affiliates consistent with the purposes of this subsection, the Commission may adopt capital adequacy rules for supervised investment bank holding companies.

''(B) METHOD OF CALCULATION.—In developing rules under this paragraph:

''(i) DOUBLE LEVERAGE.—The Commission shall consider the use by the supervised investment bank holding company of debt and other liabilities to fund capital investments in affiliates.

''(ii) NO UNWEIGHTED CAPITAL RATIO.—The Commission shall not impose under this section a capital ratio that is not based on appropriate risk-weighting considerations.

''(iii) NO CAPITAL REQUIREMENT ON REGULATED ENTITIES.—The Commission shall not, by rule, regulation, guideline, order or otherwise, impose any capital adequacy provision on a nonbanking affiliate (other than a broker or dealer) that is in compliance with applicable capital requirements of another Federal regulatory authority or State insurance authority.

''(iv) APPROPRIATE EXCLUSIONS.—The Commission shall take full account of the applicable capital requirements of another Federal regulatory authority or State insurance regulator.

''(C) INTERNAL RISK MANAGEMENT MODELS.—The Commission may incorporate internal risk management models into its capital adequacy rules for supervised investment bank holding companies.

''(5) FUNCTIONAL REGULATION OF BANKING AND INSURANCE ACTIVITIES OF SUPERVISED INVESTMENT BANK HOLDING COMPANIES.—The Commission shall defer to—

''(A) the appropriate regulatory agency with regard to all interpretations of, and the enforcement of, applicable banking laws relating to the activities, conduct, ownership, and operations of banks, and institutions described in subparagraph (D), (F), and (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956; and

''(B) the appropriate State insurance regulators with regard to all interpretations of, and the enforcement of, applicable State insurance laws relating to the activities, conduct, and operations of insurance companies and insurance agents.

''(6) DEFINITIONS.—For purposes of this subsection and subsection (j)—

''(A) the term 'investment bank holding company' means—

''(i) any person other than a natural person that owns or controls one or more brokers or dealers; and

''(ii) the associated persons of the investment bank holding company;

''(B) the term 'supervised investment bank holding company' means any investment bank holding company that is supervised by the Commission pursuant to this subsection;

''(C) the terms 'affiliate', 'bank', 'bank holding company', 'company', 'control', and 'savings association' have the same meanings as in section 2 of the Bank Holding Company Act of 1956;

''(D) the term 'insured bank' has the same meaning as in section 3 of the Federal Deposit Insurance Act;

''(E) the term 'foreign bank' has the same meaning as in section 1(b)(7) of the International Banking Act of 1978; and

''(F) the terms 'person associated with an investment bank holding company' and 'associated person of an investment bank holding company' mean any person directly or indirectly controlling, controlled by, or under common control with, an investment bank holding company.

''(j) COMMISSION BACKUP AUTHORITY.—

''(1) AUTHORITY.—The Commission may make inspections of any wholesale financial holding company that—

''(A) controls a wholesale financial institution;

''(B) is not a foreign bank; and

''(C) does not control an insured bank (other than an institution permitted under subparagraph (D), (F), or (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956) or a savings association,

and any affiliate of such company, for the purpose of monitoring and enforcing compliance by the wholesale financial holding company with the Federal securities laws.

''(2) LIMITATION.—The Commission shall limit the focus and scope of any inspection under paragraph (1) to those transactions, policies, procedures, or records that are reasonably necessary to monitor and enforce compliance by the wholesale financial holding company or any affiliate with the Federal securities laws.

''(3) DEFERENCE TO EXAMINATIONS.—To the fullest extent possible, the Commission shall use, for the purposes of this subsection, the reports of examinations—

''(A) made by the Board of Governors of the Federal Reserve System of any wholesale financial holding company that is supervised by the Board;

''(B) made by or on behalf of any State regulatory agency responsible for the supervision of an insurance company of any licensed insurance company; and

''(C) made by any Federal or State banking agency of any bank or institution described in subparagraph (D), (F), or (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956.

''(4) NOTICE.—To the fullest extent possible, the Commission shall notify the appropriate regulatory agency prior to conducting an inspection of a wholesale financial institution or institution described in subparagraph (D), (F), or (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956.

''(k) AUTHORITY TO LIMIT DISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, the Commission shall not be compelled to disclose any information required to be reported under subsection (h) or (i) or any information supplied to the Commission by any domestic or foreign regulatory agency that relates to the financial or operational condition of any associated person of a broker or dealer, investment bank holding company, or any affiliate of an investment bank holding company. Nothing in this subsection shall authorize the Commission to withhold information from Congress, or prevent the Commission from complying with a request for information from any other Federal department or agency or any self-regulatory organization requesting the information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission. For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552. In prescribing regulations to carry out the requirements of this subsection, the Commission shall designate information described in or obtained pursuant to subparagraphs (A), (B), and (C) of subsection (i)(5) as confidential information for purposes of section 24(b)(2) of this title.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 3(a)(34) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(34)) is amended by adding at the end the following new subparagraphs:

''(H) When used with respect to an institution described in subparagraph (D), (F), or (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956—

''(i) the Comptroller of the Currency, in the case of a national bank or a bank in the District of Columbia examined by the Comptroller of the Currency;

''(ii) the Board of Governors of the Federal Reserve System, in the case of a State member bank of the Federal Reserve System or any corporation chartered under section 25A of the Federal Reserve Act;

''(iii) the Federal Deposit Insurance Corporation, in the case of any other bank the deposits of which are insured in accordance with the Federal Deposit Insurance Act; or

''(iv) the Commission in the case of all other such institutions.''.

(2) Section 1112(e) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412(e)) is amended—

(A) by striking ''this title'' and inserting ''law''; and

(B) by inserting '', examination reports'' after ''financial records''.

Subtitle D—Studies

SEC. 241. STUDY OF METHODS TO INFORM INVESTORS AND CONSUMERS OF UNINSURED PRODUCTS.

Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress regarding the efficacy, costs, and benefits of requiring that any depository institution that accepts federally insured deposits and that, directly or through a contractual or other arrangement with a broker, dealer, or agent, buys from, sells to, or effects transactions for retail investors in securities or consumers of insurance to inform such investors and consumers through the use of a logo or seal that the security or insurance is not insured by the Federal Deposit Insurance Corporation.

SEC. 242. STUDY OF LIMITATION ON FEES ASSOCIATED WITH ACQUIRING FINANCIAL PRODUCTS.

Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress regarding the efficacy and benefits of uniformly limiting any commissions, fees, markups, or other costs incurred by customers in the acquisition of financial products.

TITLE III—INSURANCE

Subtitle A—State Regulation of Insurance

SEC. 301. STATE REGULATION OF THE BUSINESS OF INSURANCE.

The Act entitled ''An Act to express the intent of the Congress with reference to the regulation

of the business of insurance'' and approved March 9, 1945 (15 U.S.C. 1011 et seq.), commonly referred to as the ''McCarran-Ferguson Act'') remains the law of the United States.

SEC. 302. MANDATORY INSURANCE LICENSING REQUIREMENTS.

No person or entity shall provide insurance in a State as principal or agent unless such person or entity is licensed as required by the appropriate insurance regulator of such State in accordance with the relevant State insurance law, subject to section 104 of this Act.

SEC. 303. FUNCTIONAL REGULATION OF INSURANCE.

The insurance sales activity of any person or entity shall be functionally regulated by the States, subject to section 104 of this Act.

SEC. 304. INSURANCE UNDERWRITING IN NATIONAL BANKS.

(a) IN GENERAL.—Except as provided in section 306, a national bank and the subsidiaries of a national bank may not provide insurance in a State as principal except that this prohibition shall not apply to authorized products.

(b) AUTHORIZED PRODUCTS.—For the purposes of this section, a product is authorized if—

(1) as of January 1, 1997, the Comptroller of the Currency had determined in writing that national banks may provide such product as principal, or national banks were in fact lawfully providing such product as principal;

(2) no court of relevant jurisdiction had, by final judgment, overturned a determination of the Comptroller of the Currency that national banks may provide such product as principal; and

(3) the product is not title insurance, or an annuity contract the income of which is subject to tax treatment under section 72 of the Internal Revenue Code of 1986.

(c) DEFINITION.—For purposes of this section, the term ''insurance'' means—

(1) any product regulated as insurance as of January 1, 1997, in accordance with the relevant State insurance law, in the State in which the product is provided;

(2) any product first offered after January 1, 1997, which—

(A) a State insurance regulator determines shall be regulated as insurance in the State in which the product is provided because the product insures, guarantees, or indemnifies against liability, loss of life, loss of health, or loss through damage to or destruction of property, including, but not limited to, surety bonds, life insurance, health insurance, title insurance, and property and casualty insurance (such as private passenger or commercial automobile, homeowners, mortgage, commercial multiperil, general liability, professional liability, workers' compensation, fire and allied lines, farm owners multiperil, aircraft, fidelity, surety, medical malpractice, ocean marine, inland marine, and boiler and machinery insurance); and

(B) is not a product or service of a bank that is—

(i) a deposit product;

(ii) a loan, discount, letter of credit, or other extension of credit;

(iii) a trust or other fiduciary service;

(iv) a qualified financial contract (as defined in or determined pursuant to section 11(e)(8)(D)(i) of the Federal Deposit Insurance Act); or

(v) a financial guaranty, except that this subparagraph (B) shall not apply to a product that includes an insurance component such that if the product is offered or proposed to be offered by the bank as principal—

(I) it would be treated as a life insurance contract under section 7702 of the Internal Revenue Code of 1986; or

(II) in the event that the product is not a letter of credit or other similar extension of credit, a qualified financial contract, or a financial guaranty, it would qualify for treatment for losses incurred with respect to such product under section 832(b)(5) of the Internal Revenue Code of 1986, if the bank were subject to tax as an insurance company under section 831 of that Code; or

(3) any annuity contract, the income on which is subject to tax treatment under section 72 of the Internal Revenue Code of 1986.

SEC. 305. TITLE INSURANCE ACTIVITIES OF NATIONAL BANKS AND THEIR AFFILIATES.

(a) AUTHORITY.—Notwithstanding any other provision of this Act or any other law, no national bank, and no subsidiary of a national bank, may engage in any activity involving the underwriting of title insurance, other than title insurance underwriting activities in which such national bank or subsidiary was actively and lawfully engaged before the date of the enactment of this Act.

(b) INSURANCE AFFILIATE.—In the case of a national bank which has an affiliate which provides insurance as principal and is not a subsidiary of the bank, the national bank and any subsidiary of the national bank may not engage in any activity involving the underwriting of title insurance pursuant to subsection (a).

(c) INSURANCE SUBSIDIARY.—In the case of a national bank which has a subsidiary which provides insurance as principal and has no affiliate which provides insurance as principal and is not a subsidiary, the national bank may not engage in any activity involving the underwriting of title insurance pursuant to subsection (a).

(d) ''AFFILIATE'' AND ''SUBSIDIARY'' DEFINED.—For purposes of this section, the terms ''affiliate'' and ''subsidiary'' have the same meanings as in section 2 of the Bank Holding Company Act of 1956.

SEC. 306. EXPEDITED AND EQUALIZED DISPUTE RESOLUTION FOR FINANCIAL REGULATORS.

(a) FILING IN COURT OF APPEAL.—In the case of a regulatory conflict between a State insurance regulator and a Federal regulator as to whether any product is or is not insurance as defined in section 304(c) of this Act, or whether a State statute, regulation, order, or interpretation regarding any insurance sales or solicitation activity is properly treated as preempted under Federal law, either regulator may seek expedited judicial review of such determination by the United States Court of Appeals for the circuit in which the State is located or in the United States Court of Appeals for the District of Columbia Circuit by filing a petition for review in such court.

(b) EXPEDITED REVIEW.—The United States court of appeals in which a petition for review is filed in accordance with paragraph (1) shall complete all action on such petition, including rendering a judgment, before the end of the 60-day period beginning on the date such petition is filed, unless all parties to such proceeding agree to any extension of such period.

(c) SUPREME COURT REVIEW.—Any request for certiorari to the Supreme Court of the United States of any judgment of a United States court of appeals with respect to a petition for review under this section shall be filed with the United States Supreme Court as soon as practicable after such judgment is issued.

(d) STATUTE OF LIMITATION.—No action may be filed under this section challenging an order, ruling, determination, or other action of a Federal financial regulator or State insurance regulator after the later of—

(1) the end of the 12-month period beginning on the date the first public notice is made of such order, ruling, or determination in its final form; or

(2) the end of the 6-month period beginning on the date such order, ruling, or determination takes effect.

(e) STANDARD OF REVIEW.—The court shall decide an action filed under this section based on its review on the merits of all questions presented under State and Federal law, including the nature of the product or activity and the history and purpose of its regulation under State and Federal law, without unequal deference.

SEC. 307. CONSUMER PROTECTION REGULATIONS.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

''SEC. 45. CONSUMER PROTECTION REGULATIONS.

''(a) REGULATIONS REQUIRED.—

''(1) IN GENERAL.—The Federal banking agencies shall prescribe and publish in final form, before the end of the 1-year period beginning on the date of the enactment of this Act, consumer protection regulations (which the agencies jointly determine to be appropriate) that—

''(A) apply to retail sales practices, solicitations, advertising, or offers of any insurance product by any insured depository institution or wholesale financial institution or any person who is engaged in such activities at an office of the institution or on behalf of the institution; and

''(B) are consistent with the requirements of this Act and provide such additional protections for consumers to whom such sales, solicitations, advertising, or offers are directed as the agency determines to be appropriate.

''(2) APPLICABILITY TO SUBSIDIARIES.—The regulations prescribed pursuant to paragraph (1) shall extend such protections to any subsidiaries of an insured depository institution, as deemed appropriate by the regulators referred to in paragraph (3), where such extension is determined to be necessary to ensure the consumer protections provided by this section.

''(3) CONSULTATION AND JOINT REGULATIONS.—The Federal banking agencies shall consult with each other and prescribe joint regulations pursuant to paragraph (1), after consultation with the State insurance regulators, as appropriate.

''(b) SALES PRACTICES.—The regulations prescribed pursuant to subsection (a) shall include anticoercion rules applicable to the sale of insurance products which prohibit an insured depository institution from engaging in any practice that would lead a consumer to believe an extension of credit, in violation of section 106(b) of the Bank Holding Company Act Amendments of 1970, is conditional upon—

''(1) the purchase of an insurance product from the institution or any of its affiliates or subsidiaries; or

''(2) an agreement by the consumer not to obtain, or a prohibition on the consumer from obtaining, an insurance product from an unaffiliated entity.

''(c) DISCLOSURES AND ADVERTISING.—The regulations prescribed pursuant to subsection (a) shall include the following provisions relating to disclosures and advertising in connection with the initial purchase of an insurance product:

''(1) DISCLOSURES.—

''(A) IN GENERAL.—Requirements that the following disclosures be made orally and in writing before the completion of the initial sale and, in the case of clause (iv), at the time of application for an extension of credit:

''(i) UNINSURED STATUS.—As appropriate, the product is not insured by the Federal Deposit Insurance Corporation, the United States Government, or the insured depository institution.

''(ii) INVESTMENT RISK.—In the case of a variable annuity or other insurance product which involves an investment risk, that there is an investment risk associated with the product, including possible loss of value.

''(iii) COERCION.—The approval of an extension of credit may not be conditioned on—

''(I) the purchase of an insurance product from the institution in which the application for credit is pending or any of its affiliates or subsidiaries; or

''(II) an agreement by the consumer not to obtain, or a prohibition on the consumer from obtaining, an insurance product from an unaffiliated entity.

''(B) MAKING DISCLOSURE READILY UNDERSTANDABLE.—Regulations prescribed under subparagraph (A) shall encourage the use of disclosure that is conspicuous, simple, direct, and readily understandable, such as the following:

''(i) 'NOT FDIC–INSURED'.

''(ii) 'NOT GUARANTEED BY THE BANK'.

''(iii) 'MAY GO DOWN IN VALUE'.

''(C) ADJUSTMENTS FOR ALTERNATIVE METHODS OF PURCHASE.—In prescribing the requirements under subparagraphs (A) and (D), necessary adjustments shall be made for purchase in person, by telephone, or by electronic media to provide for the most appropriate and complete form of disclosure and acknowledgments.

''(D) CONSUMER ACKNOWLEDGMENT.—A requirement that an insured depository institution shall require any person selling an insurance product at any office of, or on behalf of, the institution to obtain, at the time a consumer receives the disclosures required under this paragraph or at the time of the initial purchase by the consumer of such product, an acknowledgment by such consumer of the receipt of the disclosure required under this subsection with respect to such product.

''(2) PROHIBITION ON MISREPRESENTATIONS.—A prohibition on any practice, or any advertising, at any office of, or on behalf of, the insured depository institution, or any subsidiary as appropriate, which could mislead any person or otherwise cause a reasonable person to reach an erroneous belief with respect to—

''(A) the uninsured nature of any insurance product sold, or offered for sale, by the institution or any subsidiary of the institution; or

''(B) in the case of a variable annuity or other insurance product that involves an investment risk, the investment risk associated with any such product.

''(d) SEPARATION OF BANKING AND NONBANKING ACTIVITIES.—

''(1) REGULATIONS REQUIRED.—The regulations prescribed pursuant to subsection (a) shall include such provisions as the Federal banking agencies consider appropriate to ensure that the routine acceptance of deposits is kept, to the extent practicable, physically segregated from insurance product activity.

''(2) REQUIREMENTS.—Regulations prescribed pursuant to paragraph (1) shall include the following requirements:

''(A) SEPARATE SETTING.—A clear delineation of the setting in which, and the circumstances under which, transactions involving insurance products should be conducted in a location physically segregated from an area where retail deposits are routinely accepted.

''(B) REFERRALS.—Standards which permit any person accepting deposits from the public in an area where such transactions are routinely conducted in an insured depository institution to refer a customer who seeks to purchase any insurance product to a qualified person who sells such product, only if the person making the referral receives no more than a one-time nominal fee of a fixed dollar amount for each referral that does not depend on whether the referral results in a transaction.

''(C) QUALIFICATION AND LICENSING REQUIREMENTS.—Standards prohibiting any insured depository institution from permitting any person to sell or offer for sale any insurance product in any part of any office of the institution, or on behalf of the institution, unless such person is appropriately qualified and licensed.

''(e) DOMESTIC VIOLENCE DISCRIMINATION PROHIBITION.—

''(1) IN GENERAL.—In the case of an applicant for, or an insured under, any insurance product described in paragraph (2), the status of the applicant or insured as a victim of domestic violence, or as a provider of services to victims of domestic violence, shall not be considered as a criterion in any decision with regard to insurance underwriting, pricing, renewal, or scope of coverage of insurance policies, or payment of insurance claims, except as required or expressly permitted under State law.

''(2) SCOPE OF APPLICATION.—The prohibition contained in paragraph (1) shall apply to any insurance product which is sold or offered for sale, as principal, agent, or broker, by any insured depository institution or any person who is engaged in such activities at an office of the institution or on behalf of the institution.

''(3) SENSE OF THE CONGRESS.—It is the sense of the Congress that, by the end of the 30-month period beginning on the date of the enactment of this Act, the States should enact prohibitions against discrimination with respect to insurance products that are at least as strict as the prohibitions contained in paragraph (1).

''(4) DOMESTIC VIOLENCE DEFINED.—For purposes of this subsection, the term 'domestic violence' means the occurrence of 1 or more of the following acts by a current or former family member, household member, intimate partner, or caretaker:

''(A) Attempting to cause or causing or threatening another person physical harm, severe emotional distress, psychological trauma, rape, or sexual assault.

''(B) Engaging in a course of conduct or repeatedly committing acts toward another person, including following the person without proper authority, under circumstances that place the person in reasonable fear of bodily injury or physical harm.

''(C) Subjecting another person to false imprisonment.

''(D) Attempting to cause or cause damage to property so as to intimidate or attempt to control the behavior of another person.

''(f) CONSUMER GRIEVANCE PROCESS.—The Federal banking agencies shall jointly establish a consumer complaint mechanism, for receiving and expeditiously addressing consumer complaints alleging a violation of regulations issued under the section, which shall—

''(1) establish a group within each regulatory agency to receive such complaints;

''(2) develop procedures for investigating such complaints;

''(3) develop procedures for informing consumers of rights they may have in connection with such complaints; and

''(4) develop procedures for addressing concerns raised by such complaints, as appropriate, including procedures for the recovery of losses to the extent appropriate.

''(g) EFFECT ON OTHER AUTHORITY.—

''(1) IN GENERAL.—No provision of this section shall be construed as granting, limiting, or otherwise affecting—

''(A) any authority of the Securities and Exchange Commission, any self-regulatory organization, the Municipal Securities Rulemaking Board, or the Secretary of the Treasury under any Federal securities law; or

''(B) except as provided in paragraph (2), any authority of any State insurance commissioner or other State authority under any State law.

''(2) COORDINATION WITH STATE LAW.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), regulations prescribed by a Federal banking agency under this section shall not apply to retail sales, solicitations, advertising, or offers of any insurance product by any insured depository institution or wholesale financial institution or to any person who is engaged in such activities at an office of such institution or on behalf of the institution, in a State where the State has in effect statutes, regulations, orders, or interpretations, that are inconsistent with or contrary to the regulations prescribed by the Federal banking agencies.

''(B) PREEMPTION.—If, with respect to any provision of the regulations prescribed under this section, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Board of Directors of the Federal Deposit Insurance Corporation determine jointly that the protection afforded by such provision for consumers is greater than the protection provided by a comparable provision of the statutes, regulations, orders, or interpretations referred to in subparagraph (A) of any State, such provision of the regulations prescribed under this section shall supersede the comparable provision of such State statute, regulation, order, or interpretation.

''(h) INSURANCE PRODUCT DEFINED.—For purposes of this section, the term 'insurance product' includes an annuity contract the income of which is subject to tax treatment under section 72 of the Internal Revenue Code of 1986.''.

SEC. 308. CERTAIN STATE AFFILIATION LAWS PREEMPTED FOR INSURANCE COMPANIES AND AFFILIATES.

Except as provided in section 104(a)(2), no State may, by law, regulation, order, interpretation, or otherwise—

(1) prevent or significantly interfere with the ability of any insurer, or any affiliate of an insurer (whether such affiliate is organized as a stock company, mutual holding company, or otherwise), to become a financial holding company or to acquire control of an insured depository institution;

(2) limit the amount of an insurer's assets that may be invested in the voting securities of an insured depository institution (or any company which controls such institution), except that the laws of an insurer's State of domicile may limit the amount of such investment to an amount that is not less than 5 percent of the insurer's admitted assets; or

(3) prevent, significantly interfere with, or have the authority to review, approve, or disapprove a plan of reorganization by which an insurer proposes to reorganize from mutual form to become a stock insurer (whether as a direct or indirect subsidiary of a mutual holding company or otherwise) unless such State is the State of domicile of the insurer.

Subtitle B—National Association of Registered Agents and Brokers

SEC. 321. STATE FLEXIBILITY IN MULTISTATE LICENSING REFORMS.

(a) IN GENERAL.—The provisions of this subtitle shall take effect unless, not later than 3 years after the date of enactment of this Act, at least a majority of the States—

(1) have enacted uniform laws and regulations governing the licensure of individuals and entities authorized to sell and solicit the purchase of insurance within the State; or

(2) have enacted reciprocity laws and regulations governing the licensure of nonresident individuals and entities authorized to sell and solicit insurance within those States.

(b) UNIFORMITY REQUIRED.—States shall be deemed to have established the uniformity necessary to satisfy subsection (a)(1) if the States—

(1) establish uniform criteria regarding the integrity, personal qualifications, education, training, and experience of licensed insurance producers, including the qualification and training of sales personnel in ascertaining the appropriateness of a particular insurance product for a prospective customer;

(2) establish uniform continuing education requirements for licensed insurance producers;

(3) establish uniform ethics course requirements for licensed insurance producers in conjunction with the continuing education requirements under paragraph (2);

(4) establish uniform criteria to ensure that an insurance product, including any annuity contract, sold to a consumer is suitable and appropriate for the consumer based on financial information disclosed by the consumer; and

(5) do not impose any requirement upon any insurance producer to be licensed or otherwise qualified to do business as a nonresident that has the effect of limiting or conditioning that producer's activities because of its residence or place of operations, except that counter-signature requirements imposed on nonresident producers shall not be deemed to have the effect of

limiting or conditioning a producer's activities because of its residence or place of operations under this section.

(c) RECIPROCITY REQUIRED.—States shall be deemed to have established the reciprocity required to satisfy subsection (a)(2) if the following conditions are met:

(1) ADMINISTRATIVE LICENSING PROCEDURES.—At least a majority of the States permit a producer that has a resident license for selling or soliciting the purchase of insurance in its home State to receive a license to sell or solicit the purchase of insurance in such majority of States as a nonresident to the same extent that such producer is permitted to sell or solicit the purchase of insurance in its State, if the producer's home State also awards such licenses on such a reciprocal basis, without satisfying any additional requirements other than submitting—

(A) a request for licensure;

(B) the application for licensure that the producer submitted to its home State;

(C) proof that the producer is licensed and in good standing in its home State; and

(D) the payment of any requisite fee to the appropriate authority.

(2) CONTINUING EDUCATION REQUIREMENTS.—A majority of the States accept an insurance producer's satisfaction of its home State's continuing education requirements for licensed insurance producers to satisfy the States' own continuing education requirements if the producer's home State also recognizes the satisfaction of continuing education requirements on such a reciprocal basis.

(3) NO LIMITING NONRESIDENT REQUIREMENTS.—A majority of the States do not impose any requirement upon any insurance producer to be licensed or otherwise qualified to do business as a nonresident that has the effect of limiting or conditioning that producer's activities because of its residence or place of operations, except that countersignature requirements imposed on nonresident producers shall not be deemed to have the effect of limiting or conditioning a producer's activities because of its residence or place of operations under this section.

(4) RECIPROCAL RECIPROCITY.—Each of the States that satisfies paragraphs (1), (2), and (3) grants reciprocity to residents of all of the other States that satisfy such paragraphs.

(d) DETERMINATION.—

(1) NAIC DETERMINATION.—At the end of the 3-year period beginning on the date of the enactment of this Act, the National Association of Insurance Commissioners shall determine, in consultation with the insurance commissioners or chief insurance regulatory officials of the States, whether the uniformity or reciprocity required by subsections (b) and (c) has been achieved.

(2) JUDICIAL REVIEW.—The appropriate United States district court shall have exclusive jurisdiction over any challenge to the National Association of Insurance Commissioners' determination under this section and such court shall apply the standards set forth in section 706 of title 5, United States Code, when reviewing any such challenge.

(e) CONTINUED APPLICATION.—If, at any time, the uniformity or reciprocity required by subsections (b) and (c) no longer exists, the provisions of this subtitle shall take effect 2 years after that date, unless the uniformity or reciprocity required by those provisions is satisfied before the expiration of that 2-year period.

(f) SAVINGS PROVISION.—No provision of this section shall be construed as requiring that any law, regulation, provision, or action of any State which purports to regulate insurance producers, including any such law, regulation, provision, or action which purports to regulate unfair trade practices or establish consumer protections, including countersignature laws, be altered or amended in order to satisfy the uniformity or reciprocity required by subsections (b) and (c), unless any such law, regulation, provision, or action is inconsistent with a specific requirement of any such subsection and then only to the extent of such inconsistency.

(g) UNIFORM LICENSING.—Nothing in this section shall be construed to require any State to adopt new or additional licensing requirements to achieve the uniformity necessary to satisfy subsection (a)(1).

SEC. 322. NATIONAL ASSOCIATION OF REGISTERED AGENTS AND BROKERS.

(a) ESTABLISHMENT.—There is established the National Association of Registered Agents and Brokers (hereafter in this subtitle referred to as the ''Association'').

(b) STATUS.—The Association shall—

(1) be a nonprofit corporation;

(2) have succession until dissolved by an Act of Congress;

(3) not be an agent or instrumentality of the United States Government; and

(4) except as otherwise provided in this Act, be subject to, and have all the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29y–1001 et seq.).

SEC. 323. PURPOSE.

The purpose of the Association shall be to provide a mechanism through which uniform licensing, appointment, continuing education, and other insurance producer sales qualification requirements and conditions can be adopted and applied on a multistate basis, while preserving the right of States to license, supervise, and discipline insurance producers and to prescribe and enforce laws and regulations with regard to insurance-related consumer protection and unfair trade practices.

SEC. 324. RELATIONSHIP TO THE FEDERAL GOVERNMENT.

The Association shall be subject to the supervision and oversight of the National Association of Insurance Commissioners (hereafter in this subtitle referred to as the ''NAIC'').

SEC. 325. MEMBERSHIP.

(a) ELIGIBILITY.—

(1) IN GENERAL.—Any State-licensed insurance producer shall be eligible to become a member in the Association.

(2) INELIGIBILITY FOR SUSPENSION OR REVOCATION OF LICENSE.—Notwithstanding paragraph (1), a State-licensed insurance producer shall not be eligible to become a member if a State insurance regulator has suspended or revoked such producer's license in that State during the 3-year period preceding the date on which such producer applies for membership.

(3) RESUMPTION OF ELIGIBILITY.—Paragraph (2) shall cease to apply to any insurance producer if—

(A) the State insurance regulator renews the license of such producer in the State in which the license was suspended or revoked; or

(B) the suspension or revocation is subsequently overturned.

(b) AUTHORITY TO ESTABLISH MEMBERSHIP CRITERIA.—The Association shall have the authority to establish membership criteria that—

(1) bear a reasonable relationship to the purposes for which the Association was established; and

(2) do not unfairly limit the access of smaller agencies to the Association membership.

(c) ESTABLISHMENT OF CLASSES AND CATEGORIES.—

(1) CLASSES OF MEMBERSHIP.—The Association may establish separate classes of membership, with separate criteria, if the Association reasonably determines that performance of different duties requires different levels of education, training, or experience.

(2) CATEGORIES.—The Association may establish separate categories of membership for individuals and for other persons. The establishment of any such categories of membership shall be based either on the types of licensing categories that exist under State laws or on the aggregate amount of business handled by an insurance producer. No special categories of membership, and no distinct membership criteria, shall be established for members which are insured depository institutions or wholesale financial institutions or for their employees, agents, or affiliates.

(d) MEMBERSHIP CRITERIA.—

(1) IN GENERAL.—The Association may establish criteria for membership which shall include standards for integrity, personal qualifications, education, training, and experience.

(2) MINIMUM STANDARD.—In establishing criteria under paragraph (1), the Association shall consider the highest levels of insurance producer qualifications established under the licensing laws of the States.

(e) EFFECT OF MEMBERSHIP.—Membership in the Association shall entitle the member to licensure in each State for which the member pays the requisite fees, including licensing fees and, where applicable, bonding requirements, set by such State.

(f) ANNUAL RENEWAL.—Membership in the Association shall be renewed on an annual basis.

(g) CONTINUING EDUCATION.—The Association shall establish, as a condition of membership, continuing education requirements which shall be comparable to or greater than the continuing education requirements under the licensing laws of a majority of the States.

(h) SUSPENSION AND REVOCATION.—The Association may—

(1) inspect and examine the records and offices of the members of the Association to determine compliance with the criteria for membership established by the Association; and

(2) suspend or revoke the membership of an insurance producer if—

(A) the producer fails to meet the applicable membership criteria of the Association; or

(B) the producer has been subject to disciplinary action pursuant to a final adjudicatory proceeding under the jurisdiction of a State insurance regulator, and the Association concludes that retention of membership in the Association would not be in the public interest.

(i) OFFICE OF CONSUMER COMPLAINTS.—

(1) IN GENERAL.—The Association shall establish an office of consumer complaints that shall—

(A) receive and investigate complaints from both consumers and State insurance regulators related to members of the Association; and

(B) recommend to the Association any disciplinary actions that the office considers appropriate, to the extent that any such recommendation is not inconsistent with State law.

(2) RECORDS AND REFERRALS.—The office of consumer complaints of the Association shall—

(A) maintain records of all complaints received in accordance with paragraph (1) and make such records available to the NAIC and to each State insurance regulator for the State of residence of the consumer who filed the complaint; and

(B) refer, when appropriate, any such complaint to any appropriate State insurance regulator.

(3) TELEPHONE AND OTHER ACCESS.—The office of consumer complaints shall maintain a toll-free telephone number for the purpose of this subsection and, as practicable, other alternative means of communication with consumers, such as an Internet home page.

SEC. 326. BOARD OF DIRECTORS.

(a) ESTABLISHMENT.—There is established the board of directors of the Association (hereafter in this subtitle referred to as the ''Board'') for the purpose of governing and supervising the activities of the Association and the members of the Association.

(b) POWERS.—The Board shall have such powers and authority as may be specified in the bylaws of the Association.

(c) COMPOSITION.—

(1) MEMBERS.—The Board shall be composed of 7 members appointed by the NAIC.

(2) REQUIREMENT.—At least 4 of the members of the Board shall have significant experience

with the regulation of commercial lines of insurance in at least 1 of the 20 States in which the greatest total dollar amount of commercial-lines insurance is placed in the United States.

(3) INITIAL BOARD MEMBERSHIP.—

(A) IN GENERAL.—If, by the end of the 2-year period beginning on the date of enactment of this Act, the NAIC has not appointed the initial 7 members of the Board of the Association, the initial Board shall consist of the 7 State insurance regulators of the 7 States with the greatest total dollar amount of commercial-lines insurance in place as of the end of such period.

(B) ALTERNATE COMPOSITION.—If any of the State insurance regulators described in subparagraph (A) declines to serve on the Board, the State insurance regulator with the next greatest total dollar amount of commercial-lines insurance in place, as determined by the NAIC as of the end of such period, shall serve as a member of the Board.

(C) INOPERABILITY.—If fewer than 7 State insurance regulators accept appointment to the Board, the Association shall be established without NAIC oversight pursuant to section 332.

(d) TERMS.—The term of each director shall, after the initial appointment of the members of the Board, be for 3 years, with ⅓ of the directors to be appointed each year.

(e) BOARD VACANCIES.—A vacancy on the Board shall be filled in the same manner as the original appointment of the initial Board for the remainder of the term of the vacating member.

(f) MEETINGS.—The Board shall meet at the call of the chairperson, or as otherwise provided by the bylaws of the Association.

SEC. 327. OFFICERS.

(a) IN GENERAL.—

(1) POSITIONS.—The officers of the Association shall consist of a chairperson and a vice chairperson of the Board, a president, secretary, and treasurer of the Association, and such other officers and assistant officers as may be deemed necessary.

(2) MANNER OF SELECTION.—Each officer of the Board and the Association shall be elected or appointed at such time and in such manner and for such terms not exceeding 3 years as may be prescribed in the bylaws of the Association.

(b) CRITERIA FOR CHAIRPERSON.—Only individuals who are members of the NAIC shall be eligible to serve as the chairperson of the board of directors.

SEC. 328. BYLAWS, RULES, AND DISCIPLINARY ACTION.

(a) ADOPTION AND AMENDMENT OF BYLAWS.—

(1) COPY REQUIRED TO BE FILED WITH THE NAIC.—The board of directors of the Association shall file with the NAIC a copy of the proposed bylaws or any proposed amendment to the bylaws, accompanied by a concise general statement of the basis and purpose of such proposal.

(2) EFFECTIVE DATE.—Except as provided in paragraph (3), any proposed bylaw or proposed amendment shall take effect—

(A) 30 days after the date of the filing of a copy with the NAIC;

(B) upon such later date as the Association may designate; or

(C) such earlier date as the NAIC may determine.

(3) DISAPPROVAL BY THE NAIC.—Notwithstanding paragraph (2), a proposed bylaw or amendment shall not take effect if, after public notice and opportunity to participate in a public hearing—

(A) the NAIC disapproves such proposal as being contrary to the public interest or contrary to the purposes of this subtitle and provides notice to the Association setting forth the reasons for such disapproval; or

(B) the NAIC finds that such proposal involves a matter of such significant public interest that public comment should be obtained, in which case it may, after notifying the Association in writing of such finding, require that the procedures set forth in subsection (b) be followed with respect to such proposal, in the same manner as if such proposed bylaw change were a proposed rule change within the meaning of such paragraph.

(b) ADOPTION AND AMENDMENT OF RULES.—

(1) FILING PROPOSED REGULATIONS WITH THE NAIC.—

(A) IN GENERAL.—The board of directors of the Association shall file with the NAIC a copy of any proposed rule or any proposed amendment to a rule of the Association which shall be accompanied by a concise general statement of the basis and purpose of such proposal.

(B) OTHER RULES AND AMENDMENTS INEFFECTIVE.—No proposed rule or amendment shall take effect unless approved by the NAIC or otherwise permitted in accordance with this paragraph.

(2) INITIAL CONSIDERATION BY THE NAIC.—Not later than 35 days after the date of publication of notice of filing of a proposal, or before the end of such longer period not to exceed 90 days as the NAIC may designate after such date, if the NAIC finds such longer period to be appropriate and sets forth its reasons for so finding, or as to which the Association consents, the NAIC shall—

(A) by order approve such proposed rule or amendment; or

(B) institute proceedings to determine whether such proposed rule or amendment should be modified or disapproved.

(3) NAIC PROCEEDINGS.—

(A) IN GENERAL.—Proceedings instituted by the NAIC with respect to a proposed rule or amendment pursuant to paragraph (2) shall—

(i) include notice of the grounds for disapproval under consideration;

(ii) provide opportunity for hearing; and

(iii) be concluded not later than 180 days after the date of the Association's filing of such proposed rule or amendment.

(B) DISPOSITION OF PROPOSAL.—At the conclusion of any proceeding under subparagraph (A), the NAIC shall, by order, approve or disapprove the proposed rule or amendment.

(C) EXTENSION OF TIME FOR CONSIDERATION.—The NAIC may extend the time for concluding any proceeding under subparagraph (A) for—

(i) not more than 60 days if the NAIC finds good cause for such extension and sets forth its reasons for so finding; or

(ii) for such longer period as to which the Association consents.

(4) STANDARDS FOR REVIEW.—

(A) GROUNDS FOR APPROVAL.—The NAIC shall approve a proposed rule or amendment if the NAIC finds that the rule or amendment is in the public interest and is consistent with the purposes of this Act.

(B) APPROVAL BEFORE END OF NOTICE PERIOD.—The NAIC shall not approve any proposed rule before the end of the 30-day period beginning on the date on which the Association files proposed rules or amendments in accordance with paragraph (1), unless the NAIC finds good cause for so doing and sets forth the reasons for so finding.

(5) ALTERNATE PROCEDURE.—

(A) IN GENERAL.—Notwithstanding any provision of this subsection other than subparagraph (B), a proposed rule or amendment relating to the administration or organization of the Association may take effect—

(i) upon the date of filing with the NAIC, if such proposed rule or amendment is designated by the Association as relating solely to matters which the NAIC, consistent with the public interest and the purposes of this subsection, determines by rule do not require the procedures set forth in this paragraph; or

(ii) upon such date as the NAIC shall for good cause determine.

(B) ABROGATION BY THE NAIC.—

(i) IN GENERAL.—At any time within 60 days after the date of filing of any proposed rule or amendment under subparagraph (A)(i) or clause (ii) of this subparagraph, the NAIC may repeal such rule or amendment and require that the rule or amendment be refiled and reviewed in accordance with this paragraph, if the NAIC finds that such action is necessary or appropriate in the public interest, for the protection of insurance producers or policyholders, or otherwise in furtherance of the purposes of this subtitle.

(ii) EFFECT OF RECONSIDERATION BY THE NAIC.—Any action of the NAIC pursuant to clause (i) shall—

(I) not affect the validity or force of a rule change during the period such rule or amendment was in effect; and

(II) not be considered to be a final action.

(c) ACTION REQUIRED BY THE NAIC.—The NAIC may, in accordance with such rules as the NAIC determines to be necessary or appropriate to the public interest or to carry out the purposes of this subtitle, require the Association to adopt, amend, or repeal any bylaw, rule or amendment of the Association, whenever adopted.

(d) DISCIPLINARY ACTION BY THE ASSOCIATION.—

(1) SPECIFICATION OF CHARGES.—In any proceeding to determine whether membership shall be denied, suspended, revoked, and not renewed (hereafter in this section referred to as a ''disciplinary action''), the Association shall bring specific charges, notify such member of such charges, give the member an opportunity to defend against the charges, and keep a record.

(2) SUPPORTING STATEMENT.—A determination to take disciplinary action shall be supported by a statement setting forth—

(A) any act or practice in which such member has been found to have been engaged;

(B) the specific provision of this subtitle, the rules or regulations under this subtitle, or the rules of the Association which any such act or practice is deemed to violate; and

(C) the sanction imposed and the reason for such sanction.

(e) NAIC REVIEW OF DISCIPLINARY ACTION.—

(1) NOTICE TO THE NAIC.—If the Association orders any disciplinary action, the Association shall promptly notify the NAIC of such action.

(2) REVIEW BY THE NAIC.—Any disciplinary action taken by the Association shall be subject to review by the NAIC—

(A) on the NAIC's own motion; or

(B) upon application by any person aggrieved by such action if such application is filed with the NAIC not more than 30 days after the later of—

(i) the date the notice was filed with the NAIC pursuant to paragraph (1); or

(ii) the date the notice of the disciplinary action was received by such aggrieved person.

(f) EFFECT OF REVIEW.—The filing of an application to the NAIC for review of a disciplinary action, or the institution of review by the NAIC on the NAIC's own motion, shall not operate as a stay of disciplinary action unless the NAIC otherwise orders.

(g) SCOPE OF REVIEW.—

(1) IN GENERAL.—In any proceeding to review such action, after notice and the opportunity for hearing, the NAIC shall—

(A) determine whether the action should be taken;

(B) affirm, modify, or rescind the disciplinary sanction; or

(C) remand to the Association for further proceedings.

(2) DISMISSAL OF REVIEW.—The NAIC may dismiss a proceeding to review disciplinary action if the NAIC finds that—

(A) the specific grounds on which the action is based exist in fact;

(B) the action is in accordance with applicable rules and regulations; and

(C) such rules and regulations are, and were, applied in a manner consistent with the purposes of this subtitle.

SEC. 329. ASSESSMENTS.

(a) INSURANCE PRODUCERS SUBJECT TO ASSESSMENT.—The Association may establish such application and membership fees as the Association finds necessary to cover the costs of its operations, including fees made reimbursable to the NAIC under subsection (b), except that, in setting such fees, the Association may not discriminate against smaller insurance producers.

(b) NAIC ASSESSMENTS.—The NAIC may assess the Association for any costs that the NAIC incurs under this subtitle.

SEC. 330. FUNCTIONS OF THE NAIC.

(a) ADMINISTRATIVE PROCEDURE.—Determinations of the NAIC, for purposes of making rules pursuant to section 328, shall be made after appropriate notice and opportunity for a hearing and for submission of views of interested persons.

(b) EXAMINATIONS AND REPORTS.—

(1) The NAIC may make such examinations and inspections of the Association and require the Association to furnish to the NAIC such reports and records or copies thereof as the NAIC may consider necessary or appropriate in the public interest or to effectuate the purposes of this subtitle.

(2) As soon as practicable after the close of each fiscal year, the Association shall submit to the NAIC a written report regarding the conduct of its business, and the exercise of the other rights and powers granted by this subtitle, during such fiscal year. Such report shall include financial statements setting forth the financial position of the Association at the end of such fiscal year and the results of its operations (including the source and application of its funds) for such fiscal year. The NAIC shall transmit such report to the President and the Congress with such comment thereon as the NAIC determines to be appropriate.

SEC. 331. LIABILITY OF THE ASSOCIATION AND THE DIRECTORS, OFFICERS, AND EMPLOYEES OF THE ASSOCIATION.

(a) IN GENERAL.—The Association shall not be deemed to be an insurer or insurance producer within the meaning of any State law, rule, regulation, or order regulating or taxing insurers, insurance producers, or other entities engaged in the business of insurance, including provisions imposing premium taxes, regulating insurer solvency or financial condition, establishing guaranty funds and levying assessments, or requiring claims settlement practices.

(b) LIABILITY OF THE ASSOCIATION, ITS DIRECTORS, OFFICERS, AND EMPLOYEES.—Neither the Association nor any of its directors, officers, or employees shall have any liability to any person for any action taken or omitted in good faith under or in connection with any matter subject to this subtitle.

SEC. 332. ELIMINATION OF NAIC OVERSIGHT.

(a) IN GENERAL.—The Association shall be established without NAIC oversight and the provisions set forth in section 324, subsections (a), (b), (c), and (e) of section 328, and sections 329(b) and 330 of this subtitle shall cease to be effective if, at the end of the 2-year period beginning on the date on which the provisions of this subtitle take effect pursuant to section 321—

(1) at least a majority of the States representing at least 50 percent of the total United States commercial-lines insurance premiums have not satisfied the uniformity or reciprocity requirements of subsections (a) and (b) of section 321; and

(2) the NAIC has not approved the Association's bylaws as required by section 328 or is unable to operate or supervise the Association, or the Association is not conducting its activities as required under this Act.

(b) BOARD APPOINTMENTS.—If the repeals required by subsection (a) are implemented, the following shall apply:

(1) GENERAL APPOINTMENT POWER.—The President, with the advice and consent of the United States Senate, shall appoint the members of the Association's Board established under section 326 from lists of candidates recommended to the President by the National Association of Insurance Commissioners.

(2) PROCEDURES FOR OBTAINING NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS APPOINTMENT RECOMMENDATIONS.—

(A) INITIAL DETERMINATION AND RECOMMENDATIONS.—After the date on which the provisions of subsection (a) take effect, the NAIC shall, not later than 60 days thereafter, provide a list of recommended candidates to the President. If the NAIC fails to provide a list by that date, or if any list that is provided does not include at least 14 recommended candidates or comply with the requirements of section 326(c), the President shall, with the advice and consent of the United States Senate, make the requisite appointments without considering the views of the NAIC.

(B) SUBSEQUENT APPOINTMENTS.—After the initial appointments, the NAIC shall provide a list of at least 6 recommended candidates for the Board to the President by January 15 of each subsequent year. If the NAIC fails to provide a list by that date, or if any list that is provided does not include at least 6 recommended candidates or comply with the requirements of section 326(c), the President, with the advice and consent of the Senate, shall make the requisite appointments without considering the views of the NAIC.

(C) PRESIDENTIAL OVERSIGHT.—

(i) REMOVAL.—If the President determines that the Association is not acting in the interests of the public, the President may remove the entire existing Board for the remainder of the term to which the members of the Board were appointed and appoint, with the advice and consent of the Senate, new members to fill the vacancies on the Board for the remainder of such terms.

(ii) SUSPENSION OF RULES OR ACTIONS.—The President, or a person designated by the President for such purpose, may suspend the effectiveness of any rule, or prohibit any action, of the Association which the President or the designee determines is contrary to the public interest.

(c) ANNUAL REPORT.—As soon as practicable after the close of each fiscal year, the Association shall submit to the President and to the Congress a written report relative to the conduct of its business, and the exercise of the other rights and powers granted by this subtitle, during such fiscal year. Such report shall include financial statements setting forth the financial position of the Association at the end of such fiscal year and the results of its operations (including the source and application of its funds) for such fiscal year.

SEC. 333. RELATIONSHIP TO STATE LAW.

(a) PREEMPTION OF STATE LAWS.—State laws, regulations, provisions, or other actions purporting to regulate insurance producers shall be preempted as provided in subsection (b).

(b) PROHIBITED ACTIONS.—No State shall—

(1) impede the activities of, take any action against, or apply any provision of law or regulation to, any insurance producer because that insurance producer or any affiliate plans to become, has applied to become, or is a member of the Association;

(2) impose any requirement upon a member of the Association that it pay different fees to be licensed or otherwise qualified to do business in that State, including bonding requirements, based on its residency;

(3) impose any licensing, appointment, integrity, personal or corporate qualifications, education, training, experience, residency, or continuing education requirement upon a member of the Association that is different from the criteria for membership in the Association or renewal of such membership, except that countersignature requirements imposed on nonresident producers shall not be deemed to have the effect of limiting or conditioning a producer's activities because of its residence or place of operations under this section; or

(4) implement the procedures of such State's system of licensing or renewing the licenses of insurance producers in a manner different from the authority of the Association under section 325.

(c) SAVINGS PROVISION.—Except as provided in subsections (a) and (b), no provision of this section shall be construed as altering or affecting the continuing effectiveness of any law, regulation, provision, or other action of any State which purports to regulate insurance producers, including any such law, regulation, provision, or action which purports to regulate unfair trade practices or establish consumer protections, including countersignature laws.

SEC. 334. COORDINATION WITH OTHER REGULATORS.

(a) COORDINATION WITH STATE INSURANCE REGULATORS.—The Association shall have the authority to—

(1) issue uniform insurance producer applications and renewal applications that may be used to apply for the issuance or removal of State licenses, while preserving the ability of each State to impose such conditions on the issuance or renewal of a license as are consistent with section 333;

(2) establish a central clearinghouse through which members of the Association may apply for the issuance or renewal of licenses in multiple States; and

(3) establish or utilize a national database for the collection of regulatory information concerning the activities of insurance producers.

(b) COORDINATION WITH THE NATIONAL ASSOCIATION OF SECURITIES DEALERS.—The Association shall coordinate with the National Association of Securities Dealers in order to ease any administrative burdens that fall on persons that are members of both associations, consistent with the purposes of this subtitle and the Federal securities laws.

SEC. 335. JUDICIAL REVIEW.

(a) JURISDICTION.—The appropriate United States district court shall have exclusive jurisdiction over litigation involving the Association, including disputes between the Association and its members that arise under this subtitle. Suits brought in State court involving the Association shall be deemed to have arisen under Federal law and therefore be subject to jurisdiction in the appropriate United States district court.

(b) EXHAUSTION OF REMEDIES.—An aggrieved person shall be required to exhaust all available administrative remedies before the Association and the NAIC before it may seek judicial review of an Association decision.

(c) STANDARDS OF REVIEW.—The standards set forth in section 553 of title 5, United States Code, shall be applied whenever a rule or bylaw of the Association is under judicial review, and the standards set forth in section 554 of title 5, United States Code, shall be applied whenever a disciplinary action of the Association is judicially reviewed.

SEC. 336. DEFINITIONS.

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

(1) HOME STATE.—The term ''home State'' means the State in which the insurance producer maintains its principal place of residence and is licensed to act as an insurance producer.

(2) INSURANCE.—The term ''insurance'' means any product, other than title insurance, defined or regulated as insurance by the appropriate State insurance regulatory authority.

(3) INSURANCE PRODUCER.—The term ''insurance producer'' means any insurance agent or broker, surplus lines broker, insurance consultant, limited insurance representative, and any other person that solicits, negotiates, effects, procures, delivers, renews, continues or binds policies of insurance or offers advice, counsel, opinions or services related to insurance.

(4) STATE.—The term ''State'' includes any State, the District of Columbia, American Samoa, Guam, Puerto Rico, and the United States Virgin Islands.

(5) STATE LAW.—The term ''State law'' includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

TITLE IV—UNITARY SAVINGS AND LOAN HOLDING COMPANIES

SEC. 401. PREVENTION OF CREATION OF NEW S&L HOLDING COMPANIES WITH COMMERCIAL AFFILIATES.

Section 10(c) of the Home Owners' Loan Act (12 U.S.C. 1467a(c)) is amended by adding at the end the following new paragraph:

''(9) PREVENTION OF NEW AFFILIATIONS BETWEEN S&L HOLDING COMPANIES AND COMMERCIAL FIRMS.—

''(A) IN GENERAL.—Notwithstanding paragraph (3), no company may directly or indirectly, including through any merger, consolidation, or other type of business combination, acquire control of a savings association after September 3, 1998, unless the company is engaged, directly or indirectly (including through a subsidiary other than a savings association), only in activities that are permitted—

''(i) under paragraph (1)(C) or (2); or

''(ii) for financial holding companies under section 6(c) of the Bank Holding Company Act of 1956.

''(B) PREVENTION OF NEW COMMERCIAL AFFILIATIONS.—Notwithstanding paragraph (3), no savings and loan holding company may engage directly or indirectly (including through a subsidiary other than a savings association) in any activity other than as described in clauses (i) and (ii) of subparagraph (A).

''(C) PRESERVATION OF AUTHORITY OF EXISTING UNITARY S&L HOLDING COMPANIES.—Subparagraphs (A) and (B) do not apply with respect to any company that was a savings and loan holding company on September 3, 1998, or that becomes a savings and loan holding company pursuant to an application pending before the Office of Thrift Supervision on or before that date, and that—

''(i) meets and continues to meet the requirements of paragraph (3); and

''(ii) continues to control not fewer than 1 savings association that it controlled on September 3, 1998, or that it acquired pursuant to an application pending before the Office of Thrift Supervision on or before that date, or the successor to such savings association.

''(D) CORPORATE REORGANIZATIONS PERMITTED.—This paragraph does not prevent a transaction that—

''(i) involves solely a company under common control with a savings and loan holding company from acquiring, directly or indirectly, control of the savings and loan holding company or any savings association that is already a subsidiary of the savings and loan holding company; or

''(ii) involves solely a merger, consolidation, or other type of business combination as a result of which a company under common control with the savings and loan holding company acquires, directly or indirectly, control of the savings and loan holding company or any savings association that is already a subsidiary of the savings and loan holding company.

''(E) AUTHORITY TO PREVENT EVASIONS.—The Director may issue interpretations, regulations, or orders that the Director determines necessary to administer and carry out the purpose and prevent evasions of this paragraph, including a determination that, notwithstanding the form of a transaction, the transaction would in substance result in a company acquiring control of a savings association.''.

SEC. 402. OPTIONAL CONVERSION OF FEDERAL SAVINGS ASSOCIATIONS TO NATIONAL BANKS.

Section 5(i) of the Home Owners' Loan Act (12 U.S.C. 1464(i)) is amended by adding at the end the following new paragraph:

''(5) CONVERSION TO A NATIONAL BANK.—Notwithstanding any other provision of law, any Federal savings association chartered and in operation before the date of enactment of the Financial Services Act of 1998, with branches in 1 or more States, may convert, with the approval of the Comptroller of the Currency, into 1 or more national banks, each of which may encompass one or more of the branches of the Federal savings association in 1 or more States, but only if the resulting national bank or banks will meet any and all financial, management, and capital requirements applicable to a national bank.''.

SEC. 403. RETENTION OF ''FEDERAL'' IN NAME OF CONVERTED FEDERAL SAVINGS ASSOCIATION.

Section 2 of the Act entitled ''An Act to enable national banking associations to increase their capital stock and to change their names or locations'', approved May 1, 1886 (12 U.S.C. 30), is amended by adding at the end the following new subsection:

''(d) RETENTION OF 'FEDERAL' IN NAME OF CONVERTED FEDERAL SAVINGS ASSOCIATION.—

''(1) IN GENERAL.—Notwithstanding subsection (a) or any other provision of law, any depository institution the charter of which is converted from that of a Federal savings association to a national bank or a State bank after the date of the enactment of the Financial Services Act of 1998 may retain the term 'Federal' in the name of such institution if such depository institution remains an insured depository institution.

''(2) DEFINITIONS.—For purposes of this subsection, the terms 'depository institution', 'insured depository institution', 'national bank', and 'State bank' have the same meanings as in section 3 of the Federal Deposit Insurance Act.''.

TITLE V—FINANCIAL INFORMATION PRIVACY

SEC. 501. FINANCIAL INFORMATION PRIVACY.

The Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) is amended by adding at the end the following:

''TITLE X—FINANCIAL INFORMATION PRIVACY PROTECTION

''SEC. 1001. SHORT TITLE; TABLE OF CONTENTS.

''(a) SHORT TITLE.—This title may be cited as the 'Financial Information Privacy Act of 1998'.

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

''TITLE X—FINANCIAL INFORMATION PRIVACY PROTECTION

''Sec. 1001. Short title; table of contents.
''Sec. 1002. Definitions.
''Sec. 1003. Privacy protection for customer information of financial institutions.
''Sec. 1004. Administrative enforcement.
''Sec. 1005. Civil liability.
''Sec. 1006. Criminal penalty.
''Sec. 1007. Relation to State laws.
''Sec. 1008. Agency guidance.

''SEC. 1002. DEFINITIONS.

''For purposes of this title, the following definitions shall apply:

''(1) CUSTOMER.—The term 'customer' means, with respect to a financial institution, any person (or authorized representative of a person) to whom the financial institution provides a product or service, including that of acting as a fiduciary.

''(2) CUSTOMER INFORMATION OF A FINANCIAL INSTITUTION.—The term 'customer information of a financial institution' means any information maintained by a financial institution which is derived from the relationship between the financial institution and a customer of the financial institution and is identified with the customer.

''(3) DOCUMENT.—The term 'document' means any information in any form.

''(4) FINANCIAL INSTITUTION.—

''(A) IN GENERAL.—The term 'financial institution' means any institution engaged in the business of providing financial services to customers who maintain a credit, deposit, trust, or other financial account or relationship with the institution.

''(B) CERTAIN FINANCIAL INSTITUTIONS SPECIFICALLY INCLUDED.—The term 'financial institution' includes any depository institution (as defined in section 19(b)(1)(A) of the Federal Reserve Act), any loan or finance company, any credit card issuer or operator of a credit card system, and any consumer reporting agency that compiles and maintains files on consumers on a nationwide basis (as defined in section 603(p)).

''(C) FURTHER DEFINITION BY REGULATION.—The Board of Governors of the Federal Reserve System may prescribe regulations further defining the term 'financial institution', in accordance with subparagraph (A), for purposes of this title.

''SEC. 1003. PRIVACY PROTECTION FOR CUSTOMER INFORMATION OF FINANCIAL INSTITUTIONS.

''(a) PROHIBITION ON OBTAINING CUSTOMER INFORMATION BY FALSE PRETENSES.—It shall be a violation of this title for any person to obtain or attempt to obtain, or cause to be disclosed or attempt to cause to be disclosed to any person, customer information of a financial institution relating to another person—

''(1) by knowingly making a false, fictitious, or fraudulent statement or representation to an officer, employee, or agent of a financial institution with the intent to deceive the officer, employee, or agent into relying on that statement or representation for purposes of releasing the customer information;

''(2) by knowingly making a false, fictitious, or fraudulent statement or representation to a customer of a financial institution with the intent to deceive the customer into relying on that statement or representation for purposes of releasing the customer information or authorizing the release of such information; or

''(3) by knowingly providing any document to an officer, employee, or agent of a financial institution, knowing that the document is forged, counterfeit, lost, or stolen, was fraudulently obtained, or contains a false, fictitious, or fraudulent statement or representation, if the document is provided with the intent to deceive the officer, employee, or agent into relying on that document for purposes of releasing the customer information.

''(b) PROHIBITION ON SOLICITATION OF A PERSON TO OBTAIN CUSTOMER INFORMATION FROM FINANCIAL INSTITUTION UNDER FALSE PRETENSES.—It shall be a violation of this title to request a person to obtain customer information of a financial institution, knowing or consciously avoiding knowing that the person will obtain, or attempt to obtain, the information from the institution in any manner described in subsection (a).

''(c) NONAPPLICABILITY TO LAW ENFORCEMENT AGENCIES.—No provision of this section shall be construed so as to prevent any action by a law enforcement agency, or any officer, employee, or agent of such agency, to obtain customer information of a financial institution in connection with the performance of the official duties of the agency.

''(d) NONAPPLICABILITY TO FINANCIAL INSTITUTIONS IN CERTAIN CASES.—No provision of this section shall be construed to prevent any financial institution, or any officer, employee, or agent of a financial institution, from obtaining customer information of such financial institution in the course of—

''(1) testing the security procedures or systems of such institution for maintaining the confidentiality of customer information;

''(2) investigating allegations of misconduct or negligence on the part of any officer, employee, or agent of the financial institution; or

''(3) recovering customer information of the financial institution which was obtained or received by another person in any manner described in subsection (a) or (b).

''(e) NONAPPLICABILITY TO CERTAIN TYPES OF CUSTOMER INFORMATION OF FINANCIAL INSTITUTIONS.—No provision of this section shall be construed to prevent any person from obtaining customer information of a financial institution that otherwise is available as a public record filed pursuant to the securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934).

''SEC. 1004. ADMINISTRATIVE ENFORCEMENT.

''(a) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—Except as provided in subsection (b), compliance with this title shall be enforced by the Federal Trade Commission in the same manner and with the same power and authority as the Commission has under the Fair Debt Collection Practices Act to enforce compliance with that title.

''(b) ENFORCEMENT BY OTHER AGENCIES IN CERTAIN CASES.—

''(1) IN GENERAL.—Compliance with this title shall be enforced under—

''(A) section 8 of the Federal Deposit Insurance Act, in the case of—

''(i) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

''(ii) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act, by the Board;

''(iii) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System and national nonmember banks) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation; and

''(iv) savings associations the deposits of which are insured by the Federal Deposit Insurance Corporation, by the Director of the Office of Thrift Supervision; and

''(B) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal credit union.

''(2) VIOLATIONS OF THIS TITLE TREATED AS VIOLATIONS OF OTHER LAWS.—For the purpose of the exercise by any agency referred to in paragraph (1) of its powers under any Act referred to in that paragraph, a violation of this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in paragraph (1), each of the agencies referred to in that paragraph may exercise, for the purpose of enforcing compliance with this title, any other authority conferred on such agency by law.

''(c) STATE ACTION FOR VIOLATIONS.—

''(1) AUTHORITY OF STATES.—In addition to such other remedies as are provided under State law, if the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this title, the State—

''(A) may bring an action to enjoin such violation in any appropriate United States district court or in any other court of competent jurisdiction;

''(B) may bring an action on behalf of the residents of the State to recover damages of not more than $1,000 for each violation; and

''(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorney fees as determined by the court.

''(2) RIGHTS OF FEDERAL REGULATORS.—

''(A) PRIOR NOTICE.—The State shall serve prior written notice of any action under paragraph (1) upon the Federal Trade Commission and, in the case of an action which involves a financial institution described in section 1004(b)(1), the agency referred to in such section with respect to such institution and provide the Federal Trade Commission and any such agency with a copy of its complaint, except in any case in which such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action.

''(B) RIGHT TO INTERVENE.—The Federal Trade Commission or an agency described in subsection (b) shall have the right—

''(i) to intervene in an action under paragraph (1);

''(ii) upon so intervening, to be heard on all matters arising therein;

''(iii) to remove the action to the appropriate United States district court; and

''(iv) to file petitions for appeal.

''(3) INVESTIGATORY POWERS.—For purposes of bringing any action under this subsection, no provision of this subsection shall be construed as preventing the chief law enforcement officer, or an official or agency designated by a State, from exercising the powers conferred on the chief law enforcement officer or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

''(4) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION PENDING.—If the Federal Trade Commission or any agency described in subsection (b) has instituted a civil action for a violation of this title, no State may, during the pendency of such action, bring an action under this section against any defendant named in the complaint of the Federal Trade Commission or such agency for any violation of this title that is alleged in that complaint.

''SEC. 1005. CIVIL LIABILITY.

''Any person, other than a financial institution, who fails to comply with any provision of this title with respect to any financial institution or any customer information of a financial institution shall be liable to such financial institution or the customer to whom such information relates in an amount equal to the sum of the amounts determined under each of the following paragraphs:

''(1) ACTUAL DAMAGES.—The greater of—

''(A) the amount of any actual damage sustained by the financial institution or customer as a result of such failure; or

''(B) any amount received by the person who failed to comply with this title, including an amount equal to the value of any nonmonetary consideration, as a result of the action which constitutes such failure.

''(2) ADDITIONAL DAMAGES.—Such additional amount as the court may allow.

''(3) ATTORNEYS' FEES.—In the case of any successful action to enforce any liability under paragraph (1) or (2), the costs of the action, together with reasonable attorneys' fees.

''SEC. 1006. CRIMINAL PENALTY.

''(a) IN GENERAL.—Whoever violates, or attempts to violate, section 1003 shall be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both.

''(b) ENHANCED PENALTY FOR AGGRAVATED CASES.—Whoever violates, or attempts to violate, section 1003 while violating another law of the United States or as part of a pattern of any illegal activity involving more than $100,000 in a 12-month period shall be fined twice the amount provided in subsection (b)(3) or (c)(3) (as the case may be) of section 3571 of title 18, United States Code, imprisoned for not more than 10 years, or both.

''SEC. 1007. RELATION TO STATE LAWS.

''(a) IN GENERAL.—This title shall not be construed as superseding, altering, or affecting the statutes, regulations, orders, or interpretations in effect in any State, except to the extent that such statutes, regulations, orders, or interpretations are inconsistent with the provisions of this title, and then only to the extent of the inconsistency.

''(b) GREATER PROTECTION UNDER STATE LAW.—For purposes of this section, a State statute, regulation, order, or interpretation is not inconsistent with the provisions of this title if the protection such statute, regulation, order, or interpretation affords any person is greater than the protection provided under this title.

''SEC. 1008. AGENCY GUIDANCE.

''In furtherance of the objectives of this title, each Federal banking agency (as defined in section 3(z) of the Federal Deposit Insurance Act) shall issue advisories to depository institutions under the jurisdiction of the agency, in order to assist such depository institutions in deterring and detecting activities proscribed under section 1003.''.

SEC. 502. REPORT TO CONGRESS ON FINANCIAL PRIVACY.

Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States, in consultation with the Federal Trade Commission, the Federal banking agencies, and other appropriate Federal law enforcement agencies, shall submit to the Congress a report on—

(1) the efficacy and adequacy of the remedies provided in the amendments made by section 501 in addressing attempts to obtain financial information by fraudulent means or by false pretenses; and

(2) any recommendations for additional legislative or regulatory action to address threats to the privacy of financial information created by attempts to obtain information by fraudulent means or false pretenses.

TITLE VI—MISCELLANEOUS

SEC. 601. GRAND JURY PROCEEDINGS.

Section 3322(b) of title 18, United States Code, is amended—

(1) in paragraph (1), by inserting ''Federal or State'' before ''financial institution''; and

(2) in paragraph (2), by inserting ''at any time during or after the completion of the investigation of the grand jury,'' before ''upon''.

SEC. 602. SENSE OF THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS OF THE SENATE.

(a) FINDINGS.—The Committee on Banking, Housing, and Urban Affairs of the Senate finds that—

(1) financial modernization legislation should benefit small institutions as well as large institutions;

(2) the Congress made the subchapter S election of the Internal Revenue Code of 1986, available to banks in 1996, reflecting a desire by the Congress to reduce the tax burden on community banks;

(3) large numbers of community banks have elected or expressed interest in the subchapter S election; and

(4) the Committee on Banking, Housing, and Urban Affairs of the Senate recognizes that some obstacles remain for community banks wishing to make the subchapter S election.

(b) SENSE OF THE COMMITTEE.—It is the sense of the Committee on Banking, Housing, and Urban Affairs of the Senate that—

(1) the small business tax provisions of the Internal Revenue Code of 1986, should be more widely available to community banks;

(2) legislation should be passed to amend the Internal Revenue Code of 1986, to—

(A) increase the allowed number of S corporation shareholders;

(B) permit S corporation stock to be held in individual retirement accounts;

(C) clarify that interest on investments held for safety, soundness, and liquidity purposes should not be considered to be passive income;

(D) provide that bank director stock is not treated as a disqualifying second class of stock for S corporations; and

(E) improve the tax treatment of bad debt and interest deductions; and

(3) the legislation described in paragraph (2) should be adopted by the Congress in conjunction with any financial modernization legislation.

SEC. 603. INVESTMENTS IN GOVERNMENT SPONSORED ENTERPRISES.

Section 18(s) of the Federal Deposit Insurance Act (12 U.S.C. 1828(s)) is amended—

(1) by redesignating paragraph (4) as paragraph (6); and

(2) by inserting after paragraph (3) the following:

''(4) CERTAIN INVESTMENTS.—Paragraph (1) shall not apply with respect to investments lawfully made before April 11, 1996, by a depository institution in any Government sponsored enterprise.

''(5) STUDENT LOANS.—

''(A) IN GENERAL.—This subsection does not apply to any arrangement between a Holding Company (or any subsidiary of the Holding Company other than the Student Loan Marketing Association) and a depository institution, if the Secretary approves the affiliation and determines that—

''(i) the wind-down of the Association in accordance with the requirements of section 440 of the Higher Education Act of 1965, will not be adversely affected by the arrangement;

''(ii) the Association will not extend credit to, or guarantee or provide credit enhancement to any obligation of, the depository institution; and

''(iii) the operations of the Association will be separate from the operations of the depository institution.

''(B) TERMS AND CONDITIONS.—In approving an affiliation referred to in subparagraph (A), the Secretary may impose any terms and conditions on such affiliation that the Secretary considers appropriate, including—

''(i) requiring the Association to provide a binding plan to dissolve before September 30, 2008;

''(ii) imposing additional restrictions on the issuance of debt obligations by the Association; or

''(iii) restricting the use of proceeds from the issuance of such debt.

''(C) ENFORCEMENT.—Terms and conditions imposed under subparagraph (B) may be enforced by the Secretary in accordance with section 440 of the Higher Education Act of 1965.

''(D) DEFINITIONS.—In this paragraph—

''(i) the terms 'Association' and 'Holding Company' have the same meanings as in section 440(i) of the Higher Education Act of 1965; and

''(ii) the term 'Secretary' means the Secretary of the Treasury.''.

SEC. 604. REPEAL OF SAVINGS BANK PROVISIONS IN THE BANK HOLDING COMPANY ACT OF 1956.

Section 3(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(f)) is amended to read as follows:

''(f) [Reserved].''.

FREEDOM FROM RELIGIOUS PERSECUTION ACT OF 1998

The PRESIDING OFFICER. The clerk will report H.R. 2431.

The legislative clerk read as follows:

A bill (H.R. 2431) to establish an Office of Religious Persecution Monitoring, to provide for the imposition of sanctions against countries engaged in a pattern of religious persecution, and for other purposes.

The Senate continued with the consideration of the bill.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. GRAMM. Would the Senator yield?

Mr. NICKLES. Mr. President, I will be happy to yield.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I just simply want to say to my colleague, Senator SARBANES, and to others who support this bill, that I am willing, and have continued to be willing, to sit down and try to work something out. It may be that nothing can be worked out, but I just want to reaffirm my willingness to sit down with Senator SARBANES, or any other person, who is in a position to work anything out—certainly Senator SARBANES is—and see if we could find some common ground. Maybe we cannot. But I just want to reaffirm my willingness to do it. I have sat down and discussed this with Senator DODD. And I am willing to do it again.

So it may be that there is no way we can accommodate the different views we have, but I wanted to reaffirm my willingness to make an effort again. Though it may or may not prove fruitless, I am willing to do it. And I would like to work something out because, save the so-called CRA provisions, I am for this bill.

Mr. DODD. Mr. President, I know the distinguished Senator from Oklahoma wants to be heard, but I would just like to pick up on this last point, if I could, if my colleague from Texas would yield—

Mr. GRAMM. I do not have the floor.

Mr. DODD. To say to my colleague from Texas, and others, I didn't have the benefit of hearing my friend's comments from Maryland, but I fervently hope—it has taken almost 20 years for us to come to the point where we are with financial services modernization. And my colleague from Texas has been on that committee for a long time, the distinguished Senator from Maryland even longer and knows the agony we have gone through, Mr. President, over the years of coming close and failing, for a variety of reasons, to be able to put through a modernization bill that would enjoy the kind of support this bill does.

And here we have the world looking to us. You have news today of the yen now having, compared to the dollar in exchange rates, in the last 48 hours, dropped to a lower rate than it has in 50 years—50 years. We have a problem in Brazil of significant magnitude.

It is no secret here that the world looks to us for a sense of confidence. And here we are within hours of leaving this session of Congress with a strong bipartisan bill, led by the Senator from Maryland, the Senator from New York, Senator D'AMATO, the chairman of the committee, with a 16–2 vote coming out of that committee, and 88–11 on a cloture motion.

My colleague from Texas feels strongly about the CRA provisions, and I respect that. But I would strongly argue that there is going to be ample time for us, whether today or tomorrow, if we can get it done, but if not certainly the next Congress to deal with the CRA provisions.

There may not be another opportunity that comes along to deal with this issue, I say to my friend from Texas. As he knows, we have spent so many years trying to put together—here we are on the threshold of doing something truly significant in this Congress, and as strongly as people feel about CRA, we should never allow that issue here to deprive us the opportunity to send a message not only here at home, but abroad that this country, that this Congress can modernize its financial institutions to such a degree that we send that message of confidence at this critical hour, a message of confidence.

The Democrats and Republicans have been able to come together on an issue that has divided us over the years. So I fervently hope that we will not allow that one issue to outweigh the enormous benefits that this bill offers people at home and abroad when the world financial crisis is literally on our doorstep.

So I hope that either something gets worked out or that those who are for it would be willing to put aside their feelings on the CRA issue until another day when there will literally be dozens of vehicles when that issue can be addressed. Mr. President, I tell you today, there will not be the dozens of vehicles available to us to do what we on the Banking Committee were able to present to all of our colleagues here for the first time in more than two decades, some would argue more than three decades. So the opportunity is here. I just hope we do not miss this.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma has the floor.

Mr. NICKLES. I had the floor, and I think time is running. And we want to get back to our bill. I appreciate the comments that were made by the Senator from Texas, the Senator from Connecticut. And I echo those comments. I hope we can come to a compromise. I hope people do not draw the lines too firm in the sand and not allow us to make some minor adjustments to save a bill that is very important.

Mr. GRAMM. At the risk of overdoing it, could I have 30 seconds?

Mr. NICKLES. I yield to the Senator 30 seconds, but it is my intention to go back to the Religious Freedom Act.

Mr. GRAMM. It is interesting. I know what happens in these debates is we end up talking past each other. But the Senator's statement about ''let's leave CRA to deal with next year'' is precisely my position. The problem is, the bill has six new CRA provisions. So if we were leaving CRA to be dealt with next year, we would have no dispute; we could debate it next year.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. I will yield to my colleague from Maryland for 1 minute and then I am going to return to debate on the Religious Freedom Act.

The PRESIDING OFFICER. The Chair must ask if there is unanimous consent for the Senator to yield, because questions have not been asked. And under the rules the Senator cannot—

Mr. NICKLES. I will be happy to yield to my colleague for a question.

Mr. SARBANES. I simply want to say to my colleague that I listened carefully to the distinguished Senator from Texas and this offer to try to work this out. The fact of the matter is, that colleagues have been buzzing around the Senator from Texas all week, like bees around a honeypot, although I am not sure describing the Senator from Texas as a honeypot is necessarily a very accurate description.

Mr. GRAMM. I like it.

Mr. SARBANES. I think there have been very reasonable efforts to reach an accommodation. They have not really gotten anywhere. If the Senator intends, in the name of accommodation, to make very substantial and substantive changes, then obviously a lot of people are going to have great difficulty with that. We have worked through this issue, and we reached an overwhelming consensus about it. And it seems to me that the effort now to sort of significantly rewrite these provisions is just not going to happen.

Mr. NICKLES. Mr. President, I am going to return to debate. And I ask unanimous consent that the hour and 40 minutes that intervened since my previous comments and the time allotted in the discussions and the quorum calls be outside the debate on the entire debate that we have on the religious freedom issue.

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

Mr. NICKLES. Mr. President, I was running through the potential sanctions, sanctions that would only apply for countries that were guilty of particularly severe violations of religious freedom. And particularly severe violations of religious freedom under our bill means: ''Systematic, ongoing, egregious violations of religious freedom, including violations such as torture, cruel, inhuman, degrading treatment or punishment, prolonged detention without charges, causing the disappearance of persons by the abduction or clandestine detention of those persons, and other flagrant denials of the right to life, liberty or the security of persons.''

And so, Mr. President, we define that. That is really bad the actors. In those cases, our bill says that we would have economic sanctions. I was just discussing those. That would include the withdrawal, limitation or suspension of development assistance. It says ''limitation.'' It didn't say ''automatically all of it be limited, but at least some withdrawal or some limitation.

It gives the President the flexibility—a whole range of options. Also it would direct the director of OPEC or TDA or EXIM not to approve guarantees, extensions or credits to the governments involving gross violations to religious freedom.

It also would have a sanction that would allow the withdrawal, limitation or suspension of security assistance. Again, it could be suspension. It could be limitation.

Also, another option would be instructing U.S. directors of international financial institutions to vote against loans to governments involving gross violations of religious freedom.

Another sanction option would be to prohibit the licenses or authority to export goods or technology to governments determined to be responsible for such persecution involving gross violations of religious freedom; another prohibiting any U.S. financial institution from providing credits totaling more than $10 million in any year to governments involving gross violation as to religious freedom; and one final one prohibiting the U.S. Government from procuring goods or services from foreign governments involved in gross violations.

We have given the President a multitude of options, a range, which could reduce economic assistance or economic loans to those countries. Also, I might mention, we give the President the option to waive these sanctions. We have modified that to accommodate some of the concerns that some of our people have. The sanctions can be waived to further the purposes of the act.

If persons involved—maybe the commission that studied this, maybe it is the Ambassador, maybe the State Department—said, ''Wait a minute, some of these sanctions might do more harm than good,'' the sanctions could be waived. It might result in greater persecution of individual beliefs by some governments. Our Government would have the option to waive these sanctions. Or we modify it to include that the sanctions could be waived for national security interests. We modified that to say ''for important national interests'' the sanctions could be waived.

We have in this bill an ambassador-at-large for international religious freedom; we have a commission of high-level people appointed by Congress and by the President to study and to make recommendations to the Congress and to the President, the Commission on International Religious Liberty, to make recommendations on what can be done to promote religious liberty worldwide; and we have given some tools and options to encourage positive behavior, positive efforts as well as some punitive efforts to try to modify behavior.

Our purpose in this bill is not to punish any country. Our purpose is to modify behavior to improve religious liberty worldwide. We don't want to be picking up the paper as we did earlier this year when the New York Times, for example, on May 11, had an article that said a Pakistani Catholic cleric was buried. It said a Roman Catholic bishop committed suicide last week apparently to protest religious discrimination. Religious discrimination and persecution must be pretty severe if a bishop would commit suicide to protest the degree of persecution.

Other people have talked about Christians being sold into slavery in Sudan, or other countries where Christians, Jews, or other individuals were placed in prison merely for practicing their faith.

I want to thank again my colleagues who worked with me on this legislation. I mentioned Senator SPECTER earlier. I mentioned Senator LIEBERMAN who has worked with me in countless meetings for hours trying to work out this legislation. Senator COATS from Indiana is on the floor and will be called upon momentarily. No one has worked harder. I told him some time ago I feel that he is one of the best Senators I have had the opportunity to work with, and I mean that in all sincerity. He is a person with very strong religious beliefs and convictions, and his efforts to see this bill pass to make sure that we improve religious liberty worldwide are very much recognized, very much appreciated by this Senator, and I think by all Senators. I also would like to thank my colleagues, Senator BIDEN and Senator FEINSTEIN, who have also worked with us in putting this legislation together.

I want to thank a couple of other people who have also worked in this effort. Steve Moffitt of my staff put in a lot of energy and a lot of the effort. John Hanford has put in years trying to enact measures to protect people who have been persecuted worldwide for religious beliefs. Also, on Senator LIEBERMAN's staff, Cecile Shea has worked countless hours on this. I thank them for their efforts.

I see my colleague from Indiana is on the floor. I am happy to yield him such time as he desires on this legislation.

How much time remains?

The PRESIDING OFFICER. The Senator from Oklahoma has 41 minutes 49 seconds.

Mr. NICKLES. I yield my colleague as much time as he desires.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, first of all, I begin by thanking my colleague and my friend from Oklahoma, Senator NICKLES, for his friendship over the years as a Member of the Congress, in the last 10 years as a Member of the Senate, for his tireless work on a number of important issues facing this country, and for his willingness to take on this issue, as difficult as the negotiations have been, to persevere, to bring it to this particular point. Senator NICKLES has provided effective

leadership and perseverance in resolving what I think is one of the most important issues that this Senate will be dealing with in this session of Congress.

There are many others and I will mention some of those names at a later point.

The United States, which we are privileged and pleased to be citizens of, has long been considered a pillar of freedom around the world. Our Nation was founded by individuals fleeing persecution and discrimination throughout Europe. The founding documents of our country enshrine the value and principle of religious freedom. The very first clause of the first amendment guarantees each of us the right of free exercise of religion and prohibits our Government from dictating or establishing how we will worship and what we will believe.

Freedom of religion is enshrined in our founding documents because freedom of religion is a basic human right. In our country, this freedom is acknowledged as a right endowed not by man, not by those who wrote those documents, but by our Creator. Therefore, they are unalienable and cannot be removed.

Religious freedom is also recognized in the Universal Declaration of Human Rights adopted by the United Nations in 1948. That declaration guarantees freedom of religion, including the freedom to choose one's own religious belief, to worship, to observe and practice one's belief individually or corporately. The freedom to practice one's religion without fear of outside intervention is the most fundamental liberty that any human being can possess.

We have a history as a country of concern not only for our own religious freedom but also for religious freedom in other countries. We want to stand as a beacon for religious freedom because we believe it goes to the most basic and most essential of all human freedoms and all human rights.

The cold war brought considerable national attention to the plight of Soviet Jews who faced extreme religious intolerance and persecution. United States concerns ultimately translated into national policy, including the enactment of the Jackson-Vanik law which tied trade with the Soviet Union and other Communist nations to their allowing Jews to emigrate—just one example of how this Nation has translated into policy these basic fundamental beliefs.

By contrast, there has been little focus lately, unfortunately, on some of the increasing persecution of Christians and some of the horrific persecution of Christians and other peoples of faith around the world. As a nation, we have assumed a responsibility, a moral imperative, to raise the basic human rights issues, the basic examples of persecution, to use the tools available to us to motivate change toward these individuals in various countries around the world practicing various faiths. Individuals are persecuted for that belief and that practice.

It is evident that many people—not just Christians, but several faiths—suffer because of their faith. The form that these attacks take can be everything from discrimination in employment, denial of participation in the political process, denial of common rights of citizenship. But these attacks can also take the form of extreme physical harm, torture, imprisonment, slavery, and even death. A fact of our time, the fact of the history of mankind, is that people have been persecuted and are being persecuted for their religious belief and for their faith. There are abuses in many places around the world of people persecuted simply because of what they believe.

Paul Marshall, in his book, ''Their Blood Cries Out,'' effectively chronicles where persecution is occurring. In great detail, he presents a comprehensive view of this problem throughout the world. His exhaustive survey simply cannot be ignored. It is a powerful and persuasive analysis which ultimately begs the question: What will we do? How will we respond? Will we respond? Is there action that we can take?

He talks about offenses in countries around the world—these have been documented—in Sudan, Pakistan, Vietnam, Cuba, Iran, Saudi Arabia, China, and others.

In the Sudan, possibly the worst of the offenders, it is not just Christians who have faced persecution, but Muslims and Animists, who have opposed the repressive tactics of the Islamic military regime which took power in 1989. Many Arab Muslims from the north have been arrested, imprisoned, tortured and killed. Christians driven from their homelands to government-controlled areas of the country are forced to renounce their faith in order to receive basic food. Others, including black Africans, are forced to convert to Islam and are even enslaved. All told, 1.5 million people have been killed by this totalitarian regime and another 5 million have been displaced from their homes.

In Pakistan, Paul Marshall describes the problem not as one of state-directed intolerance, but as one due to the growth of militant Islamic forces attacking Christians. Christian Pakistanis often become the victims of murder. The blasphemy law, passed in 1986, requires death sentences to any who blasphemes against the Prophet Mohammed or the Qu'ran. This law has given way to a wave of terror against Christians and other religious minorities.

Buddhist and Christians in Vietnam are subject to arrest and harassment if they are not part of the officially recognized churches. As in China, government control over religion seems due to fear of loss of control over the people. Paul Marshall writes that ''priests and pastors are assaulted, harassed, fined, sentenced to re-education camps and imprisoned. Many die in prison, some of them after torture.''

In Cuba as well, the government attempts to rigidly control religion. Churches cannot run schools or use mass communications. They are prohibited from performing missionary work and the distribution of religious material is controlled. There has, however, been tremendous growth in churches in Cuba, primarily in the form of house churches. The Cuban Government has also sought to restrict religion by imposing a ban on the sale of paper, ink, typewriters, computers and other printing device to any religious organization.

In Iran, those who believe in the Baha'i faith are forcibly repressed by the Iranian Government. They are denied the right to assemble and elect their religious officials, their property is confiscated and they are denied basic civil and legal rights. More than 200 Baha'is have been killed in Iran since 1989. Christians and Jews likewise face persecution in Iran, including discrimination, imprisonment, and death. One Christian human rights groups describes the treatment of Christians and Jews as ''Religious apartheid.''

In Saudi Arabia, only the practice of the Sunni form of Islam is permitted. No public expression of Christianity is allowed. Those found with Bibles or crosses can be tortured and arrested. The Saudi Government even went so far as to demand that a Christian group meeting in the American Consulate be disbanded. Unfortunately, our Consulate obliged them by closing worship service, this in an American Embassy.

In China, the Christian home churches are flourishing despite the Communist government moves to strictly control churches. I trust we are familiar with the accounts of thousands of Catholic and Protestant Chinese who have been imprisoned for worshiping, preaching and distributing Bibles.

This is but a handful of examples of where intolerance occurs around the world. Clearly, we cannot hold each nation and people to the same standard we have in the United States. But neither can we ignore the dramatic, reprehensible, and documented accounts of what is happening.

Yet it is clear we cannot oversimplify the problem of religious intolerance in these and other countries. While persecution in some countries is the direct result of official government policy, in others, persecution is undertaken by groups and individuals, with no attempt by the governing officials to intervene. Further, while some religious persecution is simply part of an overall repressive regime eager to control the lives of the people, other persecution is specifically targeted at religious freedoms.

In addition, the promotion of human rights, including religious freedom, is only one interest of the United States in conducting foreign policy. We also must promote strong relations with

countries vital to our national security and pursue policies designed to promote our economic interests.

Yet as a Nation, especially a Nation with our heritage, we cannot close our eyes to real abuses and persecutions taking place. We cannot stand idly by, complacent, apathetic, pretending to be ignorant. Because we are not ignorant. We must act wisely, but we must act. We need a comprehensive policy which draws greater attention to specific problems and works to change behavior. We must have a balance, always keeping in mind the plight of individuals and the role the United States can play in changing the behavior of other governments. Religious liberty has been our gift from the founders of this country; it is also our responsibility, and our torch to bear.

The Secretary of State's Advisory Committee on Religious Freedom Abroad issued an interim report in January 1998. That report described our policy goals in this way:

> The aim of U.S. foreign policy in this area should be to influence governments, with both positive and negative inducements and through public and private diplomacy, to live up to international standards of religious freedom.

This legislation can, first of all, alert us to the situations as they exist around the world, and then provide us a road map in terms of how we can most effectively address them.

The bill before us, introduced by Senators NICKEL, SPECTER and LIEBERMAN, is designed to promote and elevate religious freedom in our Nation's conduct of foreign policy. My friends on the House side, led by Congressman FRANK WOLF of Virginia, have been tireless in pressing for this issue. I would like to take a moment to give credit to Congressman WOLF who has, without a doubt, been the most persistent and relentless advocate of our taking action to address the problem of religious freedom, together with CHRIS SMITH, and others in the House of Representatives. They have provided the impetus for this action and they have, through persuasion and education of Members of the House, alerted them to the problem that exists and achieved a very significant vote in favor of what was then the Wolf-Specter bill. That bill has passed the House of Representatives and now, in the waning hours of the 105th Congress, the Senate, after exhaustive negotiations, after a process that has gone on for an extraordinary amount of time, finds itself at this place.

Mr. President, a great number of people deserve credit for this work, including John Hanford of Senator LUGAR's staff, Steve Moffitt, and my own very able legislative assistant, Pam Sellars, and others on Senator NICKLES' staff and Senator LIEBERMAN's staff, have worked tirelessly to fashion legislation that will survive the myriad of procedural processes that we have to go through here in order to bring a bill to the floor, particularly in the waning hours. A great deal of effort and work has been put into making this a reality. I am so pleased that we stand here this evening on the verge of passage of what I think is an extraordinarily important piece of legislation.

This presents a viable policy to strengthen religious freedoms abroad. The bill is balanced in its approach, it is comprehensive in its treatment, and it enables our Nation to custom-tailor our response to religious persecution in other lands. It puts in place measures which institutionalize our Nation's historic principles and religious liberty in our relations with other nations.

We establish an ambassador for international religious freedom to help the State Department in assessing nations which engage or tolerate religious persecution and to help promote religious freedom. We set up a process to ensure that the State Department is adequately focusing on religious freedom issues by requiring them to report to the Congress. Each year, State will issue a country-wide assessment of religious freedom abroad with specific summaries of which countries are improving their records and in what ways our Government is actively engaging to change behavior that is not acceptable.

Most important, this bill establishes an independent commission of experts, appointed by the White House, the House of Representatives, and the Senate, to monitor religious freedom on an ongoing basis and to make recommendations to Congress on actions the U.S. can take in countries when persecution occurs. This is important because this is information that we need. We no longer will be able to simply consign religious persecution and religious freedom to some clip we might read in the paper, or to some report that might come across our desk. We will have a commission constituted of reputable individuals, knowledgeable individuals, who will be able to present to us, on an annual basis, a detailed report of exactly what we are facing around the world. That can be the basis for this Congress and that can be the basis for the State Department and the administration—whichever administration is in power—to take significant action and specific action to address these problems. I think that is the most important part of this bill and the one that will provide the impetus for our taking effective action.

There are a number of other provisions, and Senator NICKLES has laid some of them out—and others will discuss those—each of which is important to the success of this legislation.

On May 14, 1998, the House passed Congressman WOLF's legislation—the Freedom From Religious Persecution Act—by an overwhelming margin of 375–41. Again, I commend my colleague, FRANK WOLF, for his leadership on this issue. His efforts, along with a number of others, have brought recognition of the plight of people of faith throughout the world to our attention.

It is now time for us to act. It is time for us to establish an effective foreign policy which can respond to religious persecution that we find around the world and which seeks to change the behavior of those responsible. I trust that the Senate will follow what the House has done and demonstrate a strong, if not unanimous, vote for this bill.

Mr. President, in closing, I want to quote from the Statement of Conscience, issued by the National Evangelical Association on January 23, 1996:

> Religious liberty is not a privilege to be granted or denied by an all-powerful state, but a God-given human right. Indeed, religious liberty is the bedrock principle that animates our Republic and defines us as a people. We must share our love of religious liberty with other peoples, who in the eyes of God are our neighbors. Hence, it is our responsibility and that of the Government that represents us, to do everything we can to secure the blessing of religious liberty to all those suffering from religious persecution.

Mr. President, we in this country cannot begin to comprehend what people of faith in other nations have had to endure. They have had to put their health, their wealth, their family, their fortunes, and their very lives on the line. Many lives have been sacrificed in the name of religious expression, religious belief. The persecution, which takes place in many countries around this world, is almost too horrible to describe. As a Nation, as a people who have been so blessed with the freedom of religious belief, the least we can do is to hold ourselves out as an example and model to many nations around the world, but, more importantly, demonstrate through our policy that this violent human rights issue is an issue that cannot be ignored, sacrificed to trade, sacrificed to diplomatic relations, or to anything.

The basic human right, endowed by our Creator, for freedom of worship, freedom of belief, is something that the world desperately needs, something that we can promote. This legislation is designed to do that. I urge my colleagues to support this bill. I cannot emphasize enough my deep conviction that we must act swiftly on this issue on which our country has, unfortunately, been silent on too long. We are now acting. We have come to that point. It is with great joy, I believe, in our hearts and in the hearts of people of faith throughout the world that the Senate will enact this. Our deep hope and belief is that the President of the United States will sign it and it will become the official policy of the United States.

I yield the floor.

Mr. NICKLES. Mr. President, my colleague, Senator LIEBERMAN, who will be managing this bill for the other side of the aisle, is not present. I yield 10 minutes to my colleague from Kansas.

Mr. BROWNBACK. Mr. President, tomorrow, our Founding Fathers are going to be proud of us. Tomorrow as we pass, hopefully, this International Religious Freedom Act, they will be

proud of the tradition that we have carried on, a tradition that finds its wording above our mantels here in this hall and says ''In God We Trust,'' a tradition that finds itself rooted in freedom, particularly religious freedom and religious expression of freedom. They will be proud that we passed this act and that we stand—and stand strong—around the world for religious freedom, freedom from persecution, and allow people of conscience to express their conscience and their desires as they see them fit before God.

Today, I stand to support the International Religious Freedom Act which addresses religious persecution worldwide. It is a noble and significant effort to confront an ancient prejudice which permeates societies and produces deep suffering.

I fervently hope that this legislation will be passed for many reasons. This legislation is an expression of solidarity with embattled minority faith communities worldwide. It supports those who simply and humbly seek to practice their religion in peace without crushing governmental interference. It supports those who were commanded to stop worshiping their God and refused. It supports those who fear for safety and even life, yet continue against the odds.

This is a legislative memorial to anyone who has been unjustly imprisoned for their faith, especially for the ones who refused to recant on principle and remained incarcerated for years, even decades. This is a memorial to peaceful believers who presently sit in jails throughout the world for the crime of daring to express their love of God. We put it above our doors in the U.S. Senate. We have written ''In God We Trust.'' Other people around the world sit in jail for uttering that same phrase.

This is a memorial to all persecuted believers who strain towards justice and freedom, and have no advocates.

I admire this bill particularly because it addresses the problem of state-sponsored persecution of peaceful religious groups. This is the most insidious form of persecution. How do sincere people of faith stand against the crushing onslaught of a hostile government? How does an individual, or a small faith community, stand against a national security force? Imagine countries where entire divisions of the national police are dedicated to stalking peaceful people of faith. Now imagine being the victim of this onslaught without any defense or advocates, whatsoever. This is true in communist nations, in developing nations, in ultra-nationalist nations. Bottom line—any individual who dares to stand alone, to stand against a hostile national government for their peaceful faith convictions deserves our advocacy. And this legislation provides tools for that advocacy.

In his 14th-century epic poem, ''The Divine Comedy,'' Dante believes a place reserved in the Inferno for those who refused to take a stand on the great moral issues of the day. I believe that religious freedom is one of those great moral issues. It is abundantly clear that in some parts of the world, your religious identity is your death-warrant. This is simply wrong and should not be. Knowing the generosity of the American spirit, I believe that we all agree that religious liberty is worth our defense, that our nation was founded on this principle, and that it is central to the core of our American character. This legislation powerfully expresses our national concern for the sanctity of this fundamental right, internationally.

Is religious persecution advocacy our responsibility? It is certainly no less justified than our support for democracy dissidents in China or for Sakharov and Soltzenitsyn during the earlier days of Soviet Russia. There are striking parallels between both movements. Both, upon principle, refuse to bow their knee to the crushing dictates of hostile national governments. I am compelled by the stark image of a lone person refusing to recant a precious belief, and consequently incarcerated for the practice of fundamental rights, including free speech, assembly and association.

This occurs routinely in communist countries and other fundamentalist regimes. There are countless Chinese Christians who have been incarcerated for 20 years and more for their faith. Jail is known as ''Chinese seminary'' because the government incarcerates so many people for the crime of illegally sharing their faith. In North Vietnam, it's even worse where, routinely, people of faith are incarcerated for 10 or 15 years. But the government does not stop there. Extended family members are also imprisoned, from grandparents and parents, to siblings and children—three generations because of one religious believer.

If we freedom-loving people do not stand for this fundamental principle who will? It is my honor to continue to advance the elementary notion that this is an inalienable right, which no one can dictate, not even a government. It is a higher principle, protected, divine, precious, fundamental, universal and vastly personal. And it deserves our protest on shear principle, so I am grateful for the advocacy tools provided by this legislation.

Throughout the centuries, many have fought for religious liberty at great personal cost. There is a magnificent cloud of witnesses who look down upon us, their scars bearing testimony to their commitment even to death for religious freedom.

Countless, nameless believers have engaged in tremendous feats of faith and self-sacrifice in the name of religious freedom and conviction. The 6 million Jews of Nazi Europe bear witness in an unmatched way for the sacrifice they made as a people for their religious identity. There are over 200 million Christian believers worldwide who presently live in nations which are so hostile to their faith that they are in physical jeopardy. The Bahai of Iran, one of the most devotedly peaceful faith communities in the world was racked in Iran with yet another execution last month and 15 more Bahai are sitting on death row presently. The Tibetan Buddhists had thousands of monasteries destroyed, their nuns raped, their Dalai Lama forced into exile, their religion outlawed. The list is long, the suffering is great, and the goodness of their cause resonates throughout these great halls of freedom today.

Religious freedom is a fundamental, universal right protected by treaties and constitutions worldwide. I will continue to stand for this principle as long as people suffer for it, along with the many other Members of Congress who share this conviction. In the face of crushing persecution, in apparent defeat, there is a light that continues to pierce the darkness and it will not be extinguished. If we stand for anything, let us stand with those whose courage is a living testimony to the fundamental freedoms we love so deeply in America. Let us vote ''yes'' on this legislation.

I urge my colleagues to do so.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. HELMS. Mr. President, we would not be here today were it not for the tireless efforts of Senator DON NICKLES. Twenty-eight other Republican and Democratic Senators who co-sponsored S. 1868 (which is essentially the pending substitute amendment) and, for that matter all Americans, owe Senator NICKLES and his able staff a debt of gratitude.

Now then, the pending amendment is a modification of S. 1868. I am a co-sponsor of S. 1868, and while I will vote for the pending compromise language, I confess that it does not go far enough for my taste.

To be sure, these compromises were forced upon the sponsors by a White House and State Department who fought us at every step and habitually moved the goal posts during negotiations. The Clinton Administration may prefer that we do nothing, but doing nothing isn't an option.

As you know, Mr. President, the Foreign Relations Committee has taken the lead in several historic steps by the Senate in recent months to advance U.S. foreign policy interests—including passage of a far-reaching State Department reorganization and U.N. reform package and the NATO Expansion Treaty.

Nevertheless, I believe it is obvious that neither initiative has stirred the hearts and souls of the folks back home in churches and synagogues to the same degree as the growing persistent torture and abuse of Christians, Jews and other religious minorities at the hands of intolerant foreign governments.

Americans are eager for their government to help ease the suffering of their brothers and sisters overseas. They are not at all satisfied with the inaction they have gotten to date.

I am sure these people—who are the backbone of this nation—have no quarrel with establishing special committees, or issuing reports, or having high level meetings with church groups. But Americans are looking for concrete action from the State Department and the White House—and certainly, people persecuted because of their faith in foreign lands deserve more than kind words and gestures.

It is important to emphasize that this issue, and the growing concern of Americans, have not fallen on deaf ears in the Senate. The Foreign Relations Committee held five hearings on this issue during the 105th Congress—two specifically on Senator NICKLES proposal. I especially want to thank Senators BROWNBACK and ASHCROFT for using their subcommittees to focus attention on this issue.

I hope every Senator will review the video tape of Senator ASHCROFT's moving hearing on the tragic plight of Christians in southern Sudan. (These innocent people have been brutally tortured, sold into slavery and, in some instances, literally crucified by the radical Islamic government simply because of their faith in Christ.)

The point is this: the vote we are about to take is a test to see whether Senators finally realize that we, as a people and a government, must do more to advance the cause of religious freedom across the globe.

Finally, Mr. President, it is often pointed out—and I believe it with all my heart—that no matter what laws are enacted, religious intolerance will never be erased from the earth. I also believe that the prayers of millions of Americans and other believers around the world will accomplish more than any Act of Congress.

That does not mean we should not try. I hope the President will join with us as we attempt to strengthen U.S. leadership in this area.

Mr. HAGEL. Mr. President, the Senate is debating the International Religious Freedom Act of 1998. In its current form, this bill is a careful compromise that has been months in the making. I had serious concerns about earlier versions of this legislation, but I am a cosponsor of today's compromise.

I am confident that we have crafted the right balance among different facets of American foreign policy. Economic freedom and individual liberties are not competitors—they go hand-in-hand! We want nations that are free, that respect rights and liberties, and that have free trade and market economies.

This is a bill that will focus America's attention on the desire to advance religious freedom around the world while doing no harm to America's national security, diplomatic or economic interests abroad. This is a bill that will give the President flexibility to craft a complete foreign policy—a foreign policy that does not elevate one facet of our foreign relations above all others.

Religious freedom and tolerance have always been America's creed. Freedom of religion is the first freedom guaranteed in our Bill of Rights. No person anywhere in the world—no Christian, no Jew, no Hindu, no Muslim, no Buddhist, no Baha'i . . . no one—should suffer at the hand of the State for worshiping as he or she sees fit. As a beacon of liberty and freedom, America has a moral duty to speak out against religious persecution around the world and to defend for people everywhere the fundamental right of freedom of worship.

At the same time, this bill recognizes that America bears a heavy and complicated burden of international leadership. Our relationships with other nations are complex, and our policies must reflect those complexities. American leadership is essential for international peace and security, free and open trade, a stable international economy and many other vital matters. Like all leaders, America must balance competing needs, interests and ideals.

This bill gives the President flexibility to use the full power of American engagement to promote religious liberties abroad. America's strong commercial and diplomatic ties with other nations remain our most effective leverage to alter the behavior of authoritarian governments. American engagement abroad acts as a catalyst for change. The United States government cannot mandate religious freedom around the world, but America can lead the world in spreading respect for religious beliefs—just as we used the power of our example and determination to spread liberty, democracy and economic freedom around the globe.

This bill will focus U.S. government attention on religious persecution. It will make religious freedom part of American diplomacy from the training of foreign service officers to the granting of visa requests to the use of our embassy facilities.

This bill also will shine the light of day on countries, or entities within countries, that engage in religious persecution. It will require annual reporting on the state of religious freedom in every country, as well as annual publication of all actions the United States Government is taking around the world to promote religious liberty.

And, this bill establishes an orderly procedure for the President to consider taking targeted, calibrated actions against the most severe violators of religious liberty.

This compromise gives the President the flexibility he needs to conduct a balanced foreign policy.

The President will have substantial flexibility to calibrate the most appropriate action to help change the behavior of the worst violators of religious freedom, including broad waiver authority and broad latitude to take actions other than sanctions.

Congress will not be required to undertake a new series of counterproductive ''mini-MFN'' or ''mini-drug decertification'' debates about religious persecution around the world.

The Commission on International Religious Freedom established by the bill will make recommendations but will have no official role in shaping U.S. foreign policy.

And the President will have substantial flexibility in deciding when and how to identify countries that will be subject to action under this bill. There will be no diplomatically damaging ''list'' of countries that violate religious freedoms.

Mr. President, this is not a perfect bill. But it is a good bill. Congress cannot, by passing a law, put an end to religious persecution outside our borders. But we can ensure that America speaks out with one voice, with a strong voice, to make clear that we will not stand idle while people suffer because of their faith.

This bill will amplify America's voice for freedom. It will strengthen the President's ability to craft a complete foreign policy in which the whole of America's national interests is not held captive to any single dynamic. Security, economics, diplomacy, trade, human rights, individual liberties—these are all part of America's national interests around the world. We can, we must, promote them all—we cannot afford to sacrifice any interest for any other interest.

When Congress returns next year, we should continue the effort to expand American engagement abroad—by passing fast track trade negotiating authority, by reforming outdated and counterproductive sanctions regimes, by reviewing every international institution in which America participates to ensure they are relevant to today's challenges. And we must strengthen our military, which is the guarantor of our foreign policy. American leadership in all those areas is essential if we are to effectively promote individual liberties—including religious liberties—around the world.

We should pass this bill. And then Congress should resist the temptation to legislate further on this matter in the months and years ahead, and give this comprehensive new framework for religious freedom a chance to work.

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

Mr. MACK. Mr. President, last week, as many of our friends and colleagues began the Jewish New Year with the Yom Kippur day of atonement—in freedom and in peace—millions of men and women elsewhere in the world were suffering for their faith. Mr. President, I believe that our freedom to pray is not complete until all people are free to pray.

I am told of some specific examples which make me appreciate my freedom

and move me to come to the floor today. In Pakistan, a young man faces a death sentence based on trumped-up blasphemy charges. In Laos, ten courageous men and women of faith serve out harsh prison sentences for the crime of meeting for Bible study, an act which many of us take part in regularly. In China, millions of Catholics and Protestants are forced to worship in secret, paying the price of prison, fines, and even torture if they are discovered. Muslims and Tibetan monks in China suffer a similar fate. In the Sudan, Christians and animists are sold into slavery or brutally murdered by an extremist Muslim government.

These things ought not to be, and I believe that silence is no longer an option. We must act, and we must act wisely. For this reason, I join my colleague from Oklahoma, Senator NICKLES, in introducing S. 1868, the International Religious Freedom Act of 1998. This bill presents a responsible, flexible structure for responding to violations of religious freedom around the world. It allows for action that is comprehensive but calibrated. It requires consultation with those who best know the country in order to devise the most effective policy. It ensures that the action we take truly benefits the people who are suffering. The only option this bill does not allow is silence.

The International Religious Freedom Act is not merely a short-term reaction to religious persecution. It has been carefully researched and crafted to promote long-term change, not simply to punish. There are numerous provisions for training our front lines in human rights policy—Foreign Service officers, ambassadors and refugee and asylum personnel. It incorporates religious freedom into numerous long-term avenues for change, such as broadcasting, Fulbright exchanges and legal protections for religious freedom.

This bill has strong support from a broad base of religious and grassroots organizations. With my colleague DON NICKLES, we have listened to all who desired to contribute, and have worked with both sides of the aisle to address areas of concern. This bill is truly a collaborative product of countless hours of work among members of the Congress and the administration.

As Americans, we prize the right to freedom of religion. Our founding fathers sought to establish, as George Washington, said, ''effectual barriers against the horrors of spiritual tyranny, and every species of religious persecution.''

We now have an historic opportunity to act on behalf of millions of religious believers around the world who cannot speak for themselves. We have a solemn responsibility to stand by those suffering for their faith. I urge my colleagues to vote for this bill. It is the right thing to do.

Mr. ENZI. Mr. President, I rise to speak in favor of the bill, as modified, before us. I cosponsored S. 1868, the ''International Religious Freedom Act'', sponsored by the honorable Senator from Oklahoma because I have become concerned with the trends or continued policies of religious discrimination and persecution in certain countries. I applaud his efforts to work with all interested parties in forming a consensus bill with 29 cosponsors—one that even prior opponents can support. He has been persistent in his efforts to form a bill that addresses the legitimate concerns of most of the bill's previous detractors, including the Administration. I must also commend the senior Senator from Pennsylvania for focusing Congress' attention on this important issue.

I feel it is extremely important, as a nation that firmly believes in the freedom of an individual to practice his or her religious belief, that our foreign policy reflect and promote this basic right of individuals. The manner in which we deal with other nations should include, but not be exclusive to, the way these nations honor the religious liberty of their citizens and visitors. I believe this bill as amended, strikes a responsible balance between the national security or economic interests, and the importance America places in the freedom of religious thought and practice for all throughout the world. The goal of promoting religious liberty in other countries is entirely consistent with the United States' policies of promoting human rights and democracy throughout the world.

Many Europeans first settled this continent for the very reason of gaining freedom of religious thought and practice. We can look to William Penn as just one example of an individual in American history that strove to promote the rights of individuals to practice their religion without interference. His goal was to create a land of religious toleration—that land was called Pennsylvania. He even drew up Pennsylvania's colonial Constitution, which included in its first article the protection of the freedom to worship according to one's own conscience. To this day, America continues to be a beacon to the world, guaranteeing the freedom to worship as one desires.

As a nation founded on Judeo-Christian principles, it especially saddens me when I learn about the increase in the persecution of Christian individuals worldwide. However, it is not just Christians in certain parts of the world that are being punished simply because of their beliefs—it is also those who practice Islam, Judaism, and just about every other religion or belief. Our Founding Fathers made it clear in the Declaration of Independence that the basic Laws of Nature and of Nature's God are entitled to all individuals. This guiding document, a unanimous Declaration of the thirteen United States of America, says that:

> . . . all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness.

The ability to practice ones religious beliefs without undue government interference is a fundamental right—an unalienable right. The American Founders believed in this right so much that they included the freedom to exercise one's religion in the First Amendment to the Constitution of the United States of America. The basic right to the freedom of thought, conscience and religion has also been declared by many other countries, as evidenced by the member signatories of the Helsinki Accords and the Universal Declaration on Human Rights and the International Covenant on Civil and Political Rights.

I believe this legislation will promote ideals that America stands for—specifically the freedom of religion—in the international community. This bill is especially important because religious persecution takes many forms and even seems to be on the rise in some parts of the world. The bill before us will deal with countries that disregard the basic right of individuals to believe as they choose in a manner that is consistent, yet flexible—one that allows the President to choose from a variety of measures to address the injustices of the violating country. It allows a flexible response from the Administration, which recognizes that religious persecution takes many different forms, with varying degrees of severity. The bill's flexibility also recognizes the importance of a foreign policy that can be both pro-active and reactive to our national security and economic interests. The one action in dealing with violators of religious freedom that would not be allowed by this bill would be that of inaction or silence. If we, as defenders of freedom, are silent in matters so fundamental to our political belief system as religious liberty, then we are no better than the perpetrators of this unjust persecution and discrimination. This bill would help create a consistent U.S. foreign policy with respect to how we deal with countries that do not respect individuals' freedom of thought and conscience. I urge my colleagues to join with me and the 28 other cosponsors to vote in favor of this bill.

Mr. NICKLES. Mr. President, I yield my colleague from Minnesota 10 minutes.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. GRAMS. Thank you very much, Mr. President, and I thank Senator NICKLES also.

Mr. President, I rise to support the International Religious Freedom Act of 1998. While I continue to have serious questions about the general concept that threatening to impose sanctions on a country considered a ''country of particular concern'' will enable us to make progress toward ending religious persecution, I have co-sponsored this legislation, considerable progress has been made to redraft the legislation in a far more positive manner. Since it has significant support, it was important to ensure we will pass a version

that had a better chance to work—not one that could have been counterproductive.

The Nickles compromise to the Wolf-Specter version I believe is far superior, and has addressed the concerns of many religious leaders. There was a fear the original legislation could have actually harmed believers in other countries. Let me repeat—those who served as missionaries and promoters of religious freedom abroad told me this legislation could actually have been counterproductive. In fact, some of them questioned a government involvement in this debate at all, other than through normal diplomatic efforts—or, even better than the efforts of religious leaders and missionaries themselves, who have been able to make progress on their own.

Yet, many Washington stakeholders, supported an approach, to publicly humiliate and punish countries which meet our definition of ''a country of particular concern'' that is engaging in ''particularly severe violations'' of religious persecution by publishing a list of them and imposing automatic sanctions.

Mr. President, I didn't believe this approach would work. I didn't believe that this was the right way to address religious persecution. Fortunately, many religious leaders have stepped forward, often severely criticized, to tell us they did not believe the original approach was the right approach.

Senator HAGEL and I asked the Foreign Relations Committee to hold a hearing on the legislation, a hearing that would allow some of those who believed the legislation could have been counterproductive to testify. It is ironic that when we sought changes to the legislation, again changes suggested by those who had served abroad, I was publicly attacked by some individuals claiming to understand how best to address religious persecution. And some of these individuals, I believe, may have placed their own personal agendas ahead of the very people that we, through this bill and this legislation, want to help in these countries.

Mr. President, I strongly commend my colleague, Senator NICKLES, for his understanding, his patience and his dedication to work with us on this legislation. I know he made many revisions to the bill which were recommended by myself and others that we thought would help change the focus from an approach that was more negative to one that was very positive and had a better opportunity to work.

There is far more emphasis now on working with countries, working with them quietly to try to end those violations of religious freedom, and to working with our allies in order to try to reach multilateral solutions rather than a far less effective unilateral approach and solution.

The revised Nickles substitute before us, I think, gives the President more flexibility regarding how efforts to achieve religious freedom are reported and that we talk not only about the progress that must be made, but also the progress that has been made. The report that discusses the progress that needs to be made is less inflammatory and it does not link any suggested sanctions to each country of particular concern.

The President's waiver authority has been also expanded to permit a waiver if an action, including sanctions, would be counterproductive. And just this week the waiver authority has been further expanded to a national interest waiver which is significant progress, I believe, to improve this bill. A waiver could be communicated to Congress the same day it is exercised rather than the earlier notice requirement.

One concern of mine, however, does still remain, and it relates to the commission which provides its own report on religious freedom. While the commission should be advisory using, I believe, detailed employees from the Government, language was added late in the negotiations that awarded the commission $3 million for each of the 2 years for its own staff. That is a lot of staff when ''free'' staff was available.

Now, I agree that the commission needs some autonomy, but in my judgment this could further politicize the commission, which would make it less effective. But I am pleased that Senator NICKLES added my requirement that commission members must have some direct experience abroad in order to be appointed to the commission. We must have a commission with members who have direct knowledge of religious freedom issues in targeted countries, those who have been there, those who know the problems that these people could face in the form of any kind of retribution toward any US government action taken.

I was also pleased that language was added to track some of Senator LUGAR's Sanctions Reform Act in several sections of the bill. Those were the provisions that would require consultation with interested parties in order to achieve a multilateral solution as well as an analysis of whether an action would achieve the purpose of promoting religious freedom, whether it would be counterproductive, and what the cost would be of that action to the rest of the economy.

Because so many changes were made to improve this legislation and because so many wanted to support some kind of bill, I worked very hard with Senator NICKLES and others to improve the bill. I now believe that we must also exercise our oversight function over the commission as well as the overall approach of this legislation in the years ahead. We must continue to ask ourselves whether this kind of public approach really works. We must consider whether we want a commission or our Government deciding what religious persecution is, which religions are we going to help, and which ones will we ignore, and which countries we will label a ''country of particular concern,'' and which will escape that designation for some foreign policy reason. Where will we draw the line? Will we factor in every kind of discrimination against religion, including many we may have questions about? Will we be drawn into disputes with other countries that question why they were named and not other equally violative countries?

Mr. President, we will need to monitor its results, and we need to do that in order to make sure that it accomplishes its purpose. There may be some fine tuning that we need to do to the bill to improve it to make it work better.

This is a dangerous area in which we are treading. It is full of pitfalls, I believe, but I think we can overcome them if we are ready and willing to have oversight authority. My support of the revised Nickles bill is based on that willingness to see how this approach works, but we must pay attention to how it is working and to have the good sense to end it if it is not.

As we exercise our oversight over this legislation, I ask my colleagues also to listen to the advice of The Reverend John N. Akers, of the Billy Graham Evangelistic Association and Chairman of the East Gates Ministry International. He has been very helpful in forwarding concerns of missionaries serving abroad. Dr. Akers, who also testified before the Foreign Relations Committee, requested in a September 28 letter to my office, ''Do all you can to ensure that the final version will help religious believers in other countries and not actually, if unintentionally, make their situation worse.''

Mr. President, this is good advice, and it shall dictate how I personally analyze the success or failure of this legislation.

But tonight I want to urge all my colleagues to strongly support this as a beginning. Again, I thank Senator NICKLES for all the hard work to get us to this point on this legislation.

I thank the Chair. I yield the floor.

Mr. NICKLES. Mr. President, I thank my colleague from Minnesota for his leadership on this, for his willingness to meet with us for hours to work out some of the concerns that he had, the latest concern he mentioned being where some people who are in foreign countries who are missionaries wanted to make sure this wouldn't have a counterproductive effect. We actually put in a waiver of any sanction that could be imposed if the administration felt like it would be counterproductive to the goals and purposes of the act.

Again, I thank my colleague, Senator GRAMS from Minnesota, for his willingness to work with us, to cosponsor this legislation.

Mr. President, I did not do this at the beginning of the debate and I should have. I ask unanimous consent to, in addition to myself and Senator LIEBERMAN, have the following Senators be included as original cosponsors of this bill: Senators MACK, KEMPTHORNE, CRAIG, HUTCHINSON, ENZI,

HELMS, SESSIONS, FAIRCLOTH, ALLARD, DEWINE, BROWNBACK, INHOFE, COATS, COLLINS, HUTCHISON, LOTT, COVERDELL, AKAKA, ASHCROFT, SANTORUM, BREAUX, HAGEL, GRAMS, SPECTER, MCCONNELL, D'AMATO, HOLLINGS, and Senator SMITH from New Hampshire.

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

Mr. NICKLES. Mr. President, I also have a list of organizations, religious organizations that have been supporting this bill and endorse this bill. I will name those for the record: Religious Liberty Commission of the Southern Baptist Convention, the National Association of Evangelicals, the International Fellowship of Jews and Christians, the Christian Coalition, the Anti-Defamation League, the National Jewish Coalition, the American Jewish Community, the Catholic Conference, Evangelical Lutheran Church of America, the Catholic Conference of Major Superiors of Men's Institutes, the Jewish Council for Public Affairs, the Union of American Hebrew Congregations, the Union of Orthodox Jewish Congregations of America, the National Conference on Soviet Jewry, United Methodist Church Women's Division, American Coptic Association, Episcopal Church, Advocates International, Traditional Values Coalition, Justice Fellowship, and B'nai B'rith International.

Mr. President, how much time remains on both sides on the bill?

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Oklahoma has 7½ minutes and the opposition has 75.

Mr. NICKLES. Mr. President, several colleagues have requested time to speak. I also know we went a little bit later than anticipated. Most of the colleagues on my side of the aisle have spoken. I know Senator LIEBERMAN is returning to the floor momentarily and wishes to speak. So I reserve the remainder of time on our side and ask colleagues, if they wish to speak, to please come to the floor and do so. If not, we will be happy to accommodate requests of other colleagues who wish to speak as in morning business.

Mr. President, I also ask unanimous consent we, Senator LIEBERMAN and I, have 5 minutes to speak prior to the vote tomorrow morning. That will be at 9:25.

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

Mr. NICKLES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. GRAMS. Mr. President, I ask unanimous consent I be allowed to speak as in morning business for up to 10 minutes.

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

SUPPORT OF THE AGRICULTURE APPROPRIATIONS BILL

Mr. GRAMS. Mr. President, I rise tonight to express my grave disappointment of President Clinton's decision to veto the 1998 Agriculture Appropriations conference report, which includes emergency relief for farmers around the country, like those farmers in the Red River Valley area of my home state of Minnesota, who are struggling against a combination of devastating factors.

Inclement weather, low prices, high market yields generally, and multiple years of wheat scab disease have converged to produce an atmosphere where even the best, most competitive farmers in Northwestern Minnesota are suffering.

This, despite the fact that the Market Transition Payments in the FAIR Act have provided our nation's producers with a much greater safety net than the deficiency payments they would have received under the old program—about $7.5 billion more under the new farm bill than the old.

Yet the President's actions will delay this important relief. This bill provides twice as much assistance as he originally requested, yet he has now joined the bidding war, changed his mind and now jeopardizes this needed assistance to our farmers.

It is crucial for farmers in Minnesota, as well as other states, that the Agriculture Appropriations bill be signed by the President and not used as a pawn in a political debate. The bill funds all of our agriculture programs including $675 million to Plains farmers to help offset crop failures, like those caused by the wheat scab epidemic.

It also includes $1.65 billion which is to be added to the annual market transition payments—this money will help to address depressed commodity prices.

The conference report funds $56 billion to fund needed agriculture programs. This includes funds for many crucial tools to help our farmers promote their commodities at home and throughout the world.

The bill funds the Farm Service Offices in our states to aid farmers in making the adjustment to Freedom to Farm.

It also funds the Foreign Agricultural Service, which promotes U.S. agriculture products abroad. The Service coordinates CCC Export Credit Guarantee Programs; PL–480; Export Enhancement; and the Market Access Program.

The bill will continue and expand needed assistance to farmers in the long term, as well as the short term. It is a good compromise. I voted for the conference report although there are sections that I, like many, oppose, such as language from an earlier House version which would create a backdoor extension of the Northeast Interstate Dairy Compact. I raised some strong objections to this political maneuvering on the Senate floor last week.

It will allow an unjustifiable, reprehensible program to continue for another six months.

While I have deep reservations, this compromise is one we should continue to support and one the President should sign.

Some say this compromise does not include enough to address the farm crisis. Yet, this conference report provides over $4.2 billion in farm relief money. This is money that will be available immediately to farmers.

This is in addition to the regular AMTA payments— that is the marketing transition support payments which have provided roughly $17.5 billion to farmers over the last two years. This is also in addition to approximately $4 billion that producers will receive in loan deficiency payments this year.

Both Democrat and Republican plans were debated thoroughly in Committee, and the plan before the President is the one that the Members decided to support. The concept behind this agreement is that it continues to support farmers through the transition from the old failed system of our farm program to the new Freedom to Farm legislation, as well as to address needs created by weather and disease disasters.

It does not attempt to throw another net of Washington programs over our farmers.

Despite the partisan grandstanding you have heard, the plan before us will provide the transition assistance that our farmers need. And it will not undo the Freedom to Farm policy that we worked so hard to achieve.

Farmers in Minnesota have made it clear to me that they do not want welfare. The relief plan currently in the Agriculture Appropriations report avoids going in that direction. It is a one-time support package, as opposed to returning to our failed agriculture policies of the past. It also avoids the flaw of lifting the loan caps, a move that would both exacerbate the current grain glut and also distort market signals, encouraging excess production, which would continue low prices.

It is painfully clear by this point that the only purpose served by promoting ''lifting the loan caps'' is one of grandstanding, and we all know that a higher loan rate leads both to increased production, larger surpluses along with lower prices.

This option again was rejected by the Senate, Senate twice, yet it keeps coming back, rearing its ugly head.

There is simply no justifiable basis for a Presidential veto of the Agriculture Appropriations bill.

As we have heard Chairman COCHRAN explain here on the floor, it contains a lot of money for production agriculture. So a threatened veto is certainly not about money—it is about politics.

I remind my colleagues the President's original request for farmer relief—the original request—was $2.3 billion. The current package contains more than $4 billion. Now, however, he wants to veto legislation providing more money than his request. He has changed his mind and now wants $3 billion more.

This is simply a half-hearted attempt by the President to back a Democrat effort to revisit the Freedom to Farm bill. This is legislation that only 2 years ago, the Congress and President Clinton himself agreed it was needed to move the business of agriculture out of the grip of Government control.

It is disturbing to me that when the White House does not get its way, it vetoes legislation or takes it to the courts, and if rejected there, appeals to the higher courts. The bottom line is that it continues to try and go around Congress, rejecting decisions made by a majority of Congress.

Minnesota farmers should not be used as pawns in an election-year drama. The President should help farmers by signing this significant, emergency legislation, rather than joining those here who seek to undo the progress that has been made on agriculture policy.

The solution is here before us, and delays will be laid right at the President's feet. For the sake of our nation's farmers, let's end the bidding war. Let's end it now. I strongly urge the President to reconsider his decision as he reviews this crucial legislation again in the Omnibus Appropriations bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank my colleague, Senator GRAMS from Minnesota, for his speech, but also for the homework and dedication that he had on this piece of legislation. He had some concerns about it. He raised those concerns. He was an effective Senator. We worked to alleviate some of those concerns and we wanted to make sure that no person who is in a foreign field—that these actions would cause them greater pain or greater discrimination. So I thank him for his efforts on the Religious Freedom Act, and I also thank him for his statement that he just made on the ag bill. I happen to agree with his statements wholeheartedly.

FREEDOM FROM RELIGIOUS PERSECUTION ACT OF 1998

The Senate continued with the consideration of the bill.

Mr. NICKLES. Mr. President, I ask unanimous consent that Senator FEINSTEIN be included as a cosponsor.

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

Mrs. FEINSTEIN. Mr. President, I rise to express my support for the International Religious Freedom Act of 1998, which is the substitute amendment to H.R. 2431 being offered by the Senator from Oklahoma.

At the outset, I would like to express my appreciation and respect for the distinguished Assistant Majority Leader, Senator NICKLES, and the distinguished Senator from Connecticut, Senator LIEBERMAN. I want to salute their deeply held commitment to religious freedom for all people. I am aware that they and their staffs have been negotiating this bill for many months. They have been through draft after draft, talking with the Administration, a large number of Senators with different interests, and a wide range of concerned outside organizations.

Their mission has been to produce a bill that would make a meaningful contribution to combating the problem of religious persecution in foreign countries, one that would pass with broad support in the Senate, and a bill that the President would sign. I know how long and hard they have been working on this effort.

Earlier this week, they had hoped to move the bill forward. There were still a number of provisions which I was concerned about, and I felt that since the bill had not come through the Foreign Relations Committee, on which I sit, and would not be open to amendment on the floor, I wanted a chance to address those concerns.

Despite the marathon talks the Assistant Majority Leader and the Senator from Connecticut had already engaged in on this bill with so many others, and despite my late entry into the fray, they graciously and without hesitation agreed to sit down with me to see if we could come to common agreement. We were also joined by Undersecretary of State Stuart Eizenstat.

I am happy to report that, as a result of these discussions, with good will by all sides, we were able to reach agreement on each of the provisions that was of concern to me, and I think the bill is better for it. Let me explain what we agreed upon.

First, I have come to the conclusion that when the Congress legislates sanctions, we need to provide the President with a reasonable amount of flexibility in the implementation, both to respond to changing conditions, and to protect other American interests.

Normally, we provide the President with a waiver authority for sanctions, but the standard of that waiver is critical. The State Department believes, and I agree, that the ''national security'' waiver standard in the most recent draft was too high—it would be difficult for the President to waive the sanctions required under this act except in extraordinary circumstances. A waiver of ''national interest'' was deemed by the sponsors to be too low. So we compromised: the President can now waive the sanctions in this bill if the ''important national interest'' requires it.

Second, the definition of what constitutes a ''particularly severe violation'' of religious freedom was originally drafted in such a way that it could have inadvertently triggered other sanctions—those required for gross violations of human rights—under sections 116 and 502B of the Foreign Assistance Act. There was no intent on the part of the sponsors to trigger two sets of sanctions, so it was simply a matter of ensuring that a different standard was required for each trigger.

The standard we agreed upon was proposed by Senator LIEBERMAN. Particularly severe violations of religious freedom are now defined as ''systematic, ongoing, egregious violations of religious freedom.'' To my mind, this is neither a higher nor lower standard than the ''consistent pattern of gross violations of human rights'' that requires a separate set of sanctions under the Foreign Assistance Act, but it is a sufficiently different standard that it a finding under one act should not automatically trigger sanctions under both acts. I think this is an important improvement in the bill.

Third, we were concerned that there could be situations in which the President has already taken significant action against a country, in large part to respond to human rights abuses, and then a finding of particularly severe violations of religious freedom would require additional actions under this act. In the case of a country like Sudan, where we have already imposed extensive sanctions, it makes sense for the President to be able to cite an existing sanction as fulfilling the requirements of the International Religious Freedom Act.

Again, to the best of my knowledge, the sponsors of the bill had no desire to force the President to impose redundant sanctions on a country. So, in section 402(C)(4) we have developed language that allows the President to cite an existing sanction as fulfilling the requirements of this act. I think this change also makes the bill better.

We are all aware that there are people of faith who are suffering for their beliefs in many parts of the world. As a nation founded on the precious principle of religious freedom, a principle which is enshrined in the Bill of Rights, we cannot and must not turn a deaf ear to the cries of the oppressed. Making the protection of religious freedom a high priority in our foreign policy is the right thing to do.

The challenge is to create mechanisms to promote religious freedom and protect persecuted believers that: provide enough flexibility to respond to different conditions at different times and places; avoid unintentionally making life harder for those we seek to help; and, make a meaningful contribution to the cause of religious freedom without unduly jeopardizing other important national interests.

That is why I have so much respect for what the distinguished Assistant Majority Leader and the distinguished Senator from Connecticut have been

trying to do these many months. They have worked hard to listen to the concerns of the Administration, other Senators, religious organizations of every denomination, the business community, and other interested parties. They have tried to develop a bill that will help the United States protect those in danger of persecution for their faith, while taking into account the broad and deep requirements of U.S. foreign policy interests. I think they have succeeded.

Evidence of their success is in the broad and diverse coalition of religious organizations and human rights groups who have worked tirelessly to support the bill. Further evidence of this success, I believe, will be evident by the overwhelming support I expect the Senate will demonstrate when it votes shortly. And perhaps the most impressive evidence of their success is that earlier today, National Security Adviser Sandy Berger informed the Minority Leader that the Administration now supports the bill as drafted. After so many months, we know that the President will sign this bill, and it will become law.

I yield the floor.

Mr. NICKLES. Mr. President, I know the Senator from Connecticut will be here shortly. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Senator from Indiana.

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

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

Mr. COATS. Mr. President, I know our colleague, Senator LIEBERMAN, is on his way over to speak on this bill. I want to take this opportunity to say how much his presence and his involvement on this issue was necessary to our forging a bipartisan consensus on this.

I think it is important that we speak with one voice as a nation on an issue as critical as religious persecution. It was the work of Senator LIEBERMAN, primarily on the other side of the aisle, that allowed us to address some of the concerns of some of our colleagues—many of them legitimate concerns—and to work through the process, convince his colleagues that what we were attempting to do was done in a way that addressed their concerns. Really, without his help we could not have forged this bipartisan consensus. So while he is not here for me to praise him personally, I just want to let the Record show that the combination of Republicans and Democrats, liberals and conservatives, and everybody in between, resulted in a consensus bill that I think sends a very, very important message and, really, a beacon of hope and light.

I am hoping the vote tomorrow will be unanimous, and I think it may be. A lot of that credit goes to Senator LIEBERMAN and also, as I said earlier, a lot of that credit goes to the bill's chief sponsor here in the Senate, Senator NICKLES, who patiently worked through trials and tribulations, weeping and wailing and gnashing of teeth, in order to pull this together and get everybody on board. That appears to be what we have, and we are looking forward to a solid vote tomorrow. Again, my compliments to all of those who played such an important role in that.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank my colleague from Indiana for his compliments. I want to reiterate my statement that Senator COATS was there from the beginning, and he was there at almost every meeting saying, ''Let's get this done,'' and, ''Let's forge the consensus,'' ''Let's make the compromise,'' and he helped make it happen.

He is also very correct in complimenting Senator LIEBERMAN for making it happen. I mentioned that earlier. Senator LIEBERMAN has been with us on this bill for a long time. He has worked with us. He has helped us craft the bill and helped make compromises to make sure it is enacted.

I also thank our colleague from California, Senator FEINSTEIN, whom we met with last night at length to be sure, again, that this bill would be acceptable and we could get it through. We did. We made a change. We changed the waiver provision from ''national security'' to ''important national interests,'' which, again, is something the administration wanted.

I think it is still compatible with our goals and objectives of passing a good bill that will help move countries, that have been persecuting people because of their religious beliefs, away from that behavior.

I thank my colleague from California for her work, and also the Senator from Delaware, Senator BIDEN, who worked with us, as well, in negotiating with us, and helped us craft a package that I am confident we will pass tomorrow with an overwhelming vote.

I am confident the House, likewise, will pass the bill, as we will pass it in the Senate, and this bill will be on the President's desk and will become law. As a result, I think it will save lives and it will help alleviate persecution of individuals because they are practicing their faith.

Again, I thank all of our colleagues on both sides of the aisle for making this happen.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LEVIN. Mr. President, as I indicated before to the majority leader, I have about a 30-minute speech for morning business. He indicated that I could do this at the end of the proceedings tonight. But since the floor is now not occupied—I understand Senator LIEBERMAN may be on his way—I thought I would proceed now, and it is my intention to do so. If Senator LIEBERMAN comes, then we will try to make whatever accommodation we can.

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

INDEPENDENT COUNSEL LAW AND KENNETH STARR'S INVESTIGATION

Mr. LEVIN. Mr. President, as one who three times in the last 15 years helped to reauthorize the independent counsel law, I have been giving a great deal of thought to the way in which the independent counsel statute has functioned in Kenneth Starr's investigation of President Clinton.

The important purpose behind the statute was to have an objective person investigate credible allegations of violations of criminal law against top Administration officials in order to give confidence to the public that the Attorney General, an appointee of the President, was not put in the position of investigating those allegations.

But what if the person selected to investigate those allegations by the special court, the three-judge court that appoints independent counsels, violates the restrictions in the very act creating him? What could be done to rein in such an independent counsel?

Some will dismiss these questions and more specific ones related to Mr. Starr's investigation of the President as defending the President's actions, actions which were irresponsible and immoral, and which by the President's own acknowledgment, hurt those closest to him and which damaged the body politic of the nation. But dismissing such questions would be wrong, because the actions of the independent counsel in this case, and the implications his actions have on the future of the independent counsel law and, indeed, upon the rule of law, demand our attention as well.

The authors of the law in 1978 attempted to put limits on the independent counsel in the law itself and provided, for instance, that the independent counsel must follow the policies of the Justice Department and that the Attorney General could fire an independent counsel for cause.

The Supreme Court in Morrison v. Olson upheld the constitutionality of the independent counsel law in large part because of those provisions, stating that:

> . . .the Act does give the Attorney General several means of supervising or controlling the prosecutorial powers that may be wielded by an independent counsel. Most importantly, the Attorney General retains the power to remove the counsel for ''good cause,'' a power that we have already concluded provides the Executive with substantial ability to ensure that the laws are

''faithfully executed'' by an independent counsel. . . . In addition . . . the Act requires that the counsel abide by Justice Department policy unless it is not ''possible'' to do so.

During each of the reauthorizations of the law, in 1983, 1987, and 1994, Congress was concerned about the potential for an open-ended, unlimited investigation by an independent counsel, and we adopted various restrictions in an effort to prevent that. We added, for example, a number of budgetary restrictions, reporting requirements, and a biannual GAO audit. And, we gave the Special Court the authority to terminate an independent counsel if it found the independent counsel's work to be ''substantially completed.''

Those of us involved in those reauthorizations worked in a bipartisan manner to put additional checks and limits on these investigations. We did so in the hope that we could preserve the core principle of the law—that someone outside of the Department of Justice could investigate credible allegations of criminal violations by high level Executive Branch officials.

Our goal has always been to have independent counsels be like ordinary prosecutors, treating high-level government officials no better and no worse than a U.S. Attorney would treat a private citizen. The specific questions that need to be addressed are whether Mr. Starr has met that standard or whether he has violated important requirements of the independent counsel law, whether he has ignored his responsibility not to abuse the grand jury process and whether he has carried out the duty of all prosecutors as established by the Supreme Court not just to prosecute but to prosecute fairly.

ROLE OF PROSECUTOR

A prosecutor's responsibility is unique in our criminal justice system. As articulated by Justice Sutherland in the 1935 Supreme Court case of Berger v. the United States, a prosecutor's responsibility is not to do whatever it takes to get a conviction, but to ''do justice.'' Justice Sutherland wrote:

The United States Attorney is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done. . .He may prosecute with earnestness and vigor—indeed, he should do so. But, while he may strike hard blows, he is not at liberty to strike foul ones.

THE STARR REPORT

Let me address first Mr. Starr's decision to include in his report graphic details of the sexual encounters between the President and Ms. Lewinsky. Mr. Starr argues that he had to be so graphic in order to rebut the President's contention that the President didn't have ''sexual relations'' with Ms. Lewinsky as defined in the Paula Jones case. But that claim is a pretext, not a reason. There is no justification for Mr. Starr's inclusion of each and every detail of these sexual encounters in the report. He could have easily referred the readers to pages in the record to support his assertions. I've never read a document by a prosecutor that is so needlessly salacious.

Mr. Starr's report also violated the fairness expected by the American people by presenting information on possible impeachable offenses in a biased and prejudicial manner. Under the Constitution, the House has sole responsibility to decide whether or not the President should be impeached. The independent counsel does not have a statutory responsibility to argue for impeachment. His responsibility is to forward ''information'' to the Congress that ''may constitute grounds for an impeachment.'' The independent counsel law says:

An independent counsel shall advise the House of Representatives of any substantial and credible information which such independent counsel receives, in carrying out the independent counsel's responsibilities under (the independent counsel law) that may constitute grounds for an impeachment.

That's it. That's the extent of the independent counsel's responsibility. The law doesn't give an independent counsel the responsibility to argue for impeachment. But the report in effect did that. The independent counsel law doesn't give the independent counsel the responsibility to draw conclusions from the information he presents to Congress. But the report did that as well. For example, in the introduction to the report, Mr. Starr states unequivocally that ''(t)he information reveals that President Clinton'', and then it lists seven conclusions such as: ''lied under oath. . .''; ''attempted to obstruct justice. . .''; ''lied to potential grand jury witnesses.''

In other parts of the report, Mr. Starr makes conclusory statements such as these: ''the President's testimony strains credulity''; ''the President's denials—semantic and factual—do not withstand scrutiny''; ''the President's claim . . .is belied by the fact . . .''; ''the President could not have believed that he was 'telling the truth. . .;'" ''the President lied under oath three times.''

The report not only is full of conclusions and arguments, it is also biased in its presentation because it omits exculpatory evidence. For instance, the report omits Ms. Lewinsky's clear statement before the grand jury that ''no one ever asked [her] to lie'' and she ''was never promised a job'' for [her] silence. (Appendices, Part 1, page 1161.) The report doesn't mention that Ms. Lewinsky testified that when she asked President Clinton whether she should get rid of his gifts to her in light of the Jones subpoena, his response was, ''I don't know, '' and that she left his office without ''any notion'' of what she should do with the gifts. (Appendices, Part 1, page 1122.) The report omits Ms. Lewinsky's statement that when she asked the President if he wanted to see her affidavit in the Paula Jones case before she filed it, he said he didn't want to see it. (Appendices, Part 1, page 1558)

GRAND JURY REPORT IN WATERGATE

Contrast the Starr report with the grand jury report in the Watergate case in 1974 to the House Judiciary Committee which was then investigating the possible impeachment of Richard Nixon. Judge Sirica was asked to rule on whether the grand jury's evidence in the Watergate matter could be forwarded to the House of Representatives since it was engaged in impeachment proceedings. Judge Sirica approved the transmittal of the grand jury report in the Watergate matter, because he determined that:

It draws no accusatory conclusions. . . It contains no recommendations, advice or statements that infringe on the prerogatives of other branches of government. . ..It renders no moral or social judgments. The Report is a simple and straightforward compilation of information gathered by the Grand Jury, and no more. . . The Grand Jury has obviously taken care to assure that its Report contains no objectionable features, and has throughout acted in the interests of fairness. The Grand Jury having thus respected its own limitations and the rights of others, the Court ought to respect the Jury's exercise of its prerogatives. (In re Report and Recommendation of June 5, 1972, Grand Jury Concerning Transmission of Evidence to the House of Representatives, U.S. District Court, District of Columbia, March 18, 1974.)

What a far cry the Watergate grand jury report was from Mr. Starr's. The Starr Report violates almost every one of the standards laid out by Judge Sirica in the Watergate case.

Even prior to the report Mr. Starr acted in other ways inconsistent with the independent counsel law and the rules governing the grand jury.

VIOLATIONS OF THE INDEPENDENT COUNSEL LAW

No person is above the law. That principle is the touchstone of our system of government. And the rule of law holds true for both the prosecutor and the prosecuted. Kenneth Starr has placed himself above the law in a number of ways even before he sent his report to Congress.

EXCEEDING LIMITED JURISDICTION

The Supreme Court was clear in 1988 when it reviewed the constitutionality of the independent counsel law that the specific and narrow jurisdiction granted to each independent counsel by the appointing court is key to the law's constitutionality. The Supreme Court in Morrison v. Olson held that, ''the independent counsel is an inferior officer under the Appointments Clause, with limited jurisdiction and tenure and lacking policymaking or significant administrative authority.'' ''Limited jurisdiction.'' ''Lacking policymaking authority.'' Did Kenneth Starr respect this limitation in the law that created his office? I believe not.

Again, the most fundamental limit in the law is that an independent counsel can investigate only that which is within the scope of jurisdiction granted by the court that appoints him.

Mr. Starr was appointed to office in August 1994 to investigate Whitewater.

Three months earlier, in May of 1994, Paula Jones had filed her civil law suit against the President accusing him of sexual harassment. Mr. Starr's grant of authority was completely unrelated to the Paula Jones case and made no reference to it.

But in April of 1997, according to a June 25, 1997, article by Bob Woodward and Susan Schmidt in the Washington Post, FBI agents and prosecutors working for independent counsel Starr questioned Arkansas state troopers about their knowledge of any extramarital relationships Mr. Clinton may have had while governor and questioned a ''number of women whose names have been mentioned in connection with President Clinton in the past.'' The two troopers who served on the governor's personal security detail, Roger Perry and Ronald Anderson, are quoted in the article as follows:

''In the past, I thought they were trying to get to the bottom of Whitewater,'' Perry said in an interview with The Washington Post. ''This last time, I was left with the impression that they wanted to show he was a womanizer. . ..All they wanted to talk about was women.'' He said he was interviewed in April (1997) for more than 1½ hours by an attorney in Starr's office and an FBI agent.

Perry, a 21-year veteran of the Arkansas state force, said he was asked about the most intimate details of Clinton's life. ''They asked me if I had ever seen Bill Clinton perform a sexual act,'' Perry said. ''The answer is no.'''

. . .. . .''They asked me about Paula Jones, all kinds of questions about Paula Jones, whether I saw Clinton and Paula together and how many times,'' Perry said.

. . ..Anderson said he refused to answer the questions about personal relationships Clinton may have had with women. ''I said, 'If he's done something illegal, I will tell you. But I'm not going to answer a question about women that he knew because I just don't feel like it's anybody's business. . .'''

What justification did Mr. Starr provide to support these inquiries in April of 1997? The Washington Post said deputy Whitewater counsel John Bates defended Mr. Starr's action by saying that the purpose, as restated by the Post, ''is to ensure that a full and thorough investigation is conducted that leaves no avenue unexplored.''

Mr. Starr's appointment was completely unrelated to the Paula Jones case. Yet here he was inquiring in significant detail in April 1997, leaving ''no avenue unexplored,'' about possible relationships Mr. Clinton had with various women, including Paula Jones. And the New York Times reported on Sunday, October 4th, that contrary to Mr. Starr's statements in his report to the House that his office first learned of the Lewinsky affair from Linda Tripp on January 12th, the Starr office had been contacted by Jerome Marcus, a Philadelphia lawyer with ties to the Paula Jones legal team, at least a week earlier. The earlier contact between Mr. Marcus and Mr. Starr's office has now been confirmed by Mr. Starr's spokesman. The call from Mr. Marcus and his relationship to the Jones case was not, according to the New York Times, disclosed to the Justice Department when Mr. Starr sought to expand his jurisdiction.

So when, on January 12, 1998, Linda Tripp, who had been subpoenaed in the Paula Jones lawsuit, contacted Mr. Starr's office and told the office she had tapes of Monica Lewinsky describing an affair with President Clinton, the Starr office had already gone beyond its jurisdiction into the Paula Jones case.

Ms. Tripp apparently told Mr. Starr's office on January 12, 1998, that she had tapes of several recorded telephone conversations containing allegations that the President had told Ms. Lewinsky to lie in the Paula Jones case. (Ms. Lewinsky later testified before the grand jury that she was lying to Ms. Tripp when she had said that on the tape.) Because secretly tape-recording phone conversations is a felony under Maryland law (Md. Code Ann. Section 10–402), Ms. Tripp discussed immunity from prosecution for her own actions. According to the FBI summary of Ms. Tripp's interview with Starr's office on January 12th, independent counsel Starr not only discussed with Ms. Tripp a grant of immunity under federal law and promised Ms. Tripp that his office ''would do what it could to persuade the State of Maryland from prosecuting Ms. Tripp for any violations of that state wiretapping law'' (Page 223 of the Appendices to the Starr Report), Starr's office actually promised Ms. Tripp immunity. ''OIC attorneys. . .advised Tripp she would be granted federal immunity by the OIC for the act of producing the tapes to the OIC.'' (FBI 302, interview with Linda Tripp, 1/12/98)

Again, with no jurisdiction to investigate matters involving the Jones case, Mr. Starr instructed FBI agents to equip Ms. Tripp with a hidden microphone and surreptitiously record a four-hour conversation with Ms. Lewinsky the following day, January 13th.

Where did Mr. Starr get the authority to enter into immunity negotiations with Ms. Tripp on January 12th? Where did Mr. Starr get the authority to instruct FBI agents to wire Ms. Tripp and tape her conversation with Ms. Lewinsky? Mr. Starr didn't have the authority and he didn't have the jurisdiction on January 12th. (He didn't receive the authority and jurisdiction until days later when he went to the Attorney General to obtain it.) He thereby ignored the statutory limitations on his authority—the limits that confined him to matters involving Whitewater and investigations into the White House use of FBI files and the White House Travel Office which by that time the court had also authorized. In doing so, he used some of the most powerful tools given to a prosecutor—immunity from criminal prosecution and electronic surveillance by the FBI—to expand his reach beyond what the law permitted him to do.

It was only after he gave immunity to Ms. Tripp and used FBI agents to monitor four hours of conversation between Ms. Tripp and Ms. Lewinsky on January 13th that independent counsel Starr sought authority to expand his jurisdiction. On Thursday, January 15, he contacted Attorney General Reno's office on an emergency, expedited basis to get her to request the special court to authorize the added jurisdiction. The emergency was apparently caused by the threat of a story about the Lewinsky affair becoming public in an upcoming ''Newsweek'' article.

A letter by Mr. Starr to Steve Brill, publisher of ''Brill's Content,'' in March 1998 suggests that Mr. Starr based his request for expanded jurisdiction primarily on the FBI tape between Ms. Lewinsky and Ms. Tripp (again, a tape that the Starr office had no authority to obtain). The special court granted Mr. Starr jurisdiction in the Lewinsky matter on January 16th.

(2) Failure to Follow Justice Department Policies

Mr. Starr also violated the independent counsel law's requirement that he follow the policies of the Department of the Justice. 28 U.S.C. 594(f)(1) states that independent counsels ''shall'' comply with the ''written or other established policies of the Department of Justice.'' The only exception to this rule is where compliance with Departmental policies would be ''inconsistent with the purposes of the statute'' such as, for example, compliance with a policy requiring the permission of the Attorney General personally to take a specific act. Barring this exception, the law is clear that independent counsels must comply with Justice Department policies.

The Supreme Court placed great emphasis on the law's requirement that an independent counsel is bound by the policies of the Department of Justice and that the independent counsel law ''does not include any authority to formulate policy for the Government or the Executive Branch.''

Yet there are at least five instances in which Mr. Starr appears to have failed to follow Justice Department policy: discussing immunity with Ms. Lewinsky without contacting her attorney of record; subpoenaing the Secret Service; subpoenaing news organizations; subpoenaing Ms. Lewinsky's mother; and subpoenaing the notes of the attorney for the late Vince Foster (arguing that the attorney-client privilege terminates upon the death of the client).

First, when Mr. Starr confronted Monica Lewinsky on the afternoon of January 16th he acted inconsistently with Justice Department policy. 28 CFR 77.8 explicitly prohibits federal prosecutors from offering an immunity deal to a target without the consent of the target's legal counsel. Yet Mr. Starr's staff, knowing she was represented by counsel, confronted Monica Lewinsky in their first contact with her, outside the presence of her counsel, for the express purpose of offering

her an immunity deal. Indeed, the independent counsel's office made immunity contingent upon her not contacting her counsel. (Appendicies, Part 1, pages 1143–1154)

Until recently, our understanding of what happened on January 16th when Ms. Lewinsky was first confronted by Mr. Starr's office was based on speculation, but now we have a description of what happened under oath from Ms. Lewinsky herself. It's a description of the intimidation of a woman whose crime was having a consensual affair with the President and trying to cover it up. I want to read from the grand jury transcript, because Ms. Lewinsky's description is so chilling and speaks for itself.

LEWINSKY TRANSCRIPT

Juror: . . .I guess the other thing that we wanted to ask you a little bit about is when you were first approached by Mr. Emmick and his colleagues at the OIC. Can you tell us a little bit about how that happened?. . .

Mr. Emmick: Maybe if I could ask, what areas do you want to get into? Because there's—you know—many hours of activity—

Juror: Well, one specific—okay. One specific question that people have is when did you first learn that Linda Tripp had been taping your phone conversations? [Ms. Lewinsky answers that she learned when she was, and these are her words, ''first apprehended.'' The transcript continues.]

Mr. Emmick: Any other specific questions about that day? I just—this was a long day. There were a lot of things that—

A Juror: We want to know about that day.

A Juror: That day.

A Juror: The first question.

A Juror: Yes.

A Juror: We really want to know about that day.

Mr. Emmick: All right. . . [Ms. Lewinsky then describes meeting Ms. Tripp at the Ritz Carlton.]

Ms. Lewinsky: She was late. I saw her come down the escalator. And as I—as I walked toward her, she kind of motioned behind her and Agent———and Agent———presented themselves to me and——

A Juror: Do you want to take a minute?

Ms. Lewinsky: And flashed their badges at me. They told me that I was under some kind of investigation, something to do with the Paula Jones case, that they—that they wanted to talk to me and give me a chance, I think, to cooperate, maybe. . . I told them I wasn't speaking to them without my attorney. They told me that that was fine, but I should know I won't be given as much information and won't be able to help myself as much with my attorney there. So I agreed to go. I was so scared.

(The witness begins crying.) [Then Ms. Lewinsky becomes so upset with Mr. Emmick, an attorney with Mr. Starr who was present when Ms. Lewinsky was confronted by Mr. Starr's office on January 16th, that she asks him to step out of the grand jury room, which it appears he finally does. Ms. Immergut, another attorney with Mr. Starr's office then takes over the questioning of Ms. Lewinsky and it turns into a question/answer format.]

Q: Okay. Did you go to a room with them at the hotel?

A: Yes.

Q: And what did you do then? Did you ever tell them that you wanted to call your mother?

A: I told them I wanted to talk to my attorney.

Q: Okay. So what happened?

A: And they told me—Mike (Emmick) came out and introduced himself to me and told me that—that Janet Reno had sanctioned Ken Starr to investigate my actions in the Paula Jones case, that they—that they knew that I had signed a false affidavit, they had me on tape saying I had committed perjury, that they were going to—that I could go to jail for 27 years, they were going to charge me with perjury and obstruction of justice and subornation of perjury and witness tampering and something else.

Q: And you're saying ''they'', at that point, who was talking to you about that stuff?

A: Mike Emmick and the two FBI guys. And I made Linda stay in the room. And I just—I felt so bad. [She then discusses why she feels bad and the question/answer session continues.]

Q: I guess later just to sort of finish up. I guess, with the facts of that day, was there a time then that you were —you just waited with the prosecutors until your mother came down?

A: No.

Q: Okay.

A: I mean, there was, but they—they told me they wanted me to cooperate. I asked them what cooperating meant it entailed, and they told me that—they had—first they had told me before about that—that they had had me on tape saying things from the lunch that I had had with Linda at the Ritz Carlton the other day and they—then they told me that I—that I'd have to agree to be debriefed and that I'd have to place calls or wear a wire to see—to call Betty and Mr. Jordan and possibly the President. And—

Q: And did you tell them you didn't want to do that?

A: Yes. I—I—I remember going through my mind, I thought, well, what if—you know, what if I did that and I messed up, if I on purpose—you know, I envisioned myself in Mr. Jordan's office and sort of trying to motion to him that something had gone wrong. They said that they would be watching to see if it had been an intentional mistake. Then I wanted to call my mom and they kept telling me that they didn't—that I couldn't tell anybody about this, they didn't want anyone to find out and that they didn't want—that was the reason I couldn't call Mr. Carter [Ms. Lewinsky's attorney of record at the time], was because they were afraid that he might tell the person who took me to Mr. Carter. They told me that I could call this number and get another criminal attorney, but I didn't want that and I didn't trust them. Then I just cried for a long time.

A Juror: All while you were crying, did they keep asking you questions? What were you doing?

Mr. Lewinsky: No, they just sat there and then—they just sort of sat there.

A Juror: How many hours did this go on?

Ms. Lewinsky: Maybe around two hours or so. And then they were—they kept saying there was this time constraint, there was a time constraint, I had to make a decision. And then Bruce Udolf came in at some point and then—then Jackie Bennett came in and there were a whole bunch of other people and the room was crowded and he was saying to me, you know, you have to make a decision. I had wanted to call my mom, they weren't going to let me call my attorney, so I just—I wanted to call my mom and they—Then Jackie Bennett said, ''You're 24, you're smart, you're old enough, you don't need to call your mommy.'' And then I said, ''Well, I'm letting you know that I'm leaning towards not cooperating.'' you know. And they had told me before that I could leave whenever I wanted, but it wasn't—you know, I didn't—I didn't really know—I didn't know what that meant. I mean, I thought if I left then that they were just going to arrest me. And so then they told me that I should know that they were planning to prosecute my mom for the things that I had said that she had done.

(Ms. Lewinsky begins crying; Ms. Immergut asks if Ms. Lewinsky wants to take a break, and she says she does. The questioning then resumes.)

A Juror: Monica, I have a question. A minute ago you explained that the reason why you couldn't call Mr. Carter was that something might be disclosed. Is that right?

Ms. Lewinsky: It was—they sort of said that—you know, I—I—I could call Frank Carter, but that they may not —I think it was that—you know, the first time or the second time?

A Juror: Any time.

Ms. Lewinsky: Well, the first time when I asked that I said I wasn't going to talk to them without my lawyer, they told me that if my lawyer was there they wouldn't give me as much information and I couldn't help myself as much, so that —

A Juror: Did they ever tell you that you could not call Mr. Carter?

Ms. Lewinsky: No. What they told me was that if I called Mr. Carter, I wouldn't necessarily still be offered an immunity agreement.

A Juror: And did you feel threatened by that?

Ms. Lewinsky: Yes.

What could be clearer than that? If Ms. Lewinsky called her lawyer, she wouldn't necessarily still be offered an immunity agreement and she felt ''threatened.'' That's what Monica Lewinsky testified to under oath about what happened on January 16th when she was confronted by independent counsel Starr's office.

Look how Mr. Starr described the same event in his June 16th letter to Steven Brill months before Ms. Lewinsky's grand jury testimony was publicly released:

''Ms. Lewinsky was asked to cooperate with the investigation. She telephoned her mother, Marcia Lewis, who took a train from New York City to confer with her daughter. During the five hours while awaiting her mother's arrival, Ms. Lewinsky drank juice and coffee, ate dinner at a restaurant, strolled around the Pentagon City mall, and watched television. She was repeatedly informed that she was free to leave, and she did leave several times to make calls from pay telephones. After her mother arrived, discussions resumed with agents and attorneys. Ms. Lewinsky, after talking with another family member by phone, chose to retain William Ginsburg, a longtime family friend who specializes in medical malpractice law in Southern California. As they left the Ritz Carlton, both Ms. Lewinsky and Ms. Lewis thanked the FBI agents and attorneys for their courtesy. Recent media statements by one of her attorneys alleging that she was mistreated are wholly erroneous.''

That's what Mr. Starr says happened. The discrepancy is enormous. Ms. Lewinsky ''was so scared''; she was told she faced 27 years in prison; at one point she was told she couldn't call her own attorney; at another point she was told that if she called her lawyer, an immunity offer would not be likely; she cried for long time; she felt if she left the room she would be arrested; and she felt ''threatened.'' All of this occurred without the knowledge or presence of her attorney of record in

apparent violation of Justice Department policy.

Consider also what Mr. Starr's office was trying to get Ms. Lewinsky to do. She says under oath, before the grand jury, that they wanted her ''to agree to be debriefed and that [she'd] have to place calls or wear a wire to . . . call Betty and Mr. Jordan and possibly the President.'' In a letter from Mr. Starr to Steven Brill, Mr. Starr said, ''This is false. This Office never asked Ms. Lewinsky to agree to wire herself for a conversation with Mr. Jordan or the President.'' Mr. Starr goes on to criticize Mr. Brill for making such a claim by saying, ''You cite no source at all; nor could you, as we had no such plans.''

But a memo from Starr's office itself of an interview with Ms. Lewinsky provides confirmation that Ms. Lewinsky was asked on January 16th to wear a wire. The relevant part of the interview summary says:

> ''Lewinsky, who was 24 years of age when approached by the OIC on January 16, 1998, was not prepared to wear a wire and/or record telephone conversations. The request to do so was a lot to handle that day and Lewinsky relied on her advisors, who included her parents and Bill Ginsberg.'' (Appendices, Part 1, page 1555)

In Mr. Starr's report to the House of Representatives he states, ''In the evaluation of experienced prosecutors and investigators, Ms. Lewinsky has provided truthful information.'' If Ms. Lewinsky is telling the truth when she swore that Mr. Starr's office tried to get her to tape phone conversations with Mr. Jordan or the President, then Mr. Starr was not speaking truthfully in his letter. And if Ms. Lewinsky is telling the truth that would mean Mr. Starr intended to surreptitiously record the President of the United States in order to develop evidence against him. The second example of Mr. Starr acting inconsistently with Department of Justice policy involves the testimony of the Secret Service in the Lewinsky matter. Over the strong objection of the Justice Department and for the first time in the nation's history, Mr. Starr asked a federal court to force Secret Service personnel to disclose how they operate and what they have observed of the President in the course of protecting him. No federal prosecutor had ever before asked a court to compel such testimony from a Secret Service agent, according to the Justice Department.

Discounting arguments regarding the safety of the president and effective operation of Secret Service personnel, Mr. Starr issued subpoenas which were in violation of Justice Department policy and in violation of Mr. Starr's legal obligation to comply with Justice Department policy. Moreover, Mr. Starr argued in his report to the House that the President's ''acquiescence'' in the Justice Department's opposition to the Secret Service subpoenas was evidence of obstruction of justice on the part of the President presumably because, Mr. Starr argues, the Justice Department's opposition to the Secret Service subpoena was ''interposed to prevent the grand jury from gathering relevant information.'' This claim by Mr. Starr is so preposterous, particularly in light of the letter of support for the position of the Secret Service from former President Bush, that it lays bare the excessive zeal of this investigation.

The fact that the court eventually upheld the subpoenas issued by Mr. Starr does not vindicate his position. His pursuit of subpoenas of Secret Service agents may not have violated the law, but it violated the policy of the Justice Department which Mr. Starr is bound to follow under the clear requirements of the independent counsel law.

Third, Mr. Starr issued subpoenas to news organizations to obtain nonpublic information from their news gathering efforts despite Justice Department regulations which caution federal prosecutors to take a number of steps before subpoenas are issued in order to safeguard freedom of the press. The regulations require trying elsewhere for the information, negotiating voluntary agreements to provide the information first, and, in a final provision that one court held was not binding on Mr. Starr, obtaining the Attorney General's permission prior to issuing a subpoena. Despite the established policy discouraging media subpoenas, independent counsel Starr issued subpoenas to news organizations on several occasions. When ABC News objected to one such subpoena, Mr. Starr stated in a court pleading that the Justice Department's ''regulations of this type do not govern an Independent Counsel.''

The fourth example of Mr. Starr not following Justice Department policy is the subpoena to Monica Lewinsky's mother. He issued this subpoena despite the U.S. Attorneys' Manual policy that ''the Department will ordinarily avoid seeking to compel the testimony of a witness who is a close family relative of . . . the person upon whose conduct grand jury scrutiny is focusing.''

And fifth, in this same vein, but not related to the Lewinsky matter, Mr. Starr subpoenaed the notes of the late Vince Foster, arguing in an unprecedented case before the Supreme Court that the attorney-client privilege expires upon the death of the client. The Justice Department's general policy is that federal prosecutors ''will respect bona fide attorney-client relationships, where possible, consistent with its law enforcement responsibilities and duties.'' The Supreme Court rejected Mr. Starr's policy-setting position.

Violating the independent counsel law's limited grant of authority, ignoring established Justice Department policies (indeed making the claim that the independent counsel isn't governed by the Justice Department policies even though the independent counsel law says he is), Mr. Starr has made a mockery of the independent counsel process and the statutory constraints designed to insure that the independent counsels obey the same rules that apply to all other federal prosecutors.

USE OF THE GRAND JURY

I also have concerns about Mr. Starr's use of the grand jury. Was Mr. Starr properly using the grand jury when he subpoenaed a federal employee who was on his personal time when he called friends in Maryland from his home to congratulate them on demanding an investigation of Linda Tripp for possible illegal taping of telephone conversations with Ms. Lewinsky? Robert Weiner was subpoenaed within 24 hours of the calls and wasn't even interviewed first or contacted by the independent counsel as an initial step. Among other questions, prosecutors asked him to reveal the future plans of Maryland Democrats. How could that possibly be an appropriate use of the grand jury?

Was Mr. Starr properly using the grand jury when he subpoenaed Sydney Blumenthal to testify before the grand jury on what he was telling reporters about Mr. Starr's office because Mr. Starr believed Mr. Blumenthal was trying to intimidate his staff? The answer is, ''no.'' A person should be able to criticize a prosecutor to the press without fearing a grand jury subpoena.

There are numerous allegations that Mr. Starr and his staff inappropriately revealed grand jury information to third parties in violation of rules governing grand jury secrecy. Rule 6(e) of the rules of federal criminal procedure prohibit prosecutors and grand jurors from discussing the proceedings before the grand jury.

Mr. Starr has explained communicating with the press in the August 1998 edition of ''Brill's Content'' as ''countering misinformation that is being spread about our investigation in order to discredit our office and our dedicated career prosecutors.'' Mr. Brill also quotes Mr. Starr as saying that as long as the independent counsel is providing reporters with information about ''what witnesses tell FBI agents'' or the independent counsel's office ''before they testify before the grand jury'' it is not subject to Rule 6(e). If such a standard were adopted, there would be little practical restraint on the grand jury information a prosecutor could discuss with the press.

Allegations of improper leaks by the Starr office were presented to Judge Norma Holloway Johnson, and the Associated Press reported in August of this year that Judge Johnson ruled that there is a prima facie case of violations of the grand jury secrecy rules. The Associated Press further reported that ''the U.S. Court of Appeals rejected Starr's efforts to stop Johnson's investigation, allowing her to continue to collect evidence and hold a hearing to determine if Starr's office should be punished.''

CONFLICTS OF INTEREST

Finally, there are the apparent and real conflicts of interest Mr. Starr has

created in the operations of his office. It started at the time of his appointment. Mr. Starr was an active partisan who had served as Finance Chair for a Republican Congressional campaign in Virginia and who had himself recently contemplated a run for the Republican nomination to the U.S. Senate in Virginia. Within weeks of the filing of the Paula Jones civil suit in May 1994, Mr. Starr appeared on television and espoused a legal position against the President. (He also began discussions with the Independent Women's Forum about filing a legal brief on Paula Jones' behalf in opposition to efforts by the President to have the litigation postponed.)

The appointing court informed my staff it was not aware at the time of the appointment that Mr. Starr had expressed a position against the President in the Paula Jones case. As senior Democrat on the Senate subcommittee charged with oversight of the independent counsel law, I urged the court shortly after Mr. Starr's appointment to make a fuller inquiry into Starr's apparent lack of objectivity about the President and based upon what the court learned, reconsider Mr. Starr's appointment. The court issued an order stating that, once it had exercised its appointment authority, it was without power to reconsider appointment of an independent counsel. The New York Times called on Mr. Starr to withdraw, while five past presidents of the American Bar Association warned the court that it needed to repair its appointment procedures to ensure a selection process with the reality and appearance of objectivity.

While in office, Mr. Starr only reinforced the initial concerns about his impartiality and judgment. For example, one month before the 1996 election, he accepted a speaking engagement at Pat Robertson's university at the request of Pat Robertson, including a press conference with Mr. Robertson, a visible and vocal opponent of the President with a history of public statements raising questions about Vincent Foster's death, then being investigated by Mr. Starr. In 1997, Mr. Starr announced his intention to accept a position at Pepperdine University at a program funded with millions of dollars provided by Richard Scaife, another declared opponent of the President and a chief funder of several organizations working on investigations into President Clinton, including the Paula Jones case. (He subsequently reversed course and stayed in office.)

During his employment with the federal government as independent counsel, Mr. Starr continued his law practice at the firm of Kirkland and Ellis. He continued to receive his full annual remuneration as a partner and continued to handle a number of very high profile cases, a number of which involved issues where Mr. Starr represented the position directly contrary to the Clinton Administration position.

In February 1998, Mr. Starr's law firm apparently sent the Chicago Tribune copy of an affidavit of a witness in the Paula Jones case that was to be filed in that case—before the affidavit had been filed in court. While Mr. Starr's firm denied assisting Jones' legal team, it also resisted responding to a subpoena issued by the President's counsel relative to the sending of that affidavit. Also, the press reported that a former counsel to Paula Jones, Joseph Cammarata, admitted that he had sought legal advice on several occasions from one of the firm's partners, Robert Porter. So while Mr. Starr was working as independent counsel and continuing to serve as a partner at Kirkland and Ellis, one of his law partners allegedly was providing legal advice to the counsel in the Paula Jones case, in possible violation of the independent counsel law which prohibits ''any person associated with a firm with which (an) independent counsel is associated'' from representing ''any person involved in'' any investigation conducted by such independent counsel.

CONCLUSION

The position that Mr. Starr occupies is a position of public trust and duty, designed to be free from politics and partisanship, a position with powerful tools for investigation, unlimited but for the parameters of the independent counsel law and for the common sense and good judgment of the person holding the office.

Kenneth Starr has acted with no effective limits, because although he is subject to the ultimate authority of the Attorney General, given her power to fire him for cause, she is effectively powerless to rein in his excesses because her discharge of him would be so reminiscent of the ''Saturday Night Massacre'' in which Archibold Cox, the prosecutor investigating Richard Nixon, was fired. (In fact, the Attorney General has already been threatened with impeachment simply because she has taken a stand to protect her ongoing criminal investigations and prosecutions with respect to campaign finance abuses.)

I have urged the Attorney General, by letter, to go to court to enforce the requirement that Mr. Starr abide by the policies of the Department of Justice. She has not responded and perhaps could not because, I am speculating here, it could make it even more difficult for her to finally act to restrain Mr. Starr should she decide to do so, as it might appear that she was doing so under pressure.

Some Democrats are reluctant to speak out against Mr. Starr's abuses of power out of fear that they will be perceived as defending the President's actions. Some Republicans I have spoken with, who feel Mr. Starr has gone too far, won't say so publicly because of the negative reaction it might engender in some circles in which they must function.

It will be difficult in this environment to salvage the legitimate goal of the independent counsel law when it expires next year.

Any hope of achieving the radical surgery needed to prevent a prosecutor from abusing the powerful tools provided an independent counsel will depend on Democrats and Republicans who still believe in the legitimate purpose of the independent counsel law working together. Only such a bipartisan effort has a chance of stitching into the independent counsel law's fabric, now stretched beyond recognition, limits on the exercise of an independent counsel's power which are so essential in our constitutional design of checks and balances to prevent abuses in the exercise of governmental power.

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

The PRESIDING OFFICER (Mr. ABRAHAM). The clerk will call the roll.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I ask unanimous consent to speak as if in morning business for approximately 10 minutes.

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

THE INDEPENDENT COUNSEL

Mr. SESSIONS. Mr. President, I just had the opportunity to hear the remarks of the distinguished Senator from Michigan concerning the independent counsel.

I must say that those remarks are troubling to me and I do not believe contribute to really the kind of bipartisan effort that we need to make here in this body with regard to the delicate problem of the President's troubles.

It was raised under the pretension or the suggestion as part of an evaluation of the independent counsel but really amounted to, I think, an unfair restatement of many charges that have been made against the independent counsel, most of which I believe have already been answered, or could be answered pretty easily.

I served as a prosecutor for a number of years, and I would like just to share some thoughts.

I prosecuted a number of government officials. And it was my experience during that process that government officials, more than any other person I had the occasion to investigate, were the most aggressive and most impossible to the prosecutor. It is part of their team effort with their attorneys to attack the person who is out speaking the truth.

It is not an easy job for this independent counsel to obtain the truth. These officials don't want it out. It is not their choice. It is not their preference, or their desire, that what they may have done is revealed, particularly if what they have done may involve perjury or some illegality.

So it is not an easy thing to do. And when the independent counsel was charged with going out and finding the truth, he faced a systematic effort to

obfuscate that truth. I wish it weren't so, but that is what appears to be.

So now when we get through this process—it took several years to finally get this information that we now have—we have Members of the other party wanting to come in here and attack the man who ultimately produced what appears to be the truth. At least I have not heard it substantially disputed. And he submitted a report. They said, ''Oh, well.'' Judge Sirica, he said, wanted to review the grand jury testimony. That was before the independent counsel law. That was an unprecedented thing, I suppose, for Judge Sirica to report grand jury testimony. There was no law.

But now, under the independent counsel law, the independent counsel is required to submit the information that he finds to the Congress, to the House of Representatives. That is what his duty was—to find out the truth and to submit it. And it was not easy to find the truth. It often is not. It was particularly difficult with the clever people he was dealing with in this instance.

So it just disturbs me, I must say. And if it is true, if he has so violated his oath, the Attorney General can remove him from office. If she has a basis for it, she ought to do it. And she will not be criticized by this Senator.

So they say, ''Well, his duty is to prosecute fairly.'' Well, you don't prosecute until you get the truth. You don't prosecute until you get the facts. And his responsibility was to find those facts.

They say graphic details were not necessary. Well, I am glad that we have some fastidious concern. I think we do have too much unhealthy sex and stuff in this country today. But we have a denial. We had a suggestion that, ''What I did was not really sex.''

So I suppose the details of what the President may have done are relevant to whether or not he had sex or not, and I am certain that is why the independent counsel felt it was his obligation to do so. And his goal is to report that information.

They say, ''Well, he shouldn't have suggested in his report that the President lied under oath.'' That is one of the words that was said he used. But he was required to report on matters that may lead to impeachment charges.

So by nature his summary report was his opinion as to whether or not there was evidence accumulated sufficient to lead to impeachment. He is required to give his opinion and his summary of the evidence as to whether or not it required impeachment, and he concluded, based on all the studies, that the President lied under oath, apparently, and he put that in his report.

I submit he was required to do so.

Oh, they say, you didn't get all the exculpatory evidence, that that didn't all come out, and that she said, Miss Lewinsky said, ''No one ever asked me to lie.'' Well, I am not sure and therefore—but from what I read in the report, it would suggest to me that the Starr report didn't say anybody ever said she was asked to lie. The Starr report simply said that there were circumstances that led to that, apparently. But it did not use those words and he would not have been required to put forth her statement in that regard.

So Judge Sirica's circumstances are not quite the same, is all I am saying. And I respect the distinguished Senator and his comments and his concern, and we ought to hold every public official accountable. We ought to scrutinize all of our behavior here and we ought to be prepared to stand the heat. I am sure Mr. Starr has got to stand the heat like everybody else if he is going to be in the kitchen. If you recall, we have a word in the criminal lexicon today called ''Sirica.'' And what happened was, if you will recall, some of those burglars who said, oh, this is just a two-bit burglary—do you remember that? Judge Sirica gave them the maximum sentence, the maximum ''John,'' and that is when they testified.

So I am sure these things are tough for Miss Lewinsky or anyone else. She had a choice whether she was going to cooperate and tell the truth or continue to hold fast to her previous story, and it does appear that she did for a while adhere to one story and then changed it.

So I don't believe the independent counsel has placed himself above the law. I don't believe he has abused his office. And I don't believe most of the other complaints that have been made about the independent counsel, once the full facts are out, are going to suggest any problems. No doubt, there are so many complex rules over the period of an investigation, somebody will say you should have done this under this circumstance and you should not have done this under that circumstance.

Normally what happens is any evidence obtained from an improper source gets excluded from the trial and can't be used, but it doesn't undermine the overall integrity of the investigation if that was obtained properly.

So I don't know what the end of this will all be. It would please me if things get settled and that is the end of it and this body isn't involved. I don't think we need to be debating these issues on this floor, and the only reason I have spoken on this floor fundamentally is because others have made statements related to those issues, so I felt I ought to suggest there might be another interpretation that could be given to those issues.

So, to me, the issues are complex. The House is dealing with this matter. Let's let the House deal with it. Let's try to make sure we have a bipartisan effort, or a nonpartisan effort, that no partisanship should be involved in this. Let's let the process work its way. My understanding of the reputation of Judge Starr is it is very good, and it remains to be seen whether he committed any error. If he did, that will come out. That does not undermine the basic facts we are dealing with here.

Mr. President, I thank this body for allowing me to make these comments. I have some other things I could say but I will not. I just believe that we need to be careful. Let's let the House do their business. They have had votes over there. It is their business, not our business. And I think we would be better off if we left it there. I thank you.

I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The Senate is in morning business.

Mr. BYRD. I thank the Chair. Is there a limitation on time?

The PRESIDING OFFICER. There is not any limitation.

Mr. BYRD. I thank the Chair.

A HERO MOVES ON

Mr. BYRD. Mr. President, the Random House College Dictionary defines the term ''hero'' first as ''a man of distinguished courage or ability, admired for his brave deeds and noble qualities,'' and second as ''a small loaf of Italian bread.''

There is, of course, a wide disparity in these two definitions. I think I shall appropriately use the initial definition to describe the hero of whom I am about to speak, Senator JOHN HERSCHEL GLENN, Jr. I have had the honor of serving with him in the Senate for the last 24 years.

He is a gentleman. He is a great public servant to all the Ohioans whose beliefs and values he has so ably represented in this body.

As Senator GLENN prepares to officially retire from the Senate and take up his wings of flight once again, I shall take a few minutes to thank this distinguished Senator from Ohio for all that he has done for our Republic as a United States Senator and as a hero.

I thank him for his achievements as a Senator. I thank him for his dedication to the Senate Governmental Affairs Committee, on which he has served since 1975.

Following his personal motto: ''You Keep Climbing,'' Senator GLENN has moved up in the ranks.

From 1987 to 1995 he served as the chairman of the committee, and then as the ranking Democratic member until the present time.

As a member of the committee, Senator GLENN has worked to protect our Nation and its people, using his expert knowledge to combat the issue of nuclear proliferation, to protect our fellow Americans from all the environmental dangers that are associated with the byproducts of nuclear weapons, and is making the Government more accountable for waste and fraud.

As a member of the Senate Committee on Armed Services, on which I am pleased to serve with him, Senator

GLENN has worked to ensure that the United States military remained ready and strong in the perilous aftermath of the cold war.

He has shared a concern over the dangers of chemical weapons. He has joined with others of us in attempting to ensure that our military has absorbed the lessons of the gulf war and is prepared to protect our troops from low levels of chemical weapons.

On these two committees, Senator GLENN has served as a voice of reason and common sense.

Senator GLENN is a hero for all of us to emulate as a result of his honor and dedication to his country, his family, and his own high standards.

I have asked this question in the Senate before: ''Where have all the heros gone?''

To this question I have no definitive answer, but I do know where this hero is going to go . . . again.

Senator JOHN GLENN is a steam engine in britches; he is atomic energy in the flesh.

The senior Senator from Ohio has been a daredevil virtually all of his life.

Not one to know when to slow down, Senator GLENN has risked life and limb, both on the Earth's surface and in the vastness of space which encompasses it, for one thing, and one thing only—the United States of America.

JOHN GLENN has been uniquely blessed to have had the opportunity to soar above this Earth of ours, soar like an eagle, surveying the beauty of creation that is God's Green Earth.

To quote William Shakespeare in ''twelfth night,''

> Some are born great, some achieve greatness, and some have greatness thrust upon them.

Senator GLENN is one who has achieved greatness through his service to his country; he is truly a great American hero.

Not only a veteran of World War II, having served in combat in the South Pacific after he was commissioned in the Marine Corps in 1943, JOHN GLENN is also a veteran of the Korean war.

Having survived 149 combat missions as a marine, our hero—our hero, my hero, your hero—our hero wanted to move on to a more challenging career as a test pilot of fighter and attack aircraft for the Navy and Marine Corps. And then, looking for new and extreme ways to test his mortality, on February 20, 1962, Astronaut JOHN GLENN gently squeezed his body into the *Friendship 7* rocket and became the first American to orbit the Earth at almost 18,000 miles per hour.

Think of that. When I was young, I read a book by Jules Verne titled, ''Around the World in 80 Days.'' JOHN GLENN went around the world in 89 minutes.

This may well have been the pinnacle of JOHN GLENN's life and career.

On that fateful Tuesday in 1962, not only was America waiting with nervously clenched fists for news on Lt. Col. JOHN GLENN's condition after his return to Earth, but the whole world was watching.

People from all nations prayed for the safe return of this brave man.

Mr. President, I quote from an article entitled ''Man's 'Finest Hour.' '' I have been saving this article, now, for almost 37 years—''Man's 'Finest Hour','' by the late David Lawrence, which was originally published in the March 5, 1962, edition of U.S. News & World Report:

> Miracles do happen when the world shows its humility in prayer.
>
> The voices that besought Almighty God to save the life of Colonel Glenn can speak again, as even more of us petition him to save humanity from nuclear war.
>
> For those prolonged minutes of prayer on Tuesday, Feb. 20, constituted man's ''finest hour''.

Now, if the Good Lord is willing, on October 29, our friend and colleague—and hero—JOHN GLENN, still brimming with vital energy, will be leaving the relative comfort of Mother Earth far behind.

It is always a melancholy time when the institution of the United States Senate has one of its finest Members move on. But it is a glad time when one of its Members moves on to something greater.

''Excelsior, ever upward.'' That is the motto of JOHN GLENN. He has bigger fish to fry, so he is ready to get away from Washington, DC—far, far away.

Senator GLENN's return to space aboard shuttle *Discovery* will add another significant page to the annals of history.

The capacity in which Senator GLENN will be operating on the *Discovery* is representative of the way in which he had lived the last three decades of his life, despite his global fame—modestly and without great fanfare.

I am certain that he will perform his mission on *Discovery* with the same diligence and sense of duty that he has shown in serving his great State of Ohio in the United States Senate.

The world in 1998 is a lot different from that world of 1962, when JOHN GLENN was first catapulted into space. Similarly, the space shuttle *Discovery* is about as close in design to the *Friendship 7* rocket as an old Oliver typewriter—I was trying to remember the name of an old typewriter I had around the house when I was a boy—about as close in design to the *Friendship 7* rocket as an old Oliver typewriter is to a home computer.

The one thing that shall remain constant in this most recent launch is that the world will once again be watching, gripping chairs, biting fingernails, and saying its prayers for the Glenn family. For JOHN GLENN, and for all the crew members of *Discovery*, and for Annie, that sweet little wife of JOHNS.

It is hard to relate, to those Americans who were not yet born in 1962, the thoughts and emotions of the world on Tuesday, February 20, of that year.

Technology has become so advanced that flights into space are routine.

Men and women are able to live for months at a time in floating space stations.

America tends to take for granted the risks that our Nation's astronauts take to perform scientific experiments, carefully placing communications satellites into orbit, and repairing important instruments of observation—all of which make life on Earth much more enjoyable.

In 1962, the risks were greater and there were many unknown factors that experience has now brought to light and revealed and smoothed over.

Senator GLENN's return to space brings that all back, and reminds us of the tremendous changes wrought by Americans within the career of one man.

So, this evening I take this opportunity to wish the best of luck to JOHN GLENN and to Annie and to others of his family.

I anxiously anticipate *Discovery's* safe return to Earth, and I extend my best wishes, and those of my wife Erma, to Senator GLENN and to Annie for many years of health and happiness after he returns to Earth and leaves the Halls of the Capitol behind.

Thank you, thank you, thank you, Senator GLENN.

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

The PRESIDING OFFICER (Mr. SESSIONS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

TRIBUTE TO SENATOR DIRK KEMPTHORNE

Mr. NICKLES. Mr. President, it is almost kind of sad in a way to think that DIRK KEMPTHORNE will be leaving the Senate after only one term in the U.S. Senate. It has been a pleasure to work with DIRK, to be with him, to get to know him, to get to know his family, his wife Pat. But I will just say DIRK KEMPTHORNE is a Senator's Senator. He is a person who comes from the great State of Idaho.

He brought a great deal of, I must say, refreshing energy to the Senate. He served as mayor of Boise City for 7 years. He was elected to the U.S. Senate in 1992 and proved something unconventional: He could get a lot done in his first term in the Senate. Most people have the idea you have to be in the Senate a long time before you can get anything accomplished, but he proved quite the opposite.

He proved to be a very effective legislator. He proved to be a person who could work on both sides of the aisle, that he could work with Democrats and Republicans and make things happen.

He was the principal sponsor of a bill that most of us have claimed some part to, the unfunded mandates bill that President Clinton signed and it became

law. It was strongly supported by States, Governors, mayors and commissioners and others who said, ''Let's quit passing unfunded mandates on to the States, cities and counties.''

He has been instrumental in leading the fight in needed reform in the Endangered Species Act. He has been a tireless worker on the Armed Services Committee.

He has always kept his priorities straight. His family has always been first and foremost. His love for his State is very evident.

Now he will return to the State of Idaho. He is running for Governor. I am very confident he will be elected Governor, and I am quite confident he will be one of the outstanding Governors in the country. I appreciate his service and his friendship. He has been an outstanding Senator. I hate to see him leave the U.S. Senate, but I do wish him, his wife and his family best wishes as he leaves the Senate and returns to his State and continues his public service in a different capacity, and that will be as Governor of the great State of Idaho.

TRIBUTE TO SENATOR DAN COATS

Mr. NICKLES. Mr. President, I also wish to pay my compliments and accolades to Senator DAN COATS of Indiana. I have had the pleasure of knowing DAN COATS. He actually was elected to the House of Representatives in 1980, the same year I was elected to serve in the U.S. Senate. He had something unusual happen.

When Dan Quayle was selected as Vice President and elected in 1988, DAN COATS was appointed to take his place in 1988.

That almost sounds like it was easy, but it turned out he had to run for reelection in 1990; and he won. But that was only for a partial term, and so he also had to run for reelection in 1992. So he had the unenviable task of having really challenging races both in 1990 and in 1992 for the U.S. Senate. He won both, and deservedly so, because he has been an outstanding U.S. Senator.

I remember Dan Quayle telling me, ''You're really going to like DAN COATS.'' Dan Quayle and I were good friends. And DAN COATS and I have become very good friends. And he was exactly right. DAN COATS and his wife, Marcia, his family, are not only good friends of our family, but I would say anybody serving in this body—anybody—whether they be on the House side or the Senate side, cannot help but like DAN and Marcia COATS. They are a couple—they are a couple—in the greatest tradition of the Senate.

His wife Marcia has been active in the Senate wives' groups and active with the prayer groups that many of our wives are involved with. They go to functions together. They are athletically involved. They both play tennis. They both play golf. They both have a good time. They keep their priorities straight. They both have a very strong belief in God and in their families, and work comes down somewhere below that.

He has done an outstanding job as a Senator for the great State of Indiana. I would say he has done an outstanding job as a Senator for all of us in America, whether it be his work on the Armed Services Committee, whether it be his tireless efforts on welfare reform in the Labor Committee, his efforts to try to reduce poverty, his efforts to alleviate suffering amongst kids.

Many of our colleagues are not aware of it, but he is national president of the Big Brothers program, which could probably be a full-time job for anybody, but he is able to do that. He has been a Big Brother. He actually was a Big Brother in a town for a youngster who did not have a dad, did not have a mentor. DAN COATS became his mentor—as a matter of fact, became his best man at his wedding.

What a great compliment for an individual who, of course, had unlimited demands on his time, was willing to take time out and serve as a Big Brother to a youngster who did not have a dad, and he did it for years. Ultimately this young man became quite a success, a success in his own right, and I think in large part because of the time and attention and love that DAN COATS gave to him. He selected DAN COATS as his best man at his wedding, which is quite a compliment.

DAN COATS was recently selected as Christian Statesman of the Year by a national organization. They had a big banquet honoring him, and it was well deserved. I have the pleasure of knowing DAN COATS in many respects. His belief in God, it is sincere, it is real. He is the embodiment of a Christian statesman. And so that award was well deserved.

He has been leader, as many of us know, of the Senate Prayer Breakfast that we have ongoing in the Senate that goes back for years and years. He has been chairman or president of that group for us for the last year or so and has done a good job—done an outstanding job in every respect.

So he is absolutely a dear friend, and I hate to see him leave the Senate. He has served now in the Senate since 1988, so only for 10 years. But he also served 8 years in the House, and before that he served a couple years in the Army. So he has given a lot of years in public service, and he deserves, I guess, a chance to do something else.

But I am confident—absolutely confident—that whatever he does will be a great service to this country. He has been a real blessing to this body. He and his wife have been a real blessing to this country. And it is with great regret that I see DAN COATS join the group of retiring Senators. But I do wish every best wish to him and his family, and I compliment them for their outstanding service to their State, to their country, to God, and to their family.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

FREEDOM FROM RELIGIOUS PERSECUTION ACT OF 1998

The Senate continued with the consideration of the bill.

Mr. NICKLES. Mr. President, I believe there is still some remaining time on both sides on the international religious freedom bill. I now yield back all time remaining for tonight's debate on that bill.

The PRESIDING OFFICER. Under the previous order, the substitute amendment is agreed to.

The substitute amendment (No. 3789) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

FINANCIAL SERVICES ACT OF 1998

The PRESIDING OFFICER. Under the previous order, the clerk will report H.R. 10.

The legislative clerk read as follows:

A bill (H.R. 10) to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers, and for other purposes.

The Senate continued with the consideration of the bill.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate is now in a period of morning business.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

TRIBUTE TO DOUGLASS FONTAINE

Mr. LOTT. Mr. President, I rise today to honor a fellow Pascagoulian and personal friend, Mr. Douglass Fontaine. Doug has devoted his life to an industry for which Mississippians are proud to be recognized—hospitality.

A third generation hotelier, Doug grew up surrounded by the hotel industry. Both Doug's parents and grandparents managed the historic Allison's Wells Spa in Way, Mississippi. He too took his turn at managing Allison's Wells after returning from Germany, where he managed an R & R hotel. He then eventually relocated to Pascagoula, and for more than 35 years has owned La Font Inn. Doug has not

only brought a friendly and welcoming smile to patrons, but a legacy for hotels around the United States, Europe, and the Caribbean.

While being the only Mississippian to serve as President and Chairman of the Board of the American Hotel and Motel Association, Doug implemented his world renowed program ''Quest for Quality.'' This has not been Doug's only contribution to society. He has held many positions of leadership, including residing over such community service organizations as the Jackson County Heart Fund, Rotary Club, United Way of Jackson County, and many others.

Doug has dedicated himself to economically develop his Gulf Coast community by working to establish the Mobile-Pascagoula Airport, Naval Station Pascagoula, the Sunplex Industrial Center, and again many others. He also chaired the committee to ''Save the Homeport'' from base closures for many years. Currently, Doug is serving on the Board of Directors of the Hancock Band, a position he has held for more than 27 years, and serves as a lifetime Director of the American Hotel and Motel Association.

On October 23, 1998, the Mississippi Hotel and Motel Association will establish a Hotel and Restaurant Scholarship in his name. This great honor could not be bestowed upon a finer person. An opportunity for future members of the industry, this serves as a deserving tribute to Doug, his wife Lou, and their children and grandchildren. I am proud to congratulate this great Mississippian.

COMMEMORATING THE 100TH ANNIVERSARY OF THE NATIONAL COMMUNITY PHARMACISTS ASSOCIATION

Mr. DASCHLE. Mr. President, today I want to congratulate the National Community Pharmacists Association (NCPA) as its 100th anniversary approaches. One of the Nation's leading membership organizations—representing some 30,000 independent pharmacies across the United States—NCPA will celebrate its 100th anniversary on October 17th. It is an honor to celebrate this landmark with NCPA and recognize professionals who truly exemplify high quality, patient-focused health care.

Throughout its 100 years of service, NCPA has been a respected voice in the public policy arena—not only as a highly effective advocate for community pharmacists, but as the link to individual pharmacists with the demonstrated expertise and front-line experience required to help evaluate policy options.

I'd like to take a few moments to recognize the enormous contributions of the men and women NCPA represents: local, community pharmacists. They play a critical role in our nation's health care delivery system through careful drug monitoring services, personalized service, coordination with other health providers and services, and community-oriented care.

Each year, millions of Americans purchase prescription and non-prescription medications at their local pharmacy, where an on-site pharmacist can help them select the medication that is most appropriate and prevent harmful drug interactions. Pharmacists have the experience and expertise to help consumers face an intimidating array of medication options. They prevent the wasteful spending and pain and suffering associated with drug complications.

Community pharmacists provide personalized care, and offer a friendly, neighborhood presence for individuals facing illness and disease. An NCPA membership survey shows that 98 percent of independent pharmacists counsel patients face-to-face on prescription medications and make recommendations on over-the-counter drugs and general health care issues, and 97 percent maintain patient profiles. As more drugs are offered through the mail and without the opportunity to meet personally with a pharmacist, community pharmacists provide reassurance and inspire the confidence of those they serve.

Community pharmacists play a crucial role in local health care delivery systems, by coordinating with other health professionals, promoting public health, and educating consumers on pharmaceutical and health issues. Many independent pharmacists report meeting regularly with local physicians on drug therapy and pharmacy services. In addition, they educate and assist their customers with the management of ongoing and chronic conditions such as diabetes and hypertension.

Independent community pharmacies are primarily family businesses, and they have roots in America's communities. They are owned by civic leaders who are actively involved in a variety of community-oriented public health, civic, and volunteer projects. Many hold local elected or appointed offices. Public service and commitment to community are hallmarks of independent pharmacy.

For all of these reasons, it is my pleasure to pay tribute to independent, community pharmacists and the organization that represents them. Through integrity, expertise and tenacity in the face of dramatic changes in our health care system, community pharmacists have inspired the confidence and trust of millions of Americans. Our Nation is truly well served by them.

THE APPROPRIATIONS PROCESS

Mr. SPECTER. Mr. President, I would like to make a brief comment, on the appropriations process, and to express some concerns which I have about the procedures where some of the legislative proposals have not been considered in regular order and in due course—specifically, the legislation on the appropriations bill for Labor, Health and Human Services, and Education.

In articulating these concerns, I understand the tremendous pressures which have been presented to leadership to conclude our session with the target date of October 9.

The Constitution gives to the Congress the authority and responsibility of the appropriations process. And that customarily proceeds with action in the appropriations subcommittee, then the appropriations full committee, then the full body of the Senate, where Senators have an opportunity to comment on the legislation and to offer amendments, and then, when acted upon, goes to a conference in the House of Representatives, which has followed the same pattern—consideration of the subcommittee, full committee, and by the House, and then the conference committee.

That process has been short-circuited this year without having the legislation, the appropriations bill on Labor, Health and Human Services, and Education, come to the Senate floor. We have sought a conference with our distinguished House Members—Congressman PORTER, who chairs the House equivalent of the subcommittee, and Congressman OBEY, the ranking minority leader—along with Senator TOM HARKIN, my distinguished ranking member of the subcommittee.

It would be my hope that as we proceed with the business of the Senate in future years, we would be able to proceed in regular order so that the Senate has an opportunity to consider the measure, Senators offer amendments, and go through the regular procedure on the House-Senate conference.

CHRISTOPHER HAYES HONORED BY NATIONAL CRIME PREVENTION COUNCIL

Mr. KENNEDY. Mr. President, next week, on October 14th, the National Crime Prevention Council will honor Christopher F. Hayes of Boston as one of the seven recipients of this year's Ameritech Award of Excellence in Crime Prevention. The award recognizes individuals who demonstrate outstanding leadership, courage, and dedication to crime prevention in their neighborhoods, states, or nationally.

This honor is a well-deserved tribute to Christopher Hayes and his 13-year career as Founder and Director of the Neighborhood Crime Watch Unit of the Boston Police Department.

Mr. Hayes founded the Neighborhood Crime Watch Unit in 1985 as a one-person organization based on the philosophy that the key to crime prevention is to rely on connections from neighbor to neighbor. He urged people to work together and with the police to create innovative solutions for reducing local crimes. The initial model for his crime watch group was simple phone tree and

whistle alert system that allowed neighbors to keep in touch with each other.

Today, the Neighborhood Crime Watch Unit offers support and training for such neighborhood groups, which now total 962 in Boston and account for a third of all streets in the city. The successes have been impressive. Entrenched drug dealers have been exposed and forced out. Muggings have been averted. Suspects have been arrested. Drugs have been seized. Vacant lots have been reclaimed. Neighborhoods have been reborn. Neighborhood watch units have been a vital part of the effort to reduce the crime rate in Boston to the record lows the city is now enjoying.

I commend Christopher Hayes for his innovative leadership and his extraordinary contribution to our city.

CONGRATULATIONS TO DR. SHUKRI KHURI OF MASSACHUSETTS WINNER OF THE BERRY PRIZE IN FEDERAL MEDICINE

Mr. KENNEDY. Mr. President. It is an honor to call to the attention of my colleagues that Dr. Shukri F. Khuri of the Brockton/West Roxbury, Massachusetts Veterans Affairs Medical Center, has been awarded the 1998 Frank Brown Berry Prize in Federal Medicine. This high honor is bestowed each year in memory of Dr. Frank Brown Berry, a thoracic surgeon and brigadier general who served in both World War I and World War II, and who served for seven years as the top medical officer in the Department of Defense. The award is presented jointly by U.S. Medicine newspaper and the Science Applications International Cooperation.

Dr. Khuri was chosen for this high honor from a large pool of nominees by a committee of representatives from the National Institutes of Health, the Department of Defense, the Veterans Health Administration, and the staff of U.S. Medicine.

Dr. Khuri received his medical education at the American University of Beirut before coming to the United States in 1972. Many of us know AUB well as one of the premier institutions of higher education in the Middle East, and as one of the strongest bulwarks of American ideals and values in that part of the world. Dr. Khuri's recognition as one of the leading medical practitioner-scientists in the United States reminds us of another important fact about AUB. Many of its graduates—5,000 distinguished alumni—live here in the United States and make major contributions to life and society in America. In fact, Dr Khuri serves as President of AUB's Alumni Association of North America.

Dr. Khuri is now Chief of Surgical Services and Chief of Cardiothoracic Surgery at Brockton/West Roxbury VA Medical Center, the largest open-heart surgery program in the VA health care system. He also serves as the Vice-Chairman of the Department of Surgery at Brigham and Women's Hospital and is a Professor of Surgery at the Harvard Medical School.

Dr. Khuri was honored with the Berry Prize for his accomplishments in three important areas of medical research and innovation. First, he developed a device that monitors on-line myocardial protection during open heart surgery, a device which enables surgeons to monitor the effect of open heart surgery on the patient and to reduce the chance that the surgery will cause irreversible damage. Dr. Khuri's device is a major innovation, and it seems likely to become a standard piece of equipment in all cardiac surgeries.

Second, in cooperation with the Navy, Dr. Khuri devised strategies to increase the conservation of blood during open-heart surgery. Third, he directed the creation of a model system to assess the quality of care that patients receive by using risk adjustment outcomes. These innovations have significantly affected the practice of medicine in the United States.

I congratulate Dr. Khuri on the Berry Award and for his important contributions to American medicine. I ask unanimous consent to insert at this point in the RECORD an article from the August 1998 issue of U.S. Medicine, which describes Dr. Khuri's accomplishments in greater detail.

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

[FROM THE U.S. MEDICINE, AUGUST 1998]

THE FRANK BROWN BERRY PRIZE FOR 1998; CARDIAC SURGERY, QUALITY ASSESSMENT

Name: Shukri F. Khuri, M.D.

Title: Chief of Surgical Services and Chief of Cardiothoracic Surgery, Brockton-West Roxbury VA Medical Center; Vice Chairman, Department of Surgery, Brigham and Women's Hospital; Professor of Surgery, Harvard Medical School.

Summary Of Accomplishment: Three disparate areas of achievement:

Directing the creation of a model system to assess quality of care using risk adjustment outcomes.

Developing a device that monitors online myocardial protection during open heart surgery.

Through a collaboration with the Navy, devising strategies to better conserve blood during cardiac surgery.

Path To Accomplishment.

Research-Clinical Link: Dr. Khuri chairs the largest open heart surgery program in the health care system, and his medical contributions promise to have a far-reaching impact on medicine.

A native of Palestine, Dr. Khuri received his medical degree with distinction from the American University of Beirut in Lebanon. Following his residency there, he received further training in the 1970s at Johns Hopkins University and at the Mayo Clinic.

Today, his curriculum vitae reads like a book.

When he first arrived in the U.S. in 1972, he relates, his intention was to return to Lebanon eventually, but unfortunately it was 1976 and the strife there was at its height. He could not think of returning.

Harvard University recruited Dr. Khuri to come to West Roxbury VAMC. Again, he planned to stay only a few years, but instead has remained for 22 years.

The West Roxbury VAMC has the oldest and the largest open heart surgery program in the VA system and have been designated by the agency as a Center of Excellence in cardiac surgery, West Roxbury VAMC proudly states.

''I've been chief of cardiac surgery [at West Roxbury] since 1977,'' he relates, emphasizing that one of the facility's major strengths is offering the ability to combine investigative research with clinical practice.

''I feel we can only improve the way we deliver care by simultaneously conducting practical research that will answer the frustrations that we meet in our daily work. VA is an ideal environment that allowed me to combine both research as well as clinical care.''

For example, shortly after arriving he was allowed to pursue his interest in medical informatics. The result was the first automated ICU in the VA system. Subsequently, he chaired the surgery SIUG (Special Interest User Group), and was instrumental in developing software that is in current use in all VA surgical services.

pH In Heart Surgery: Almost all his achievements, Dr. Khuri explains, ''have been bome out of some frustration with certain limitations of our current clinical efforts.''

During open heart procedures, cardiac surgeons must cross-clamp the aorta and totally interrupt the blood supply to the heart in order to arrest it. However, to avoid irreversible tissue damage to the heart, they also must employ myocardial protection techniques, comprised of administering solutions to the heart. Without such fluids, he explains, surgeon would be able to safely cut off the blood flow to the hear only for 15 to 20 minutes.

This is not enough time; cardiac surgery takes a lot longer, he emphasizes.

''What was frustrating to me was that when we arrested the heart, we had no way of assessing how well we were protecting the heart during this period. There is no way today of knowing while you are operating on the heart how well you are protecting it from irreversible damage.

''This is why we felt it was important in our research to try to come up with a methodology or a technology that would allow us, in an online manner, to monitor the adequacy of the protection of the heart,'' he explains.

Based on animal experiments, which he had conducted to the John's Hopkins Hospital and West Roxbury. Dr. Khuri proposed in 1983 a novel approach monitoring myocardial tissue and acid-balance as a valuable way to evaluate how successfully the surgeons were protecting the heart during surgery. In a large series of basic animal experiments, which he subsequently conducted both at the West Roxbury VAMC and the NMR Magnel Laboratory at MIT, Dr. Khuri demonstrated that the rise in myocardial tissue hydrogen ion concentration (or fall in myocardial tissue pH, measured with a glass electrode which he had developed in conjunction with Vascular Technology, Inc., based in Chelmsford, Mass., provided an accurate metabolic measure of the magnitude of regional myocardial ischemia (i.e., the damage caused by the lack of adequate nutritive supply).

The electrode which he developed for this purpose is made of special 1 mm in diameter pH-sensitive glass containing silver-silver chloride. Although the full 10 mm length of the electrode is inserted perpendicularly into the heart muscles, is sensing surface is limited to its distal 4 mm tip, allowing assessment of the acid-base balance of the deeper and more vulnerable tissues of the heart.

The most recent prototype of the electrode also allows for the simultaneous measurement of the temperature of the tissues at the

same site of electrode insertion. The electrode is attached to a computerized monitor which corrects for the changes in temperature and provides online readings of both the pH and the hydrogen ion concentration in the heart.

Dr. Khuri's research group conducted animal studies which also demonstrated the utility of the electrode and monitor to measure regional pH changes in tissues other than the hearts, specifically in transposed musculocutaneous flaps and the intestinal wall.

The first myocardial pH measurements in man were reported by Dr. Khuri's group in 1983. Since then, his group has measured pH in more than 600 patients undergoing cardiac surgery. Based on the observations, a new concept of ''pH-Guided Myocardial Management'' has been formulated by Dr. Khuri and his group.

FDA approval for the Khuri pH Electrode and Monitor was obtained in 1987. At that time, however, ''we were reluctant to distribute it nationwide, mainly because there was a lot more that we needed to understand about myocardial tissue pH and what it meant. Most importantly, the thing that really took a great deal of time after we developed the technology was to figure out what maneuvers to employ to maintain normal pH levels in the heart and to reverse a fall in pH.

''That was the key question that we addressed in our clinical and laboratory studies since 1987,'' Dr. Khuri explains.

The final results of these studies was the development of a set of maneuvers that formed the basis of pH-Guided Myocardial Management.

''The underlying hypotheses behind all of this, which we ultimately have verified, is that acidosis, particularly when severe is bad for the heart.'' So if a surgeon can prevent myocardial acidosis during surgery chances are it will improve the protection of the heart and ultimately improve the outcome of the patients.

Dr. Khuri is optimistic that the impact of pH-guided myocardial management will be two-fold: surgeons will improve on the adequacy to protect the heart and therefore improve the outcomes of these patients, and also they will have a tool which allows them to assess, in coronary bypass operations exactly how well they have improved the blood supply to the heart.

His data are very compelling and have been shared with leading experts, who ''feel that it is a very promising and valuable tool in cardiac surgery,'' he relates. One leading expert has compared it to the now standard Swan-Ganz catheter developed some 30 years ago. The monitor, which he emphasizes has no known dangers or ''downside.'' might one day become a routine piece of cardiac surgery equipment.

Once it becomes widely available commercially he is confident the Veterans Health Administration will make it a standard operating room device. ''The VA [medical] facilities, particularly in cardiac surgery, have a wonderful tract record in the use of innovative technology from the pacemaker onwards'' he relates. Once the device is available commercially, then ''I'm almost certain that it would be applied within the VA.''

''But these things do take time. There are many skeptics out there'' he notes. ''There are many surgeons who believe they already know how to protect the heart and do not need anything new.''

Defeating The Bleeding: In 1983, Dr Khuri formed a collaboration with colleagues at the Naval Blood Research Laboratory (NBRL) in Boston. ''one of the most outstanding naval research institutes in the country,.'' to tackle another frustration of cardiac surgeons—unavoidable bleeding following open heart surgery.

All cardiac surgeons, he explains, are seeking methods to decrease this bleeding which sometimes can be substantial. Through ''a very fruitful collaboration'' with Dr. C. Robert Valeri and his team at the NBRL, Dr. Khuri has gained a better understanding of this postoperative bleeding.

Through his years of research trying to alleviate this frustration, he has come to understand the exact role of the platelets in bleeding diatheses and has identified a host of factors associated with the platelet which resulted in platelet-dysfunction during cardiopulmonary bypass. These include hypothermia, heparinia, and hemodilution.

In addition,''we have demonstrated, for the first time, the value of using frozen platelets as an alternative to using fresh platelets'' and have shown, ''I think unequivocally that you can use heparin-coated circuits with low-dose heparin to a big advantage during cardiopulmonary bypass.''

''We are advocating a compendium of techniques and maneuvers that, in our hands at least, have decreased the magnitude of postoperative bleeding'' by almost 80 percent, he relates.

''Our blood loss postoperatively now is really minimal in these patients.'' His unit has not taken a patient back to the operating room for bleeding in several months, a step which was commonplace previously.

Part of the technique he advocates is the use of heparin-coated circuits with low-dose heparin, which decreases the need for heparin and protamine during cardiopulmonary bypass. Not many institutions are using this technique—including VHA facilities, he points out.

The cardiac surgery unit at Boston University, where the technique also is used, he states, ''has had just as dramatic an experience in reducing their blood loss as we have here.''

Part of this work has been published, and one paper explaining his work on cryopreserved platelets has been accepted for publication in the Journal of Thoracic and Cardiovascular Surgery, which he hopes will add ''academic credibility'' to his strategy. Dr. Khuri suspects that, following publication, a number of institutions will adopt these procedures to reduce bleeding.

Again, in describing the medical community's reaction, he explains that it often takes time for professionals to adapt a new method or theory. ''It's exciting in a way that we are at the cutting edge, but it's also disappointing that it takes time to get this thing to people.''

Science is cautiously slow, he concedes.

National Outcome Assessment: Dr. Khuri, as chief of surgery, has found another frustration to consume his time.

''I am someone that believes very, very strongly that VA results have always been excellent in surgery. We have very good surgical centers at the Veterans Health Administration, particularly those that are affiliated with major institutions,'' he asserts, noting that he is a full professor at Harvard Medical School and all his staff have academic appointments at Harvard.

Unfortunately, the VA has been often criticized for having high mortality rates after surgery. In fact, in the mid '80s, ''a very concentrated attack'' by the media attempted to ''discredit'' VA by publishing surgical outcomes, which various periodicals claimed were evidence of higher mortality rates than in the private sector.

''I felt very frustrated by this,'' he relates. ''We were all convinced we were doing a good job and that our results were the same as [his affiliated hospital at] the Brigham.''

The difference, he points out, is that VA patients are sicker patients and therefore are at higher risk of dying as a result of surgery. ''No one would dispute this,'' he stresses.

This debate over higher VA mortality rates reached a climax in 1986, Dr. Khuri relates, prompting Congress to pass a mandate that VA must report its surgical outcomes in comparison to national averages and risk-adjusted for the patients' severity of illnesses. VA also was to report to Congress every two years on how it addressed this mandate.

In 1987, VA asked him to chair a committee to fulfill this task. ''It became very evident to us when we met as a group that the congressional mandate was untenable because there were no national standards for surgical outcomes anywhere in the world.'' There were no models for risk-adjusted outcomes either.

Dr. Khuri's committee advised VA to explain to Congress the lack of national standards and pointed out that the agency was in the unique position not only to develop these national standards, but also to develop risk-adjusted outcomes with which it could compare one VA medical facility to another and to the private sector.

It took almost three years to convince VA to make this claim to Congress and to agree to fund an initiative to address these issues.

The committee he chaired put together a study to examine the unadjusted outcomes in the VA surgical services. In 1991, it launched the National VA Surgical Risk Study in 44 VA medical centers and assigned clinical nurses to collect preoperative, intraoperative, and outcomes data—both deaths and complications on all major operations.

From the inception of the study, an advisory board comprised of leading outside experts advised the study how to proceed and conduct analyses. Dr. Khuri also recruited Dr. Jennifer Daley, an expert in health science research, as his co-chair of the risk study. The results of this prospective analysis ultimately lead to the development of national models that allowed VA to report its outcomes adjusted for the severity of illness of its patients.

O/E Ratio: An assessment system was developed that enabled a particular surgical service to calculate the expected mortality or complications rate for patients undergoing surgery over a certain period of time in that hospital, based on the preoperative severity of their illnesses.

Then using the observed mortality rate for the same period, an observed to expected ration, or ''O/E Ratio'' could be generated, he explains.

If the observed ratio is much higher than that expected, based on the severity of the illness of the patients, he explains, the assumption is that there are other factors that have contributed to the high mortality rate of that population, probably related to the quality of care in that institution.

A study was performed to validate the O/E Ratio as a measure of quality of care, and by January 1995, ''we had developed for the first time models that would allow for risk adjustment, not only in cardiac surgery, but in almost every major field of non-cardiac surgery.''

VA recognized the value of this as a way to continuously monitor the quality of surgical care, Dr. Khuri notes.

''The VA leadership was insightful enough to go along with our recommendation that the models that had been developed should be applied to all the VA's that were doing surgery.'' The result was the National Surgical Quality Improvement Program (NSQIP), which Dr. Khuri chairs and which basically expanded the methodology employed in the National VA Surgical Risk Study of all 123 VA medical centers performing surgery.

The program uses 88 full-time nurses to collect data on all major surgery in the VA, which is transmitted to the program database in Chicago. The ''very rich database'' contains more than 500,000 cases, he relates, and generates annually a detailed report for each surgical service at the VA.

The program has published more than 17 publications about the NSQIP data and, within the coming year the program will be accessed through the Internet.

VHA had certain advantages as it implemented the outcome assessment program, he explains. First, the agency's uniform clinical and administrative database and software program—the Decentralized Hospital Computer Program, now known as VISTA—has permitted the NSQIP to access a consistent surgical scheduling module and operating room log in every VAMC to identify all operations performed in operating rooms throughout the country and to centralize the data so that the surgical nurse reviewers enter uniform data.

However, the NSQIP risk models and outcomes may have a few limitations, he cautions, because they may not be generalizable to populations dissimilar to veterans. Further, to reduce the data collection burden for the nurse reviewers, operation- and subspecialty-specific patient risk factors are not collected for non-cardiac surgery.

A final limitation, Dr. Khuri notes, is that the outcomes measured in the NSQIP currently are restricted to the adverse occurrences of postsurgical mortality and morbidity, and length of stay.

''There is a lot of interest now, not just among the VA surgeons, but among the surgical community outside of VA.'' Dr. Khuri contends, especially with modern medicine's current emphasis on managed care and cost containment.

''VA has completely adopted this,'' Dr. Khuri proudly notes, and ''it is leading the world in the use of risk-adjusted outcomes.

''We think that the NSQIP is providing models that are leading the way towards the qualification of quality of surgery and the ability to compare the quality of care at various institutions using risk adjusted outcomes,'' Dr. Khuri declares.

Results of the National VA Surgical Risk Study were published as to lead three articles in the October 1997 issue of the Journal of the American College of Surgeons, and a full description of the NSQIP will be published in the upcoming October issue of the Annals of Surgery.

TRIBUTE TO BILL SHIELDS FOR HIS DISTINGUISHED SERVICE TO THE CONGRESS AND THE NATION

Mr. KENNEDY. Mr. President, it is a privilege to pay tribute to Bill Shields of the Department of Defense, who is retiring after two decades of impressive service to the Nation. He is an outstanding attorney whose intellectual skills and dedication have helped to maintain and improve our country's military.

Bill is a native of Buffalo, New York. He received his BA and JD degrees from the University of Buffalo, and a L.LM from the National Law Center at George Washington University.

Bill then served in a number of legal positions in the Department of Defense, including assistant in charge of a legal office in Florida, counsel for an air station in Maine, and international law attorney in Japan.

I first met Bill in 1987, when he joined my staff as a Congressional Fellow with the Senate Committee on Labor and Human Resources. As Chairman of that Committee I was extremely impressed with Bill's work on the Polygraph Protection Act and the Minimum Wage Act. He spent endless hours researching these issues, drafting the statutory language, and preparing witnesses and Senators for hearings. His efforts were indispensable in obtaining enactment of those two critical pieces of legislation.

After leaving the Committee, Bill served as Deputy Assistant for Civil Affairs and as Deputy Director of the Appellate Government Division in the Department of the Navy, and excelled in both assignments.

In 1993, he became Legislative Counsel in the Secretary of the Navy's Office of Legislative Affairs. In that position, he worked closely with us on the Senate Armed Services Committee on key issues such as acquisition reform, the A–12 aircraft contract termination, and the Seawolf submarine.

In 1994, Bill was appointed as Counsel and Special Assistant for Legislative Affairs in the Office of the Secretary of Defense. In that position, he has been deeply involved in issues such as research and development, test and evaluation, acquisition policy, major weapons systems, and intelligence. Bill was primary liaison with Congress for the Under Secretary of Defense for Acquisition and Technology, the Director of Defense Research and Engineering, the Director of Test Systems Engineering and Evaluation and the Director of the Defense Advanced Research Projects Agency.

In this capacity, Bill worked with Senators and staff on a daily basis to ensure the effective use of scarce defense resources during a period of major defense restructuring. He was responsible for overseeing the authorization of $67 billion of the annual DOD budget for such projects as the F/A–18, F–22 and Joint Strike Fighter aircraft, the New Attack Submarine, the Commanche helicopter, numerous medical research projects and the Technology Reinvestment Program. On all of these issues, Bill's leadership, intelligence, and integrity have contributed significantly to the readiness and ability of our troops in the field.

Congress and the nation owe a debt of gratitude to Bill Shields. His skillful leadership will continue to have a lasting impact on our national security for years to come. It has been an honor to be associated with this exceptional public servant. His distinguished service will genuinely be missed, both in the Pentagon and in Congress.

All of us who know Bill are grateful for his leadership and his friendship. We wish him every success in his new position as General Counsel for the American College of Radiology. We know that his wife Maryann, and his three children, Andrew, Molly and Brian, are proud of him as he reaches this special milestone, and all of us in Congress are proud of him too.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, October 7, 1998, the federal debt stood at $5,533,657,715,092.27 (Five trillion, five hundred thirty-three billion, six hundred fifty-seven million, seven hundred fifteen thousand, ninety-two dollars and twenty-seven cents).

One year ago, October 7, 1997, the federal debt stood at $5,413,433,000,000 (Five trillion, four hundred thirteen billion, four hundred thirty-three million).

Five years ago, October 7, 1993, the federal debt stood at $4,399,633,000,000 (Four trillion, three hundred ninety-nine billion, six hundred thirty-three million).

Ten years ago, October 7, 1988, the federal debt stood at $2,617,036,000,000 (Two trillion, six hundred seventeen billion, thirty-six million).

Fifteen years ago, October 7, 1983, the federal debt stood at $1,384,688,000,000 (One trillion, three hundred eighty-four billion, six hundred eighty-eight million) which reflects a debt increase of more than $4 trillion—$4,148,969,715,092.27 (Four trillion, one hundred forty-eight billion, nine hundred sixty-nine million, seven hundred fifteen thousand, ninety-two dollars and twenty-seven cents) during the past 15 years.

HONESTY IN SWEEPSTAKES

Mr. CAMPBELL. Mr. President, today I want to take a few moments to let my colleagues in the Senate and House of Representatives know about the progress we have made in promoting Honesty in Sweepstakes during the 105th Congress.

Over the past month, the Honesty in Sweepstakes Act of 1998, S. 2141, made excellent progress as it was refined and polished. These refinements reflect the valuable input I received from witness testimony and my fellow Senators during a Governmental Affairs Subcommittee hearing on S. 2141. The newest Honesty in Sweepstakes language also reflects the results of numerous productive discussions and negotiations with interested parties, including the Postal Service, the industry, the AARP and consumer protection groups.

I want to thank my colleagues, Senator THOMPSON and Senator COCHRAN, who as the respective Chairmen of the Governmental Affairs Committee and the International Security, Proliferation and Federal Services Subcommittee, have been helpful and gracious in their efforts to help me move this sweepstakes reform legislation during the 105th Congress. I also want to thank my good friend, Senator COLLINS, who cosponsored my original Honesty in Sweepstakes bill and provided valuable input that is reflected in the new language I am talking about today.

This revised Honesty in Sweepstakes legislation would go a long way toward protecting our nation's seniors and other vulnerable consumers from misleading and deceptive sweepstakes promotions. This is something we should do this year to protect consumers. I urge my colleagues to pass this legislation before the 105th Congress concludes.

For my colleagues' reference, I ask unanimous consent that this new Honesty in Sweepstakes language be printed in the RECORD.

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

S.—

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

SECTION 1. HONESTY IN SWEEPSTAKES ACT OF 1998.

(a) SHORT TITLE.—This Act may be cited as the ''Honest in Sweepstakes Act of 1998''.

(b) UNMAILABLE MATTER.—Section 3001 of title 39. United States Code, is amended by—

(1) redesignating subsections (j) and (k) as subsections (l) and (m), respectively; and

(2) inserting after subsection (i) the following:

''(j)(1) Matter otherwise legally acceptable in the mails that—

''(A) constitutes a solicitation or offer in connection with the sales promotion for a product or service (including any sweepstakes) that includes the chance or opportunity to win anything of value; and

''(B) contains words or symbols that suggest that—

''(i) the recipient has or will receive anything of value if that recipient has in fact not won that thing of value; or

''(ii) the recipient is likely to receive anything of value if statistically the recipient is not likely to receive anything of value.

shall not be carried or delivered by mail, and may be disposed of as the Postal Service directs, unless such matter bears the notice described in paragraph (2).

''(2) (A) The notice referred to in paragraph (1) is the following notice:

''(i) This is a game of chance (or sweepstakes, if applicable). You have not automatically won. Your chances of winning are (inserting corresponding mathematical probability for each prize shown). No purchase is required either to win a prize or enhance your chances of winning a prize; or a notice to the same effect in words which the Postal Service may prescribe; or

''(ii) a standardized Postal Service designed warning label to the same effect as the Postal Service may prescribe.

''(B) The notice described in subparagraph (A) shall be in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations that the Postal Service shall prescribe and be prominently displayed on the first page of the enclosed printed material and on any other pages enclosed.

''(C) If the matter described in paragraph (1) is an envelope, the face of the envelope shall bear the notice described in subparagraph (A).

''(D) If the matter described in paragraph (1) is an order entry device, the face of the order entry device shall bear the following notice:

'''This is a game of chance (or sweepstakes, if applicable). No purchase is required either to win a prize or enhance your chances of winning a prize; or a notice to the same effect in words which the Postal Service may prescribe.'

''(k) Matter otherwise legally acceptable in the mails that constitutes a solicitation or offer in connection with the sales promotion for a product or service that uses any matter resembling a negotiable instrument shall not be carried or delivered by mail, and may be disposal of as the Postal Service directs, unless such matter bears on the face of the negotiable instrument in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations which the Postal Service shall prescribe the following notice: 'This is not a check (or negotiable instrument). This has no cash value.'. or a notice to the same effect in words which the Postal Service may prescribe.''

(c) TECHNICAL AMENDMENT.—Section 3005(a) of title 39. United States Code, is amended by—

(1) striking ''or'' after ''(h).'' both places it appears; and

(2) inserting ''. (j). or (k)'' after ''(i)''.

(d) PENALTIES.—

(1) IN GENERAL.—Section 3012 of title 39. United States Code, is amended—

(A) by redesignating subsections (b), (c), and (d), as subsections (c), (d), and (e), respectively;

(B) by inserting after subsection (a) the following:

''(b) Any person who, through use of the mail, sends any matter which is nonmailable under sections 3001 (a) through (k), 3014, or 2015 of this title, shall be liable to the United States for a civil penalty in accordance with regulations the Postal Service shall prescribe. The civil penalty shall not exceed $50,000 for each mailing of less than 50,000 pieces; $100,000 for each mailing of 50,000 to 100,000 pieces; with an additional $10,000 for each additional 10,000 pieces above 100,000, not to exceed $2,000,000.'';

(C) in subsection (c)(1) and (2), as redesignated, by inserting after ''of section (a)'' the following: ''or subsection (b),''; and

(D) in subsection (d), as redesignated, by striking ''Treasury of the United States'' and inserting ''Postal Service Fund established by section 2003 of title title''.

(2) ALLOCATION OF FUNDS.—It is the sense of Congress that civil penalties collected through the enforcement of the amendment made by paragraph (1) should be allocated by the Postal Service to increase consumer awareness of misleading solicitations received through the mail, including releasing an annual listing of the top 10 offenders of the Honesty in sweepstakes Act of 1998.

(e) NO PREEMPTION.—Nothing in this Act shall preempt any State law that regulates advertising or sales promotions or goods and services that includes the chance or opportunity to win anything of value.

Ms. COLLINS. Mr. President, I want to take this opportunity to commend Senator CAMPBELL for his efforts to protect consumers from con artists who try to cheat Americans using deceptive mailings. I am pleased to join in support of his legislation.

Senator CAMPBELL's bill would require a disclosure on mailings to inform individuals that they have not automatically won a prize and that a purchase is not necessary to participate in a sweepstakes contest. New civil penalties could be imposed on violations of the provisions against sending deceptive mail.

Senator CAMPBELL has been a strong leader and forceful advocate for curtailing abuses by sweepstakes firms who send misleading mailings that suggest that people have won hundreds of thousands, or even millions, of dollars. Such deceptive mailings have caused people across the country to buy unnecessary products or to send money in the hope of winning a large prize. One scam even prompted some individuals to fly to Florida thinking they had won the grand prize in a major sweepstakes.

Millions of Americans have received sweepstakes letters that use deceptive marketing ploys to encourage the purchase of magazines and other products. A common tactic is a promise of winnings printed in large type, such as: ''You Were Declared One of Our Latest Sweepstakes Winners And You're About to Be Paid $833,337 in Cash!'' Of course, the recipient isn't really a winner, as the fine print said the money is won only ''If you have and return the grand prize winning number in time.''

Another problem is what I call ''government look-alike mailings,'' which look deceptively like mailings from Federal agencies. An example of such a deceptive mailing was sent to be by a woman from Machiasport, Maine. The letter was marked ''Urgent Delivery, A Special Notification of Cash Currently Being Held by the U.S. Government is ready for shipment to you.'' A postcard asks the consumer to send $9.97 to learn how to receive this cash. Of course, this was not a legitimate mailing from the Federal Government, but simply a ploy used by an unscrupulous individual to trick an unsuspecting consumer into sending money.

The experience of my constituents, as well as testimony presented by Senator CAMPBELL and others at the hearing chaired by our colleague, Senator COCHRAN, convinced me that Congress must pass strong legislation to stop sweepstakes fraud and deceptive mailings.

As Chairman of the Permanent Subcommittee on Investigations, I have focused our agenda on a number of consumer frauds, and I will be working with Senator COCHRAN to further examine the issue of deceptive mailings in the coming months. I commend Senator CAMPBELL for his leadership and look forward to working with him on this issue next year.

PROSTATE CANCER RESEARCH

Mr. COVERDELL. Mr. President, I rise today to express my support for prostate cancer research, and to thank Senator STEVENS and my other colleagues for their leadership on this important issue. While I am pleased with the strides this Congress has made in funding research at the National Institutes of Health (NIH), I share the concern that the allocation of NIH funds may be done in a manner disproportionate to a disease's severity and occurrence. I understand that prostate cancer research is one of those areas. Without discounting the NIH's other meritorious pursuits, I nevertheless wish to offer my support for assuring a larger allocation of NIH funding to prostate cancer research. It is my hope

that as the appropriations process continues, the negotiators will give fair and appropriate consideration to the Senate's $175 million earmark for prostate cancer research.

TRIBUTE TO SENATOR DALE BUMPERS

Mr. NICKLES. Mr. President, I would like to pay a brief tribute to my friend and colleague and neighbor from the State of Arkansas for his 24 years of service in the Senate.

I have had the pleasure of working with Senator DALE BUMPERS since I was elected to the Senate 18 years ago. So I am completing three terms. He is just completing four terms. Twenty-four years in the Senate is a long time. But I think the Senate has been blessed by his humor, his levity. The camaraderie that Senator BUMPERS has brought to the Senate floor and to the Senate group has been enjoyable, educational, and humorous, to say the least.

I have had the pleasure of serving with Senator BUMPERS on the Energy Committee where he has been ranking member for the last several years. We have worked together on a lot of legislation. We passed some good legislation, I might add, as well. So I compliment him for his years of service.

He served 4 years as Governor of Arkansas; I think he was elected in 1970; and elected to the U.S. Senate in 1974. It seems like he has been in the same chair for years. He has been the same Senator who will still get excited on a speech and pull his microphone cord to the limit. Maybe he might test the limit of the cord as much as anybody I know in the Senate—a very good speaker, a very good friend who has served his State very well.

We worked together on several pieces of legislation, including legislation that dealt with the exchange of lands, both for the Forest Service and for protecting lands in both Arkansas and Oklahoma, that would not have happened if it had not been for his good work and leadership. And frankly, he was a pleasure to work with on that bill, and many other pieces of legislation throughout our careers.

So I certainly wish DALE BUMPERS and his wife Betty every best wish in their days ahead. He has made a valuable contribution as a Member of the U.S. Senate and as a Member of our Senate family.

Mr. President, I yield the floor.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Let me first join my good friend from Oklahoma in his accolades for Senator BUMPERS. I expect that I, as a Republican, probably supported some of Senator BUMPERS' pieces of legislation more than any other Republican. And I had an opportunity to work with him on many that were not popular with some of the people, especially in the far West. But I point out that I have enjoyed so much working with him, especially on things which most all of us agreed on, as the preservation of Civil War sites and other of our historical aspects which are so important to this Nation.

I am going to be so sorry to see him leave. We had many wonderful times together. And I expect we will have some more out in his great State.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting one withdrawal and sundry nominations which were referred to the approrpriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:04 a.m., a message from the House of Representatives, delivered by Mr. Hayes, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4104) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1999, and for other purposes.

ENROLLED BILL SIGNED

The message also announced that Speaker has signed the following enrolled bill:

S. 2392. An act to encourage the disclosure and exchange of information about computer processing problems, solutions, test practices and test results, and related matters in connection with the transition to the year 2000.

Under the authority of the order of today, October 8, 1998, the enrolled bill was signed subsequently by the Acting President pro tempore (Mr. DEWINE).

At 1:50 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 bills, in which it requests the concurrence of the Senate:

H.R. 804. An act to amend part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 to ensure that Federal funds made available to hire or rehire law enforcement officers are used in a manner that produces a net gain of the number of law enforcement officers who perform non-administrative public safety services.

H.R. 2348. An act to redesignate the Federal building located at 701 South Santa Fe Avenue in Compton, California, and known as the Compton Main Post Office, as the ''Mervyn Dymally Post Office Building.''

H.R. 2921. An act to promote the competitive viability of direct-to-home satellite television service.

H.R. 3783. An act to amend the Communications Act of 1934 to require persons who are engaged in the business of distributing, by means of the World Wide Web, material that is harmful to minors to restrict access to such material by minors, and for other purposes.

H.R. 4151. An act to amend chapter 47 of title 18, United States Code, relating to identify fraud, and for other purposes.

H.R. 4293. An act to establish a cultural training program for disadvantaged individuals to assist the Irish peace process.

H.R. 4616. An act to designate the United States Post Office located at 3813 Main Street in East Chicago, Indiana, as the ''Corporal Harold Gomez Post Office.''

H.R. 4679. An act to amend the Federal Food, Drug, and Cosmetic Act to clarify the circumstances in which a substance is considered to be a pesticide chemical for purposes of such Act, and for other purposes.

The message also announced that the House has passed the following bills, without amendment:

S. 53. An act to require the general application of the antitrust laws to major league baseball, and for other purposes.

S. 505. An act to amend the provisions of title 17, United States Code, with respect to the duration of copyright, and for other purposes.

S. 1892. An act to provide that a person closely related to a judge of a court exercising judicial power under article III of the United States Constitution (other than the Supreme Court) may not be appointed as a judge of the same court, and for other purposes.

S. 1976. An act to increase public awareness of the plight of victims of crime with developmental disabilities, to collect data to measure the magnitude of the problem, and to develop strategies to address the safety and justice needs of victims of crime with developmental disabilities.

The message further announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 2022. An act to provide for the improvement of interstate criminal justice identification, information, communications, and forensics.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 8) to amend the Clean Air Act to deny entry into the United States of certain foreign motor vehicles that do not comply with State laws governing motor vehicles emissions, and for other purposes.

At 3:48 p.m., a message from the House of Representatives, delivered by Mr. Hanrahan, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 131. Joint resolution waiving certain enrollment requirements for the remainder of the One Hundred Fifth Congress with respect to any bill or joint resolution making general or continuing appropriations for fiscal year 1999.

MEASURES REFERRED

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

H.R. 2921. An act to promote the competitive viability of direct-to-home satellite television service; to the Committee on the Judiciary.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on October 8, 1998 he had presented to the President of the United States, the following enrolled bill:

S. 314. An act to provide a process for identifying the functions of the Federal Government that are not inherently governmental functions, and for other purposes.

S. 2392. An act to encourage the disclosure and exchange of information about computer processing problems, solutions, test practices and test results, and related matters in connection with the transition to the year 2000.

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–7363. A communication from the Director of Defense Procurement, Office of the Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement; Contracting by Negotiation; Part 215 Rewrite'' (Case 97–D018) received on October 5, 1998; to the Committee on Armed Services.

EC–7364. A communication from the Director of the Executive Office of the President, Office of Management and Budget, transmitting, pursuant to law, a report on appropriations legislation within seven days of enactment (H.R. 4059) dated October 2, 1998; to the Committee on the Budget.

EC–7365. A communication from the General Counsel of the Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Empowerment Zones: Rule for Second Round Designations; Final Rule'' (FR 4281–F–07) received on October 6, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–7366. A communication from the Director of the Office of Regulations Management, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Eligibility Reporting Requirements'' (RIN: 2900–AJ09) received on October 5, 1998; to the Committee on Veterans Affairs.

EC–7367. A communication from the Interim District of Columbia Auditor, transmitting, pursuant to law, the Auditor's report entitled ''Audit of the Financial Accounts and Operations of ANC 5B for Fiscal Years 1991 through 1997''; to the Committee on Governmental Affairs.

EC–7368. A communication from the General Counsel, Executive Office for Immigration Review, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Deportation and Cancellation of Removal'' (RIN: 1125–AA25) received on October 6, 1998; to the Committee on the Judiciary.

EC–7369. A communication from the Director of the Executive Office for Immigration Review, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Executive Office for Immigration Review, Board of Immigration Appeals; 18 Board Members'' (RIN: 1125–AA24) received on October 6, 1998; to the Committee on the Judiciary.

EC–7370. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Indirect Food Additives: Adhesives and Components of Coatings'' (Docket 98F–0183) received on October 5, 1998; to the Committee on Labor and Human Resources.

EC–7371. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Orthopedic Devices: Classification and Reclassification of Pedicle Screw Spinal Systems'' (RIN: 0910–ZA12) received on August 17, 1998; to the Committee on Labor and Human Resources.

EC–7372. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Performance Partnership Grants for State and Tribal Environmental Programs; Revised Interim Guidance'' (FR L6171–7) received on October 5, 1998; to the Committee on Environment and Public Works.

EC–7373. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Designation of Rural Empowerment Zones and Enterprise Communities'' (RIN: 0503–AA18) received on October 5, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7374. A communication from the Inspector General of the Department of Agriculture, transmitting pursuant to law, a report entitled ''Evaluation of the Office of Civil Rights' Effort to Reduce the Backlog of Program Complaints''; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7375. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Mediterranean Fruit Fly; Removal of Quarantined Areas'' (Docket 97–056–17) received on October 5, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7376. A communication from the Administrator of the Rural Utilities Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Year 2000 Compliance: Electric Program'' received on October 6, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7377. A communication from the Administrator of the Rural Utilities Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Long Range Financial Forecasts of Electric Borrowers'' (RIN: 0572–AA89) received on October 6, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7378. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Processed Fruits and Vegetables'' (Docket FV–98–327) received on October 5, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7379. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Dried Prunes Produced in California; Increased Assessment Rate'' (Docket FV98–993–2FR) received on October 5, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7380. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Egg, Poultry, and Rabbit Grading Increase in Fees and Charges'' (Docket PY–98–002) received on October 5, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7381. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding a Virginia State Air Quality Plan to control total sulfur emissions from existing kraft pulp mills (FR L6174–7) received on October 5, 1998; to the Committee on Environment and Public Works.

EC–7382. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Department's report entitled ''Hazardous Materials Emergency Preparedness Grants Program'' for fiscal year 1993 through 1996; to the Committee on Commerce, Science, and Transportation.

EC–7383. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Department's report entitled ''Status of the Public Ports of the United States'' for calendar year 1996 and 1997; to the Committee on Commerce, Science, and Transportation.

EC–7384. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Shortraker/Rougheye Rockfish in the Eastern Regulatory Area of the Gulf of Alaska'' (I.D. 092998C) received on October 6, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7385. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''North Atlantic Swordfish Fishery; Closure'' (I.D. 072398A) received on October 6, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7386. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Trip Limit Changes'' (I.D. 092898D) received on October 6, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7387. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone off Alaska; Pacific Cod in the Central Regulatory Area of the Gulf of Alaska'' (I.D. 092298A) received on October 6, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7388. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Ocean Recreational Salmon Fisheries; Closure and Reopening; Queets River, Washington, to Cape Falcon, Oregon'' (I.D. 091198B) received on October 6, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7389. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Reports of Motor

Carriers; Redesignation of Regulations Pursuant to the ICC Termination Act of 1995'' (RIN: 2139–AA06) received on October 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7390. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Anthropomorphic Test Dummy; Occupant Crash Protection'' (RIN: 2127–AG39) received on October 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7391. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Colusa, CA'' (Docket 98–AWP–1/10–2) received on October 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7392. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Licensing and Training of Pilots, Flight Instructors, and Ground Instructors Outside the United States'' (RIN: 2120–AG66) received on October 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7393. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Rolls-Royce, plc RB211 Trent 800 Series Turbofan Engines; Correction'' (Docket 98–ANE–33–AD) received on October 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7394. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; Cambridge, NE; Correction'' (Docket 98–ACE–11) received on October 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7395. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; Scottsbluff, NE'' (Docket 98–ACE–18) received on October 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7396. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; Newton, IA'' (Docket 98–ACE–24) received on October 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7397. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; Fort Drum, NY'' (Docket 98–AEA–15) received on October 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7398. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; Berkley Springs, WV'' (Docket 98–AEA–16) received on October 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7399. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 747–100, –200, and –300 Series Airplanes'' (Docket 97–NM–85–AD) received on October 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7400. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Aviat Aircraft, Inc. Models S–1S, S–1T, S–2, S–2A, S–2S, and S–2B Airplanes'' (Docket 96–CE–23–AD) received on October 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7401. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Mitsubishi Heavy Industries, Ltd. MU–2B Series Airplanes'' (Docket 98–CE–39–AD) received on October 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7402. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A300 B2 and B4 Series Airplanes'' (Docket 95–NM–109–AD) received on October 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7403. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Realignment of Federal Airways and Jet Routes; TX'' (Docket 97–ASW–18) received on October 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7404. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; Baltimore, MD'' (Docket 98–AEA–17) received on October 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7405. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Ellenville, NY'' (Docket 98–AEA–20) received on October 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7406. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Saab Model 2000 Series Airplanes'' (Docket 98–NM–287–AD) received on October 5, 1998; to the Committee on Commerce, Science, and Transportation.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–550. A petition from a citizen of the State of Texas relative to currency denominations; to the Committee on Banking, Housing, and Urban Affairs.

POM–551. A joint resolution adopted by the Legislature of the Commonwealth of the Northern Marianas Islands; to the Committee on Energy and Natural Resources.

H.J. RES. NO. 11–25

''Whereas, the covenant negotiating history makes it clear that Section 901 does not preclude the government of the Northern Marianas from requesting that a Delegate from the Northern Mariana Islands be established in the Congress of the United States; and

''Whereas, the current status of Commonwealth-Federal relations, which has been marred by miscommunication, misinterpretation, and misinformation is further exacerbated by the lack of a constant and vigilant Commonwealth voice and presence in the U.S. House of Representatives and its various committees and subcommittees; and

''Whereas, the Northern Marianas Commonwealth Legislature has overwhelmingly approved resolutions in the last three years, urging the Congress of the United States to establish a Delegate from the Northern Marians within the U.S. House of Representatives; and

''Whereas, the Eleventh Northern Marianas Commonwealth Legislature express its gratitude that on August 5, 1998, Guam Delegate Robert Underwood introduced a House Resolution in the 105th Congress, to provide a non-voting delegate to the U.S. House of Representatives to represent the Commonwealth of the Northern Mariana Islands; and

''Whereas, we believe fervently that the pursuit of the delegate seat is imperative in attaining full status as a member of the American political family in which, thus far, the Northern Mariana Islands remains the only U.S. Insular area not to be represented in the United States Congress; and

''Whereas, the non-voting delegate status would neither diminish the full force and effect of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, nor in any sense abrogate, qualify, or release rightful claims to local self-government contained in Article I, Section 103 of the Covenant; now, therefore be it

''*Resolved, by the House of Representatives, Eleventh Northern Marianas Commonwealth Legislature, the Senate concurring,* That the United States of America is hereby requested to—

''(1) establish the status of non-voting delegate in the United States Congress; and

''(2) provide that the Delegate from the Northern Mariana Islands receive the same compensation, allowance, and benefits as a Member of the United States House of Representatives, and be entitled to at least those same privileges and immunities granted to any other non-voting Delegate to the House of Representatives; and be it further

''*Resolved,* That the Speaker of the House and the President of the Senate shall certify and the House Clerk and the Senate Legislative Secretary shall attest to the adoption of this Resolution and thereafter transmit certified copies to: the Honorable William Jefferson Clinton, President of the United States; to the Honorable Pedro P. Tenorio, Governor of the Commonwealth of the Northern Mariana Islands; the Honorable Newt Gingrich, Speaker of the U.S. House of Representatives; the Honorable Richard Armey, Majority Leader of the U.S. House of Representatives; the Honorable Richard Gephardt, Minority Leader of the U.S. House of Representatives; the Honorable Don Young, U.S. House of Representatives; the Honorable Elton Gallegly, U.S. House of Representatives; the Honorable George Miller, U.S. House of Representatives; the Honorable Robert Underwood, U.S. House of Representatives; the Honorable Albert Gore Jr., Vice President of the United States of America and President of the U.S. Senate; the Honorable Trent Lott, Majority Leader of the U.S. Senate; the Honorable Tom Daschle, Minority Leader of the U.S. Senate; the Honorable Frank Murkowski, U.S. Senate; the Honorable Strom Thurmond, President Pro Tempore, U.S. Senate; the Honorable Daniel Inouye, U.S. Senate; the Honorable Daniel Akaka, U.S. Senate.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CAMPBELL, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 109: A bill to provide Federal housing assistance to Native Hawaiians (Rept. No. 105–380).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources:

Report to accompany the bill (S. 777) to authorize the construction of the Lewis and Clark Rural Water System and to authorize assistance to the Lewis and Clark Rural Water System, Inc., a nonprofit corporation, for planning and construction of the water supply system, and for other purposes (Rept. No. 105–381).

By Mr. STEVENS, from the Committee on Appropriations:

Special Report entitled ''Revised Allocation to Subcommittees of Budget Totals for Fiscal Year 1999'' (Rept. No. 105–382).

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 260: A resolution expressing the sense of Senate that October 11, 1998, should be designated as ''National Children's Day''.

S. Res. 271: A resolution designating October 16, 1998, as ''National Mammography Day.''

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 2024: A bill to increase the penalties for trafficking in methamphetamine in order to equalize those penalties with the penalties for trafficking in crack cocaine.

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. Con. Res. 83: A concurrent resolution remembering the life of George Washington and his contributions to the Nation.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services:

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force, to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. James C. Burdick, 9214

The following Air National Guard of the United States officers for appointment in the Reserve of the Air Force, to the grades indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Walter R. Ernst, II, 0750
Brig. Gen. Bruce W. MacLane, 2001
Brig. Gen. Paul A. Pochmara, 3419
Brig. Gen. Mason C. Whitney, 9168

To be brigadier general

Col. John H. Bubar, 0916
Col. Verna D. Fairchild, 1283
Col. Robert I. Gruber, 3888
Col. Michael J. Haugen, 7541
Col. Walter L. Hodgen, 6504
Col. Larry V. Lunt, 4398
Col. William J. Lutz, 6187
Col. Stanley L. Pruett, 1176
Col. William K. Richardson, 5912
Col. Ravindraa F. Shah, 0480
Col. Harry A. Sieben, Jr., 3654
Col. Edward N. Stevens, 3837
Col. Merle S. Thomas, 9608
Col. Steven W. Thu, 9509
Col. Frank E. Tobel, 1101

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Harry A. Curry, 6275

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Michael A. Canavan, 1461

The following named officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. John M. Schuster, 8090

The following named officer for appointment in the United States Army to the grade indicated while serving as the Director, National Imagery and Mapping Agency designated as a position of importance and responsibility under title 10, U.S.C., sections 441 and 601:

To be lieutenant general

Maj. Gen. James C. King, 5053

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Edwin P. Smith, 3610

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. Anthony R. Jones, 7571

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Michael L. Dodson, 5712

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Randall L. Rigby, Jr., 5714

The following named officers for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Jerald N. Albrecht, 2703
Brig. Gen. Wesley A. Beal, 2495
Brig. Gen. William N. Kiefer, 7616
Brig. Gen. William B. Raines, Jr., 2267
Brig. Gen. John L. Scott, 1830
Brig. Gen. Richard O. Wightman, Jr., 6480

To be brigadier general

Col. Antony D. DiCorleto, 2049
Col. Gerald D. Griffin, 1832
Col. Timothy M. Haake, 0668
Col. Joseph C. Joyce, 7896
Col. Carlos D. Pair, 7262
Col. Paul D. Patrick, 6446
Col. George W. Petty, Jr., 8842
Col. George W. S. Read, 1278
Col. John W. Weiss, 3981

The following named officer for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be rear admiral (lower half)

Capt. Marianne B. Drew, 3561

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Scott A. Fry, 5541

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Vice Adm. Patricia A. Tracey, 3579

(The above nominations were reported with the recommendation that they be confirmed.)

Mr. THURMOND. Madam President, for the Committee on Armed Services, I also report favorably nominations which were printed in full in the RECORDS of September 11, 1998, September 16, 1998, September 23, 1998, September 29, 1998 and September 30, 1998, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of September 11, 1998, September 16, 1998, September 23, 1998, September 29, 1998 and September 30, 1998, at the end of the Senate proceedings.)

In the Navy nomination of Michael C. Gard, which was received by the Senate and appeared in the Congressional Record of September 11, 1998

In the Navy nomination of Thomas E. Katana, which was received by the Senate and appeared in the Congressional Record of September 16, 1998

In the Army nominations beginning Michael C Aaron, and ending Richard G. * Zoller, which nominations were received by the Senate and appeared in the Congressional Record of September 23, 1998

In the Marine Corps nomination of Jeffrey M. Dunn, which was received by the Senate and appeared in the Congressional Record of September 29, 1998

In the Army nominations beginning Matthew L. Kambic, and ending James G. Pierce, which nominations were received by the Senate and appeared in the Congressional Record of September 30, 1998

By Mr. HATCH, from the Committee on the Judiciary:

Lawrence Baskir, of Maryland, to be a Judge of the United States Court of Federal Claims for a term of fifteen years.

Robert S. Lasnik, of Washington, to be United States District Judge for the Western District of Washington.

Yvette Kane, of Pennsylvania, to be United States District Judge for the Middle District of Pennsylvania.

James M. Munley, of Pennsylvania, to be United States District Judge for the Middle District of Pennsylvania.

Lynn Jeanne Bush, of the District of Columbia, to be a Judge of the United States Court of Federal Claims for a term of fifteen years.

David O. Carter, of California, to be United States District Judge for the Central District of California.

Francis M. Allegra, of Virginia, to be Judge of the United States Court of Federal Claims for a term of fifteen years.

Margaret B. Seymour, of South Carolina, to be United States District Judge for the District of South Carolina.

William J. Hibbler, of Illinois, to be United States District Judge for the Northern District of Illinois.

Aleta A. Trauger, of Tennessee, to be United States District Judge for the Middle District of Tennessee.

Alex R. Munson, of the Northern Mariana Islands, to be Judge for the District Court

for the Northern Mariana Islands for a term of ten years. (Reappointment)

Edward J. Damich, of Virginia, to be a Judge of the United States Court of Federal Claims for term of fifteen years.

Nancy B. Firestone, of Virginia, to be a Judge of the United States Court of Federal Claims for a term of fifteen years.

Emily Clark Hewitt, of Massachusetts, to be a Judge of the United States Court of Federal Claims for a term of fifteen years.

Norman A. Mordue, of New York, to be United States District Judge for the Northern District of New York.

Donnie R. Marshall, of Texas, to be Deputy Administrator of Drug Enforcement.

Harry Litman, of Pennsylvania, to be United States Attorney for the Western District of Pennsylvania for the term of four years.

Denise E. O'Donnell, of New York, to be United States Attorney for the Western District of New York for the term of four years.

Margaret Ellen Curran, of Rhode Island, to be United States Attorney for the District of Rhode Island for the term of four years.

Byron Todd Jones, of Minnesota, to be United States Attorney for the District of Minnesota for the term of four years.

(The above nominations were reported with the recommendation that they be confirmed.)

By Mr. CHAFEE, from the Committee on Environment and Public Works:

Robert W. Perciasepe, of Maryland, to be an Assistant Administrator of the Environmental Protection Agency. (Reappointment)

William Clifford Smith, of Louisiana, to be a Member of the Mississippi River Commission for a term expiring October 21, 2005.

Isadore Rosental, of Pennsylvania, to be a Member of the Chemical Safety and Hazard Investigation Board for a term of five years. (New Position)

Andrea Kidd Taylor, of Michigan, to be a Member of the Chemical Safety and Hazard Investigation Board for a term of five years. (New Position)

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs:

Ira G. Peppercorn, of Indiana, to be Director of the Office of Multifamily Housing Assistance Restructuring. (New Position)

William C. Apgar, Jr., of Massachusetts, to be an Assistant Secretary of Housing and Urban Development.

Saul N. Ramirez, Jr., of Texas, to be Deputy Secretary of Housing, and Urban Development.

Cardell Cooper, of New Jersey, to be an Assistant Secretary of Housing and Urban Development.

Harold Lucas, of New Jersey, to be an Assistant Secretary of Housing and Urban Development.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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. KERRY:

S. 2577. A bill to amend section 313 of the Tariff Act of 1930 to allow duty drawback for grape juice concentrates, regardless of color or variety; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 2578. A bill to assist in the development and implementation of projects to provide for the control of drainage, storm, flood and other waters as part of water-related integrated resource management, environmental infrastructure, and resource protection and developement projects in the Colusa Basin Watershed, California; to the Committee on Energy and Natural Resources.

By Mr. SPECTER:

S. 2579. A bill to amend the Fair Labor Standards Act of 1938 to permit certain youth to perform certain work with wood products; to the Committee on Labor and Human Resources.

By Mr. SPECTER (for himself, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. HOLLINGS, and Mr. DURBIN):

S. 2580. A bill to amend the Trade Act of 1974, and for other purposes; to the Committee on Finance.

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

S. 2581. A bill to authorize appropriations for the motor vehicle safety and information programs of the National Highway Traffic Safety Administration for fiscal years 1999–2001; to the Committee on Commerce, Science, and Transportation.

By Mr. BREAUX (for himself and Mr. MACK):

S. 2582. A bill to amend title XVIII of the Social Security Act to provide for a prospective payment system for services furnished by psychiatric hospitals under the Medicare Program; to the Committee on Finance.

By Mr. BINGAMAN (for himself and Mr. COCHRAN):

S. 2583. A bill to provide disadvantaged children with access to dental services; to the Committee on Labor and Human Resources.

By Mr. SPECTER (for himself and Mr. SANTORUM):

S. 2584. A bill to provide aviator continuation pay for military members killed in Operation Desert Shield; considered and passed.

By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. 2585. A bill to amend the Public Health Service Act to eliminate a threshold requirement relating to unreimbursable expenses for compensation under the National Vaccine Injury Compensation Program; to the Committee on Finance.

By Mr. KOHL:

S. 2586. A bill to amend parts A and D of title IV of the Social Security Act to require States to pass through directly to a family receiving assistance under the temporary assistance to needy families program all child support collected by the State and to disregard any child support that the family receives in determining the family's level of assistance under that program; to the Committee on Finance.

By Mr. WYDEN:

S. 2587. A bill to protect the public, especially seniors, against telemarketing fraud and telemarketing fraud over the Internet and to authorize an educational campaign to improve senior citizens' ability to protect themselves against telemarketing fraud over the Internet; to the Committee on Commerce, Science, and Transportation.

By Mr. CONRAD (for himself, Mr. NICKLES, and Mr. INOUYE):

S. 2588. A bill to provide for the review and classification of physician assistant positions in the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

By Mr. MURKOWSKI:

S. 2589. A bill to provide for the collection and interpretation of state of the art, non-intrusive 3-dimensional seismic data on certain federal lands in Alaska, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. FAIRCLOTH (for himself, Mr. GRAMS, and Mr. GORTON):

S. 2590. A bill to enhance competition in financial services; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KERREY:

S. 2591. A bill to provide certain secondary school students with eligibility for certain campus-based assistance under title IV of the Higher Education Act of 1965; to the Committee on Labor and Human Resources.

By Mr. DORGAN (for himself, Mr. JOHNSON, Mr. BAUCUS, and Mr. CONRAD):

S. 2592. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to permit a State to register a Canadian pesticide for distribution and use within that State; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GRAHAM:

S. 2593. A bill to amend the Internal Revenue Code of 1986 to provide a credit against tax for employers who provide child care assistance for dependents of their employees, and for other purposes; to the Committee on Finance.

By Mr. HARKIN:

S. 2594. A bill to establish a Food Safety Research Institute to coordinate the development of a Federal Governmentwide, interagency food safety research agenda to ensure the efficient use of food safety research resources and prevent duplication of efforts; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DASCHLE (for himself and Mr. MURKOWSKI):

S. 2595. A bill to amend the Housing and Community Development Act of 1974 to provide affordable housing and community development assistance to rural areas with excessively high rates of outmigration and low per capita income levels; to the Committee on Banking, Housing, and Urban Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. MOSELEY-BRAUN:

S. Res. 292. A resolution expressing the sense of the Senate regarding tactile currency for the blind and visually impaired; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ROBB (for himself, Mr. GRAHAM, Mr. WARNER, and Mrs. FEINSTEIN):

S. Res. 293. A resolution expressing the sense of the Senate that Nadia Dabbagh should be returned home to her mother, Ms. Maureen Dabbagh; to the Committee on Foreign Relations.

By Mr. INHOFE (for himself, Mr. LOTT, Mr. HELMS, Mrs. HUTCHISON, Mr. BURNS, Mr. STEVENS, Mr. THOMAS, Mr. HUTCHINSON, Mr. SMITH of New Hampshire, Mr. MURKOWSKI, Mr. BENNETT, Mr. ALLARD, Mr. CAMPBELL, Mr. MACK, Mr. CRAIG, Mr. GRAMS, Mr. FAIRCLOTH, Mr. SESSIONS, Mr. ENZI, and Mr. HATCH):

S. Con. Res. 125. A concurrent resolution expressing the opposition of Congress to any

deployment of United States ground forces in Kosovo, a province in southern Serbia, for peacemaking or peacekeeping purposes; to the Committee on Foreign Relations.

By Mr. D'AMATO (for himself and Mr. WYDEN):

S. Con. Res. 126. A concurrent resolution expressing the sense of Congress that the President should reassert the traditional opposition of the United States to the unilateral declaration of a Palestinian State; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER:

S. 2579. A bill to amend the Fair Labor Standards Act of 1938 to permit certain youth to perform certain work with wood products; to the Committee on Labor and Human Resources.

LEGISLATION AMENDING THE FAIR LABOR STANDARDS ACT

Mr. SPECTER. Mr. President, I have sought recognition today to introduce legislation designed to permit certain youths (those exempt from attending school) between the ages of 14 and 18 to work in sawmills under special safety conditions and close adult supervision. While I realize that this legislation cannot be enacted so late in the session, I believe it is important to introduce the bill and promote a serious discussion on this issue.

As Chairman of the Labor, Health and Human Services and Education Appropriations Subcommittee, I have strongly supported increased funding for the enforcement of the important child safety protections contained in the Fair Labor Standards Act. I also believe, however, that accommodation must be made for youths who are exempt from compulsory school-attendance laws after the eighth grade. It is extremely important that youths who are exempt from attending school be provided with access to jobs and apprenticeships in areas that offer employment where they live.

The need for access to popular trades is demonstrated by the Amish community. Earlier this week I toured an Amish sawmill in Lancaster County, Pennsylvania, and had the opportunity to meet with some of my Amish constituency. They explained that while the Amish once made their living almost entirely by farming, they have increasingly had to expand into other occupations as farmland disappears in many areas due to pressure from development. As a result, many of the Amish have come to rely more and more on work in sawmills to make their living. The Amish culture expects youth upon the completion of their education at the age of 14 to begin to learn a trade that will enable them to become productive members of society. In many areas work in sawmills is one of the major occupations available for the Amish, whose belief system limits the types of jobs they may hold. Unfortunately, these youths are currently prohibited by law from employment in this industry until they reach the age of 18. This prohibition threatens both the religion and lifestyle of the Amish.

The House has already passed by a voice vote H.R. 4257, introduced by my distinguished colleague, Representative JOSEPH R. PITTS, which is similar to the bill I am introducing today. I am aware that concerns to H.R. 4257 exist: safety issues have been raised by the Department of Labor and Constitutional issues have been raised by the Department of Justice. I have addressed these concerns in my legislation.

Under my legislation youths would not be allowed to operate power machinery, but would be restricted to performing activities such as sweeping, stacking wood, and writing orders. My legislation requires that the youths must be protected from wood particles or flying debris and wear protective equipment, all while under strict adult supervision. The Department of Labor must monitor these safeguards to insure that they are enforced.

The Department of Justice has stated that H.R. 4257 would ''raise serious concerns'' under the Establishment Clause. The House measure confers benefits only to a youth who is a ''member of a religious sect or division thereof whose established teachings do not permit formal education beyond the eighth grade.'' By conferring the ''benefit'' of working in a sawmill only to the adherents of certain religions, the Department argues that the bill appears to impermissibly favor religion to ''irreligion.'' In drafting my legislation, I attempted to overcome such an objection by conferring permission to work in sawmills to all youths who ''are exempted from compulsory education laws after the eighth grade.'' Indeed, I think a broader focus is necessary to create a sufficient range of vocational opportunities for all youth who are legally out of school and in need of vocational opportunities.

I also believe that the logic of the Supreme Court's 1972 decision in Wisconsin v. Yoder supports my bill. Yoder held that Wisconsin's compulsory school attendance law requiring children to attend school until the age of 16 violated the Free Exercise clause. The Court found that the Wisconsin law imposed a substantial burden on the free exercise of religion by the Amish since attending school beyond the eighth grade ''contravenes the basic religious tenets and practices of the Amish faith.'' I believe a similar argument can be made with respect to Amish youth working in sawmills. As their population grows and their subsistence through an agricultural way of life decreases, trades such as sawmills become more and more crucial to the continuation of their lifestyle. Barring youths from the sawmills denies these youths the very vocational training and path to self-reliance that was central to the Yoder Court's holding that the Amish do not need the final two years of public education.

At this stage in the legislative process, so close to the end of the 105th Congress, passage of my bill requires a unanimous consent agreement. I have already been notified that there are Senators who would object to such an agreement, and I do understand that a measure of this nature cannot be rushed through the Senate. Nevertheless, I offer my legislation in the hope of beginning a dialogue on this important issue.

By Mr. SPECTER (for himself, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. HOLLINGS, and Mr. DURBIN):

S. 2580. A bill to amend the Trade Act of 1974, and for other purposes; to the Committee on Finance.

THE TRADE FAIRNESS ACT OF 1998

Mr. SPECTER. Mr. President, I have sought recognition today to introduce legislation responding to the critical steel import crisis along with my colleague from West Virginia, Senator ROCKEFELLER, who serves with me as co-chairman of the Senate Steel Caucus, Senator HOLLINGS, and Senator SANTORUM. Our bill is entitled the ''Trade Fairness Act of 1998'' because it would amend the Trade Act of 1974 to remove statutory provisions which put our domestic industry at a significant disadvantage compared to their foreign competitors. Specifically, this bill makes technical corrections to the so-called ''Section 201'' provisions of the Trade Act of 1974 to harmonize our laws with international laws administered by the World Trade Organization.

While I know it is very late in the 105th legislative session, we intend that the introduction of this legislation will demonstrate our bipartisan commitment to responding to the current steel import crisis. Further, this should send a strong signal to the administration that it is high time that we respond.

Yesterday, Senator JOHN D. ROCKEFELLER, Congressman RALPH REGULA and Congressman JIM OBERSTAR, and I met with representatives of the Clinton administration, specifically Treasury Secretary Robert Rubin, Commerce Secretary William Daley, United States Trade Representative Ambassador Charlene Barshefsky and National Economic Council Advisor Gene Sperling, to discuss the steel import issue. At that meeting, representatives of the Clinton administration assured us that they are looking into actions that the administration can take to respond to the illegal dumping of foreign steel on the U.S. market but have yet to make a final decision on their response.

While I appreciate their efforts to take a closer look at the problem, I am disturbed by the Administration's failure to take immediate action up to this time to prevent more cheap steel from flooding the American market. I am further disturbed by the fact that senior administration officials could

not give me a specific date or timetable as to when we could expect a response from the administration on this crucial and pressing issue.

The urgency of this crisis and the failure of the administration to take action was evident from testimony presented on September 10, 1998, where, as Chairman of the Senate Steel Caucus, I joined House Chairman REGULA in convening a joint meeting of the Senate and House Steel Caucuses to hear from executives from the United Steelworkers of America and a number of the nation's largest steel manufacturers about the current influx of imported steel into the United States. At that meeting, I expressed my profound concern regarding the impact on our steel companies and Steelworkers of the current financial crises in Asia and Russia, which have generated surges in U.S. imports of Asian and Russian steel.

The past three months have been the highest monthly import volumes in U.S. history and, with Asia and Russia in economic crisis and with other major industrial nations not accepting their fair share of the adjustment burden, U.S. steel companies and employees are being damaged by this injurious unfair trade.

The United States has become the dumping ground for foreign steel. Russia has become the world's number one steel exporting nation and China is now the world's number one steel-producing nation, while enormous subsidies to foreign steel producers have continued. In fact, the Commerce Department recently revealed that Russia, one of the world's least efficient producers, was selling steel plate in the United States at more than 50 percent, or $110 per ton, below the constructed cost to make steel plate. The dumping of this cheap steel on the American market ultimately costs our steel companies in lost sales and results in fewer jobs for American workers.

Specifically, in the first half of 1998, total U.S. steel imports were 18.2 million net tons, which is a 12.4 percent increase over 1997's record level of 16.2 million net tons for the same period. For the month of June 1998, total U.S. imports of steel mill products totaled over 3.7 million net tons, which is up 39.2 percent from the June, 1997 level of 2.6 million net tons. In June 1998, U.S. imports of finished steel imports were a record 3 million net tons, a 41.6 percent increase over the June 1997 2.1 million net tons.

Also in the first half of 1998, compared to the same period in 1997, steel imports from Japan are up 114 percent, steel imports from Korea are up 90 percent, and imports from Indonesia are up 309 percent. Most significantly, the U.S. steel industry currently employs 163,000 people down from 500,000 people in the 1980's. This situation is untenable for the American steelworkers, steel manufacturers, their customers, and the American people in general.

I believe that the growing coalition of steel manufacturers, steelworkers, and Congress must work together to remedy this import crisis before it is too late and the U.S. steel industry is forced to endure an excruciatingly painful economic downturn. The United States has many of the tools at its disposal to protect our steel industry from unfair and illegally dumped steel; therefore, I submitted Senate Concurrent Resolution 121 on September 29, 1998, to call on the President to take all necessary measures to respond to the surge of steel imports resulting from the Asian and Russian financial crises. Specifically, the resolution called on the President to: pursue enhanced enforcement of the U.S. trade laws; pursue all tools available to ensure that other nations accept a more equitable sharing of these steel imports; establish a task force to closely monitor U.S. imports of steel; and, report to Congress by January 5, 1999, on a comprehensive plan to respond to this surge of steel imports. I am pleased to state that as of today's date, twenty-nine of my Senate colleagues have joined me in sponsoring this resolution.

While this resolution is an appropriate way for Congress to express our concerns and request immediate actions by the administration to respond to the steel import crisis, I think it is also important to give the administration all the necessary tools to fight the surges of foreign steel. After reviewing the U.S. trade laws with Senator ROCKEFELLER, we discovered that our laws regarding safeguard actions actually put the United States at a disadvantage in the international trade arena. Safeguard actions, or section 201 of the 1974 Trade Act, provide a procedure whereby the President has the discretion to grant temporary import relief to a domestic industry seriously injured by increased imports. Our laws in this area are actually more strict than those agreements made during the Uruguay Round negotiations on the General Agreement on Tariffs and Trade (GATT). That agreement, which the Senate considered and passed on December 1, 1994, established the World Trade Organization (WTO) to administer these trade agreements.

One such trade agreement established rules for the application of safeguard measures. The agreement provides that a member of the WTO may apply a safeguard measure to a product if the member has determined that such product is being imported into its territory in such increased quantities, absolute or relative to domestic production, and under such conditions as to cause or threaten to cause serious injury to the domestic industry that produces like or directly competitive products. The comparable U.S. statute, referred to as section 201, goes further than this agreement by requiring that foreign imports are the substantial cause of the injury. It just does not make sense to hinder the administration by placing this additional burden on it in evaluating a claim of injury due to surges of imports. We need to level the playing field so that all countries are playing by the same rules. This oversight is one example of the technical corrections that must be made to U.S. trade laws to bring them in line with WTO's rules.

Specifically, the bill that Senator ROCKEFELLER and I are introducing today, the Trade Fairness Act of 1998, makes three technical changes. First, it removes the requirement that imports must be a ''substantial'' cause of the serious injury by deleting the word ''substantial.'' The WTO's Safeguards Agreement does not require that increased imports be a ''substantial'' cause of serious injury. This change will lower the threshold to prove that the influx of imports were the cause of injury to the affected industry and will make U.S. law consistent with the WTO rules.

Second, the legislation clarifies that the International Trade Commission (ITC) shall not attribute to imports injury caused by other factors in making a determination that imports are a cause of serious injury. This provision will require the ITC to evaluate causation to determine which factors are causing injury. If serious injury is being caused by increased imports, whether or not other factors are also causing injury, safeguard relief is justified. This provision is a more faithful implementation of the GATT Agreement and will prevent circumstances such as a recession from blocking invocation of Section 201 by the administration.

Finally, this legislation brings the definition of ''serious injury'' in line with the definition codified in the GATT Agreement. The bill strikes the definition of serious injury and replaces it with the WTO's language regarding evaluation of whether increased imports have caused serious injury to a domestic industry. Specifically, it states ''with respect to serious injury'', the ITC should consider ''the rate and amount of the increase in imports of the product concerned in absolute and relative terms; the share of the domestic market taken by increased imports; changes in the levels of sales; production; productivity; capacity utilization; profits and losses; and, employment.'' These factors are important guidance to the ITC in evaluating a petition of serious injury. Again, I think it is appropriate to be consistent with the WTO language as America increasingly interacts on a global scale.

The U.S. steel industry has become a world class industry with a very high-quality product. This has been achieved at a great cost: $50 billion in new investment to restructure and modernize; 40 million tons of capacity taken out of the industry; and a work force dramatically downsized from 500,000 to 170,000. With these technical changes, the Administration will be armed with ammunition to bring a self-initiated Section 201 action on behalf

of the steel industry that has been harmed not only by the onslaught of cheap imports on a daily basis but by U.S. law that has prevented swift and immediate action by the U.S. government. This legislation is essential to allow the President to respond promptly to the current steel import crisis. It will allow steel companies to compete in a more fair trade environment, preventing bankruptcies that would cause the loss of thousands of high-paying jobs in the steel industry. Too many steelworkers have lost their jobs due to unfair cheap imports.

Mr. President, to summarize, I have sought recognition to introduce legislation on behalf of Senator ROCKEFELLER, Senator SANTORUM, Senator HOLLINGS and myself, to try to deal with a very serious surge of steel imports into the United States, which is threatening to decimate the steel industry and take thousands of jobs from American steelworkers in a way which is patently unfair and in violation of free trade practices.

It is obvious that the matter is a sensitive one where imports are coming from Russia illustratively. The Russians are having enormous economic problems, and they are dumping steel in the United States far below cost to try to remedy their economic situation. Sympathetic as we may be to the problems of the Russians, when they dump, unload steel in the United States far under their cost, it violates international trade laws and it violates the trade laws of the United States.

To reiterate our meeting yesterday was one where those of us in Congress on the steel caucus asked the administration to take administrative action. We have requested a meeting with the President for tomorrow before the session ends to try to persuade him to take this action. Our requests are not protectionism. They are not protectionism because they come within the definition of ''free trade'' where our laws are defined consistent with GATT and the World Trade Organization to prohibit subsidized goods and dumped goods from coming into this country.

Again, the legislation we are proposing today would remove the requirement that imports must be a substantial cause of the serious injury and only require that the damages be caused by the imports, by striking the word ''substantial,'' which is consistent with GATT, and with the World Trade Organization. We have a higher standard than we have to. Our laws ought to be changed to eliminate ''substantial cause'' to ''cause in fact.''

Secondly, this bill would change the existing law by not seeking an excuse where there are other factors which may result in the imports.

A third part of the bill changes the definition of ''serious injury'' to include a consideration by the International Trade Commission of factors such as the rate and amount of increase of imports of the product, the market share taken by the increased imports, changes in level of sales, profits, losses, production, productivity, capacity, utilization, and employment.

Stated succinctly, what we are seeking to do is to amend existing trade laws to conform to international rules of the World Trade Organization and GATT so that we may see to it that our own steel industry is not victimized by foreign imports and is not victimized by standards under our own trade laws, which are tougher and more stringent than international trade laws.

We realize that in introducing this legislation today that it cannot be enacted before the end of the session. But we do want to make a point with the administration as to where we are heading in the future—a resolution which was introduced which has some 29 cosponsors in the U.S. Senate.

The House of Representatives has a similar resolution. There are more than 100 cosponsors in the House of Representatives. It is our hope that the administration will provide some relief which will be fair, equitable, and just.

In the absence of relief by the administration, then it will be necessary for the Congress to move ahead in a more forceful manner.

I have introduced legislation over the past decade which calls for a private right of action, which I believe is the realistic answer, where an injured party could go into the Federal court and get injunctive relief which would be immediate.

Under the trade actions which have been filed by the United Steelworkers and by quite a number of companies, filed on September 30, it is possible under a complicated timetable to grant relief effective as of November 20 where duties would be imposed to try to stop this flooding and this dumping in U.S. markets.

In the interim, the President could act, and in the interim, the Congress ought to consider ways to amend our trade laws so that we are not at a disadvantage in dealing with this very serious problem to our steel industry, which is so important for national defense and domestic purposes, and so important for the steelworkers themselves where the number of steelworkers has declined from some 500,000 to 163,000 at the present time.

It is an urgent matter. The Congress ought to consider it. The administration ought to act on it. For these reasons, I urge my colleagues to join me in supporting the adoption of legislation to bring fairness to our trade laws.

Mr. ROCKEFELLER. Mr. President, I rise today to introduce legislation which will help the President deal with the flood of dirt-cheap steel imports from our trading partners. The Section 201 reform bill I am proposing with my colleague and Senate steel caucus co-chair, Senator SPECTER, will strengthen the President's ability to help domestic industries receive the relief they need and deserve when imports are a cause of serious injury.

Import relief is what the U.S. steel industry desperately needs right now. West Virginia steel makers deserve help now, before this crisis worsens, as I fear it will. All U.S. steel manufacturers deserve that assistance. That's why I am introducing this legislation before Congress recesses. I intend to push to improve our ability to remedy harm against domestic industries and at the same time remain consistent with rules we expect our world trading partners to live by. We can be tough and fair on trade at the same time and the bill I am introducing today proves it.

In my state of West Virginia, our two largest steel manufacturers, Weirton Steel and Wheeling Pittsburgh Steel have both already begun to suffer the effects of the steel import crisis. Weirton has laid off 200 workers and reports that their fourth quarter earnings and lack of pending orders could force the companies to consider additional lay offs in the near future. Wheeling Pittsburgh is also worried about the affect of the crisis on their bottomline. Laying off workers is never easy, but this crisis is forcing such hard decisions. West Virginia steel makers are producing world-class products as efficiently as any foreign competitors, but when foreign competitors are blatantly dumping their product at prices which are sometimes actually below the cost of production, it cuts the legs out from under American companies—but such unfair practices are absolutely unacceptable. U.S. industry, the U.S. steel industry and other industries, deserve just remedies when competitors unfairly dump their product on the U.S. market. We want to give the President the policy tools he needs to deal with unfair import competition.

Import data tells the story of a worsening steel crisis—the first two quarters of 1998 have shown a 27% increase in imports of hot-rolled steel. Japanese imports increased by an astounding 114% in that same time frame. Steel imports from South Korea increased 90%. There is no end in sight. Russia and Brazil are nations who are other prime offenders.

The tragedy of this crisis is that the U.S. steel industry has spent over a decade reinventing itself, adjusting and modernizing, in order to become a top-notch competitor as we approach the 21st century. This industry is a true success story—productivity has shot up and we can beat any producer in the world on price and quality when provided with a level playing field. For decades, I have worked with leaders in the steel industry at Weirton Steel, Wheeling-Pittsburgh, Wheeling-Nisshin, and others. I have watched and encouraged these steelmakers and unions working together to make the tough, necessary decision to modernize.

Unfortunately, just as United States steel manufacturers are realizing the gains of such investments, they are

facing a flood of imported steel being sold at rock bottom prices—again, below the cost of production in some instances. We cannot compete against that kind of unfair competition. The legislation Senator SPECTER and I are introducing today will give the President an improved tool to ensure that when there is serious injury as a result of imports, the U.S. can respond.

Specifically, our legislation will reform Section 201 which permits the President to grant domestic industries import relief in circumstances where imports are the substantial cause of serious injury.

Under current law, domestic industries must show that increased imports are the ''substantial cause'' of serious injury—which means a cause that is important and not less than any other cause. This imposes an unfair, higher burden of proof on domestic industries than is required to prove injury under World Trade Organization standards. The Safeguards Code of the World Trade Organization was established to make sure that fair trade did not mean countries had to put up with unfair practices. The WTO standard requires only that there be a causal link between increased imports and serious injury. I believe that U.S. law should not impose a tougher standard for American companies of harm than the WTO uses for the international community. Applying the WTO standard is responsible and reasonable. In this bill, we propose to establish the same standard for the U.S. as is used by the WTO. Free trade must mean fair trade.

In addition, in this bill we also intend to conform U.S. law to the standard in the WTO Safeguards Code when considering the overall test for judging when there has been serious harm to a domestic industry. We clarify that the International Trade Commission (ITC) should review the overall condition of the domestic industry in determining the degree of that injury by making it clear that it is the effect of the imports on the overall state of the industry that counts, not solely the effect on any one of the particular criteria used in the evaluation.

It is our sincere hope that Congress will act on this legislation and send the message that the United States will fight for the right of its industries to complete on a level playing field in world trade. If imports flood our markets, we will act to protect American industries against the consequences.

I am someone who adamantly believes the promotion of free trade is essential to our country's continued economic growth. If we are to continue to expand the trade base of our economy we need U.S. industry to know that we will keep it fair. American industry and American workers can deal with fair trade, but they shouldn't be asked to sit still for unfair trade practices that hurt workers and their families, while robbing the profit-margins of U.S. companies.

I intend to work in Congress, with my colleagues on the Finance Committee and those in the Administration responsible for trade policy to give the President better, more effective tools to ensure that our country can insist trade be free and fair. Our steel industry, indeed all U.S. industries, deserve no less. I will carefully monitor the steel import crisis and consider other appropriate actions as we see how this situation develops.

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

S. 2581. A bill to authorize appropriations for the motor vehicle safety and information programs of the National Highway Traffic Safety Administration for fiscal years 1999–2001; to the Committee on Commerce, Science, and Transportation.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION AUTHORIZATION ACT

● Mr. MCCAIN. Mr. President, my purpose today is to introduce legislation that would increase the authorization level of the National Highway Traffic Safety Administration. The recently passed TEA–21 legislation authorized NHTSA at its requested level, approximately $87.4 million. The Office of Management and Budget recently asked that NHTSA receive $99.9 million in the budget request.

Although the Department of Transportation had requested $87.4 million, we are now informed by Secretary Slater that this authorization level will not permit the funding of ''key safety initiatives.''

I know that no one in this body wants a situation where highway safety is degraded in any way. I also know that there is no opportunity that this legislation can be passed yet this Congress. This is an issue that we will address in the next Congress. I look forward to working with my colleagues to address this important issue of highway safety in a manner that provides an appropriate funding level to meet safety needs while also meeting our budget obligations and the consensus of the Appropriations Committee.●

By Mr. BREAUX (for himself and Mr. MACK):

S. 2582. A bill to amend title XVIII of the Social Security Act to provide for a prospective payment system for services furnished by psychiatric hospitals under the Medicare Program; to the Committee on Finance.

MEDICARE PSYCHIATRIC HOSPITAL PROSPECTIVE PAYMENT SYSTEM ACT OF 1998

● Mr. BREAUX. Mr. President, today my colleague CONNIE MACK and I are introducing legislation that would improve Medicare inpatient psychiatric care by reforming how Medicare pays for services provided in free-standing psychiatric hospitals and distinct-part psychiatric units of general hospitals. The Medicare Psychiatric Hospital Prospective Payment System Act of 1998 would establish over time a prospective payment system (PPS) for these providers. Currently psychiatric hospitals and units are exempt from PPS. Their costs are reimbursed under provisions in the 1982 Tax Equity and Fiscal Responsibility Act, or TEFRA.

The Balanced Budget Act (BBA) of 1997 made significant changes to the TEFRA payment system by reducing incentive payments and imposing a limit on what Medicare will pay for services provided in psychiatric facilities, regardless of a facility's costs. The result is that many of these providers will be hit hard by deep and sudden cuts, with no transition period to adjust to the changes. I believe that moving psychiatric hospitals to a prospective payment system will ensure that these changes do not reduce patient access to psychiatric care.

Our legislation proposes to transition psychiatric inpatient hospitals to a prospective payment system—a system that will be more efficient, allow for better planning, and lead to improved patient care. This legislation also addresses the short-term viability of many of these facilities to enable patients to continue receiving the specialized care these providers offer. For that reason, our legislation includes immediate financial relief to those psychiatric facilities hardest hit by the BBA: twenty-five percent of facilities in the first year, about thirteen percent in year two, and approximately ten percent in year three. The relief will then be paid back when a prospective payment is implemented in year four to ensure that this bill is budget neutral by the end of year five. Specifically, the Breaux-Mack bill would limit an individual facility's payment reductions to no more than five percent in the first year, seven and one-half percent in the second year, and ten percent in year three. After the third year, a PPS based on per diems would be phased in. In the first two years of the new PPS, the per-diem rates would be adjusted downward to pay back the savings lost to the Medicare program as a result of the ''hold harmless'' provisions of the bill. Consequently, our bill is budget-neutral over five years, yet it provides some measure of relief to those Medicare providers most severely affected by the BBA and guarantees that beneficiaries will not lose vital services. But perhaps the most important feature of our bill is that it moves the last of the TEFRA providers—psychiatric facilities—out of a cost-based payment system and into a

system where they will be paid prospectively, like most other Medicare providers.

I urge my colleagues to join me in cosponsoring this important piece of legislation.

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

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

S. 2582

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 ''Medicare Psychiatric Hospital Prospective Payment System Act of 1998''.

SEC. 2. MEDICARE PROSPECTIVE PAYMENT SYSTEM FOR PSYCHIATRIC FACILITIES.

(a) ESTABLISHMENT OF PROSPECTIVE PAYMENT SYSTEM.—Section 1886 of the Social Security Act (42 U.S.C. 1395ww) is amended by adding at the end the following:

''(l) PROSPECTIVE PAYMENT SYSTEM FOR INPATIENT PSYCHIATRIC SERVICES.—

''(1) AMOUNT OF PAYMENT.—

''(A) DURING TRANSITION PERIOD.—Notwithstanding section 1814(b), but subject to the provisions of section 1813, the amount of payment with respect to the operating and capital-related costs of inpatient hospital services of a psychiatric facility (as defined in paragraph (7)(C)) for each day of services furnished in a cost reporting period beginning on or after October 1, 2000, and before October 1, 2003, is equal to the sum of—

''(i) the TEFRA percentage (as defined in paragraph (7)(D)) of the facility-specific per diem rate (determined under paragraph (2)); and

''(ii) the PPS percentage (as defined in paragraph (7)(B)) of the applicable Federal per diem rate (determined under paragraph (3)).

''(B) UNDER FULLY IMPLEMENTED SYSTEM.—Notwithstanding section 1814(b), but subject to the provisions of section 1813, the amount of payment with respect to the operating and capital-related costs of inpatient hospital services of a psychiatric facility for each day of services furnished in a cost reporting period beginning on or after October 1, 2003, is equal to the applicable Federal per diem rate determined under paragraph (3) for the facility for the fiscal year in which the day of services occurs.

''(C) NEW FACILITIES.—In the case of a psychiatric facility that does not have a base fiscal year (as defined in paragraph (7)(A)), payment for the operating and capital-related costs of inpatient hospital services shall be made under this subsection using the applicable Federal per diem rate.

''(2) DETERMINATION OF FACILITY-SPECIFIC PER DIEM RATES.—

''(A) BASE YEAR.—The Secretary shall determine, on a per diem basis, the allowable operating and capital-related costs of inpatient hospital services for each psychiatric facility for its cost reporting period (if any) beginning in the base fiscal year (as defined in paragraph (7)(A)), such costs determined as if subsection (b)(8) did not apply.

''(B) UPDATING.—The Secretary shall update the amount determined under subparagraph (A) for each cost reporting period after the cost reporting period beginning in the base fiscal year and before October 1, 2003, by a factor equal to the market basket percentage increase.

''(3) DETERMINATION OF THE FEDERAL PER DIEM RATE.—

''(A) BASE YEAR.—The Secretary shall determine, on a per diem basis, the allowable operating and capital-related costs of inpatient hospital services for each psychiatric facility for its cost reporting period (if any) beginning in the base fiscal year (as defined in paragraph (7)(A)), such costs determined as if subsection (b)(8) did not apply.

''(B) UPDATING TO FIRST FISCAL YEAR.—The Secretary shall update the amount determined under subparagraph (A) for each cost reporting period up to the first cost reporting period to which this subsection applies by a factor equal to the market basket percentage increase.

''(C) COMPUTATION OF STANDARDIZED PER DIEM RATE.—The Secretary shall standardize the amount determined under subparagraph (B) for each facility by—

''(i) adjusting for variations among facilities by area in the average facility wage level per diem; and

''(ii) adjusting for variations in case mix per diem among facilities (based on the patient classification system established by the Secretary under paragraph (4)).

''(D) COMPUTATION OF WEIGHTED AVERAGE PER DIEM RATES.—

''(i) SEPARATE RATES FOR URBAN AND RURAL AREAS.—Based on the standardized amounts determined under subparagraph (C) for each facility, the Secretary shall compute a separate weighted average per diem rate—

''(I) for all psychiatric facilities located in an urban area (as defined in subsection (d)(2)(D)); and

''(II) for all psychiatric facilities located in a rural area (as defined in subsection (d)(2)(D)).

''(ii) FOR HOSPITALS AND UNITS.—Subject to paragraph (7)(C), in the areas referred to in clause (i) the Secretary may compute a separate weighted average per diem rate for—

''(I) psychiatric hospitals; and

''(II) psychiatric units described in the matter following clause (v) of subsection (d)(1)(B).

If the Secretary establishes separate average weighted per diem rates under this clause, the Secretary shall also establish separate average per diem rates for facilities in such categories that are owned and operated by an agency or instrumentality of Federal, State, or local government and for facilities other than such facilities.

''(iii) WEIGHTED AVERAGE.—In computing the weighted averages under clauses (i) and (ii), the standardized per diem amount for each facility shall be weighted for each facility by the number of days of inpatient hospital services furnished during its cost reporting period beginning in the base fiscal year.

''(E) UPDATING.—The weighted average per diem rates determined under subparagraph (D) shall be updated for each fiscal year after the first fiscal year to which this subsection applies by a factor equal to the market basket percentage increase.

''(F) DETERMINATION OF FEDERAL PER DIEM RATE.—

''(i) IN GENERAL.—The Secretary shall compute for each psychiatric facility for each fiscal year (beginning with fiscal year 2001) a Federal per diem rate equal to the applicable weighted average per diem rate determined under subparagraph (E), adjusted for—

''(I) variations among facilities by area in the average facility wage level per diem;

''(II) variations in case mix per diem among facilities (based on the patient classification system established by the Secretary under paragraph (4)); and

''(III) variations among facilities in the proportion of low-income patients served by the facility.

''(ii) OTHER ADJUSTMENTS.—In computing the Federal per diem rates under this subparagraph, the Secretary may adjust for outlier cases, the indirect costs of medical education, and such other factors as the Secretary determines to be appropriate.

''(iii) BUDGET NEUTRALITY.—The adjustments specified in clauses (i)(I), (i)(III), and (ii) shall be implemented in a manner that does not result in aggregate payments under this subsection that are greater or less than those aggregate payments that otherwise would have been made if such adjustments did not apply.

''(4) ESTABLISHMENT OF PATIENT CLASSIFICATION SYSTEM.—

''(A) IN GENERAL.—The Secretary shall establish—

''(i) classes of patients of psychiatric facilities (in this paragraph referred to as 'case mix groups'), based on such factors as the Secretary determines to be appropriate; and

''(ii) a method of classifying specific patients in psychiatric facilities within these groups.

''(B) WEIGHTING FACTORS.—For each case mix group, the Secretary shall assign an appropriate weighting factor that reflects the relative facility resources used with respect to patients classified within that group compared to patients classified within other such groups.

''(5) DATA COLLECTION; UTILIZATION MONITORING.—

''(A) DATA COLLECTION.—The Secretary may require psychiatric facilities to submit such data as is necessary to implement the system established under this subsection.

''(B) UTILIZATION MONITORING.—The Secretary shall monitor changes in the utilization of inpatient hospital services furnished by psychiatric facilities under the system established under this subsection and report to the appropriate committees of Congress on such changes, together with recommendations for legislation (if any) that is needed to address unwarranted changes in such utilization.

''(6) SPECIAL ADJUSTMENTS.—Notwithstanding the preceding provisions of this subsection, the Secretary shall reduce aggregate payment amounts that would otherwise be payable under this subsection for inpatient hospital services furnished by a psychiatric facility during cost reporting periods beginning in fiscal years 2001 and 2002 by such uniform percentage as is necessary to assure that payments under this subsection for such cost reporting periods are reduced by an amount that is equal to the sum of—

''(A) the aggregate increase in payments under this title during fiscal years 1998, 1999, and 2000, that is attributable to the operation of subsection (b)(8); and

''(B) the aggregate increase in payments under this title during fiscal years 2001 and 2002 that is attributable to the application of the market basket percentage increase under paragraphs (2)(B) and (3)(E) of this subsection in lieu of the provisions of subclauses (VI) and (VII) of subsection (b)(3)(B)(ii).

Reductions under this paragraph shall not affect computation of the amounts payable under this subsection for cost reporting periods beginning in fiscal years after fiscal year 2002.

''(7) DEFINITIONS.—For purposes of this subsection:

''(A) The term 'base fiscal year' means, with respect to a hospital, the most recent fiscal year ending before the date of the enactment of this subsection for which audited cost report data are available.

''(B) The term 'PPS percentage' means—

''(i) with respect to cost reporting periods beginning on or after October 1, 2000, and before October 1, 2001, 25 percent;

''(ii) with respect to cost reporting periods beginning on or after October 1, 2001, and before October 1, 2002, 50 percent; and

''(iii) with respect to cost reporting periods beginning on or after October 1, 2002, and before October 1, 2003, 75 percent.

''(C) The term 'psychiatric facility' means—

''(i) a psychiatric hospital; and

''(ii) a psychiatric unit described in the matter following clause (v) of subsection (d)(1)(B).

''(D) The term 'TEFRA percentage' means—

''(i) with respect to cost reporting periods beginning on or after October 1, 2000, and before October 1, 2001, 75 percent;

''(ii) with respect to cost reporting periods beginning on or after October 1, 2001, and before October 1, 2002, 50 percent; and

''(iii) with respect to cost reporting periods beginning on or after October 1, 2002, and before October 1, 2003, 25 percent.''.

(b) LIMIT ON REDUCTIONS UNDER BALANCED BUDGET ACT.—Section 1886(b) of the Social Security Act (42 U.S.C. 1395ww(b)) is amended by adding at the end the following:

''(8)(A) Notwithstanding the amendments made by sections 4411, 4414, 4415, and 4416 of the Balanced Budget Act of 1997, in the case of a psychiatric facility (as defined in subparagraph (B)(ii)), the amount of payment for the operating costs of inpatient hospital services for cost reporting periods beginning on or after October 1, 1997, and before October 1, 2000, shall not be less than the applicable percentage (as defined in subparagraph (B)(i)) of the amount that would have been paid for such costs if such amendments did not apply.

''(B) For purposes of this paragraph:

''(i) The term 'applicable percentage' means—

''(I) 95 percent for cost reporting periods beginning on or after October 1, 1997, and before October 1, 1998;

''(II) 92.5 percent for cost reporting periods beginning on or after October 1, 1998, and before October 1, 1999; and

''(III) 90 percent for cost reporting periods beginning on or after October 1, 1999, and before October 1, 2000.

''(ii) The term 'psychiatric facility' means—

''(I) a psychiatric hospital; and

''(II) a psychiatric unit described in the matter following clause (v) of subsection (d)(1)(B).''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply as if included in the enactment of the Balanced Budget Act of 1997.●

● Mr. MACK. Mr. President, today, I am pleased to join my colleague JOHN BREAUX in sponsoring the Medicare Psychiatric Hospital Prospective Payment System Act of 1998. This legislation maintains the integrity and availability of Medicare inpatient psychiatric care by changing how Medicare currently pays for services provided to beneficiaries in free standing psychiatric hospitals and distinct-part psychiatric units of general hospitals. This bill eases the transition of psychiatric facilities to a prospective payment system (PPS) while phasing in substantial cuts in payments to these providers as required by the Balanced Budget Act of 1997.

Currently, psychiatric hospitals and units are exempt from PPS. This bill is budget neutral over five years, and ensures that until PPS is established, inpatient psychiatric care will not be compromised or disrupted because of major budget reductions. Finally, this legislation prevents the type of dislocations we now face in the Home Health Care industry.

The purpose of this bill is to give psychiatric facilities a period of adjustment to the mandates of BBA while not jeopardizing patient care. It provides for a transition period that will help providers adjust to a prospective payment system that will be installed in three years. At the end of this time period psychiatric facilities will be paid on a prospective payment basis like other hospital providers in the Medicare program. Psychiatric hospital managers understand that the financial limitations imposed by BBA on their facilities must be met, and this bill smooths out the requirements for accomplishing this in such a way that the integrity of patient care is maintained. I urge my colleagues to join me in co-sponsoring this important piece of legislation.●

By Mr. BINGAMAN (for himself and Mr. COCHRAN):

S. 2583. A bill to provide disadvantaged children with access to dental services; to the Committee on Labor and Human Resources.

● Mr. BINGAMAN. Mr. President today I introduce with my friend and colleague, Senator THAD COCHRAN, the Childrens Dental Health Improvement Act of 1998. The bill is designed to increase access to dental services for our disadvantaged children.

Medicaid's Early and Periodic Screening Diagnosis and Treatment or ''EPSDT'' program requires states to not only pay for a comprehensive set of child health services, including dental services, but to assure delivery of those services. Unfortunately, low income children do not get the dental service they need. Despite the design of the Medicaid program to reach children and ensure access to routine dental care, the Inspector General of the Department of Health and Human Services reported in 1996 that only 18 percent of children eligible for Medicaid received even a single preventive dental service. The same report shows that no state provides preventive services to more than 50% of eligible children. Dentist participation is too low to assure access. We are falling short of our obligation to these children.

In the past few months, I have had the opportunity to speak to many of New Mexico's rural health providers and have learned that for New Mexico, the problem is of crisis proportions. Less than 1% of New Mexico's Medicaid dollars are used for children's oral health care needs. My state alone projects a shortage of 157 dentists and 229 dental hygienists. Children in New Mexico and elsewhere are showing up in emergency rooms for treatment of tooth abscesses instead of getting their cavities filled early on or having dental decay prevented in the first place.

Some will say: ''Why care about a few cavities in kids?'' In reality, this is a complex children's health issue. Chronically poor oral health is associated with growth and development problems in toddlers and compromises children's nutritional status. These children suffer from pain and cannot play or learn. Their personal suffering is real. In reality, untreated dental problems get progressively worse and ultimately require more expensive interventions. Many of these children come to emergency rooms and ultimately must be treated in the operating room.

Tooth decay remains the single most common chronic disease of childhood and according to the Children's Dental Health Project, it affects more than half of all children by second grade. Tooth decay in children six year olds is 5 to 8 more common than asthma which is often cited as the most common chronic disease of childhood.

National data confirm that pediatric oral health in the U.S. is backsliding. Healthy People 2000 goals for dental needs of children will not be met. As this chart shows:

52% of our 6 to 8 year olds have dental caries, or cavities compared to 54% in 1986. Our goal was to decrease this to 35% by the year 2000; we have only succeeded in a 2% change in this area.

Additionally, we have slid backwards in some areas. The Healthy People 2000 oral health indicators show an increase in the percentage of children with untreated cavities. In 1986, 28% of our 6 to 8 year olds had untreated cavities compared to now where we find 31% of these children have untreated cavities.

Tooth decay is increasingly a disease of low and modest income children. A substantial portion of decay in young children goes untreated. In fact, forty seven percent of decay in children aged 2 through 9 is untreated.

The Children's Dental Health Improvement Act is designed to attack the problem from many fronts. First, our bill addresses the issue of provider shortage by expanding opportunities for training pediatric dental health care providers. Next, we will work toward increasing the actual care provided under the Medicaid program. Additionally, we have looked at the need for pediatric dental research to facilitate better approaches for care. Finally, we have put into place greater measures for surveillance of the problem and have looked at the need to increase accountability in the area of actual treatment once a problem is identified.

I am committed to solving the problem of adequate access to dental care for our children and view this as a public health issue that has gone unnoticed for too long. I will welcome my colleagues to work with me to ensure that these children have healthy smiles vs. chronic pain from untreated problems.

Mr. President, I ask unanimous consent to have the text of the Children's Dental Health Improvement Act of 1998 printed in the RECORD.

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

S. 2583

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 ''Children's Dental Health Improvement Act of 1998''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
TITLE I—EXPANDED OPPORTUNITIES FOR TRAINING PEDIATRIC DENTAL HEALTH CARE PROVIDERS
Sec. 101. Children's dental health training and demonstration programs.
Sec. 102. Increase in National Health Service Corps dental training positions.
Sec. 103. Maternal and child health centers for leadership in pediatric dentistry education.
Sec. 104. Dental officer multiyear retention bonus for the Indian Health Service.
Sec. 105. Medicare payments to approved nonhospital dentistry residency training programs; permanent dental exemption from voluntary residency reduction programs.
Sec. 106. Dental health professional shortage areas.
TITLE II—ENSURING DELIVERY OF PEDIATRIC DENTAL SERVICES UNDER THE MEDICAID AND SCHIP PROGRAMS
Sec. 201. Increased FMAP and fee schedule for dental services provided to children under the medicaid program.
Sec. 202. Required minimum medicaid expenditures for dental health services.
Sec. 203. Requirement to verify sufficient numbers of participating dentists under the medicaid program.
Sec. 204. Inclusion of recommended age for first dental visit in definition of EPSDT services.
Sec. 205. Approval of final regulations implementing changes to EPSDT services.
Sec. 206. Use of SCHIP funds to treat children with special dental health needs.
Sec. 207. Grants to supplement fees for the treatment of children with special dental health needs.
Sec. 208. Demonstration projects to increase access to pediatric dental services in underserved areas.
TITLE III—PEDIATRIC DENTAL RESEARCH
Sec. 301. Identification of interventions that reduce transmission of dental diseases in high risk populations; development of approaches for pediatric dental assessment.
Sec. 302. Agency for Health Care Policy and Research.
Sec. 303. Consensus development conference.
TITLE IV—SURVEILLANCE AND ACCOUNTABILITY
Sec. 401. CDC reports.
Sec. 402. Reporting requirements under the medicaid program.
Sec. 403. Administration on Children, Youth, and Families.
TITLE V—MISCELLANEOUS
Sec. 501. Effective date.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Children's oral health impacts upon and reflects children's general health.

(2) Tooth decay is the most prevalent preventable chronic disease of childhood and only the common cold, the flu, and otitis media occur more often among young children.

(3) Despite the design of the medicaid program to reach children and ensure access to routine dental care, in 1996, the Inspector General of the Department of Health and Human Services reported that only 18 percent of children eligible for medicaid received even a single preventive dental service.

(4) The United States is facing a major dental health care crisis that primarily affects the poor children of our country, with 80 percent of all dental caries in children found in the 20 percent of the population.

(5) Low income children eligible for the medicaid program and the State children's health insurance program experience disproportionately high levels of oral disease.

(6) The United States is not training enough pediatric dental health care providers to meet the increasing need for pediatric dental services.

(7) The United States needs to increase access to health promotion and disease prevention activities in the area of oral health for children by increasing access to pediatric dental health providers.

TITLE I—EXPANDED OPPORTUNITIES FOR TRAINING PEDIATRIC DENTAL HEALTH CARE PROVIDERS

SEC. 101. CHILDREN'S DENTAL HEALTH TRAINING AND DEMONSTRATION PROGRAMS.

Part E of title VII of the Public Health Service Act (42 U.S.C. 294o et seq.) is amended by adding at the end the following:

''SEC. 779. CHILDREN'S DENTAL HEALTH PROGRAMS.

''(a) TRAINING PROGRAM.—

''(1) IN GENERAL.—The Secretary, acting through the Bureau of Health Professions, shall develop training materials to be used by health professionals to promote oral health through health education.

''(2) DESIGN.—The materials developed under paragraph (1) shall be designed to enable health care professionals to—

''(A) provide information to individuals concerning the importance of oral health;

''(B) recognize oral disease in individuals; and

''(C) make appropriate referrals of individuals for dental treatment.

''(3) DISTRIBUTION.—The materials developed under paragraph (1) shall be distributed to—

''(A) accredited schools of the health sciences (including schools for physician assistants, schools of medicine, osteopathic medicine, dental hygiene, public health, nursing, pharmacy, and dentistry), and public or private institutions accredited for the provision of graduate or specialized training programs in all aspects of health; and

''(B) health professionals and community-based health care workers.

''(b) DEMONSTRATION PROGRAM.—

''(1) IN GENERAL.—The Secretary shall make grants to schools that train pediatric dental health providers to meet the costs of projects—

''(A) to plan and develop new training programs and to maintain or improve existing training programs in providing dental health services to children; and

''(B) to assist dental health providers in managing complex dental problems in children.

''(2) ADMINISTRATION.—

''(A) AMOUNT.—The amount of any grant under paragraph (1) shall be determined by the Secretary.

''(B) APPLICATION.—No grant may be made under paragraph (1) unless an application therefore is submitted to and approved by the Secretary. Such an application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

''(C) ELIGIBILITY.—To be eligible for a grant under subsection (a), the applicant must demonstrate to the Secretary that it has or will have available full-time faculty and staff members with training and experience in the field of pediatric dentistry and support from other faculty and staff members trained in pediatric dentistry and other relevant specialties and disciplines such as dental public health and pediatrics, as well as research.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.''.

SEC. 102. INCREASE IN NATIONAL HEALTH SERVICE CORPS DENTAL TRAINING POSITIONS.

The Secretary of Health and Human Services shall increase the number of dental health providers skilled in treating children who become members of the National Health Service Corps under subpart II of part D of title III of the Public Health Service Act (42 U.S.C. 254d et seq.) so that there are at least 100 additional dentists and dental hygienists in the Corps by 2000, at least 150 additional dentists and dental hygienists in the Corps by 2001, and at least 300 additional dentists and dental hygienists in the Corps by 2002. The Secretary shall ensure that at least 20 percent of the dentists in the Corps are pediatric dentists and that another 20 percent of the dentists in the Corps have general practice residency training.

SEC. 103. MATERNAL AND CHILD HEALTH CENTERS FOR LEADERSHIP IN PEDIATRIC DENTISTRY EDUCATION.

(a) EXPANSION OF TRAINING PROGRAMS.—The Secretary of Health and Human Services shall, through the Maternal and Child Health Bureau, establish not less than 36 additional training positions annually for pediatric dentists at centers of excellence. The Secretary shall ensure that such training programs are established in geographically diverse areas.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, such sums as may be necessary to carry out this section.

SEC. 104. DENTAL OFFICER MULTIYEAR RETENTION BONUS FOR THE INDIAN HEALTH SERVICE.

(a) TERMS AND DEFINITIONS.—In this section:

(1) DENTAL OFFICER.—The term ''dental officer'' means an officer of the Indian Health Service designated as a dental officer.

(2) DIRECTOR.—The term ''Director'' means the Director of the Indian Health Service.

(3) CREDITABLE SERVICE.—The term ''creditable service'' includes all periods that a dental officer spent in graduate dental educational (GDE) training programs while not on active duty in the Indian Health Service and all periods of active duty in the Indian Health Service as a dental officer.

(4) RESIDENCY.—The term ''residency'' means a graduate dental educational (GDE) training program of at least 12 months, excluding general practice residency (GPR) or a 12-month advanced education general dentistry (AEGD).

(5) SPECIALTY.—The term ''specialty'' means a dental specialty for which there is an Indian Health Service specialty code number.

(b) REQUIREMENTS FOR BONUS.—

(1) IN GENERAL.—An eligible dental officer of the Indian Health Service who executes a written agreement to remain on active duty for 2, 3, or 4 years after the completion of any other active duty service commitment to the Indian Health Service may, upon acceptance of the written agreement by the Director, be authorized to receive a dental officer multiyear retention bonus under this section. The Director may, based on requirements of the Indian Health Service, decline to offer a such a retention bonus to any specialty that is otherwise eligible, or to restrict the length of a such a retention bonus contract for a specialty to less than 4 years.

(2) LIMITATIONS.—Each annual dental officer multiyear retention bonus authorized under this section shall not exceed the following:

(A) $14,000 for a 4-year written agreement.

(B) $8,000 for a 3-year written agreement.

(C) $4,000 for a 2-year written agreement.

(c) ELIGIBILITY.—

(1) IN GENERAL.—In order to be eligible to receive a dental officer multiyear retention bonus under the section, a dental officer shall—

(A) be at or below such grade as the Director shall determine;

(B) have at least 8 years of creditable service, or have completed any active duty service commitment of the Indian Health Service incurred for dental education and training;

(C) have completed initial residency training, or be scheduled to complete initial residency training before September 30 of the fiscal year in which the officer enters into a dental officer multiyear retention bonus written service agreement under this section; and

(D) have a dental specialty in pediatric dentistry or oral and maxillofacial surgery.

(2) EXTENSION TO OTHER OFFICERS.—The Director may extend the retention bonus to dental officers other than officers with a dental specialty in pediatric dentistry based on demonstrated need. The criteria used as the basis for such an extension shall be equitably determined and consistently applied.

(d) TERMINATION OF ENTITLEMENT TO SPECIAL PAY.—The Director may terminate at any time a dental officer's multiyear retention bonus contract under this section. If such a contract is terminated, the unserved portion of the retention bonus contract shall be recouped on a pro rata basis. The Director shall establish regulations that specify the conditions and procedures under which termination may take place. The regulations and conditions for termination shall be included in the written service contract for a dental officer multiyear retention bonus under this section.

(e) REFUNDS.—

(1) IN GENERAL.—Prorated refunds shall be required for sums paid under a retention bonus contract under this section if a dental officer who has received the retention bonus fails to complete the total period of service specified in the contract, as conditions and circumstances warrant.

(2) DEBT TO UNITED STATES.—An obligation to reimburse the United States imposed under paragraph (1) is a debt owed to the United States.

(3) NO DISCHARGE IN BANKRUPTCY.—Notwithstanding any other provision of law, a discharge in bankruptcy under title 11, United States Code, that is entered less than 5 years after the termination of a retention bonus contract under this section does not discharge the dental officer who signed such a contract from a debt arising under the contract or paragraph (1).

SEC. 105. MEDICARE PAYMENTS TO APPROVED NONHOSPITAL DENTISTRY RESIDENCY TRAINING PROGRAMS; PERMANENT DENTAL EXEMPTION FROM VOLUNTARY RESIDENCY REDUCTION PROGRAMS.

(a) MEDICARE PAYMENTS TO APPROVED NONHOSPITAL DENTISTRY TRAINING PROGRAMS.—Section 1886 of the Social Security Act (42 U.S.C. 1395ww) is amended by adding at the end the following:

''(l) PAYMENTS FOR NONHOSPITAL BASED DENTAL RESIDENCY TRAINING PROGRAMS.—

''(1) IN GENERAL.—Beginning January 1, 1999, the Secretary shall make payments under this paragraph to approved nonhospital based dentistry residency training programs providing oral health care to children for the direct and indirect expenses associated with operating such training programs.

''(2) PAYMENT AMOUNT.—

''(A) METHODOLOGY.—The Secretary shall establish procedures for making payments under this subsection.

''(B) TOTAL AMOUNT OF PAYMENTS.—In making payments to approved non-hospital based dentistry residency training programs under this subsection, the Secretary shall ensure that the total amount of such payments will not result in a reduction of payments that would otherwise be made under subsection (h) or (k) to hospitals for dental residency training programs.

''(C) APPROVED PROGRAMS.—The Secretary shall establish procedures for the approval of nonhospital based dentistry residency training programs under this subsection.''.

(b) PERMANENT DENTAL EXEMPTION FROM VOLUNTARY RESIDENCY REDUCTION PROGRAMS.—

(1) IN GENERAL.—Section 1886(h)(6)(C) of the Social Security Act (42 U.S.C. 1395ww(h)(6)(C)) is amended—

(A) by redesignating clauses (i) through (iii) as subclauses (I) through (III), respectively, and indenting such subclauses (as so redesignated) appropriately;

(B) by striking ''For purposes'' and inserting the following:

''(i) IN GENERAL.—Subject to clause (ii), for purposes''; and

(C) by adding at the end the following:

''(ii) DEFINITION OF 'APPROVED MEDICAL RESIDENCY TRAINING PROGRAM'.—In this subparagraph, the term 'approved medical residency training program' means only such programs in allopathic or osteopathic medicine.''.

(2) APPLICATION TO DEMONSTRATION PROJECTS AND AUTHORITY.—Section 4626(b)(3) of the Balanced Budget Act of 1997 (42 U.S.C. 1395ww note) is amended by inserting ''in allopathic or osteopathic medicine'' before the period.

(c) EFFECTIVE DATE.—

(1) SUBSECTION (A).—The amendment made by subsection (a) takes effect on the date of enactment of this Act.

(2) SUBSECTION (B).—The amendments made by subsection (b) shall take effect as if included in the enactment of the Balanced Budget Act of 1997.

SEC. 106. DENTAL HEALTH PROFESSIONAL SHORTAGE AREAS.

(a) DESIGNATION.—Section 332(a) of the Public Health Service Act (42 U.S.C. 254e(a)) is amended by adding at the end the following:

''(4)(A) In designating health professional shortage areas under this section, the Secretary may designate certain areas as dental health professional shortage areas if the Secretary determines that such areas have a severe shortage of dental health professionals. The Secretary shall develop, publish and periodically update criteria to be used in designating dental health professional shortage areas.

''(B) For purposes of this title, a dental health professional shortage area shall be considered to be a health professional shortage area.''.

(b) LOAN REPAYMENT PROGRAM.—Section 338B(b)(1)(A) of the Public Health Service Act (42 U.S.C. 254l-1(b)(1)(A)) is amended by inserting ''(including dental hygienists)'' after ''profession''.

(c) TECHNICAL AMENDMENT.—Section 331(a)(2) of the Public Health Service Act (42 U.S.C. 254d(a)(2)) is amended by inserting ''(including dental health services)'' after ''services''.

TITLE II—ENSURING DELIVERY OF PEDIATRIC DENTAL SERVICES UNDER THE MEDICAID AND SCHIP PROGRAMS

SEC. 201. INCREASED FMAP AND FEE SCHEDULE FOR DENTAL SERVICES PROVIDED TO CHILDREN UNDER THE MEDICAID PROGRAM.

(a) INCREASED FMAP.—Section 1903(a)(5) of the Social Security Act (42 U.S.C. 1396b(a)(5)) is amended—

(1) by striking ''equal to 90 per centum'' and inserting ''equal to—

''(A) 90 per centum'';

(2) by inserting ''and'' after the semicolon; and

(3) by adding at the end the following:

''(B) the greater of the Federal medical assistance percentage or 75 per centum of the sums expended during such quarter which are attributable to dental services for children;''.

(b) FEE SCHEDULE.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(1) in paragraph (65), by striking the period and inserting ''; and''; and

(2) by inserting after paragraph (65) the following:

''(66) provide for payment under the State plan for dental services for children at a rate that is designed to create an incentive for providers of such services to treat children in need of dental services (but that does not result in a reduction or other adverse impact on the extent to which the State provides dental services to adults).''.

SEC. 202. REQUIRED MINIMUM MEDICAID EXPENDITURES FOR DENTAL HEALTH SERVICES.

Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)), as amended by section 201(b), is amended—

(1) in paragraph (65), by striking ''and'' at the end;

(2) in paragraph (66), by striking the period and inserting ''; and''; and

(3) by inserting after paragraph (66) the following:

''(67) provide that, beginning with fiscal year 1999—

''(A) not less than an amount equal to 7 percent of the total annual expenditures under the State plan for medical assistance provided to children will be expended during each fiscal year for dental services for children (including the prevention, screening, diagnosis, and treatment of dental conditions); and

''(B) the State will not reduce or otherwise adversely impact the extent to which the State provides dental services to adults in order to meet the requirement of subparagraph (A).''.

SEC. 203. REQUIREMENT TO VERIFY SUFFICIENT NUMBERS OF PARTICIPATING DENTISTS UNDER THE MEDICAID PROGRAM.

Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)), as amended by section 202, is amended—

(1) in paragraph (66), by striking ''and'' at the end;

(2) in paragraph (67), by striking the period and inserting ''; and''; and

(3) by inserting after paragraph (67) the following:

''(68) provide that the State will annually verify that the number of dentists participating under the State plan—

''(A) satisfies the minimum established degree of participation of dentists to the population of children in the State, as determined by the Secretary in accordance with the criteria used by the Secretary under section 332(a)(4) of the Public Health Service Act (42 U.S.C. 254e(a)(4)) to designate a dental health professional shortage area; and

''(B) is sufficient to ensure that children enrolled in the State plan have the same level of access to dental services as the children residing in the State who are not eligible for medical assistance under the State plan.''.

SEC. 204. INCLUSION OF RECOMMENDED AGE FOR FIRST DENTAL VISIT IN DEFINITION OF EPSDT SERVICES.

Section 1905(r)(1)(A)(i) of the Social Security Act (42 U.S.C. 1396d(r)(1)(A)(i)) is amended by inserting ''and, with respect to dental services under paragraph (3), in accordance with guidelines for the age of a first dental visit that are consistent with guidelines of the American Dental Association, the American Academy of Pediatric Dentistry, and the Bright Futures program of the Health Resources and Services Administration of the Department of Health and Human Services,'' after ''vaccines,''.

SEC. 205. APPROVAL OF FINAL REGULATIONS IMPLEMENTING CHANGES TO EPSDT SERVICES.

Not later than 30 days after the date of enactment of this Act, the Secretary of Health and Human Services shall issue final regulations implementing the proposed regulations based on section 6403 of the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239; 103 Stat. 2262) that were contained in the Federal Register issued for October 1, 1993.

SEC. 206. USE OF SCHIP FUNDS TO TREAT CHILDREN WITH SPECIAL DENTAL HEALTH NEEDS.

(a) IN GENERAL.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(1) in subsection (b), by striking ''or subsection (u)(3)'' and inserting ''subsection (u)(3), or subsection (u)(4)''; and

(2) in subsection (u)—

(A) by redesignating paragraph (4) as paragraph (5); and

(B) by inserting after paragraph (3) the following new paragraph:

''(4)(A) For purposes of subsection (b), the expenditures described in this paragraph are expenditures for medical assistance described in subparagraph (B) for a low-income child described in subparagraph (C), but only in the case of such a child who resides in a State described in subparagraph (D).

''(B) For purposes of subparagraph (A), the medical assistance described in this subparagraph consists of the following:

''(i) Dental services provided to children with special oral health needs, including advanced oral, dental, and craniofacial diseases and conditions.

''(ii) Outreach conducted to identify and treat children with such special dental health needs.

''(C) For purposes of subparagraph (A), a low-income child described in this subparagraph is a child whose family income does not exceed 50 percentage points above the medicaid applicable income level (as defined in section 2110(b)(4)).

''(D) A State described in this subparagraph is a State that, as of August 5, 1997, has under a waiver authorized by the Secretary or under section 1902(r)(2), established a medicaid applicable income level (as defined in section 2110(b)(4)) for children under 19 years of age residing in the State that is at or above 185 percent of the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2), including any revision required by such section for a family of the size involved).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of section 4911 of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 570).

SEC. 207. GRANTS TO SUPPLEMENT FEES FOR THE TREATMENT OF CHILDREN WITH SPECIAL DENTAL HEALTH NEEDS.

Title V of the Social Security Act (42 U.S.C. 701 et seq.) is amended by adding at the end the following:

''SEC. 511. GRANTS TO SUPPLEMENT FEES FOR THE TREATMENT OF CHILDREN WITH SPECIAL DENTAL HEALTH NEEDS.

''(a) AUTHORITY TO MAKE GRANTS.—

''(1) IN GENERAL.—In addition to any other payments made under this title to a State, the Secretary shall award grants to States to supplement payments made under the State programs established under titles XIX and XXI for the treatment of children with special oral health care needs.

''(2) DEFINITION OF CHILDREN WITH SPECIAL ORAL, DENTAL, AND CRANIOFACIAL HEALTH CARE NEEDS.—In this section the term 'children with special oral health care needs' means children with advanced oral, dental and craniofacial conditions or disorders, and other chronic medical, genetic, and behavioral disorders with dental manifestations.

''(b) APPLICATION OF OTHER PROVISIONS OF TITLE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the other provisions of this title shall not apply to a grant made, or activities of the Secretary, under this section.

''(2) EXCEPTIONS.—The following provisions of this title shall apply to a grant made under subsection (a) to the same extent and in the same manner as such provisions apply to allotments made under section 502(c):

''(A) Section 504(b)(4) (relating to expenditures of funds as a condition of receipt of Federal funds).

''(B) Section 504(b)(6) (relating to prohibition on payments to excluded individuals and entities).

''(C) Section 506 (relating to reports and audits, but only to the extent determined by the Secretary to be appropriate for grants made under this section).

''(D) Section 508 (relating to nondiscrimination).

''(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.''.

SEC. 208. DEMONSTRATION PROJECTS TO INCREASE ACCESS TO PEDIATRIC DENTAL SERVICES IN UNDERSERVED AREAS.

(a) AUTHORITY TO CONDUCT PROJECTS.—The Secretary of Health and Human Services, through the Administrator of the Health Care Financing Administration, the Administrator of the Health Resources and Services Administration, the Director of the Indian Health Service, and the Director of the Centers for Disease Control and Prevention shall establish demonstration projects that are designed to increase access to dental services for children in underserved areas, as determined by the Secretary.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

TITLE III—PEDIATRIC DENTAL RESEARCH

SEC. 301. IDENTIFICATION OF INTERVENTIONS THAT REDUCE THE BURDEN AND TRANSMISSION OF ORAL, DENTAL, AND CRANIOFACIAL DISEASES IN HIGH RISK POPULATIONS; DEVELOPMENT OF APPROACHES FOR PEDIATRIC ORAL AND CRANIOFACIAL ASSESSMENT.

(a) IN GENERAL.—The Secretary of Health and Human Services, through the Maternal and Child Health Bureau, the Indian Health Service, and in consultation with the Agency for Health Care Policy and Research and the National Institutes of Health, shall—

(1) support community based research that is designed to improve our understanding of the etiology, pathogenesis, diagnosis, prevention, and treatment of pediatric oral, dental, craniofacial diseases and conditions and their sequelae in high risk populations; and

(2) develop clinical approaches for pediatric dental disease risk assessment.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, such sums as may be necessary to carry out this section.

SEC. 302. AGENCY FOR HEALTH CARE POLICY AND RESEARCH.

Section 902(a) of the Public Health Service Act (42 U.S.C. 299a(a)) is amended—

(1) in paragraph (7), by striking ''and'' at the end;

(2) in paragraph (8), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(9) the barriers that exist to dental care for children and the establishment of measures of oral health quality, including access to oral health care for children.''.

SEC. 303. CONSENSUS DEVELOPMENT CONFERENCE.

(a) IN GENERAL.—Not later than January 1, 2000, the Secretary of Health and Human Services, acting through the National Institute of Child Health and Human Development and the National Institute of Dental Research, shall convene a conference (to be known as the ''Consensus Development Conference'') to examine the management of early childhood caries and to support the design and conduct of research on the biology and physiologic dynamics of infectious transmission of dental caries. The Secretary shall ensure that representatives of interested consumers and other professional organizations participate in the Consensus Development Conference.

(b) EXPERTS.—In administering the conference under subsection (a), the Secretary of Health and Human Services shall solicit the participation of experts in dentistry, including pediatric dentistry, public health, and other appropriate medical and child health professionals.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

TITLE IV—SURVEILLANCE AND ACCOUNTABILITY

SEC. 401. CDC REPORTS.

(a) COLLECTION OF DATA.—The Director of the Centers for Disease Control and Prevention in collaboration with other organizations and agencies shall annually collect data describing the dental, craniofacial, and oral health of residents of at least 1 State from each region of the Department of Health and Human Services.

(b) REPORTS.—The Director shall compile and analyze data collected under subsection (a) and annually prepare and submit to the appropriate committees of Congress a report concerning the oral health of certain States.

SEC. 402. REPORTING REQUIREMENTS UNDER THE MEDICAID PROGRAM.

Section 1902(a)(43)(D) of the Social Security Act (42 U.S.C. 1396a(43)(D)) is amended—

(1) in clause (iii), by striking ''and'' and inserting ''with the specific dental condition and treatment provided identified,'';

(2) in clause (iv), by striking the semicolon and inserting a comma; and

(3) by adding at the end the following:

''(v) the percentage of expenditures for such services that were for dental services, and

''(vi) the percentage of general and pediatric dentists who are licensed in the State and provide services commensurate with eligibility under the State plan;''.

SEC. 403. ADMINISTRATION ON CHILDREN, YOUTH, AND FAMILIES.

The Administrator of the Administration on Children, Youth, and Families shall annually prepare and submit to the appropriate committees of Congress a report concerning the percentage of children enrolled in a Head Start or Early Start program who have access to and who obtain dental care, including children with special oral, dental, and craniofacial health needs.

TITLE V—MISCELLANEOUS

SEC. 501. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this Act, this Act and the amendments made by this Act take effect on the date of enactment of this Act.

(b) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this Act, the State plan shall not be regarded as failing to comply with the requirements of such amendments solely on the basis of its failure to meet the additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.●

By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. 2585. A bill to amend the Public Health Service Act to eliminate a threshold requirement relating to unreimbursable expenses for compensation under the National Vaccine Injury Compensation Program; to the Committee on Finance.

AMENDMENT TO THE NATIONAL VACCINE INJURY COMPENSATION PROGRAM

Mr. DASCHLE. Mr. President, I am pleased to introduce, with my friend and colleague from South Dakota, TIM JOHNSON, legislation to make several common-sense changes to the National Vaccine Injury Compensation Program. This bill removes an unintended and unjustified barrier blocking certain children from qualifying for the compensation program. It also makes the necessary changes to allow new drugs to be incorporated into the program, including the newly-approved rotavirus vaccine.

The Vaccine Act dates back to 1986, when Congress determined that a no-fault alternative to the tort system would best accommodate the dual objectives of ensuring proper compensation to victims of vaccine injuries and fostering continued development and broad-scale availability of lifesaving vaccines.

Through the Vaccine Act, children seriously injured by a childhood vaccine can receive compensation for medical care, custodial or residential care, lifetime lost earnings, pain and suffering, and emotional distress—benefits comparable to those awarded through the judicial tort system.

Tragically, some children have been unfairly denied the right to petition for benefits under the program because they did not incur $1,000 or more in out-of-pocket medical expenses.

At first glance, the eligibility requirement of at least $1,000 in out-of-pocket medical expenses may seem like a reasonable way of deterring individuals from petitioning for benefits if they lack a material claim to compensation. In reality, however, the absence of out-of-pocket health care expenses does not mean a child has not been seriously injured, nor does it suggest they have access to other sources for recoupment of the losses their injury has exacted.

Many children, including the children of military personnel, Native American children covered by the Indian Health Service, children with Medicaid coverage, and children covered under employer-sponsored health plans with minimal cost-sharing requirements, do not have high out-of-pocket health care costs.

While health insurance may remove the burden of high medical bills, it does not replace lost income or cover custodial and residential care. It cannot compensate for the toll these injuries have taken and will take on the lives of these children. Health care costs are just one component of the compensation for which a seriously injured child is eligible.

I know of a Native American child in my own state who was profoundly injured after receiving a diptheria-pertussis-tetanus vaccination. Within hours of receiving the shot, this five-month-old child had a seizure and suffered severe brain damage because of the defective pertussis component of the shot.

The doctors tell us that his disabilities will, throughout his lifetime, preclude this little boy from having a normal life. He will never live or work independently. But, because he receives health care from the Indian Health Service (IHS), he is not eligible for any benefits under the vaccine compensation program. Not only is this child barred from compensation for lost income and emotional trauma, he is denied financial support for his injury-related assisted living needs.

Through legislation intended to foster continued improvements in public health, the federal government has obstructed this child's right to sue vaccine manufacturers. But the program's gate-keeping mechanism is off the mark. What we are saying—however unintentionally—to this particular child and others like him is: ''Fend for yourself.'' To deny this child the benefits available to other injured children is indefensible.

The Vaccine Act contains other safeguards to prevent unjustified requests for compensation. For example, no benefits claim is accepted without a thorough review and significant medical proof of severe injury directly related to a childhood vaccination. The $1,000 threshold is unnecessary.

Senator JOHNSON and I certainly are not alone in calling for the repeal of the $1,000 threshold. In fact, we are in very good company. The Advisory Commission on Childhood Vaccines voted unanimously to recommend elimination of the $1,000 threshold.

I hope this Congress will seize the opportunity to reconcile the intended and actual standards of fairness by which the National Vaccine Compensation Program fulfills its role in the public health system. In so doing, we will make a tremendous difference in the lives of children in desperate need of our support.

There is also a disconnect between the Act's intended consequences and its actual effect in regard to enrollment of new vaccines. Several vaccines that have been approved by the Food and Drug Administration and have met the standards established in the Vaccine Act are still not fully integrated into the program.

There are currently several vaccines Congress has approved for taxation and inclusion in the Vaccine Compensation Program that, because of a technical error in the legislation, were not authorized as compensable. This bill will fully integrate those vaccines into the program, and it will ensure that all new vaccines will be automatically compensable once the tax is levied.

In addition, it initiates the 75 cents-per-vaccination tax on the rotavirus vaccine, which will ensure compensation for recipients of that vaccine. The rotavirus vaccine was approved by the FDA in August of this year to protect against rotavirus gastroenteritis, which causes about 125 deaths and 50,000 hospitalizations per year among infants in the United States. Initiation of the excise tax will help protect the 4 million children who are expected to receive the vaccine annually.

The changes proposed in this bill are not controversial. They are common-sense, and they are overdue. When Congress established the Vaccine Compensation Program, its intent was to protect the rights of victims without jeopardizing an invaluable weapon against childhood illnesses. The underpinning of this program is fairness, a standard that cannot be met until Congress makes these important changes.

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. 2585

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 ''Vaccine Injury Compensation Program Modification Act''.

SEC. 2. ELIMINATION OF THRESHOLD REQUIREMENT OF UNREIMBURSABLE EXPENSES.

Section 2111(c)(1)(D)(i) of the Public Health Service Act (42 U.S.C. 300aa–11(c)(1)(D)(i)) is amended by striking ''and incurred unreimbursable expenses due in whole or in part to such illness, disability, injury, or condition in an amount greater than $1,000''.

SEC. 3. INCLUSION OF ROTAVIRUS GASTROENTERITIS AS A TAXABLE VACCINE.

(a) IN GENERAL.—Section 4132(1) of the Internal Revenue Code of 1986 (defining taxable vaccine) is amended by adding at the end the following new subparagraph:

''(K) Any vaccine against rotavirus gastroenteritis.''.

(b) EFFECTIVE DATE.—

(1) SALES.—The amendment made by this section shall apply to sales after the date of the enactment of this Act.

(2) DELIVERIES.—For purposes of paragraph (1), in the case of sales on or before the date of the enactment of this Act for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 4. VACCINE INJURY COMPENSATION TRUST FUND.

(a) AMENDMENTS RELATED TO SECTION 904 OF 1997 ACT.—

(1) Paragraph (1) of section 9510(c) of the 1986 Code is amended to read as follows:

''(1) IN GENERAL.—Amounts in the Vaccine Injury Compensation Trust Fund shall be available, as provided in appropriation Acts, only for—

''(A) the payment of compensation under subtitle 2 of title XXI of the Public Health Service Act (as in effect on August 6, 1997) for vaccine-related injury or death with respect to any vaccine—

''(i) which is administered after September 30, 1988, and

''(ii) which is a taxable vaccine (as defined in section 4132(a)(1)) at the time the vaccine was administered, or

''(B) the payment of all expenses of administration incurred by the Federal Government in administering such subtitle.''.

(2) Section 9510(b) of the 1986 Code is amended by adding at the end the following new paragraph:

''(3) LIMITATION ON TRANSFERS TO VACCINE INJURY COMPENSATION TRUST FUND.—No amount may be appropriated to the Vaccine Injury Compensation Trust Fund on and after the date of any expenditure from the Trust Fund which is not permitted by this section. The determination of whether an expenditure is so permitted shall be made without regard to—

''(A) any provision of law which is not contained or referenced in this title or in a revenue Act, and

''(B) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this paragraph.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Taxpayer Relief Act of 1997 to which they relate.

By Mr. KOHL:

S. 2586. A bill to amend parts A and D of title IV of the Social Security Act to require States to pass through directly to a family receiving assistance under the temporary assistance to needy families program all child support collected by the State and to disregard any child support that the family receives in determining the family's level of assistance under that program; to the Committee on Finance.

CHILDREN FIRST CHILD SUPPORT REFORM ACT OF 1998

• Mr. KOHL. Mr. President, today I introduce legislation to put America's children first by putting more resources into the hands of families and encouraging more parents to live up to their child support obligations. My legislation, the Children First Child Support Reform Act, would direct that all child support collected through the Federal-State Child Support Enforcement Program be passed through, or paid, directly to the children and families to whom it is owed and disregarded in the calculation of public assistance benefits. My legislation will assure non-custodial parents that the child support they pay will actually contribute to the well-being of their child, rather than the government, and will also reduce administrative burdens on the state.

As my colleagues know, since its inception in 1975, our Federal-State Child Support Enforcement Program has been tasked with collecting child support for families receiving public assistance and other families that request help in enforcing child support. Towards this end, the program works to establish paternity and legally-binding support orders, while collecting and disbursing funds on behalf of families so that children receive the support they need to grow up in healthy, nurturing surroundings.

But on one crucial point, the current program does not truly work on behalf of families and, perhaps more importantly, may actually work against families by discouraging non-custodial parents from meeting their child support obligations.

If the family was never on public assistance, the support is collected by the Child Support Enforcement Program and sent directly to the family. However, under current law, most child support collected on behalf of families receiving public assistance is retained by the state and Federal governments as reimbursement for welfare expenditures. In addition to this cost recoupment function, collections made on behalf of welfare families are used to fund the child support program in many states.

Thus, under current law, we have a system where the vast majority of children on public assistance never actually receive the child support that is paid on their behalf. The government keeps the money. The research shows that many non-custodial parents who pay support do not believe that their payment actually benefits their children. They realize and resent that they are paying the government. Worse yet, some non-custodial parents may decide not to pay support because it does not go to their children. Some custodial parents also are skeptical about working with the child support agency to secure payments since the funds are generally not forwarded to them.

Mr. President, we know that an estimated 800,000 families would not need public assistance if they could count on the child support owed to them. In addition, we know that 23 million children are owed more than $40 billion in outstanding support. Clearly, the vital importance of child support in keeping families off of assistance remains as true today as when the program began. In a world with TANF time limits, it has never been more important. And with these figures in mind, it is not unthinkable that some policymakers may have or might still consider this program as a means of recovering welfare expenditures.

But I am convinced that that thinking must change, if not cast off entirely, because, simply put, times have changed. The welfare reform law of 1996, which I supported, paved the way for time limits and work requirements that provide clear and compelling incentives for families to enter the workforce and find a way to stay there. Open ended, unconditional public support is no longer a reality, and our goal and responsibility as policymakers, now more than ever before, is to give families the tools and resources they need to prepare for and ultimately survive the day when they are without public assistance.

We fundamentally changed welfare, now we must fundamentally reexamine the central role of child support in helping families as they struggle to become and remain self-sufficient. And I say we go down the road of putting children first, a path on which we have already made some progress. Under the welfare reform law, states will eventually be required to distribute state-collected child support arrears owed to the family before paying off arrears owed to the state and Federal governments for welfare expenditures. In addition, states were given the option of continuing to passthrough directly the first $50 of child support to the family.

One state, my state of Wisconsin, has opted to pass through all child support collected on behalf of participating families to those families. As you know, Wisconsin has been a leader and national model in the area of welfare reform. Under Wisconsin's welfare program, child support counts as income in determining financial eligibility for welfare assistance, but once eligibility is established, the child support income is disregarded in calculating program benefits. In other words, families are allowed to keep their own money. Non-custodial parents can be assured that their contribution counts and that their child support payments go to their children. And both parents are

presented with a realistic picture of what that support means in the life of their child. I believe we, as a nation, should follow Wisconsin's example.

The full passthrough and disregard approach also has significant benefits on the administrative side. The current distribution requirements place significant computer, accounting and paperwork burdens on the states. They are also costly. Data from the Federal Office of Child Support demonstrates that nearly 20 percent of program expenditures are spent simply processing payments. States are required to maintain a complicated set of accounts to determine whether support collected should be paid to the family or kept by the government. These complex accounting rules depend on whether the family ever received public assistance, the date a family begins and ends assistance, whether the non-custodial parent is current on payments or owes arrears, the method of collection and other factors.

We know that we have already asked much of the states in the realm of automation, systems integration and welfare law child support enforcement adjustments. We hope and believe these improvements will lead to better collection rates. Now we have a chance to simplify and improve distribution of support. What could be simpler than a distribution system in which all child support collected would be delivered to the children to whom it is owed? A distribution system in which child support agencies would distribute current support and arrears to both welfare and non-welfare families in exactly the same way?

Mr. President, I am raising these points and introducing this legislation today, in the final week of the 105th Congress, as a marker, as a starting point to this discussion. Child support financing must be addressed. First, our current distribution scheme is out of step with the philosophy of current welfare policy. We must move the child support program from cost-recovery to service delivery for all families. Second, the current financing scheme is no longer workable. TANF caseloads are decreasing dramatically, even as overall child support caseloads are increasing. Therefore, while the system needs additional resources, the portion of the caseload that produces those resources is decreasing. We must put the child support program on a sound financial footing that confirms a strong Federal and state commitment to the program.

So, I believe it is time to begin a discussion on the issue of child support financing and the vital role of the child support program in helping families help themselves. The Administration has already begun to meet with policymakers, state administrators, and children's advocates to discuss the future of child support financing. I want to begin today, and ultimately end the debate, by pushing for a financing system that puts more resources into the hands of children, that lets our nation's families keep more of their own money.

But let me strongly affirm that adopting a children first policy is only one of my goals. At this time, my proposal addresses only one half of the financing issue. Yes, we should put children first, but let me stress that I have every intention of continuing to refine this proposal so that it addresses the second point as well—finding alternative financing mechanisms so that states can maintain and strengthen their child support programs. Without adequate funding, state child support programs cannot deliver effective child support services to the families that so desperately need them. I want to continue working with my colleagues, Wisconsin and the other states, advocates and families to sort out the rest of the financing question. By advocating a full passthrough and disregard approach, I am absolutely not advocating a disinvestment in our child support system by either the Federal government or the states. Our commitment to this program must remain strong and steadfast.

But it is time for us to create a system that truly serves families by giving them the tools to survive in a world without public support. It is time for a child support financing system that truly puts families, and not the government, first.

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

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

S. 2586

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 ''Children First Child Support Reform Act of 1998''.

SEC. 2. DISTRIBUTION AND TREATMENT OF CHILD SUPPORT COLLECTED BY OR ON BEHALF OF FAMILIES RECEIVING ASSISTANCE UNDER TANF.

(a) REQUIREMENT TO PASS ALL CHILD SUPPORT COLLECTED DIRECTLY TO THE FAMILY.—

(1) IN GENERAL.—Section 457 of the Social Security Act (42 U.S.C. 657) is amended—

(A) by striking all that precedes subsection (f) and inserting the following:

''SEC. 457. DISTRIBUTION OF COLLECTED SUPPORT.

''(a) DISTRIBUTION TO FAMILY.—

''(1) IN GENERAL.—Subject to paragraph (2) and subsection (f), any amount collected on behalf of a family as support by a State pursuant to a plan approved under this part shall be distributed to the family.

''(2) FAMILIES UNDER CERTAIN AGREEMENTS.—In the case of an amount collected for a family in accordance with a cooperative agreement under section 454(33), the State shall distribute the amount so collected pursuant to the terms of the agreement.

''(b) HOLD HARMLESS PROVISION.—If the amounts collected which could be retained by the State in the fiscal year (to the extent necessary to reimburse the State for amounts paid to families as assistance by the State) are less than the State share of the amounts collected in fiscal year 1995, the State share for the fiscal year shall be an amount equal to the State share in fiscal year 1995.'';

(B) by redesignating subsection (f) as subsection (c); and

(C) in subsection (c) (as so redesignated), by striking ''Notwithstanding'' and inserting ''AMOUNTS COLLECTED ON BEHALF OF CHILDREN IN FOSTER CARE.—Notwithstanding''.

(2) CONFORMING AMENDMENTS.—

(A) Section 409(a)(7)(B)(i)(I))(aa) of the Social Security Act (42 U.S.C. 609(a)(7)(B)(i)(I)(aa)) is amended by striking ''457(a)(1)(B)'' and inserting ''457''.

(B) Section 454B(c) of such Act (42 U.S.C. 654b(c)) is amended by striking ''457(a)'' and inserting ''457''.

(b) DISREGARD OF CHILD SUPPORT COLLECTED FOR PURPOSES OF DETERMINING AMOUNT OF TANF ASSISTANCE.—Section 408(a) of the Social Security Act (42 U.S.C. 608(a)) is amended by adding at the end the following:

''(12) REQUIREMENT TO DISREGARD CHILD SUPPORT IN DETERMINING AMOUNT OF ASSISTANCE.—

''(A) IN GENERAL.—A State to which a grant is made under section 403 shall disregard any amount received by a family as a result of a child support obligation in determining the amount or level of assistance that the State will provide to the family under the State program funded under this part.

''(B) OPTION TO INCLUDE CHILD SUPPORT FOR PURPOSES OF DETERMINING ELIGIBILITY.—A State may include any amount received by a family as a result of a child support obligation in determining the family's income for purposes of determining the family's eligibility for assistance under the State program funded under this part.''.

(c) ELIMINATION OF TANF REQUIREMENT TO ASSIGN SUPPORT TO THE STATE.—

(1) IN GENERAL.—Section 408(a) of the Social Security Act (42 U.S.C. 608(a)) is amended by striking paragraph (3).

(2) CONFORMING AMENDMENTS.—

(A) Section 452 of the Social Security Act (42 U.S.C. 652) is amended—

(i) in subsection (a)(10)(C), by striking ''section 408(a)(3) or under''; and

(ii) in subsection (h), by striking ''or with respect to whom an assignment pursuant to section 408(a)(3) is in effect''.

(B) Section 454(5) of such Act (42 U.S.C. 654(5)) is amended by striking ''(A) in any case'' and all that follows through ''the support payments collected, and (B)''.

(C) Section 456(a) of such Act (42 U.S.C. 656(a)) is amended—

(i) in paragraph (1), by striking ''assigned to the State pursuant to section 408(a)(3) or''; and

(ii) in paragraph (2)(A), by striking ''assigned''.

(D) Section 464(a)(1) of such Act (42 U.S.C. 654(a)(1)) is amended by striking ''section 408(a)(3) or ''.

(E) Section 466(a)(3)(B) of such Act (42 U.S.C. 666(a)(3)(B)) is amended by striking ''408(a)(3) or ''.

(F) Section 458A(b)(5)(C)(i)(I) of the Social Security Act (42 U.S.C. 658a(b)(5)(C)(i)(I)), as added by the Child Support Performance and Incentive Act of 1998 (Public Law 105–200; 112 Stat. 645) is amended by striking ''A or''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section take effect on October 1, 1998.

(2) CHILD SUPPORT PERFORMANCE AND INCENTIVE ACT CONFORMING AMENDMENT.—The amendment made by subsection (c)(2)(F) shall take effect on October 2, 1999.●

By Mr. WYDEN:

S. 2587. A bill to protect the public, especially seniors, against telemarketing fraud and telemarketing fraud over the Internet and to authorize an educational campaign to improve senior citizens' ability to protect themselves against telemarketing fraud over the Internet; to the Committee on Commerce, Science, and Transportation.

TELEMARKETING FRAUD AND SENIORS PROTECTION ACT

Mr. WYDEN. Mr. President, online consumer purchases are poised to explode to more than $300 billion early in the next Century. But the goldrush in cyberbuying is likely to carry along with it a boom in cyberfraud. Congress can help head-off this cybercrime by extending our current telemarketing laws to encompass fraud on the Net.

In response to the staggering $40 billion consumers lose in telephone fraud each year, Congress earlier this summer passed the 1998 Telemarketing Fraud Prevention Act. I strongly supported that effort. The new law builds upon the four federal laws enacted since the early 1990s that deal directly with telemarketing fraud. The 1998 law stiffens penalties for telemarketing fraud by toughening the sentencing guidelines—especially for crimes against the elderly, requires criminal forfeiture to ensure the booty of telemarketing crime is not used to commit further fraud, mandates victim restitution to ensure victims are the first ones compensated, adds conspiracy language to the list of telemarketing fraud penalties so that prosecutors can find the masterminds behind the boiler rooms, and will help law enforcement zero in on quick-strike fraud operations by giving them the authority to move more quickly against suspected fraud.

The 1998 law is a good step forward but it's not enough to deal with today's digital economy. As more Americans go online, cyberscams are bound to proliferate. The Congressional crackdown on telemarketing fraud will only encourage cyberscammers to migrate to the Net unless the law gets there first. That is the purpose of the legislation I am introducing today.

The Telemarketing Fraud and Seniors Protection Act simply extends current law against telemarketing fraud to include the same crimes committed over the Internet. The approach expands the existing law applicable to mail, telephone, wire, and television fraud to fraud over the Internet, and its enforcement would follow the same division of labor there is today between the Federal Trade Commission and the Department of Justice. The bill would apply the same tough penalties that Congress enacted earlier this year to cyberscams. The growth of Internet telephony makes it more attractive for cyberscammers to set up shop offshore, beyond the reach of U.S. law. My bill would address this problem by allowing law enforcement to freeze the assets and deny entry to the United States of those convicted of cyberfraud.

The bill takes special aim against those attempt to defraud one of our most vulnerable groups—our senior citizens. Seniors are the target for more than 50 percent of telemarketing fraud. Although telemarketers convicted of fraud face stiff penalties—a minimum of 5–10 years in jail and restitution payments to their victims, we also need to better educate and inform senior citizens on how to avoid becoming victims of telemarketing fraud in the first place, and how to assist law enforcement in catching the perpetrators.

The legislation would also authorize the Administration on Aging, through its network of area agencies of aging, to conduct an outreach program to senior citizens on telemarketing fraud. Seniors would be advised against providing their credit card number, bank account or other personal information unless they had initiated the call unsolicited. They would also be informed of their consumer protection rights and any toll-free numbers and other resources to report suspected illegal telemarketing.

Mr. President, the Federal Trade Commission is off to a good start against cyberscammers. Some of the operations the FTC has targeted are not companies at all, but merely websites that promise consumers everything from huge new consulting contracts to the elimination of bad credit reports. They may use scare tactics to frighten consumers into sending important personal financial information and hundreds of dollars for services the consumer will never see, or attempt to lure consumers with the promise of help them cash in on the Internet explosion. The FTC also has a strong operation going against junk e-mailers. My legislation will complement and strengthen the FTC's effort to target telemarketing fraud over the Internet and especially when such fraud is aimed at seniors.

I urge my colleagues to join me in this important legislation, and ask unanimous consent that a copy of the legislation be printed in the RECORD.

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

S. 2587

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

TITLE I—TELEMARKETING FRAUD OVER THE INTERNET

SECTION 101. EXTENSION OF CRIMINAL FRAUD STATUTE TO INTERNET.

Section 1343 of title 18, United States Code, is amended by——

(1) striking ''or television communication'' and inserting ''television communication or the Internet''; and

(2) adding at the end thereof the following: ''For purposes of this section, the term 'Internet' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected worldwide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.''.

SEC. 102. FEDERAL TRADE COMMISSION SANCTIONS.

The Federal Trade Commission shall initiate a rulemaking proceeding to set forth the application of section 5 of the Federal Trade Commission Act (15 U.S.C. 45) and other statutory provisions within its jurisdiction to deceptive acts or practices in or affecting the commerce of the United States in connection with the promotion, advertisement, offering for sale, or sale of goods or services through use of the Internet, including the initiation, transmission, and receipt of unsolicited commercial electronic mail. For purposes of this section, the term 'Internet' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected worldwide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

TITLE II—SPECIAL PROTECTION FOR SENIOR CITIZENS

SEC. 201. FINDINGS.

The Congress finds that——

(1) telemarketing fraud costs consumers nearly $40,000,000,000 each year;

(2) senior citizens are often the target of telemarketing fraud;

(3) fraudulent telemarketers compile into ''mooch lists'' the names of potentially vulnerable consumers;

(4) according to the American Association of Retired Persons, 56 percent of the names on ''mooch lists'' are individuals age 50 or older;

(5) the Department of Justice has undertaken successful investigations and prosecutions of telemarketing fraud through various operations, including ''Operation Disconnect'', ''Operation Senior Sentinel'', and ''Operation Upload'';

(6) the Federal Bureau of Investigation has helped provide resources to assist organizations such as the American Association of Retired Persons to operate outreach programs designed to warn senior citizens whose names appear on confiscated ''mooch lists'';

(7) the Administration on Aging was formed, in part, to provide senior citizens with the resources, information, and assistance their special circumstances require;

(8) the Administration on Aging has a system in place to effectively inform senior citizens of the dangers of telemarketing fraud; and

(9) senior citizens need to be warned of the dangers of telemarketing fraud and fraud over the Internet before they become victims.

SEC. 202. PURPOSE.

It is the purpose of this title through education and outreach to protect senior citizens from the dangers of telemarketing fraud and fraud over the Internet and to facilitate the investigation and prosecution of fraudulent telemarketers.

SEC. 203. DISSEMINATION OF INFORMATION.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Assistant Secretary for Aging, shall publicly disseminate in each State information designed to educate senior citizens and raise awareness about the dangers of telemarketing fraud and fraud over the Internet.

(b) INFORMATION.—In carrying out subsection (a), the Secretary shall——

(1) inform senior citizens of the prevalence of telemarketing fraud and fraud over the Internet targeted against them;

(2) inform senior citizens of how telemarketing fraud and fraud over the Internet works;

(3) inform senior citizens of how to identify telemarketing fraud and fraud over the Internet;

(4) inform senior citizens of how to protect themselves against telemarketing fraud and fraud over the Internet, including an explanation of the dangers of providing bank account, credit card, or other financial or personal information over the telephone to unsolicited callers;

(5) inform senior citizens of how to report suspected attempts at telemarketing fraud and fraud over the Internet;

(6) inform senior citizens of their consumer protection rights under Federal law; and

(7) provide such other information as the Secretary considers necessary to protect senior citizens against fraudulent telemarketing over the Internet.

(c) MEANS OF DISSEMINATION.—The Secretary shall determine the means to disseminate information under this section. In making such determination, the Secretary shall consider——

(1) public service announcements;

(2) a printed manual or pamphlet;

(3) an Internet website; and

(4) telephone outreach to individuals whose names appear on ''mooch lists'' confiscated from fraudulent telemarketers.

(d) PRIORITY.—In disseminating information under this section, the Secretary shall give priority to areas with high concentrations of senior citizens.

SEC. 204. AUTHORITY TO ACCEPT GIFTS.

The Secretary may accept, use, and dispose of unconditional gifts, bequests, or devises of services or property, both real and personal, in order to carry out this title.

SEC. 205. DEFINITION.

For purposes of this title, the term ''State'' includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

By Mr. CONRAD (for himself, Mr. NICKLES, and Mr. INOUYE):

S. 2588. A bill to provide for the review and classification of physician assistant positions in the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

OFFICE OF PERSONNEL MANAGEMENT LEGISLATION

● Mr. CONRAD. Mr. President, today, I am pleased to be joined by Senator NICKLES and Senator INOUYE to introduce legislation that directs the Office of Personnel and Management (OPM) to develop a classification standard appropriate to the occupation of physician assistant.

Physician assistants are a part of a growing field of health care professionals that make quality health care available and affordable in underserved areas throughout our country. Because the physician assistant profession was very young when OPM first developed employment criteria in 1970, the agency adapted the nursing classification system for physician assistants. Today, this is no longer appropriate. Physician assistants have different education and training requirements than nurses and they are licensed and evaluated according to differnt criteria.

The inaccurate classification of physician assistant has led to recruitment and retention problems of physician assistants in Federal agencies, usually caused by low starting salaries and low salary caps. Because it is recognized that physician assistants provide cost-effective health care, this is an important problem to resolve.

This legislation mandates that OPM review this classification in consultation with physician assistants and the organizations that represent physician assistants. The bill specifically states that OPM should consider the educational and practice qualifications of the position as well as the treatment of physician assistants in the private sector in this review.

Mr. President, I believe that this legislation will make an important correction that will help federal agencies make better use of these providers of cost-effective, high quality health care.●

By Mr. MURKOSWKI:

S. 2589. A bill to provide for the collection and interpretation of state of the art, non-intrusive 3-dimensional seismic data on certain federal lands in Alasks, and for other purposes; to the Committee on Energy and Natural Resources.

LEGISLATION AUTHORIZING 3-D SEISMIC TESTING IN ALASKA

● Mr. MURKOWSKI. Mr. President, today I introduce legislation to ensure that when Congress looks at ways to reduce the United States' dependence on foreign oil, it does so with the best science available.

The legislation I introduce today would require the Secretary of the Interior to conduct 3-dimensional (3-D) seismic testing on the Arctic Coastal Plain of Alaska.

This testing leaves no footprint. In fact, just last year the U.S. Fish and Wildlife Service allowed such testing to be done in the Kenai National Wildlife Refuge, declaring such testing would have no significant impact.

It would have even less impact on the frozen tundra in ANWR.

It is also a possibility that the oil industry would be willing to share in the cost of such testing. Let's at least find out what kind of resource we are talking about.

Mr. President, I think it is important that we look at some of the history of his area and the testing that has occurred there.

In May of this year, the U.S. Geological Survey estimated that a mean of 7.7 billion barrels of producible oil may reside in the 1002 Area of the Arctic Oil Reserve.

This estimate was in stark contrast to a declaration by Secretary Babbitt in 1995 when he pronounced the Arctic Oil Reserve's oil possibilities to be about 898 million barrels.

In the interest of looking at this amazing leap in the estimate of the AOR's producible oil, I chaired a hearing of the Senate Energy and Natural Resources Committee last week, and invited the U.S. Geological Survey to participate.

Three things rang clear at that hearing:

First, while these estimates were the highest ever and proved the 1002 area of the AOR has the greatest potential of securing our Nation's energy needs—they were extremely conservative.

For instance, these estimates were based on a minimum economic field size of 512 million barrels. When in practice the minimum economic field size in Alaska is much lower than that. Consider the following examples of current economic fields in Alaska:

Northstar: 145 mm/bb (With a sub-sea pipeline) is deemed economic. Badami: 120 mm/bb is deemed economic. Liberty: 120 mm/bb is deemed economic. Sourdough: 100+ mm/bb (adjacent to Aor) is deemed economic.

The second fact that rang clear is while these new estimates show a clearer picture of the Western portion of the AOR, much remains unclear about the oil and gas potential of the massive structures present in the Eastern portion.

The USGS has slightly downgraded the potential of the Eastern portion because they do not have similar data that was available to them on the Western portion.

Third, technology has increased so dramatically that we can now extract greater amounts of oil from wells with far less impact on the environment at a cost of 30 percent less than 10 years ago.

Consider this, Mr. President: In June of 1994, Amerada Hess concluded the Northstar field in Alaska was uneconomic because development would exceed $1.2 billion and eventually sold the field to BP.

Today, BP expects to begin production of that field's 145 million barrels of reserves in 2000. Estimated development costs: $350 million—a 70 percent reduction from just 4 years ago!

Mr. President, all these factors point toward the logical conclusion that underlying the 1.5 million-acre oil reserve in Alaska lies greater reserves than recently estimated, and we need to confirm them with better science.

Dr. Thomas J. Casadevall, acting director of the USGS, was very clear in his explanation that if the newer three dimensional (3–D) seismic data were available from the Arctic Oil Reserve, their high May estimates of producible oil could increase significantly.

Casadevall explained that their new estimates, while supported by sound science and peer review, were still based on 2–D seismic tests done more than a decade ago.

Kenneth A. Boyd, director, Division of Oil and Gas of the Alaska Department of Natural Resources, likened the advance of the new testing to the difference between an x-ray and a CAT-scan.

He said the available information from 2–D seismic as opposed to 3–D seismic is that the former produces a line of data while the latter produces a cube of data. The cube can be turned

and examined from all sides and the geologic information proves invaluable for exploration.

This data has revolutionized exploration and development of the North Slope of Alaska. Modern 3–D data provides enhanced and incredibly accurate imaging of potential subsurface reservoirs.

This in turn reduces exploration and development risk, reduces the number of drilled wells, and in turn reduces both overall costs and environmental impacts.

Of course there is little pressure to allow testing or exploration of the Coastal Plain with gas prices at a 30-year low. However, the Department of Energy's Information Administration predicts, in 10 years, America will be at least 64 percent dependent on foreign oil. It would take that same 10-year period to develop any oil production in AOR.

It seems prudent to plan ahead to protect our future energy security.

If the Nation were to be crunched in an energy crisis—like the Gulf war that would require the speedup of development; that development could impact the environment negatively because it would not have the benefit of thoughtful planning.

I believe it is as criminal as stealing gold to refuse to acknowledge the potential for producible oil in the Coastal Plain of the AOR. If we don't know what the resource is, how can we protect it or make an informed decision about the use of the area?

And how can those in this administration or the environmental community argue it is a bad idea to seek a greater understanding of these public lands? Particularly, when the Congress set aside the area under a special designation for future Congresses to determine whether it contains the quantities of oil that, if produced, would significantly enhance our national energy security.

Mr. President, this legislation will also better enable the Secretary of the Interior to protect the Federal petroleum resources underlying the Coastal Plain. However, without knowing what those Federal resources are however, there is no way to protect them.

Just last year a major oil discovery was announced on State lands immediately adjacent to the federal border. Production from this well could drain portions of the federal reserve without adequate compensation to the federal treasury.

The Secretary has an obligation to protect the Federal resource underlying ANWR and this legislation will provide him the tools to do so.

Finally, Mr. President, I want to make it perfectly clear that this bill is being pushed by those of us in Congress who believe that if you are to make a decision about the best use of our public lands that you should do so with the benefit of the best available science.

It is not, as Secretary Babbitt has suggested, an effort being pushed by the petroleum industry.●

By Mr. KERRY:

S. 2591. A bill to provide certain secondary school students with eligibility for certain campus-based assistance under title IV of the Higher Education Act of 1965; to the Committee on Labor and Human Resources.

TECH-PREP OPPORTUNITIES ACT

● Mr. KERREY. Mr. President, today I introduce a piece of legislation that, I believe, takes an important step toward giving more individuals the ability to earn good wages so that they can support themselves and their families. This bill will allow community colleges to use their campus-based student aid to assist students who are concurrently enrolled in a high school and in a vocational-technical program in a community college. This legislation helps us solve a national problem, but it also helps more young people achieve the American Dream.

We must recognize that a degree from a four-year college or university is not the only ticket to a successful, productive life. Only 60% of high school graduates enroll in college, and only 20% end up with a four-year degree. Community colleges are playing an increasingly important role in helping the other 80% of our students obtain the advanced technical training that is vital to our economy and to their futures.

Today the Senate also passed the conference report that will reauthorize vocational education. I am pleased to have played a role in this process. At my request the conferees have included language that will encourage institutions to investigate opportunities for tech-prep secondary students to enroll concurrently in secondary and post-secondary coursework. The bill that I am introducing today builds upon this concept in a tangible way.

As we address the need for highly skilled workers in Nebraska and throughout the nation, we must change the way that we think about our education system, and especially the way that we think about those students who are on the verge of graduation. We must make certain that a high school diploma has real value, that it says to an employer, ''I have the skills and the knowledge to make a valuable contribution to your business.''

This legislation allows community colleges to offer a helping hand to students who are still in high school but have exhausted the vocational-technical offerings and are ready and able to enroll in such programs at a community college. Throughout the nation many students are already dually enrolled, but either the school district pays the tuition or the student must pay it. In Nebraska, more than 100 students in Omaha Public Schools are dually enrolled. And more than 50 in Bellevue Public Schools are dually enrolled. Some students have the ability to enroll in a vocational-technical program, but they do not have the financial means. By making this change in law, community colleges can assist those students if they choose to do so.

With a Federal commitment of $7,400,000 last year, Nebraska provided vocational and applied technology education to approximately 70,000 secondary students and 47,800 postsecondary students. This money is a wise investment, but we need to do more.

I look forward to working with my colleagues in Congress next year to further our commitment to preparing our young people to achieve the American Dream.●

By Mr. DORGAN (for himself, Mr. JOHNSON, Mr. BAUCUS, and Mr. CONRAD):

S. 2592. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to permit a State to register a Canadian pesticide for distribution and use within that State; to the Committee on Agriculture, Nutrition, and Forestry.

CANADIAN CROSS-BORDER CHEMICAL LEGISLATION

● Mr. DORGAN. Mr. President, today, I introduce the first in what will be a number of bills addressing the inequalities in the availability and pricing of agricultural chemicals between the United States and Canada. This bill focuses on the differences in prices between identical or nearly identical chemicals. The need for this bill is created by chemical companies who use our chemical labeling laws to protect their pricing and marketing system. By labeling similar products only for use in different states or countries or only for use on certain plants, chemical companies are able to extract unreasonable profits from farmers who desperately need their products.

A second part of my effort to correct differences between agricultural chemicals used in Canada and the United States is a study by the General Accounting Office (GAO). I am now finalizing discussions with GAO as to the specific areas to be studied and the scope of the study. It is my expectation that I will introduce legislation in the next session of Congress to correct the remaining deficiencies.

Of particular concern lately has been the significant difference in farm chemical prices between Canada and the United States. Because our farmers are engaged in a difficult trade battle with Canada, differences in agricultural chemical prices between Canada and the United States place our farmers at a disadvantage with their Canadian competition. This bill is drafted to correct

As introduced today, the bill sets up a procedure by which states may apply for, and receive, an Environmental Protection Agency label for agricultural chemicals sold in Canada which are identical or substantially similar to agricultural chemicals used in the United States. Initially, this bill will allow the cross border movement of similar chemicals. Eventually, it is my expectation that this bill, along with the GAO study, will lead to an equalization of farm chemical availability and prices across the border.

I request my colleagues' support in this effort to bring fairness to cross-border chemical pricing.●

By Mr. GRAHAM:

S. 2593. A bill to amend the Internal Revenue Code of 1986 to provide a credit against tax for employers who provide child care assistance for dependents of their employees, and for other purposes; to the Committee on Finance.

THE WORKSITE CHILD CARE DEVELOPMENT CENTER ACT OF 1998

Mr. GRAHAM. Mr. President, I rise today to introduce legislation designed to aid millions of American families with one of their most pressing needs—child care. This legislation would make child care more accessible to millions of families who find it not only important, but necessary, to work.

In the ideal world, most parents, I believe, would prefer to have their children raised by at least one parent at home. However, for a vast majority of families in America, this ideal is not possible. And for the working poor and many in the middle class of our society, this ideal is a luxury that they cannot afford.

The legislation which I am introducing today would not solve the child care needs of American parents. However, it would serve to provide a much needed incentive—a jump start—to promote employer provided child care, particularly among our nation's small businesses.

The legislation I am introducing today would offer a tax credit to those employers who undertake the responsibility of assisting their employees with child care expenses. This bill—the Worksite Child Care Development Center Act of 1998—would modify that part of the Internal Revenue Code of 1986 which relates to business tax credits. It would do so by providing child care tax credits to employers for—

A one-time 50 percent tax credit, not to exceed $100,000, specifically for facilities start-up expenses, which includes expansion and renovations of an employer-sponsored child care facility;

A 50 percent tax credit, not to exceed $25,000 annually, for those expenses related to the operating costs of maintaining a child care facility; and

A 50 percent tax credit, not to exceed $50,000 annually, specifically for those employers who provide payments or reimbursements for their employees' child care expenses.

One may ask, ''Why is this legislation important to American employers and employees?'' Mr. President, I submit to you that there are four compelling reasons for the Congress to pass this legislation.

First, child care is a major concern for American families. We should be concerned about child care because it has become one of today's most pressing social issues. Ask working parents today to identify their top daily concerns, and a large proportion will most certainly identify quality, affordable child care as one of them.

On June 1st of this year, I hosted a Florida statewide summit on child care, which was attended by over 500 residents of my state who shared with me their concerns, and sometimes their frustrations, about this issue. The feedback that I received from my constituents covered a myriad of issues reflecting the high level of concern that parents have regarding access, quality, and the level of investment we are making in child care. We had five panel sessions moderated and staffed by 25 of Florida's most distinguished professionals in the field of child development and human services and education. The panels covered a wide range of issues from affordability and access, to quality of care, to public-private partnerships between government and businesses.

I am pleased that I was able to hear from my constituents and from experts regarding the extent and nature of the problem. One participant summed it up well, ''The issues addressed in the summit today are concerns that need to continue to be addressed until the needs are met; however, the needs are going to continue to grow as our preschoolers and school-agers go into middle schools.''

Mr. President, it's no wonder that there is so much interest in the issue of child care. Child care, when it is available, is provided to a child at one of the most important times in that child's life. Indeed, recent research has confirmed what many of us had always believed—that quality child care can positively influence cognitive and social development. Current scientific research tells us that the most crucial period in children's brain development and brain readiness—which determines so much of the course for the rest of their lives—is that time between birth and the age of three.

Second, America's workforce is changing. The work place has changed dramatically over the past fifty years. In 1947, just over one-quarter of all mothers with children between 6 and 17 years of age were in the labor force. By 1996, the labor force participation rate of working mothers had tripled. The Bureau of Labor Statistics reports that 65 percent of all women with children under 18 years of age are now working. This percentage is not expected to decrease—it is expected to grow. As we enter the 21st century, women will comprise 60 per cent of all new entrants into the labor market. A large proportion of these women are expected to be mothers of children under the age of six.

The implications for employers are clear. Employers understand well that our nation's workforce is changing rapidly. Those employers who can attract and hold onto the best employees are likely to be among the most competitive.

Many of our larger corporations and government agencies have recognized this and are already moving in that direction. For example, our nation's military is often cited as having a model child care program for its personnel. Military leaders know well the relationship between a parent's peace of mind and satisfaction with good child care and job performance.

In my State of Florida, several major firms have taken similar steps to invest in their employees. I recently visited Ryder Corporation's Kids' Corner child care center in Miami where more than 100 children are cared for in a top-notch day care program. Ryder has received many accolades, including being recognized as the Best Employer of Women in the State of Florida by the Florida Commission on the Status of Women. Ryder now plans on extending the care that it provides to the children of employees by establishing a charter school on-site.

Similarly, NationsBank, formerly Barnett Bank, in Jacksonville, operates a state of the art child care facility for its employees. According to Ms. Mari White, the Senior Vice President of Work Environment Integration at NationsBank—and a member of my informal Advisory Committee on Child Care—this program makes good business sense. She views the availability of child care at the work site as a workforce retention tool for NationsBank as well as a great recruitment tool for new employees. In addition to its day care center, NationsBank also operates a Satellite Learning Center—a charter school for employees' children.

I commend Ryder Corporation, NationsBank, and the many other corporations in Florida and throughout the nation, which have taken the important step forward in providing child care for its employees. I submit to you that small businesses, which do not have the resources to undertake such efforts, ought to have the ability to offer similar benefits to its employees. My legislation is intended to make it easier for them to do so.

Third, child care is important for the success of Welfare Reform. This legislation is an important component to our national welfare policy. While most American families struggle with child care, this problem is most acute among the working poor and the middle class.

In 1996, Congress and the President changed welfare as we knew it. We made fundamental changes to the policies, and the social expectations, relating to work and welfare. The federal government has asked our business community and governmental agencies to work in partnership in keeping the working poor off of the welfare rolls. If we are to see the reforms of 1996 succeed, we must ensure that the means to succeed are provided.

The working poor—particularly those formerly on welfare—face major challenges associated with staying off of welfare. These challenges include their ability to:

(1) get to and from work;

(2) obtain the job training they need to get and hold onto their job; and

(3) access to affordable and quality child care.

Although States spend millions of dollars each year on subsidized child care, at any given time there may be up to twice as many children eligible who are not enrolled in the system. These children are on child care waiting lists. In the State of Florida for example, as of July of this year, there were 29,744 children on the state's wait list for these services. Many of these families on waiting lists do not receive temporary cash assistance because they work in low-wage jobs, such as in the retail sector, hotel and motel business, fast food restaurants, nursing homes, and child care centers. They earn too much money to qualify for many government programs, yet they earn too little money to have real choices about their child care.

This is not an issue of whether they should stay at home or work—they must work. In other words, for them child care is not an option, it is a necessity. I am reminded of a letter that I recently received from Ms. Ruth Pasarell-Valencia, the Commissioner at the Housing Authority of the City of Miami Beach, in which she states, ''We need to wake up from the nightmare of child care neglect. In this era of Welfare Reform and cuts in many public assistance benefits, we have to be very careful not to hurt our children in the process of making adults self-sufficient.''

By addressing our citizens' child care needs, particularly that of our working poor, the federal government has an opportunity to contribute to the success of welfare reform. This legislation offered today would be one part of the federal government's response to this need.

Fourth, small businesses need this support.

Mr. President, I believe that the provisions contained in my legislation will be a boon for American small businesses. According to the Small Business Administration, small businesses in America employ:

Fifty two percent of all private workers;

Sixty one percent of private workers on public assistance; and

Thirty eight percent of private workers in high-tech occupations.

Small businesses have contributed virtually all of the net new jobs which have been created during these recent years of job growth. And small businesses represent 96 percent of all exporters of goods leaving the United States. Small businesses are truly a big piston in the engine of our nation's economy.

Yet, we know that the owners of small businesses struggle to make ends meet. That is why initiatives like the one I propose are important for strengthening the vitality of our small business community. For small businesses, resources are limited and survival in a competitive world market is difficult. Think of the impact on a small business when one of its employees is absent for the day to care for his or her child because that employee's day care worker is sick that day with the flu.

According to the U.S. Department of the Treasury, employers surveyed reported positive benefits associated with providing child care to its employees. The Treasury Department's data indicates:

Sixty two percent reported higher morale;

Fifty four percent reported reduced absenteeism;

Fifty two percent reported increased productivity; and

Thirty seven percent reported lower job turnover.

Providing child care to employees can be a major step-up for small businesses. My legislation would provide tax credits to the employers who make investments to help their businesses and their employees with child care, or back-up child care when their regular services are not available.

Mr. President, in concluding, I would like to thank the 30 members of my Informal Children's Development Advisory Committee in Florida which has provided invaluable support to me, my staff, and Floridians throughout the state. This group of dedicated individuals, who hail from a wide variety of professions, were instrumental in organizing the Child Care Summit which we held in South Florida in June of this year. They have worked with child care professionals, parents, and business groups to raise awareness on this issue, and have supported my efforts to draft this important legislative proposal.

To them, I offer my deepest thanks for the assistance they have provided me and for all of their hard work on behalf of the welfare of children in Florida.

I would like to quote Ms. Janet Ndah, the Dean of Students at the Punta Gorda Middle School in Punta Gorda, Florida, who says of my legislation: ''As an educator and a working parent, care for children is definitely a priority and a challenge. Therefore, I am extremely supportive of this child care act and in particular, the tax credits that employers would receive as they begin a site-based child care facility.''

Ms. Phyllis J. Siderits, who works at the Florida Department of Health—and who has served as a member of my Advisory Committee—also has written to me of the benefits of this proposal: ''This Act is of benefit to employers as well as employees. For too long, I have witnessed the inability to maintain qualified and competent employees because of child care issues, whether those issues were ones of compensation, scheduling and work time difficulties, or caretaker concerns. It is especially gratifying to know that this act would be of benefit to employees who have children with special needs and allow the employees to have closer contact with their children during the day where employer-sponsored child care facilities exist. We have not supported single-parent or dual-parent families who work and have tremendous difficulties obtaining child care. The ideal solution is an employer-sponsored child care facility. I think this proposed legislation offers all of the incentives to create a win-win solution for employers and employees.''

Mr. President, I am disappointed that it seems that the Administration's child care initiatives will not pass Congress this year. That comprehensive proposal outlined by the President at the start of this year would have provided much needed support to American families in this vital area. However, I believe that the legislation which I am introducing today would make a valuable contribution to the quality of life and care for families; the success of Welfare Reform; and the strengthening of our small business community.

On July 30, 1998, I introduced, with 20 of my colleagues, a Senate Resolution which would designate October 11, 1998 as National Children's Day. That legislation now has 52 cosponsors and is awaiting passage by this Congress. It is only fitting that I am introducing this child care legislation just days prior to that date which the United States Senate is designating as ''National Children's Day.''

Mr. President, it is in recognition of our commitment to the children of our nation that I introduce the Worksite Child Care Development Center Act of 1998. Our children and their families deserve our support. Mr. President, I ask unanimous consent that the text of S. Res. 260 and a list of the members of the Advisory Committee be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. RES. 260

Whereas the people of the United States should celebrate children as the most valuable asset of the Nation;

Whereas children represent the future, hope, and inspiration of the United States;

Whereas the children of the United States should be allowed to feel that their ideas and dreams will be respected because adults in the United States take time to listen;

Whereas many children of the United States face crises of grave proportions, especially as they enter adolescent years;

Whereas it is important for parents to spend time listening to their children on a daily basis;

Whereas modern societal and economic demands often pull the family apart;

Whereas encouragement should be given to families to set aside a special time for all family members to engage together in family activities;

Whereas adults in the United States should have an opportunity to reminisce on their youth and to recapture some of the fresh insight, innocence, and dreams that they may have lost through the years;

Whereas the designation of a day to commemorate the children of the United States will provide an opportunity to emphasize to children the importance of developing an ability to make the choices necessary to distance themselves from impropriety and to contribute to their communities;

Whereas the designation of a day to commemorate the children of the Nation will emphasize to the people of the United States the importance of the role of the child within the family and society;

Whereas the people of the United States should emphasize to children the importance of family life, education, and spiritual qualities; and

Whereas children are the responsibility of all Americans and everyone should celebrate the children of the United States, whose questions, laughter, and tears are important to the existence of the United States: Now, therefore, be it

Resolved, That—

(1) it is the sense of the Senate that October 11, 1998, should be designated as ''National Children's Day''; and

(2) the President is requested to issue a proclamation calling upon the people of the United States to observe ''National Children's Day'' with appropriate ceremonies and activities.

SENATOR GRAHAM'S APPOINTEES TO THE INFORMAL FLORIDA STATEWIDE CHILDREN'S DEVELOPMENT ADVISORY COMMITTEE

1997–1998 MEMBERS

Ms. Mary Bryant, Children's Coordinator, Executive Office of the Governor, Tallahassee; Ms. Gloria Dean, ESOL Instructor, Neptune Beach Elementary School, Jacksonville; Ms. Tana Ebbole, Executive Director, Children's Services Council, West Palm Beach; Dr. Rebecca Fewell, Director, Debbie Institute, University of Miami School of Medicine, Miami; Mr. William S. Fillmore, President, Florida Head Start Directors Association, Pinellas Park.

Dr. Steve Freedman, Director, Institute for Child Health Policy, University of Florida, Gainesville; Ms. Jane Goodman, Executive Director, Guard Ad Litem-Miami, Miami; Dr. Mimi Graham, Director, Center for Prevention and Early Intervention Policy, Florida State University, Tallahassee; Mr. Ted Granger, President, United Way of Florida, Tallahassee; Ms. Mary Frances Hanline, Associate Professor, Department of Special Education, Florida State University, Tallahassee.

Dr. Delores Jeffers, Executive Director, Lawton and Rhea Chiles Center for Healthy Mothers and Babies, Department of Community and Family Health, University of South Florida, Tampa; Ms. Katherine Kamiya, Chairwoman, Florida Interagency Coordinating Council for Infants and Toddlers, Lawton and Rhea Chiles Center for Healthy Mothers and Babies, Tallahassee; Ms. Daniella Levine, Executive Director, Human Services Coalition of Dade County, Inc., Coral Gables; Dr. Ann Levy, Director, Educational Research Center for Childhood Development, Florida State University, Tallahassee; Ms. Barbara Mainster, Executive Director, Redlands Christian Migrant Association, Immokalee.

Ms. Esmin Master, Executive Director, First Coast Developmental Academy, Jacksonville; Mr. James E. Mills, Executive Director, Juvenile Welfare Board of Pinellas County, Pinellas Park; Mr. James J. Mooney, Director, Metro-Dade Office of Youth and Family Development, Miami; Ms. Susan Muenchow, Executive Director, Florida Children's Forum, Tallahassee; Ms. Joan Nabors, Executive Director, Florida Initiatives, Inc., Tallahassee.

Ms. Rose Naff, Executive Director, Florida Healthy Kids Corporation, Tallahassee; Ms. Janet Ndah, Dean of Students, Punta Gorda Middle School, Punta Gorda; Dr. Pam Phelps, Vice President, Creative Center for Childhood Research and Training, Tallahassee; Ms. Patricia Pierce, Associate Executive Director, Institute for Child Health Policy, Gulfport; Mr. Larry Pintacuda, Chief of Child Care, Florida Department of Children and Families, Tallahassee.

Mr. Peter Roulhac, Vice President, First Union National Bank of Florida, Miami; Ms. Phyliss Siderits, Assistant Division Director, Children's Medical Services, Tallahassee; Dr. Linda Stone, Program Director, Lawton and Rhea Chiles Center for Healthy Mothers and Babies, University of South Florida, Winter Park; Dr. Barbara Weinstein, President/CEO, Family Central, Fort Lauderdale; Dr. Anita Zervigon-Hakes, Interagency Coordinator, Maternal and Child Health, Lawton and Rhea Chiles Center for Healthy Mothers and Babies Tallahassee.

By Mr. DASCHLE (for himself and Mr. MURKOWSKI):

S. 2595. A bill to amend the Housing and Community Development Act of 1974 to provide affordable housing and community development assistance to rural areas with excessively high rates of outmigration and low per capita income levels; to the Committee on Banking, Housing, and Urban Affairs.

THE RURAL RECOVERY ACT OF 1998

Mr. DASCHLE. Mr. President, today I am introducing legislation that will help rural areas affected by severe population loss improve their economic conditions and create high-paying jobs. We are experiencing first-hand the challenge of retaining entire generations in many parts of rural South Dakota as the agricultural crisis deepens and fewer and fewer young people can find economically-rewarding opportunities that give them reason to stay. As a result, young people are being forced to leave the towns in which they grew up for better jobs in urban areas, causing a depressing loss of generational continuity and a foreboding sign for the future of these rural communities.

Too often we forget that while the economic growth experienced in our urban areas is a necessary element of a sound national economy, the health and vitality of our rural areas are just as critical to our Nation's economic future, and to its character. If nothing is done to address the out-migration that is currently being experienced by our most rural communities, we will continue to jeopardize the future of rural America.

That is why I am introducing legislation to provide these critical rural areas with the resources necessary to create the good jobs that will help young families remain active residents of the rural communities in which they choose to live. The Rural Recovery Act of 1998 would provide a minimum of $250,000 per year to counties and tribes with out-migration levels of fifteen percent or higher, per-capita income levels that are below the national average, and whose exterior borders are not adjacent to a metropolitan area.

The legislation authorizes the United States Department of Housing and Urban Development to set aside $50 million in Community Development Block Grant funding. The money, which is already included in the agency's budget, will be allocated on a formula basis to rural counties and tribes suffering from out migration and low per-capita income levels.

County and tribal governments will be able to use this Federal funding to improve their industrial parks, purchase land for development, build affordable housing and develop economic recovery strategies. All of these important steps will help rural communities address their economic challenges and plan for stable long-term growth and development.

While Federal agencies such as the United States Department of Agriculture's Office of Rural Development and the Economic Development Administration do provide aid for rural development purposes, there are no federal programs that provide a steady source of funding for rural areas most affected by severe out migration and low per-capita income. For these areas, the process of encouraging economic growth is arduous. I strongly believe the Rural Recovery Act of 1998 will provide the long term assistance required to aid the coordinated efforts of local community leaders as they begin economic recovery efforts that will ensure a bright future for rural America.

In August, Senator MURKOWSKI and I introduced legislation to provide assistance to rural communities that experience extremely high electric power rates. Today, I am pleased that he has agreed to join me in cosponsoring this legislation to assist rural areas with high out-migration and low per-capita incomes. It is important that Congress do whatever it can to assist these economically-challenged rural areas to remain vibrant participants in the American Dream. Senator MURKOWSKI and I expect to combine these bills and introduce them as a single piece of legislation next year.

I hope that my colleagues will join Senator MURKOWSKI and I during the 106th Congress to enact these important new policies. 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. 2596

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 ''Rural Recovery Act of 1998''.

SEC. 2. RURAL RECOVERY COMMUNITY DEVELOPMENT BLOCK GRANTS.

Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) is amended by adding at the end the following:

''SEC. 123. RURAL RECOVERY COMMUNITY DEVELOPMENT BLOCK GRANTS.

''(a) FINDINGS; PURPOSE.—

''(1) FINDINGS.—Congress finds that—

''(A) a modern infrastructure, including affordable housing, wastewater and water service, and advanced technology capabilities is a necessary ingredient of a modern society and development of a prosperous economy with minimal environmental impacts;

''(B) the Nation's rural areas face critical social, economic, and environmental problems, arising in significant measure from the growing cost of infrastructure development in rural areas that suffer from low per capita income and high rates of outmigration and are not adequately addressed by existing Federal assistance programs; and

''(C) the future welfare of the Nation and the well-being of its citizens depend on the establishment and maintenance of viable rural areas as social, economic, and political entities.

''(2) PURPOSE.—The purpose of this section is to provide for the development and maintenance of viable rural areas through the provision of affordable housing and community development assistance to eligible units of general local government and eligible Indian tribes in rural areas with excessively high rates of outmigration and low per capita income levels.

''(b) DEFINITIONS.—In this section:

''(1) ELIGIBLE UNIT OF GENERAL LOCAL GOVERNMENT.—The term 'eligible unit of general local government' means a unit of general local government that is the governing body of a rural recovery area.

''(2) ELIGIBLE INDIAN TRIBE.—The term 'eligible Indian tribe' means the governing body of an Indian tribe that is located in a rural recovery area.

''(3) GRANTEE.—The term 'grantee' means an eligible unit of general local government or eligible Indian tribe that receives a grant under this section.

''(4) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native Village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93–638) or was considered an eligible recipient under chapter 67 of title 31, United States Code, prior to the repeal of such chapter.

''(5) RURAL RECOVERY AREA.—The term 'rural recovery area' means any geographic area represented by a unit of general local government or an Indian tribe—

''(A) the borders of which are not adjacent to a metropolitan area;

''(B) in which—

''(i) the annual population outmigration level equals or exceeds 15 percent, as determined by Secretary of Agriculture; and

''(ii) the per capita income is less than that of the national nonmetropolitan average; and

''(C) that does not include a city with a population of more than 2,500.

''(6) UNIT OF GENERAL LOCAL GOVERNMENT.—

''(A) IN GENERAL.—The term 'unit of general local government' means any city, county, town, township, parish, village, borough (organized or unorganized), or other general purpose political subdivision of a State; Guam, the Northern Mariana Islands, the Virgin Islands, Puerto Rico, and American Samoa, or a general purpose political subdivision thereof; a combination of such political subdivisions that, except as provided in section 106(d)(4), is recognized by the Secretary; the District of Columbia; and the Trust Territory of the Pacific Islands.

''(B) OTHER ENTITIES INCLUDED.—The term also includes a State or a local public body or agency (as defined in section 711 of the Housing and Urban Development Act of 1970), community association, or other entity, that is approved by the Secretary for the purpose of providing public facilities or services to a new community as part of a program meeting the eligibility standards of section 712 of the Housing and Urban Development Act of 1970 or title IV of the Housing and Urban Development Act of 1968.

''(c) GRANT AUTHORITY.—The Secretary may make grants in accordance with this section to eligible units of general local government and eligible Indian tribes that meet the requirements of subsection (d) to carry out eligible activities described in subsection (f).

''(d) ELIGIBILITY REQUIREMENTS.—

''(1) STATEMENT OF RURAL DEVELOPMENT OBJECTIVES.—In order to receive a grant under this section for a fiscal year, an eligible unit of general local government or eligible Indian tribe—

''(A) shall—

''(i) publish a proposed statement of rural development objectives and a description of the proposed eligible activities described in subsection (f) for which the grant will be used; and

''(ii) afford residents of the rural recovery area served by the eligible unit of general local government or eligible Indian tribe with an opportunity to examine the contents of the proposed statement and the proposed eligible activities published under clause (i), and to submit comments to the eligible unit of general local government or eligible Indian tribe, as applicable, on—

''(I) the proposed statement and the proposed eligible activities; and

''(II) the overall community development performance of the eligible unit of general local government or eligible Indian tribe, as applicable; and

''(B) based on any comments received under subparagraph (A)(ii), prepare and submit to the Secretary—

''(i) a final statement of rural development objectives;

''(ii) a description of the eligible activities described in subsection (f) for which a grant received under this section will be used; and

''(iii) a certification that the eligible unit of general local government or eligible Indian tribe, as applicable, will comply with the requirements of paragraph (2).

''(2) PUBLIC NOTICE AND COMMENT.—In order to enhance public accountability and facilitate the coordination of activities among different levels of government, an eligible unit of general local government or eligible Indian tribe that receives a grant under this section shall, as soon as practicable after such receipt, provide the residents of the rural recovery area served by the eligible unit of general local government or eligible Indian tribe, as applicable, with—

''(A) a copy of the final statement submitted under paragraph (1)(B);

''(B) information concerning the amount made available under this section and the eligible activities to be undertaken with that amount;

''(C) reasonable access to records regarding the use of any amounts received by the eligible unit of general local government or eligible Indian tribe under this section in any preceding fiscal year; and

''(D) reasonable notice of, and opportunity to comment on, any substantial change proposed to be made in the use of amounts received under this section from 1 eligible activity to another.

''(e) DISTRIBUTION OF GRANTS.—

''(1) IN GENERAL.—In each fiscal year, the Secretary shall distribute to each eligible unit of general local government and eligible Indian tribe that meets the requirements of subsection (d)(1) a grant in an amount described in paragraph (2).

''(2) AMOUNT.—Of the total amount made available to carry out this section in each fiscal year, the Secretary shall distribute to each grantee the amount equal to the greater of—

''(A) the pro rata share of the grantee, as determined by the Secretary, based on the combined annual population outmigration level (as determined by Secretary of Agriculture) and the per capita income for the rural recovery area served by the grantee; and

''(B) $250,000.

''(f) ELIGIBLE ACTIVITIES.—Each grantee shall use amounts received under this section for 1 or more of the following eligible activities, which may be undertaken either directly by the grantee, or by any local economic development corporation, regional planning district, nonprofit community development corporation, or statewide development organization authorized by the grantee:

''(1) The acquisition, construction, repair, reconstruction, operation, maintenance, or installation of facilities for water and wastewater service or any other infrastructure needs determined to be critical to the further development or improvement of a designated industrial park.

''(2) The acquisition or disposition of real property (including air rights, water rights, and other interests therein) for rural community development activities.

''(3) The development of telecommunications infrastructure within a designated industrial park that encourages high technology business development in rural areas.

''(4) Activities necessary to develop and implement a comprehensive rural development plan, including payment of reasonable administrative costs related to planning and execution of rural development activities.

''(5) Affordable housing initiatives.

''(g) PERFORMANCE AND EVALUATION REPORT.—

''(1) IN GENERAL.—Each grantee shall annually submit to the Secretary a performance and evaluation report, concerning the use of amounts received under this section.

''(2) CONTENTS.—Each report submitted under paragraph (1) shall include a description of—

''(i) publish a proposed statement of rural development objectives and a description of the proposed eligible activities described in subsection (f) for which the grant will be used; and

''(A) the eligible activities carried out by the grantee with amounts received under this section, and the degree to which the grantee has achieved the rural development objectives included in the final statement submitted under subsection (d)(1);

''(B) the nature of and reasons for any change in the rural development objectives or the eligible activities of the grantee after submission of the final statement under subsection (d)(1); and

''(C) any manner in which the grantee would change the rural development objectives of the grantee as a result of the experience of the grantee in administering amounts received under this section.

''(h) RETENTION OF INCOME.—A grantee may retain any income that is realized from the grant, if—

''(1) the income was realized after the initial disbursement of amounts to the grantee under this section; and

''(2) the—

''(A) grantee agrees to utilize the income for 1 or more eligible activities; or

''(B) amount of the income is determined by the Secretary to be so small that compliance with subparagraph (A) would create an unreasonable administrative burden on the grantee.

''(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 1999 through 2005.''.

ADDITIONAL COSPONSORS

S. 520

At the request of Mr. FEINGOLD, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 520, a bill to terminate the F/A–-18 E/F aircraft program.

S. 609

At the request of Mr. KENNEDY, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 609, a bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for reconstructive breast surgery if they provide coverage for mastectomies.

S. 1072

At the request of Mr. SMITH, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1072, a bill to amend title 35, United States Code, to protect patent owners against the unauthorized sale of plant parts taken from plants illegally reproduced, and for other purposes.

S. 1097

At the request of Mr. MOYNIHAN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1097, a bill to reduce acid deposition under the Clean Air Act, and for other purposes.

S. 1251

At the request of Mr. D'AMATO, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1251, a bill to amend the Internal Revenue Code of 1986 to increase the amount of private activity bonds which may be issued in each State, and to index such amount for inflation.

S. 1252

At the request of Mr. D'AMATO, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1255

At the request of Mr. COATS, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 1255, a bill to provide for the establishment of demonstration projects designed to determine the social, civic, psychological, and economic effects of providing to individuals and families with limited means an opportunity to accumulate assets, and to determine the extent to which an asset-based policy may be used to enable individuals and families with limited means to achieve economic self-sufficiency.

S. 2148

At the request of Mr. KENNEDY, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2148, a bill to protect religious liberty.

S. 2200

At the request of Mr. D'AMATO, the name of the Senator from Illinois (Ms. MOSELEY-BRAUN) was added as a cosponsor of S. 2200, a bill to amend the Internal Revenue Code of 1986 to make the exclusion for amounts received under group legal services plans permanent.

S. 2208

At the request of Mr. FRIST, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 2208, a bill to amend title IX of the Public Health Service Act to revise and extend the Agency for Healthcare Policy and Research.

S. 2213

At the request of Mr. FRIST, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 2213, a bill to allow all States to participate in activities under the Education Flexibility Partnership Demonstration Act.

S. 2329

At the request of Mr. JEFFORDS, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2329, a bill to amend the Internal Revenue Code of 1986 to enhance the portability of retirement benefits, and for other purposes.

S. 2343

At the request of Mr. BINGAMAN, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 2343, a bill to amend the Radiation Exposure Compensation Act to provide for partial restitution to individuals who worked in uranium mines, or transport which provided uranium for the use and benefit of the United States Government, and for other purposes.

S. 2358

At the request of Ms. SNOWE, her name was added as a cosponsor of S. 2358, a bill to provide for the establishment of a service- connection for illnesses associated with service in the Persian Gulf War, to extend and enhance certain health care authorities relating to such service, and for other purposes.

S. 2364

At the request of Mr. CHAFEE, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 2364, a bill to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965.

S. 2372

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 2372, a bill to provide for a pilot loan guarantee program to address Year 2000 problems of small business concerns, and for other purposes.

S. 2441

At the request of Mr. DURBIN, the name of the Senator from Illinois (Ms. MOSELEY-BRAUN) was added as a cosponsor of S. 2441, a bill to amend the Nicaraguan Adjustment and Central American Relief Act to provide to nationals of El Salvador, Guatemala, Honduras, and Haiti an opportunity to apply for adjustment of status under that Act, and for other purposes.

S. 2522

At the request of Mr. DEWINE, the names of the Senator from Washington (Mr. GORTON) and the Senator from Pennsylvania (Mr. SANTORUM) were added as cosponsors of S. 2522, a bill to support enhanced drug interdiction efforts in the major transit countries and support a comprehensive supply eradication and crop substitution program in source countries.

S. 2539

At the request of Ms. SNOWE, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 2539, a bill to authorize and facilitate a program to enhance training, research and development, energy conservation and efficiency, and consumer education in the oilheat industry for the benefit of oilheat consumers and the public, and for other purposes.

S. 2565

At the request of Mr. DURBIN, the names of the Senator from North Carolina (Mr. HELMS) and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 2565, a bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the circumstances in which a substance is considered to be a pesticide chemical for purposes of such Act, and for other purposes.

SENATE JOINT RESOLUTION 56

At the request of Mr. GRASSLEY, the names of the Senator from Indiana (Mr. LUGAR) and the Senator from Colorado (Mr. ALLARD) were added as cosponsors of Senate Joint Resolution 56, a joint resolution expressing the sense of Congress in support of the existing Federal legal process for determining the safety and efficacy of drugs, including marijuana and other Schedule I drugs, for medicinal use.

SENATE CONCURRENT RESOLUTION 119

At the request of Mr. FRIST, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of Senate Concurrent Resolution 119, a concurrent resolution recognizing the 50th anniversary of the American Red Cross Blood Services.

SENATE CONCURRENT RESOLUTION 121

At the request of Mr. SPECTER, the names of the Senator from Georgia (Mr. CLELAND), the Senator from Wisconsin (Mr. FEINGOLD), and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of Senate Concurrent Resolution 121, a concurrent resolution expressing the sense of Congress that the President should take all necessary measures to respond to the increase in steel imports resulting from the financial crises in Asia, the independent States of the former Soviet Union, Russia, and other areas of the world, and for other purposes.

SENATE RESOLUTION 56

At the request of Mr. GRASSLEY, the names of the Senator from Indiana (Mr. LUGAR), and the Senator from Colorado (Mr. ALLARD) were withdrawn as cosponsors of Senate Resolution 56, a resolution designating March 25, 1997 as ''Greek Independence Day: A National Day of Celebration of Greek and American Democracy.''

SENATE RESOLUTION 292—EXPRESSING THE SENSE OF THE SENATE REGARDING TACTILE CURRENCY FOR THE BLIND AND VISUALLY IMPAIRED

Ms. MOSELEY-BRAUN submitted the following resolution; which was referred to the Committee on Banking, Housing, and Urban Affairs.

S. RES. 292

Whereas currency is used by virtually everyone in everyday life, including blind and visually impaired persons;

Whereas the Federal reserve notes of the United States are inaccessible to individuals with visual disabilities;

Whereas the Americans with Disabilities Act enhances the economic independence and equal opportunity for full participation in society for individuals with disabilities;

Whereas most blind and visually impaired persons are therefore required to rely upon others to determine denominations of such currency;

Whereas this constitutes a serious impediment to independence in everyday living:

Whereas electronic means of bill identification will always be more fallible than purely tactile means;

Whereas tactile currency already exists in 23 countries worldwide; and

Whereas the currency of the United States is presently undergoing significant changes for security purposes: Now, therefore, be it

Resolved, That the Senate—

(1) endorses the efforts recently begun by the Bureau of Engraving and Printing to upgrade the currency for security reasons; and

(2) strongly encourages the Secretary of the Treasury and the Bureau of Engraving and Printing to incorporate cost-effective, tactile features into the design changes, thereby including the blind and visually impaired community in independent currency usage.

● Ms. MOSELEY-BRAUN. Mr. President, today I am submitting a resolution that encourages the Bureau of Printing and Engraving to incorporate tactile features on the currency to aid the blind. This resolution enjoys considerable bipartisan support, and was passed by voice vote in the House of Representatives.

Four years ago, Mary Scroggs, a constituent of mine, was hit by a drunk driver on the sidewalk in front of her office as she walked to lunch. As a result, she was left visually-impaired. Since this time, she has tirelessly pursued opportunities to improve the ability of the visually-impaired to live independently. It was her voice on this issue which brings me to introduce this important legislation.

In March 1994, the Bureau of Engraving and Printing commissioned the National Academy of Science to execute a study entitled ''Current Features for Visually Impaired People.'' This report explored the methods of making currency more accessible for all Americans.

In 1997, the Bureau of Engraving and Printing began implementing significant changes to simplify the identification of currency, such as larger numbers and higher color contrast, to ease identification of counterfeit currency. This resolution simply endorses the efforts of the Bureau of Printing and Engraving to study the cost-effective tactile changes to aid those afflicted with low vision or blindness and encourages those changes in the national currency.

This minor change in currency will have a significant impact on the independence of visually impaired Americans. Moreover, incorporating tactual features can serve other purposes, such as being an additional counterfeit deterrent.

Visually impaired individuals are capable, independent people whose valuable contributions touch all of our lives. It is important that all Americans are afforded equal opportunities to perform at the best of their abilities. I hope all of my colleagues will join me in supporting this resolution.●

SENATE RESOLUTION 293—EXPRESSING THE SENSE OF THE SENATE THAT NADIA DABBAGH SHOULD BE RETURNED HOME TO HER MOTHER, MS. MAUREEN DABBAGH

Mr. ROBB (for himself, Mr. GRAHAM, Mr. WARNER, and Ms. FEINSTEIN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 293

Whereas Mr. Mohamad Hisham Dabbagh and Mrs. Maureen Dabbagh had a daughter, Nadia Dabbagh, in 1990.

Whereas Maureen Dabbagh and Mohamad Hisham Dabbagh were divorced in February 1992.

Whereas in 1993, Nadia was abducted by her farther.

Whereas Mohamad Dabbagh later fled the country with Nadia.

Whereas the governments of Syria and the United States have granted child custody to Maureen Dabbagh and both have issued arrest warrants for Mohamad Dabbagh.

Whereas Mohamad Dabbagh has escaped to Saudi Arabia.

Whereas the United States Department of State believes Nadia now resides in Syria.

Whereas Maureen Dabbagh, with the assistance of missing children organizations, has been unable to reunite with her daughter.

Whereas the Department of State, the Federal Bureau of Investigation and Interpol have been unsuccessful in her attempts to bring Nadia back to the United States.

Whereas Maureen Dabbagh has not seen her daughter in over five years.

Whereas it will take the continued effort and pressure on the part of Syrian officials to bring this case to a successful conclusion: Now, therefore, be it

Resolved, That it is the Sense of the Senate that the governments of the United States and Syria immediately locate Nadia and deliver her safely to her mother.

Mr. ROBB. Mr. President, I am submitting a resolution today expressing the Sense of the Senate regarding a heinous crime affecting a family in Virginia and a growing problem in this country.

According to Department of Justice statistics, 114,600 children are the subject of an abduction attempt by a stranger each year, and 12 children are actually abducted by a stranger every day. The statistics on child abductions by non-custodial parents is even more alarming, with 983 abductions each and every day.

I believe that we, as members of Congress, as parents, and as concerned citizens of this country, should use all available resources in an exhaustive effort to locate missing and abducted children.

Today, through this Sense of the Senate resolution, I seek to bring to your attention the plight of Ms. Maureen Dabbagh of Virginia Beach. Ms. Dabbagh has not seen her daughter, Nadia, in five years. At the age of three, Mr. Mohamad Hisham Dabbagh illegally abducted Nadia and fled the United States. He is wanted on state and federal warrants in connection with this abduction and he has been the subject of an international ''wanted'' notice since 1996. Since the abduction, Ms. Dabbagh has not seen or heard from her child. She has been aided in her ordeal by many caring people, groups and government agencies, however, to this day, Nadia still has not been returned to her mother.

Mr. President, I greatly sympathize with the plight of Maureen Dabbagh and other parents facing similar situations. I wish to redouble all efforts to bring Nadia home.

SENATE CONCURRENT RESOLUTION 125—EXPRESSING THE OPPOSITION OF CONGRESS TO ANY DEPLOYMENT OF UNITED STATES GROUND FORCES IN KOSOVO

Mr. INHOFE (for himself, Mr. LOTT, Mr. HELMS, Mrs. HUTCHISON, Mr. BURNS, Mr. STEVENS, Mr. THOMAS, Mr. HUTICHINSON, Mr. SMITH of New Hampshire, Mr. MURKOWSKI, Mr. BENNETT, Mr. ALLARD, Mr. CAMPBELL, Mr. MACK, Mr. CRAIG, Mr. GRAMS, Mr. FAIRCLOTH, Mr. SESSIONS, Mr. ENZI, and Mr. HATCH) submitted the following concurrent resolution which was referred to the Committee on Foreign Relations:

S. CON. RES. 125

Whereas Kosovo, unlike Bosnia, is a province of the sovereign nation of Serbia;

Whereas there is no vital United States national security interest at stake in the current violence taking place in Kosovo;

Whereas an Act of Congress is necessary for the introduction of the Armed Forces of the United States into hostilities or situations where imminent involvement in hostilities is clearly indicated by the circumstances, when such action is not required for the defense of the United States, its Armed Forces, or its nationals;

Whereas President Clinton is contemplating ordering such a deployment to Kosovo in the near future in conjunction with NATO;

Whereas the Secretary of Defense, William Cohen, opposes the deployment of ground forces in Kosovo, as reflected in his testimony before Congress on October 6, 1998;

Whereas the lessons of United States military involvement in Bosnia clearly argue that the costs and duration of any such deployment for peacekeeping purposes will be much heavier and much longer than initially foreseen; and

Whereas the substantial drain on military readiness of a deployment in Kosovo would be inconsistent with the need, recently acknowledged by the Joint Chiefs of Staff, to reverse the trends which are decimating the ability of the Armed Forces of the United States to carry out the basic National Military Strategy of the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress hereby expresses its opposition to any deployment of United States ground forces into the Serbian province of Kosovo for peacemaking or peacekeeping purposes.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

SENATE CONCURRENT RESOLUTION 126—EXPRESSING THE SENSE OF CONGRESS THAT THE PRESIDENT SHOULD REASSERT THE TRADITIONAL OPPOSITION OF THE UNITED STATES TO THE UNILATERAL DECLARATION OF A PALESTINIAN STATE

Mr. D'AMATO (for himself and Mr. WYDEN) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 126

Resolved by the Senate (the House of Representatives concurring),

Whereas the United States has never endorsed the creation of an independent Palestinian state;

Whereas the United States has traditionally opposed the unilateral declaration of a Palestinian state because of concerns that such a state could pose a threat to Israel and would likely have a destabilizing effect on the entire Middle East;

Whereas the United States stated its position, after Israel and the Palestinians signed the Oslo Accords, that all questions of Palestinian sovereignty and statehood are matters which must be mutually agreed upon by the parties;

Whereas, the Administration's recent statements on a unilateral declaration of a Palestinian state have been contradictory and confusing;

Whereas a unilateral declaration of Palestinian statehood would be a grievous violation of the Oslo Accords;

Whereas despite the Oslo Accords, Chairman Arafat, his cabinet, and the Palestinian National Council, have threatened to unilaterally proclaim the establishment of a Palestinian state in May, 1999;

Whereas the Palestinian cabinet, on September 24, 1998 stated that "at the end of the interim period, it (the Palestinian government) shall declare the establishment of a Palestinian state on all Palestinian land occupied since 1967, with Jerusalem as the eternal capital of the Palestinian state";

Whereas Chairman Arafat in speaking to the United Nations on September 28, 1998, called on world leaders to support an independent Palestinian state;

Whereas Chairman Arafat stated on July 15, 1998, that "[t]here is a transition period of 5 years and after 5 years we have the right to declare an independent Palestinian state.";

Whereas Palestinian National Council Speaker Salim al-Za'nun stated on June 15, 1998, that: "If following our declaration of a state, Israel renews its occupation of East Jerusalem, the West Bank, and the Gaza Strip, the Palestinian people will struggle and resist the occupier with all means possible, including armed struggle": Now, therefore, be it

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

(1) Israel, and Israel alone, can determine its security needs; and

(2) The final political status of the Palestinian entity can only be determined through bilateral negotiations and agreement between Israel and the Palestinian Authority; and

(3) Any such unilateral declaration of a Palestinian state would be a grievous violation of the Oslo Accords, would seriously impede any possibility of advancing the peace process, and would have severe negative consequences for Palestinian relations with the United States; and

(4) The President should now publicly and unequivocally state that the United States will actively oppose such a unilateral declaration and will not extend recognition to any unilaterally declared Palestinian state.

Mr. D'AMATO. Mr. President, today, along with my colleague from Oregon, Senator Ron WYDEN, I submit a Concurrent Resolution opposing the unilateral declaration of a Palestinian State. The House version of this resolution is being introduced by Rep. JIM SAXTON, my colleague from New Jersey.

Mr. President, Yasir Arafat seeks to abandon the Oslo process and unilaterally declare a Palestinian state at the conclusion of the transition period of five years, in May 1999. He has even gone as far as calling upon world leaders to support an independent Palestinian state. This is wholly unacceptable.

I have in the past questioned Arafat's motives and his sincerity and I do so again. This act on his part will be a clear abrogation of the Peace Process and a slap in the face to Israel which has adhered to the process, despite continual non-compliance by the Palestinians. But then, we should not be surprised. This is the same group that harbors and praises those who kill innocent men, women and children in bus bombings that kill Israelis and Americans alike.

Five years ago, the world was provided with a glimmer of hope that the leopard had changed its spots, but that hope was never realized. Not only did the leopard not change his spots, he has grown bigger and bolder. The Palestinian Authority, which Arafat now heads, has been legitimized and now carries out its aggressive policies, not under the cover of darkness like the PLO used to do, but in broad daylight for all to see. In no way can the United States lend further credence to this terrorist force.

The purpose of this resolution is to send the message that the United States cannot and should not extend recognition to a unilaterally declared Palestinian state. Moreover, the President should publicly and unequivocally state that the United States will actively oppose such a declaration. If Israel were to take a unilateral action in defiance of Oslo, the Palestinians would express outrage over the violations. The Palestinians view themselves as different however. Such a move by the Palestinians cannot be allowed. The final political status of the Palestinians can only be determined through bilateral negotiation and agreement between Israel and the Palestinian Authority, not by a unilateral act in defiance of the very agreement the Palestinians signed with Israel.

Mr. President, my colleagues and I are serious. The Administration must understand that such a move by the Palestinians is an insult to all those who were patient in light of all of the Palestinian violations of the peace. Moreover, the Administration in legitimizing these acts, would be humiliating Israel which is the only true democracy in the Middle East and our close ally. The Administration's confusion on the issue in recent months has not helped matters and the extension of diplomatic recognition would severely harm the U.S. ability to act as an impartial mediator between the two parties. Simply put, U.S. recognition of a Palestinian declaration of statehood would be the acceptance and acquiescence of the Palestinians' violation of its commitments under Oslo. We would be rewarding them for their flagrant violations of the Peace Process. This would be an error of historical proportion. I can only hope we do not make this mistake.

Mr. President, I urge my colleagues to support this resolution and urge its speedy passage.

AMENDMENTS SUBMITTED

ADVISORY COUNCIL ON CALIFORNIA INDIAN POLICY EXTENSION ACT OF 1998

CAMPBELL AMENDMENT NO. 3788

(Ordered to lie on the table.)

Mr. CAMPBELL submitted an amendment intended to be proposed by him to the bill (H.R. 3069) to extend the Advisory Council on California Indian Policy to allow the Advisory Council to advise Congress on the implementation of the proposals and recommendations of the Advisory Council; as follows:

Strike section 4.

FREEDOM FROM RELIGIOUS PERSECUTION ACT OF 1998

NICKLES AMENDMENT NO. 3789

Mr. NICKLES proposed an amendment to the bill (H.R. 2431) to establish an Office of Religious Persecution

Monitoring, to provide for the imposition of sanctions against countries engaged in a pattern of religious persecution, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''International Religious Freedom Act of 1998''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings; policy.
Sec. 3. Definitions.

TITLE I—DEPARTMENT OF STATE ACTIVITIES

Sec. 101. Office on International Religious Freedom; Ambassador at Large for International Religious Freedom.
Sec. 102. Reports.
Sec. 103. Establishment of a religious freedom Internet site.
Sec. 104. Training for Foreign Service officers.
Sec. 105. High-level contacts with non-governmental organizations.
Sec. 106. Programs and allocations of funds by United States missions abroad.
Sec. 107. Equal access to United States missions abroad for conducting religious activities.
Sec. 108. Prisoner lists and issue briefs on religious freedom concerns.

TITLE II—COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

Sec. 201. Establishment and composition.
Sec. 202. Duties of the Commission.
Sec. 203. Report of the Commission.
Sec. 204. Applicability of other laws.
Sec. 205. Authorization of appropriations.
Sec. 206. Termination.

TITLE III—NATIONAL SECURITY COUNCIL

Sec. 301. Special Adviser on International Religious Freedom.

TITLE IV—PRESIDENTIAL ACTIONS

Subtitle I—Targeted Responses to Violations of Religious Freedom Abroad

Sec. 401. Presidential actions in response to violations of religious freedom.
Sec. 402. Presidential actions in response to particularly severe violations of religious freedom.
Sec. 403. Consultations.
Sec. 404. Report to Congress.
Sec. 405. Description of Presidential actions.
Sec. 406. Effects on existing contracts.
Sec. 407. Presidential waiver.
Sec. 408. Publication in Federal Register.
Sec. 409. Termination of Presidential actions.
Sec. 410. Preclusion of judicial review.

Subtitle II—Strengthening Existing Law

Sec. 421. United States assistance.
Sec. 422. Multilateral assistance.
Sec. 423. Exports of certain items used in particularly severe violations of religious freedom.

TITLE V—PROMOTION OF RELIGIOUS FREEDOM

Sec. 501. Assistance for promoting religious freedom.
Sec. 502. International broadcasting.
Sec. 503. International exchanges.
Sec. 504. Foreign Service awards.

TITLE VI—REFUGEE, ASYLUM, AND CONSULAR MATTERS

Sec. 601. Use of Annual Report.
Sec. 602. Reform of refugee policy.
Sec. 603. Reform of asylum policy.
Sec. 604. Inadmissibility of foreign government officials who have engaged in particularly severe violations of religious freedom.
Sec. 605. Studies on the effect of expedited removal provisions on asylum claims.

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Business codes of conduct.

SEC. 2. FINDINGS; POLICY.

(a) FINDINGS.—Congress makes the following findings:

(1) The right to freedom of religion undergirds the very origin and existence of the United States. Many of our Nation's founders fled religious persecution abroad, cherishing in their hearts and minds the ideal of religious freedom. They established in law, as a fundamental right and as a pillar of our Nation, the right to freedom of religion. From its birth to this day, the United States has prized this legacy of religious freedom and honored this heritage by standing for religious freedom and offering refuge to those suffering religious persecution.

(2) Freedom of religious belief and practice is a universal human right and fundamental freedom articulated in numerous international instruments, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Helsinki Accords, the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief, the United Nations Charter, and the European Convention for the Protection of Human Rights and Fundamental Freedoms.

(3) Article 18 of the Universal Declaration of Human Rights recognizes that ''Everyone has the right to freedom of thought, conscience, and religion. This right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship, and observance.''. Article 18(1) of the International Covenant on Civil and Political Rights recognizes that ''Everyone shall have the right to freedom of thought, conscience, and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice, and teaching''. Governments have the responsibility to protect the fundamental rights of their citizens and to pursue justice for all. Religious freedom is a fundamental right of every individual, regardless of race, sex, country, creed, or nationality, and should never be arbitrarily abridged by any government.

(4) The right to freedom of religion is under renewed and, in some cases, increasing assault in many countries around the world. More than one-half of the world's population lives under regimes that severely restrict or prohibit the freedom of their citizens to study, believe, observe, and freely practice the religious faith of their choice. Religious believers and communities suffer both government-sponsored and government-tolerated violations of their rights to religious freedom. Among the many forms of such violations are state-sponsored slander campaigns, confiscations of property, surveillance by security police, including by special divisions of ''religious police'', severe prohibitions against construction and repair of places of worship, denial of the right to assemble and relegation of religious communities to illegal status through arbitrary registration laws, prohibitions against the pursuit of education or public office, and prohibitions against publishing, distributing, or possessing religious literature and materials.

(5) Even more abhorrent, religious believers in many countries face such severe and violent forms of religious persecution as detention, torture, beatings, forced marriage, rape, imprisonment, enslavement, mass resettlement, and death merely for the peaceful belief in, change of or practice of their faith. In many countries, religious believers are forced to meet secretly, and religious leaders are targeted by national security forces and hostile mobs.

(6) Though not confined to a particular region or regime, religious persecution is often particularly widespread, systematic, and heinous under totalitarian governments and in countries with militant, politicized religious majorities.

(7) Congress has recognized and denounced acts of religious persecution through the adoption of the following resolutions:

(A) House Resolution 515 of the One Hundred Fourth Congress, expressing the sense of the House of Representatives with respect to the persecution of Christians worldwide.

(B) Senate Concurrent Resolution 71 of the One Hundred Fourth Congress, expressing the sense of the Senate regarding persecution of Christians worldwide.

(C) House Concurrent Resolution 102 of the One Hundred Fourth Congress, expressing the sense of the House of Representatives concerning the emancipation of the Iranian Baha'i community.

(b) POLICY.—It shall be the policy of the United States, as follows:

(1) To condemn violations of religious freedom, and to promote, and to assist other governments in the promotion of, the fundamental right to freedom of religion.

(2) To seek to channel United States security and development assistance to governments other than those found to be engaged in gross violations of the right to freedom of religion, as set forth in the Foreign Assistance Act of 1961, in the International Financial Institutions Act of 1977, and in other formulations of United States human rights policy.

(3) To be vigorous and flexible, reflecting both the unwavering commitment of the United States to religious freedom and the desire of the United States for the most effective and principled response, in light of the range of violations of religious freedom by a variety of persecuting regimes, and the status of the relations of the United States with different nations.

(4) To work with foreign governments that affirm and protect religious freedom, in order to develop multilateral documents and initiatives to combat violations of religious freedom and promote the right to religious freedom abroad.

(5) Standing for liberty and standing with the persecuted, to use and implement appropriate tools in the United States foreign policy apparatus, including diplomatic, political, commercial, charitable, educational, and cultural channels, to promote respect for religious freedom by all governments and peoples.

SEC. 3. DEFINITIONS.

In this Act:

(1) AMBASSADOR AT LARGE.—The term ''Ambassador at Large'' means the Ambassador at Large for International Religious Freedom appointed under section 101(b).

(2) ANNUAL REPORT.—The term ''Annual Report'' means the Annual Report on International Religious Freedom described in section 102(b).

(3) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives; and

(B) in the case of any determination made with respect to the taking of President action under paragraphs (9) through (15) of section 405(a), the term includes the committees described in subparagraph (A) and, where appropriate, the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(4) COMMENSURATE ACTION.—The term ''commensurate action'' means action taken by the President under section 405(b).

(5) COMMISSION.—The term ''Commission'' means the United States Commission on International Religious Freedom established in section 201(a).

(6) COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES.—The term ''Country Reports on Human Rights Practices'' means the annual reports required to be submitted by the Department of State to Congress under sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961.

(7) EXECUTIVE SUMMARY.—The term ''Executive Summary'' means the Executive Summary to the Annual Report, as described in section 102(b)(1)(F).

(8) GOVERNMENT OR FOREIGN GOVERNMENT.—The term ''government'' or ''foreign government'' includes any agency or instrumentality of the government.

(9) HUMAN RIGHTS REPORTS.—The term ''Human Rights Reports'' means all reports submitted by the Department of State to Congress under sections 116 and 502B of the Foreign Assistance Act of 1961.

(10) OFFICE.—The term ''Office'' means the Office on International Religious Freedom established in section 101(a).

(11) PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.—The term ''particularly severe violations of religious freedom'' means systematic, ongoing, egregious violations of religious freedom, including violations such as—

(A) torture or cruel, inhuman, or degrading treatment or punishment;

(B) prolonged detention without charges;

(C) causing the disappearance of persons by the abduction or clandestine detention of those persons; or

(D) other flagrant denial of the right to life, liberty, or the security of persons.

(12) SPECIAL ADVISER.—The term ''Special Adviser'' means the Special Adviser to the President on International Religious Freedom described in section 101(i) of the National Security Act of 1947, as added by section 301 of this Act.

(13) VIOLATIONS OF RELIGIOUS FREEDOM.—The term ''violations of religious freedom'' means violations of the internationally recognized right to freedom of religion and religious belief and practice, as set forth in the international instruments referred to in section 2(a)(2) and as described in section 2(a)(3), including violations such as—

(A) arbitrary prohibitions on, restrictions of, or punishment for—

(i) assembling for peaceful religious activities such as worship, preaching, and prayer, including arbitrary registration requirements,

(ii) speaking freely about one's religious beliefs,

(iii) changing one's religious beliefs and affiliation,

(iv) possession and distribution of religious literature, including Bibles, or

(v) raising one's children in the religious teachings and practices of one's choice, or

(B) any of the following acts if committed on account of an individual's religious belief or practice: detention, interrogation, imposition of an onerous financial penalty, forced labor, forced mass resettlement, imprisonment, forced religious conversion, beating, torture, mutilation, rape, enslavement, murder, and execution.

TITLE I—DEPARTMENT OF STATE ACTIVITIES

SEC. 101. OFFICE ON INTERNATIONAL RELIGIOUS FREEDOM; AMBASSADOR AT LARGE FOR INTERNATIONAL RELIGIOUS FREEDOM.

(a) ESTABLISHMENT OF OFFICE.—There is established within the Department of State an Office on International Religious Freedom that shall be headed by the Ambassador at Large for International Religious Freedom appointed under subsection (b).

(b) APPOINTMENT.—The Ambassador at Large shall be appointed by the President, by and with the advice and consent of the Senate.

(c) DUTIES.—The Ambassador at Large shall have the following responsibilities:

(1) IN GENERAL.—The primary responsibility of the Ambassador at Large shall be to advance the right to freedom of religion abroad, to denounce the violation of that right, and to recommend appropriate responses by the United States Government when this right is violated.

(2) ADVISORY ROLE.—The Ambassador at Large shall be a principal adviser to the President and the Secretary of State regarding matters affecting religious freedom abroad and, with advice from the Commission on International Religious Freedom, shall make recommendations regarding—

(A) the policies of the United States Government toward governments that violate the freedom of religion or that fail to ensure the individual's right to religious belief and practice; and

(B) policies to advance the right to religious freedom abroad.

(3) DIPLOMATIC REPRESENTATION.—Subject to the direction of the President and the Secretary of State, the Ambassador at Large is authorized to represent the United States in matters and cases relevant to religious freedom abroad in—

(A) contacts with foreign governments, intergovernmental organizations, and specialized agencies of the United Nations, the Organization on Security and Cooperation in Europe, and other international organizations of which the United States is a member; and

(B) multilateral conferences and meetings relevant to religious freedom abroad.

(4) REPORTING RESPONSIBILITIES.—The Ambassador at Large shall have the reporting responsibilities described in section 102.

(d) FUNDING.—The Secretary of State shall provide the Ambassador at Large with such funds as may be necessary for the hiring of staff for the Office, for the conduct of investigations by the Office, and for necessary travel to carry out the provisions of this section.

SEC. 102. REPORTS.

(a) PORTIONS OF ANNUAL HUMAN RIGHTS REPORTS.—The Ambassador at Large shall assist the Secretary of State in preparing those portions of the Human Rights Reports that relate to freedom of religion and freedom from discrimination based on religion and those portions of other information provided Congress under sections 116 and 502B of the Foreign Assistance Act of 1961 (22 U.S.C. 2151m, 2304) that relate to the right to freedom of religion.

(b) ANNUAL REPORT ON INTERNATIONAL RELIGIOUS FREEDOM.—

(1) DEADLINE FOR SUBMISSION.—On September 1 of each year or the first day thereafter on which the appropriate House of Congress is in session, the Secretary of State, with the assistance of the Ambassador at Large, and taking into consideration the recommendations of the Commission, shall prepare and transmit to Congress an Annual Report on International Religious Freedom supplementing the most recent Human Rights Reports by providing additional detailed information with respect to matters involving international religious freedom. Each Annual Report shall contain the following:

(A) STATUS OF RELIGIOUS FREEDOM.—A description of the status of religious freedom in each foreign country, including—

(i) trends toward improvement in the respect and protection of the right to religious freedom and trends toward deterioration of such right;

(ii) violations of religious freedom engaged in or tolerated by the government of that country; and

(iii) particularly severe violations of religious freedom engaged in or tolerated by the government of that country.

(B) VIOLATIONS OF RELIGIOUS FREEDOM.—An assessment and description of the nature and extent of violations of religious freedom in each foreign country, including persecution of one religious group by another religious group, religious persecution by governmental and nongovernmental entities, persecution targeted at individuals or particular denominations or entire religions, the existence of government policies violating religious freedom, and the existence of government policies concerning—

(i) limitations or prohibitions on, or lack of availability of, openly conducted, organized religious services outside of the premises of foreign diplomatic missions or consular posts; and

(ii) the forced religious conversion of minor United States citizens who have been abducted or illegally removed from the United States, and the refusal to allow such citizens to be returned to the United States.

(C) UNITED STATES POLICIES.—A description of United States actions and policies in support of religious freedom in each foreign country engaging in or tolerating violations of religious freedom, including a description of the measures and policies implemented during the preceding 12 months by the United States under titles I, IV, and V of this Act in opposition to violations of religious freedom and in support of international religious freedom.

(D) INTERNATIONAL AGREEMENTS IN EFFECT.—A description of any binding agreement with a foreign government entered into by the United States under section 401(b) or 402(c).

(E) TRAINING AND GUIDELINES OF GOVERNMENT PERSONNEL.—A description of—

(i) the training described in section 602 (a) and (b) and section 603 (b) and (c) on violations of religious freedom provided to immigration judges and consular, refugee, immigration, and asylum officers; and

(ii) the development and implementation of the guidelines described in sections 602(c) and 603(a).

(F) EXECUTIVE SUMMARY.—An Executive Summary to the Annual Report highlighting the status of religious freedom in certain foreign countries and including the following:

(i) COUNTRIES IN WHICH THE UNITED STATES IS ACTIVELY PROMOTING RELIGIOUS FREEDOM.—An identification of foreign countries in which the United States is actively promoting religious freedom. This section of the report shall include a description of United States actions taken to promote the internationally recognized right to freedom of religion and oppose violations of such right under title IV and title V of this Act during the period covered by the Annual Report.

Any country designated as a country of particular concern for religious freedom under section 402(b)(1) shall be included in this section of the report.

(ii) COUNTRIES OF SIGNIFICANT IMPROVEMENT IN RELIGIOUS FREEDOM.—An identification of foreign countries the governments of which have demonstrated significant improvement in the protection and promotion of the internationally recognized right to freedom of religion during the period covered by the Annual Report. This section of the report shall include a description of the nature of the improvement and an analysis of the factors contributing to such improvement, including actions taken by the United States under this Act.

(2) CLASSIFIED ADDENDUM.—If the Secretary of State determines that it is in the national security interests of the United States or is necessary for the safety of individuals to be identified in the Annual Report or is necessary to further the purposes of this Act, any information required by paragraph (1), including measures or actions taken by the United States, may be summarized in the Annual Report or the Executive Summary and submitted in more detail in a classified addendum to the Annual Report or the Executive Summary.

(c) PREPARATION OF REPORTS REGARDING VIOLATIONS OF RELIGIOUS FREEDOM.—

(1) STANDARDS AND INVESTIGATIONS.—The Secretary of State shall ensure that United States missions abroad maintain a consistent reporting standard and thoroughly investigate reports of violations of the internationally recognized right to freedom of religion.

(2) CONTACTS WITH NONGOVERNMENTAL ORGANIZATIONS.—In compiling data and assessing the respect of the right to religious freedom for the Human Rights Reports, the Annual Report on International Religious Freedom, and the Executive Summary, United States mission personnel shall, as appropriate, seek out and maintain contacts with religious and human rights nongovernmental organizations, with the consent of those organizations, including receiving reports and updates from such organizations and, when appropriate, investigating such reports.

(d) AMENDMENTS TO THE FOREIGN ASSISTANCE ACT.—

(1) CONTENT OF HUMAN RIGHTS REPORTS FOR COUNTRIES RECEIVING ECONOMIC ASSISTANCE.—Section 116(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d)) is amended—

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

(B) by striking the period at the end of paragraph (5) and inserting ''; and ''; and

(C) by adding at the end the following:

''(6) wherever applicable, violations of religious freedom, including particularly severe violations of religious freedom (as defined in section 3 of the International Religious Freedom Act of 1998).''.

(2) CONTENTS OF HUMAN RIGHTS REPORTS FOR COUNTRIES RECEIVING SECURITY ASSISTANCE.—Section 502B(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(b)) is amended—

(A) by inserting ''and with the assistance of the Ambassador at Large for International Religious Freedom'' after ''Labor''; and

(B) by inserting after the second sentence the following new sentence: ''Such report shall also include, wherever applicable, information on violations of religious freedom, including particularly severe violations of religious freedom (as defined in section 3 of the International Religious Freedom Act of 1998).''.

SEC. 103. ESTABLISHMENT OF A RELIGIOUS FREEDOM INTERNET SITE.

In order to facilitate access by nongovernmental organizations (NGOs) and by the public around the world to international documents on the protection of religious freedom, the Secretary of State, with the assistance of the Ambassador at Large, shall establish and maintain an Internet site containing major international documents relating to religious freedom, the Annual Report, the Executive Summary, and any other documentation or references to other sites as deemed appropriate or relevant by the Ambassador at Large.

SEC. 104. TRAINING FOR FOREIGN SERVICE OFFICERS.

Chapter 2 of title I of the Foreign Service Act of 1980 is amended by adding at the end the following new section:

''SEC. 708. TRAINING FOR FOREIGN SERVICE OFFICERS.

''The Secretary of State, with the assistance of other relevant officials, such as the Ambassador at Large for International Religious Freedom appointed under section 101(b) of the International Religious Freedom Act of 1998 and the director of the National Foreign Affairs Training Center, shall establish as part of the standard training provided after January 1, 1999, for officers of the Service, including chiefs of mission, instruction in the field of internationally recognized human rights. Such training shall include—

''(1) instruction on international documents and United States policy in human rights, which shall be mandatory for all members of the Service having reporting responsibilities relating to human rights and for chiefs of mission; and

''(2) instruction on the internationally recognized right to freedom of religion, the nature, activities, and beliefs of different religions, and the various aspects and manifestations of violations of religious freedom.''.

SEC. 105. HIGH-LEVEL CONTACTS WITH NONGOVERNMENTAL ORGANIZATIONS.

United States chiefs of mission shall seek out and contact religious nongovernmental organizations to provide high-level meetings with religious nongovernmental organizations where appropriate and beneficial. United States chiefs of mission and Foreign Service officers abroad shall seek to meet with imprisoned religious leaders where appropriate and beneficial.

SEC. 106. PROGRAMS AND ALLOCATIONS OF FUNDS BY UNITED STATES MISSIONS ABROAD.

It is the sense of Congress that—

(1) United States diplomatic missions in countries the governments of which engage in or tolerate violations of the internationally recognized right to freedom of religion should develop, as part of annual program planning, a strategy to promote respect for the internationally recognized right to freedom of religion; and

(2) in allocating or recommending the allocation of funds or the recommendation of candidates for programs and grants funded by the United States Government, United States diplomatic missions should give particular consideration to those programs and candidates deemed to assist in the promotion of the right to religious freedom.

SEC. 107. EQUAL ACCESS TO UNITED STATES MISSIONS ABROAD FOR CONDUCTING RELIGIOUS ACTIVITIES.

(a) IN GENERAL.—Subject to this section, the Secretary of State shall permit, on terms no less favorable than that accorded other nongovernmental activities unrelated to the conduct of the diplomatic mission, access to the premises of any United States diplomatic mission or consular post by any United States citizen seeking to conduct an activity for religious purposes.

(b) TIMING AND LOCATION.—The Secretary of State shall make reasonable accommodations with respect to the timing and location of such access in light of—

(1) the number of United States citizens requesting the access (including any particular religious concerns regarding the time of day, date, or physical setting for services);

(2) conflicts with official activities and other nonofficial United States citizen requests;

(3) the availability of openly conducted, organized religious services outside the premises of the mission or post;

(4) availability of space and resources; and

(5) necessary security precautions.

(c) DISCRETIONARY ACCESS FOR FOREIGN NATIONALS.—The Secretary of State may permit access to the premises of a United States diplomatic mission or consular post to foreign nationals for the purpose of attending or participating in religious activities conducted pursuant to this section.

SEC. 108. PRISONER LISTS AND ISSUE BRIEFS ON RELIGIOUS FREEDOM CONCERNS.

(a) SENSE OF CONGRESS.—To encourage involvement with religious freedom concerns at every possible opportunity and by all appropriate representatives of the United States Government, it is the sense of Congress that officials of the executive branch of Government should promote increased advocacy on such issues during meetings between foreign dignitaries and executive branch officials or Members of Congress.

(b) PRISONER LISTS AND ISSUE BRIEFS ON RELIGIOUS FREEDOM CONCERNS.—The Secretary of State, in consultation with the Ambassador at Large, the Assistant Secretary of State for Democracy, Human Rights and Labor, United States chiefs of mission abroad, regional experts, and nongovernmental human rights and religious groups, shall prepare and maintain issue briefs on religious freedom, on a country-by-country basis, consisting of lists of persons believed to be imprisoned, detained, or placed under house arrest for their religious faith, together with brief evaluations and critiques of the policies of the respective country restricting religious freedom. In considering the inclusion of names of prisoners on such lists, the Secretary of State shall exercise appropriate discretion, including concerns regarding the safety, security, and benefit to such prisoners.

(c) AVAILABILITY OF INFORMATION.—The Secretary shall, as appropriate, provide religious freedom issue briefs under subsection (b) to executive branch officials and Members of Congress in anticipation of bilateral contacts with foreign leaders, both in the United States and abroad.

TITLE II—COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

SEC. 201. ESTABLISHMENT AND COMPOSITION.

(a) GENERALLY.—There is established the United States Commission on International Religious Freedom.

(b) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of—

(A) the Ambassador at Large, who shall serve ex officio as a nonvoting member of the Commission; and

(B) 9 other members, who shall be United States citizens who are not being paid as officers or employees of the United States, and who shall be appointed as follows:

(i) 3 members of the Commission shall be appointed by the President.

(ii) 3 members of the Commission shall be appointed by the President pro tempore of the Senate, of which 2 of the members shall be appointed upon the recommendation of the leader in the Senate of the political party that is not the political party of the President, and of which 1 of the members shall be appointed upon the recommendation

of the leader in the Senate of the other political party.

(iii) 3 members of the Commission shall be appointed by the Speaker of the House of Representatives, of which 2 of the members shall be appointed upon the recommendation of the leader in the House of the political party that is not the political party of the President, and of which 1 of the members shall be appointed upon the recommendation of the leader in the House of the other political party.

(2) SELECTION.—

(A) IN GENERAL.—Members of the Commission shall be selected among distinguished individuals noted for their knowledge and experience in fields relevant to the issue of international religious freedom, including foreign affairs, direct experience abroad, human rights, and international law.

(B) SECURITY CLEARANCES.—Each Member of the Commission shall be required to obtain a security clearance.

(3) TIME OF APPOINTMENT.—The appointments required by paragraph (1) shall be made not later than 120 days after the date of enactment of this Act.

(c) TERMS.—The term of office of each member of the Commission shall be 2 years. Members of the Commission shall be eligible for reappointment to a second term.

(d) ELECTION OF CHAIR.—At the first meeting of the Commission in each calendar year, a majority of the members of the Commission present and voting shall elect the Chair of the Commission.

(e) QUORUM.—Six voting members of the Commission shall constitute a quorum for purposes of transacting business.

(f) MEETINGS.—Each year, within 15 days, or as soon as practicable, after the issuance of the Country Report on Human Rights Practices, the Commission shall convene. The Commission shall otherwise meet at the call of the Chair or, if no Chair has been elected for that calendar year, at the call of six voting members of the Commission.

(g) VACANCIES.—Any vacancy of the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(h) ADMINISTRATIVE SUPPORT.—The Secretary of State shall assist the Commission by providing to the Commission such staff and administrative services of the Office as may be necessary and appropriate for the Commission to perform its functions. Any employee of the executive branch of Government may be detailed to the Commission without reimbursement to the agency of that employee and such detail shall be without interruption or loss of civil service status or privilege.

(i) FUNDING.—Members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

SEC. 202. DUTIES OF THE COMMISSION.

(a) IN GENERAL.—The Commission shall have as its primary responsibility—

(1) the annual and ongoing review of the facts and circumstances of violations of religious freedom presented in the Country Reports on Human Rights Practices, the Annual Report, and the Executive Summary, as well as information from other sources as appropriate; and

(2) the making of policy recommendations to the President, the Secretary of State, and Congress with respect to matters involving international religious freedom.

(b) POLICY REVIEW AND RECOMMENDATIONS IN RESPONSE TO VIOLATIONS.—The Commission, in evaluating United States Government policies in response to violations of religious freedom, shall consider and recommend options for policies of the United States Government with respect to each foreign country the government of which has engaged in or tolerated violations of religious freedom, including particularly severe violations of religious freedom, including diplomatic inquiries, diplomatic protest, official public protest demarche of protest, condemnation within multilateral fora, delay or cancellation of cultural or scientific exchanges, delay or cancellation of working, official, or state visits, reduction of certain assistance funds, termination of certain assistance funds, imposition of targeted trade sanctions, imposition of broad trade sanctions, and withdrawal of the chief of mission.

(c) POLICY REVIEW AND RECOMMENDATIONS IN RESPONSE TO PROGRESS.—The Commission, in evaluating the United States Government policies with respect to countries found to be taking deliberate steps and making significant improvement in respect for the right of religious freedom, shall consider and recommend policy options, including private commendation, diplomatic commendation, official public commendation, commendation within multilateral fora, an increase in cultural or scientific exchanges, or both, termination or reduction of existing Presidential actions, an increase in certain assistance funds, and invitations for working, official, or state visits.

(d) EFFECTS ON RELIGIOUS COMMUNITIES AND INDIVIDUALS.—Together with specific policy recommendations provided under subsections (b) and (c), the Commission shall also indicate its evaluation of the potential effects of such policies, if implemented, on the religious communities and individuals whose rights are found to be violated in the country in question.

(e) MONITORING.—The Commission shall, on an ongoing basis, monitor facts and circumstances of violations of religious freedom, in consultation with independent human rights groups and nongovernmental organizations, including churches and other religious communities, and make such recommendations as may be necessary to the appropriate officials and offices in the United States Government.

(f) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out its duties under this title, hold hearings, sit and act at times and places in the United States, take testimony, and receive evidence as the Commission considers advisable to carry out the purposes of this Act.

SEC. 203. REPORT OF THE COMMISSION.

(a) IN GENERAL.—Not later than May 1 of each year, the Commission shall submit a report to the President, the Secretary of State, and Congress setting forth its recommendations for United States policy options based on its evaluations under section 202.

(b) CLASSIFIED FORM OF REPORT.—The report may be submitted in classified form, together with a public summary of recommendations, if the classification of information would further the purposes of this Act.

(c) INDIVIDUAL OR DISSENTING VIEWS.—Each member of the Commission may include the individual or dissenting views of the member.

SEC. 204. APPLICABILITY OF OTHER LAWS.

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Commission $3,000,000 for each of the fiscal years 1999 and 2000 to carry out the provisions of this title.

(b) AVAILABILITY OF FUNDS.—Amounts authorized to be appropriated under subparagraph (a) are authorized to remain available until expended but not later than the date of termination of the Commission.

SEC. 206. TERMINATION.

The Commission shall terminate 4 years after the initial appointment of all of the Commissioners.

TITLE III—NATIONAL SECURITY COUNCIL

SEC. 301. SPECIAL ADVISER ON INTERNATIONAL RELIGIOUS FREEDOM.

Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended by adding at the end the following new subsection:

''(i) It is the sense of the Congress that there should be within the staff of the National Security Council a Special Adviser to the President on International Religious Freedom, whose position should be comparable to that of a director within the Executive Office of the President. The Special Adviser should serve as a resource for executive branch officials, compiling and maintaining information on the facts and circumstances of violations of religious freedom (as defined in section 3 of the International Religious Freedom Act of 1998), and making policy recommendations. The Special Adviser should serve as liaison with the Ambassador at Large for International Religious Freedom, the United States Commission on International Religious Freedom, Congress and, as advisable, religious nongovernmental organizations.''.

TITLE IV—PRESIDENTIAL ACTIONS

Subtitle I—Targeted Responses to Violations of Religious Freedom Abroad

SEC. 401. PRESIDENTIAL ACTIONS IN RESPONSE TO VIOLATIONS OF RELIGIOUS FREEDOM.

(a) RESPONSE TO VIOLATIONS OF RELIGIOUS FREEDOM.—

(1) IN GENERAL.—

(A) UNITED STATES POLICY.—It shall be the policy of the United States—

(i) to oppose violations of religious freedom that are or have been engaged in or tolerated by the governments of foreign countries; and

(ii) to promote the right to freedom of religion in those countries through the actions described in subsection (b).

(B) REQUIREMENT OF PRESIDENTIAL ACTION.—For each foreign country the government of which engages in or tolerates violations of religious freedom, the President shall oppose such violations and promote the right to freedom of religion in that country through the actions described in subsection (b).

(2) BASIS OF ACTIONS.—Each action taken under paragraph (1)(B) shall be based upon information regarding violations of religious freedom, as described in the latest Country Reports on Human Rights Practices, the Annual Report and Executive Summary, and on any other evidence available, and shall take into account any findings or recommendations by the Commission with respect to the foreign country.

(b) PRESIDENTIAL ACTIONS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the President, in consultation with the Secretary of State, the Ambassador at Large, the Special Adviser, and the Commission, shall, as expeditiously as practicable in response to the violations described in subsection (a) by the government of a foreign country—

(A) take one or more of the actions described in paragraphs (1) through (15) of section 405(a) (or commensurate action in substitution thereto) with respect to such country; or

(B) negotiate and enter into a binding agreement with the government of such country, as described in section 405(c).

(2) DEADLINE FOR ACTIONS.—Not later than September 1 of each year, the President shall take action under any of the paragraphs (1) through (15) of section 405(a) (or commensurate action in substitution thereto) with respect to each foreign country the government of which has engaged in or tolerated violations of religious freedom at any time since September 1 of the preceding year, except that in the case of action under any of the paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto)—

(A) the action may only be taken after the requirements of sections 403 and 404 have been satisfied; and

(B) the September 1 limitation shall not apply.

(3) AUTHORITY FOR DELAY OF PRESIDENTIAL ACTIONS.—The President may delay action under paragraph (2) described in any of the paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto) if he determines and certifies to Congress that a single, additional period of time, not to exceed 90 days, is necessary pursuant to the same provisions applying to countries of particular concern for religious freedom under section 402(c)(3).

(c) IMPLEMENTATION.—

(1) IN GENERAL.—In carrying out subsection (b), the President shall—

(A) take the action or actions that most appropriately respond to the nature and severity of the violations of religious freedom;

(B) seek to the fullest extent possible to target action as narrowly as practicable with respect to the agency or instrumentality of the foreign government, or specific officials thereof, that are responsible for such violations; and

(C) when appropriate, make every reasonable effort to conclude a binding agreement concerning the cessation of such violations in countries with which the United States has diplomatic relations.

(2) GUIDELINES FOR PRESIDENTIAL ACTIONS.—In addition to the guidelines under paragraph (1), the President, in determining whether to take a Presidential action under paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto), shall seek to minimize any adverse impact on—

(A) the population of the country whose government is targeted by the Presidential action or actions; and

(B) the humanitarian activities of United States and foreign nongovernmental organizations in such country.

SEC. 402. PRESIDENTIAL ACTIONS IN RESPONSE TO PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.

(a) RESPONSE TO PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.—

(1) UNITED STATES POLICY.—It shall be the policy of the United States—

(A) to oppose particularly severe violations of religious freedom that are or have been engaged in or tolerated by the governments of foreign countries; and

(B) to promote the right to freedom of religion in those countries through the actions described in subsection (c).

(2) REQUIREMENT OF PRESIDENTIAL ACTION.—Whenever the President determines that the government of a foreign country has engaged in or tolerated particularly severe violations of religious freedom, the President shall oppose such violations and promote the right to religious freedom through one or more of the actions described in subsection (c).

(b) DESIGNATIONS OF COUNTRIES OF PARTICULAR CONCERN FOR RELIGIOUS FREEDOM.—

(1) ANNUAL REVIEW.—

(A) IN GENERAL.—Not later than September 1 of each year, the President shall review the status of religious freedom in each foreign country to determine whether the government of that country has engaged in or tolerated particularly severe violations of religious freedom in that country during the preceding 12 months or since the date of the last review of that country under this subparagraph, whichever period is longer. The President shall designate each country the government of which has engaged in or tolerated violations described in this subparagraph as a country of particular concern for religious freedom.

(B) BASIS OF REVIEW.—Each review conducted under subparagraph (A) shall be based upon information contained in the latest Country Reports on Human Rights Practices, the Annual Report, and on any other evidence available and shall take into account any findings or recommendations by the Commission with respect to the foreign country.

(C) IMPLEMENTATION.—Any review under subparagraph (A) of a foreign country may take place singly or jointly with the review of one or more countries and may take place at any time prior to September 1 of the respective year.

(2) DETERMINATIONS OF RESPONSIBLE PARTIES.—For the government of each country designated as a country of particular concern for religious freedom under paragraph (1)(A), the President shall seek to determine the agency or instrumentality thereof and the specific officials thereof that are responsible for the particularly severe violations of religious freedom engaged in or tolerated by that government in order to appropriately target Presidential actions under this section in response.

(3) CONGRESSIONAL NOTIFICATION.—Whenever the President designates a country as a country of particular concern for religious freedom under paragraph (1)(A), the President shall, as soon as practicable after the designation is made, transmit to the appropriate congressional committees—

(A) the designation of the country, signed by the President; and

(B) the identification, if any, of responsible parties determined under paragraph (2).

(c) PRESIDENTIAL ACTIONS WITH RESPECT TO COUNTRIES OF PARTICULAR CONCERN FOR RELIGIOUS FREEDOM.—

(1) IN GENERAL.—Subject to paragraphs (2), (3), and (4) with respect to each country of particular concern for religious freedom designated under subsection (b)(1)(A), the President shall, after the requirements of sections 403 and 404 have been satisfied, but not later than 90 days (or 180 days in case of a delay under paragraph (3)) after the date of designation of the country under that subsection, carry out one or more of the following actions under subparagraph (A) or subparagraph (B):

(A) PRESIDENTIAL ACTIONS.—One or more of the Presidential actions described in paragraphs (9) through (15) of section 405(a), as determined by the President.

(B) COMMENSURATE ACTIONS.—Commensurate action in substitution to any action described in subparagraph (A).

(2) SUBSTITUTION OF BINDING AGREEMENTS.—

(A) IN GENERAL.—In lieu of carrying out action under paragraph (1), the President may conclude a binding agreement with the respective foreign government as described in section 405(c). The existence of a binding agreement under this paragraph with a foreign government may be considered by the President prior to making any determination or taking any action under this title.

(B) STATUTORY CONSTRUCTION.—Nothing in this paragraph may be construed to authorize the entry of the United States into an agreement covering matters outside the scope of violations of religious freedom.

(3) AUTHORITY FOR DELAY OF PRESIDENTIAL ACTIONS.—If, on or before the date that the President is required (but for this paragraph) to take action under paragraph (1), the President determines and certifies to Congress that a single, additional period of time not to exceed 90 days is necessary—

(A) for a continuation of negotiations that have been commenced with the government of that country to bring about a cessation of the violations by the foreign country;

(B) for a continuation of multilateral negotiations into which the United States has entered to bring about a cessation of the violations by the foreign country;

(C)(i) for a review of corrective action taken by the foreign country after designation of such country as a country of particular concern; or

(ii) in anticipation that corrective action will be taken by the foreign country during the 90-day period,

then the President shall not be required to take action until the expiration of that period of time.

(4) EXCEPTION FOR ONGOING PRESIDENTIAL ACTION.—The President shall not be required to take action pursuant to this subsection in the case of a country of particular concern for religious freedom, if with respect to such country—

(A) the President has taken action pursuant to this Act in a preceding year;

(B) such action is in effect at the time the country is designated as a country of particular concern for religious freedom under this section; and

(C) the President reports to Congress the information described in section 404(a) (1), (2), (3), and (4) regarding the actions in effect with respect to the country.

(D) At the time the President determines a country to be a country of particular concern, if that country is already subject to multiple, broad-based sanctions imposed in significant part in response to human rights abuses, and such sanctions are ongoing, the President may determine that one or more of these sanctions also satisfies the requirements of this subsection. In a report to Congress pursuant to section 404(a)(1),(2),(3), and (4), as applicable, to section 408, the President must designate the specific sanction or sanctions which he determines satisfy the requirements of this subsection. The sanctions so designated shall remain in effect subject to Section 409 of this Act.

(d) STATUTORY CONSTRUCTION.—A determination under this Act, or any amendment made by this Act, that a foreign country has engaged in or tolerated particularly severe violations of religious freedom shall not be construed to require the termination of assistance or other activities with respect to that country under any other provision of law, including section 116 or 502B of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n, 2304).

SEC. 403. CONSULTATIONS.

(a) IN GENERAL.—As soon as practicable after the President decides to take action under section 401 in response to violations of religious freedom and the President decides to take action under paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto) with respect to that country, or not later than 90 days after the President designates a country as a country of particular concern for religious freedom under section 402, as the case may be, the President shall carry out the consultations required in this section.

(b) DUTY TO CONSULT WITH FOREIGN GOVERNMENTS PRIOR TO TAKING PRESIDENTIAL ACTIONS.—

(1) IN GENERAL.—The President shall—

(A) request consultation with the government of such country regarding the violations giving rise to designation of that country as a country of particular concern for religious freedom or to Presidential action under section 401; and

(B) if agreed to, enter into such consultations, privately or publicly.

(2) USE OF MULTILATERAL FORA.—If the President determines it to be appropriate, such consultations may be sought and may occur in a multilateral forum, but, in any event, the President shall consult with appropriate foreign governments for the purposes of achieving a coordinated international policy on actions that may be taken with respect to a country described in subsection (a), prior to implementing any such action.

(3) ELECTION OF NONDISCLOSURE OF NEGOTIATIONS TO PUBLIC.—If negotiations are undertaken or an agreement is concluded with a foreign government regarding steps to cease the pattern of violations by that government, and if public disclosure of such negotiations or agreement would jeopardize the negotiations or the implementation of such agreement, as the case may be, the President may refrain from disclosing such negotiations and such agreement to the public, except that the President shall inform the appropriate congressional committees of the nature and extent of such negotiations and any agreement reached.

(c) DUTY TO CONSULT WITH HUMANITARIAN ORGANIZATIONS.—The President should consult with appropriate humanitarian and religious organizations concerning the potential impact of United States policies to promote freedom of religion in countries described in subsection (a).

(d) DUTY TO CONSULT WITH UNITED STATES INTERESTED PARTIES.—The President shall, as appropriate, consult with United States interested parties as to the potential impact of intended Presidential action or actions in countries described in subsection (a) on economic or other interests of the United States.

SEC. 404. REPORT TO CONGRESS.

(a) IN GENERAL.—Subject to subsection (b), not later than 90 days after the President decides to take action under section 401 in response to violations of religious freedom and the President decides to take action under paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto) with respect to that country, or not later than 90 days after the President designates a country as a country of particular concern for religious freedom under section 402, as the case may be, the President shall submit a report to Congress containing the following:

(1) IDENTIFICATION OF PRESIDENTIAL ACTIONS.—An identification of the Presidential action or actions described in paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto) to be taken with respect to the foreign country.

(2) DESCRIPTION OF VIOLATIONS.—A description of the violations giving rise to the Presidential action or actions to be taken.

(3) PURPOSE OF PRESIDENTIAL ACTIONS.—A description of the purpose of the Presidential action or actions.

(4) EVALUATION.—

(A) DESCRIPTION.—An evaluation, in consultation with the Secretary of State, the Ambassador at Large, the Commission, the Special Adviser, the parties described in section 403 (c) and (d), and whoever else the President deems appropriate, of—

(i) the impact upon the foreign government;

(ii) the impact upon the population of the country; and

(iii) the impact upon the United States economy and other interested parties.

(B) AUTHORITY TO WITHHOLD DISCLOSURE.—The President may withhold part or all of such evaluation from the public but shall provide the entire evaluation to Congress.

(5) STATEMENT OF POLICY OPTIONS.—A statement that noneconomic policy options designed to bring about cessation of the particularly severe violations of religious freedom have reasonably been exhausted, including the consultations required in section 403.

(6) DESCRIPTION OF MULTILATERAL NEGOTIATIONS.—A description of multilateral negotiations sought or carried out, if appropriate and applicable.

(b) DELAY IN TRANSMITTAL OF REPORT.—If, on or before the date that the President is required (but for this subsection) to submit a report under subsection (a) to Congress, the President determines and certifies to Congress that a single, additional period of time not to exceed 90 days is necessary pursuant to section 401(b)(3) or section 402(c)(3), then the President shall not be required to submit the report to Congress until the expiration of that period of time.

SEC. 405. DESCRIPTION OF PRESIDENTIAL ACTIONS.

(a) DESCRIPTION OF PRESIDENTIAL ACTIONS.—Except as provided in subsection (d), the Presidential actions referred to in this subsection are the following:

(1) A private demarche.

(2) An official public demarche.

(3) A public condemnation.

(4) A public condemnation within one or more multilateral fora.

(5) The delay or cancellation of one or more scientific exchanges.

(6) The delay or cancellation of one or more cultural exchanges.

(7) The denial of one or more working, official, or state visits.

(8) The delay or cancellation of one or more working, official, or state visits.

(9) The withdrawal, limitation, or suspension of United States development assistance in accordance with section 116 of the Foreign Assistance Act of 1961.

(10) Directing the Export-Import Bank of the United States, the Overseas Private Investment Corporation, or the Trade and Development Agency not to approve the issuance of any (or a specified number of) guarantees, insurance, extensions of credit, or participations in the extension of credit with respect to the specific government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402.

(11) The withdrawal, limitation, or suspension of United States security assistance in accordance with section 502B of the Foreign Assistance Act of 1961.

(12) Consistent with section 701 of the International Financial Institutions Act of 1977, directing the United States executive directors of international financial institutions to oppose and vote against loans primarily benefiting the specific foreign government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402.

(13) Ordering the heads of the appropriate United States agencies not to issue any (or a specified number of) specific licenses, and not to grant any other specific authority (or a specified number of authorities), to export any goods or technology to the specific foreign government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402, under—

(A) the Export Administration Act of 1979;

(B) the Arms Export Control Act;

(C) the Atomic Energy Act of 1954; or

(D) any other statute that requires the prior review and approval of the United States Government as a condition for the export or reexport of goods or services.

(14) Prohibiting any United States financial institution from making loans or providing credits totaling more than $10,000,000 in any 12-month period to the specific foreign government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402.

(15) Prohibiting the United States Government from procuring, or entering into any contract for the procurement of, any goods or services from the foreign government, entities, or officials found or determined by the President to be responsible for violations under section 401 or 402.

(b) COMMENSURATE ACTION.—Except as provided in subsection (d), the President may substitute any other action authorized by law for any action described in paragraphs (1) through (15) of subsection (a) if such action is commensurate in effect to the action substituted and if the action would further the policy of the United States set forth in section 2(b) of this Act. The President shall seek to take all appropriate and feasible actions authorized by law to obtain the cessation of the violations. If commensurate action is taken, the President shall report such action, together with an explanation for taking such action, to the appropriate congressional committees.

(c) BINDING AGREEMENTS.—The President may negotiate and enter into a binding agreement with a foreign government that obligates such government to cease, or take substantial steps to address and phase out, the act, policy, or practice constituting the violation of religious freedom. The entry into force of a binding agreement for the cessation of the violations shall be a primary objective for the President in responding to a foreign government that has engaged in or tolerated particularly severe violations of religious freedom.

(d) EXCEPTIONS.—Any action taken pursuant to subsection (a) or (b) may not prohibit or restrict the provision of medicine, medical equipment or supplies, food, or other humanitarian assistance.

SEC. 406. EFFECTS ON EXISTING CONTRACTS.

The President shall not be required to apply or maintain any Presidential action under this subtitle—

(1) in the case of procurement of defense articles or defense services—

(A) under existing contracts or subcontracts, including the exercise of options for production quantities, to satisfy requirements essential to the national security of the United States;

(B) if the President determines in writing and so reports to Congress that the person or other entity to which the Presidential action would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

(C) if the President determines in writing and so reports to Congress that such articles or services are essential to the national security under defense coproduction agreements; or

(2) to products or services provided under contracts entered into before the date on which the President publishes his intention to take the Presidential action.

SEC. 407. PRESIDENTIAL WAIVER.

(a) IN GENERAL.—Subject to subsection (b), the President may waive the application of any of the actions described in paragraphs (9)

through (15) of section 405(a) (or commensurate action in substitution thereto) with respect to a country, if the President determines and so reports to the appropriate congressional committees that—

(1) the respective foreign government has ceased the violations giving rise to the Presidential action;

(2) the exercise of such waiver authority would further the purposes of this Act; or

(3) the important national interest of the United States requires the exercise of such waiver authority.

(b) CONGRESSIONAL NOTIFICATION.—Not later than the date of the exercise of a waiver under subsection (a), the President shall notify the appropriate congressional committees of the waiver or the intention to exercise the waiver, together with a detailed justification thereof.

SEC. 408. PUBLICATION IN FEDERAL REGISTER.

(a) IN GENERAL.—Subject to subsection (b), the President shall cause to be published in the Federal Register the following:

(1) DETERMINATIONS OF GOVERNMENTS, OFFICIALS, AND ENTITIES OF PARTICULAR CONCERN.—Any designation of a country of particular concern for religious freedom under section 402(b)(1), together with, when applicable and to the extent practicable, the identities of the officials or entities determined to be responsible for the violations under section 402(b)(2).

(2) PRESIDENTIAL ACTIONS.—A description of any Presidential action under paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto) and the effective date of the Presidential action.

(3) DELAYS IN TRANSMITTAL OF PRESIDENTIAL ACTION REPORTS.—Any delay in transmittal of a Presidential action report, as described in section 404(b).

(4) WAIVERS.—Any waiver under section 407.

(b) LIMITED DISCLOSURE OF INFORMATION.—The President may limit publication of information under this section in the same manner and to the same extent as the President may limit the publication of findings and determinations described in section 654(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2414(c)), if the President determines that the publication of information under this section—

(1) would be harmful to the national security of the United States; or

(2) would not further the purposes of this Act.

SEC. 409. TERMINATION OF PRESIDENTIAL ACTIONS.

Any Presidential action taken under this Act with respect to a foreign country shall terminate on the earlier of the following dates:

(1) TERMINATION DATE.—Within 2 years of the effective date of the Presidential action unless expressly reauthorized by law.

(2) FOREIGN GOVERNMENT ACTIONS.—Upon the determination by the President, in consultation with the Commission, and certification to Congress that the foreign government has ceased or taken substantial and verifiable steps to cease the particularly severe violations of religious freedom.

SEC. 410. PRECLUSION OF JUDICIAL REVIEW.

No court shall have jurisdiction to review any Presidential determination or agency action under this Act or any amendment made by this Act.

Subtitle II—Strengthening Existing Law

SEC. 421. UNITED STATES ASSISTANCE.

(a) IMPLEMENTATION OF PROHIBITION ON ECONOMIC ASSISTANCE.—Section 116(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(c)) is amended—

(1) in the text above paragraph (1), by inserting ''and in consultation with the Ambassador at Large for International Religious Freedom'' after ''Labor''.

(2) by striking ''and'' at the end of paragraph (1);

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

(4) by adding at the end the following new paragraph:

''(3) whether the government—

''(A) has engaged in or tolerated particularly severe violations of religious freedom, as defined in section 3 of the International Religious Freedom Act of 1998; or

''(B) has failed to undertake serious and sustained efforts to combat particularly severe violations of religious freedom (as defined in section 3 of the International Religious Freedom Act of 1998), when such efforts could have been reasonably undertaken.''.

(b) IMPLEMENTATION OF PROHIBITION ON MILITARY ASSISTANCE.—Section 502B(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(a)) is amended by adding at the end the following new paragraph:

''(4) In determining whether the government of a country engages in a consistent pattern of gross violations of internationally recognized human rights, the President shall give particular consideration to whether the government—

''(A) has engaged in or tolerated particularly severe violations of religious freedom, as defined in section 3 of the International Religious Freedom Act of 1998; or

''(B) has failed to undertake serious and sustained efforts to combat particularly severe violations of religious freedom when such efforts could have been reasonably undertaken.''.

SEC. 422. MULTILATERAL ASSISTANCE.

Section 701 of the International Financial Institutions Act (22 U.S.C. 262d) is amended by adding at the end the following new subsection:

''(g) In determining whether the government of a country engages in a pattern of gross violations of internationally recognized human rights, as described in subsection (a), the President shall give particular consideration to whether a foreign government—

''(1) has engaged in or tolerated particularly severe violations of religious freedom, as defined in section 3 of the International Religious Freedom Act of 1998; or

''(2) has failed to undertake serious and sustained efforts to combat particularly severe violations of religious freedom when such efforts could have been reasonably undertaken.''.

SEC. 423. EXPORTS OF CERTAIN ITEMS USED IN PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.

(a) MANDATORY LICENSING.—Notwithstanding any other provision of law, the Secretary of Commerce, with the concurrence of the Secretary of State, shall include on the list of crime control and detection instruments or equipment controlled for export and reexport under section 6(n) of the Export Administration Act of 1979 (22 U.S.C. App. 2405(n)), or under any other provision of law, items being exported or reexported to countries of particular concern for religious freedom that the Secretary of Commerce, with the concurrence of the Secretary of State, and in consultation with appropriate officials including the Assistant Secretary of State for Democracy, Human Rights and Labor and the Ambassador at Large, determines are being used or are intended for use directly and in significant measure to carry out particularly severe violations of religious freedom.

(b) LICENSING BAN.—The prohibition on the issuance of a license for export of crime control and detection instruments or equipment under section 502B(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(a)(2)) shall apply to the export and reexport of any item included pursuant to subsection (a) on the list of crime control instruments.

TITLE V—PROMOTION OF RELIGIOUS FREEDOM

SEC. 501. ASSISTANCE FOR PROMOTING RELIGIOUS FREEDOM.

(a) FINDINGS.—Congress makes the following findings:

(1) In many nations where severe violations of religious freedom occur, there is not sufficient statutory legal protection for religious minorities or there is not sufficient cultural and social understanding of international norms of religious freedom.

(2) Accordingly, in the provision of foreign assistance, the United States should make a priority of promoting and developing legal protections and cultural respect for religious freedom.

(b) ALLOCATION OF FUNDS FOR INCREASED PROMOTION OF RELIGIOUS FREEDOMS.—Section 116(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(e)) is amended by inserting '', including the right to free religious belief and practice'' after ''adherence to civil and political rights''.

SEC. 502. INTERNATIONAL BROADCASTING.

Section 303(a) of the United States International Broadcasting Act of 1994 (22 U.S.C. 6202(a)) is amended—

(1) by striking ''and'' at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting ''; and''; and

(3) by adding at the end the following:

''(8) promote respect for human rights, including freedom of religion.''.

SEC. 503. INTERNATIONAL EXCHANGES.

Section 102(b) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2452(b)) is amended—

(1) by striking ''and'' after paragraph (10);

(2) by striking the period at the end of paragraph (11) and inserting ''; and''; and

(3) by adding at the end the following:

''(12) promoting respect for and guarantees of religious freedom abroad by interchanges and visits between the United States and other nations of religious leaders, scholars, and religious and legal experts in the field of religious freedom.''.

SEC. 504. FOREIGN SERVICE AWARDS.

(a) PERFORMANCE PAY.—Section 405(d) of the Foreign Service Act of 1980 (22 U.S.C. 3965(d)) is amended by inserting after the first sentence the following: ''Such service in the promotion of internationally recognized human rights, including the right to freedom of religion, shall serve as a basis for granting awards under this section.''.

(b) FOREIGN SERVICE AWARDS.—Section 614 of the Foreign Service Act of 1980 (22 U.S.C. 4013) is amended by adding at the end the following new sentence: ''Distinguished, meritorious service in the promotion of internationally recognized human rights, including the right to freedom of religion, shall serve as a basis for granting awards under this section.''.

TITLE VI—REFUGEE, ASYLUM, AND CONSULAR MATTERS

SEC. 601. USE OF ANNUAL REPORT.

The Annual Report, together with other relevant documentation, shall serve as a resource for immigration judges and consular, refugee, and asylum officers in cases involving claims of persecution on the grounds of religion. Absence of reference by the Annual Report to conditions described by the alien shall not constitute the sole grounds for a denial of the alien's claim.

SEC. 602. REFORM OF REFUGEE POLICY.

(a) TRAINING.—Section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) is

amended by adding at the end the following new subsection:

''(f)(1) The Attorney General, in consultation with the Secretary of State, shall provide all United States officials adjudicating refugee cases under this section with the same training as that provided to officers adjudicating asylum cases under section 208.

''(2) Such training shall include country-specific conditions, instruction on the internationally recognized right to freedom of religion, instruction on methods of religious persecution practiced in foreign countries, and applicable distinctions within a country between the nature of and treatment of various religious practices and believers.''.

(b) TRAINING FOR FOREIGN SERVICE OFFICERS.—Section 708 of the Foreign Service Act of 1980, as added by section 104 of this Act, is further amended—

(1) by inserting ''(a)'' before ''The Secretary of State''; and

(2) by adding at the end the following:

''(b) The Secretary of State shall provide sessions on refugee law and adjudications and on religious persecution to each individual seeking a commission as a United States consular officer. The Secretary shall also ensure that any member of the Service who is assigned to a position that may be called upon to assess requests for consideration for refugee admissions, including any consular officer, has completed training on refugee law and refugee adjudications in addition to the training required in this section.''.

(c) GUIDELINES FOR REFUGEE-PROCESSING POSTS.—

(1) GUIDELINES FOR ADDRESSING HOSTILE BIASES.—The Attorney General and the Secretary of State shall develop and implement guidelines that address potential biases in personnel of the Immigration and Naturalization Service that are hired abroad and involved with duties which could constitute an effective barrier to a refugee claim if such personnel carries a bias against the claimant on the grounds of religion, race, nationality, membership in a particular social group, or political opinion. The subject matter of this training should be culturally sensitive and tailored to provide a nonbiased, nonadversarial atmosphere for the purpose of refugee adjudications.

(2) GUIDELINES FOR REFUGEE-PROCESSING POSTS IN ESTABLISHING AGREEMENTS WITH UNITED STATES GOVERNMENT-DESIGNATED REFUGEE PROCESSING ENTITIES.—The Attorney General and the Secretary of State shall develop and implement guidelines to ensure uniform procedures for establishing agreements with United States Government-designated refugee processing entities and personnel, and uniform procedures for such entities and personnel responsible for preparing refugee case files for use by the Immigration and Naturalization Service during refugee adjudications. These procedures should ensure, to the extent practicable, that case files prepared by such entities accurately reflect information provided by the refugee applicants and that genuine refugee applicants are not disadvantaged or denied refugee status due to faulty case file preparation.

(d) ANNUAL CONSULTATION.—The President shall include in each annual report on proposed refugee admissions under section 207(d) of the Immigration and Nationality Act (8 U.S.C. 1157(d)) information about religious persecution of refugee populations eligible for consideration for admission to the United States. The Secretary of State shall include information on religious persecution of refugee populations in the formal testimony presented to the Committees on the Judiciary of the House of Representatives and the Senate during the consultation process under section 207(e) of the Immigration and Nationality Act (8 U.S.C. 1157(e)).

SEC. 603. REFORM OF ASYLUM POLICY.

(a) GUIDELINES.—The Attorney General and the Secretary of State shall develop guidelines to ensure that persons with potential biases against individuals on the grounds of religion, race, nationality, membership in a particular social group, or political opinion, including interpreters and personnel of airlines owned by governments known to be involved in practices which would meet the definition of persecution under international refugee law, shall not in any manner be used to interpret conversations between aliens and inspection or asylum officers.

(b) TRAINING FOR ASYLUM AND IMMIGRATION OFFICERS.—The Attorney General, in consultation with the Secretary of State, the Ambassador at Large, and other relevant officials such as the Director of the National Foreign Affairs Training Center, shall provide training to all officers adjudicating asylum cases, and to immigration officers performing duties under section 235(b) of the Immigration and Nationality Act (8 U.S.C. 1225(b)), on the nature of religious persecution abroad, including country-specific conditions, instruction on the internationally recognized right to freedom of religion, instruction on methods of religious persecution practiced in foreign countries, and applicable distinctions within a country in the treatment of various religious practices and believers.

(c) TRAINING FOR IMMIGRATION JUDGES.—The Executive Office of Immigration Review of the Department of Justice shall incorporate into its initial and ongoing training of immigration judges training on the extent and nature of religious persecution internationally, including country-specific conditions, and including use of the Annual Report. Such training shall include governmental and nongovernmental methods of persecution employed, and differences in the treatment of religious groups by such persecuting entities.

SEC. 604. INADMISSIBILITY OF FOREIGN GOVERNMENT OFFICIALS WHO HAVE ENGAGED IN PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.

(a) INELIGIBILITY FOR VISAS OR ADMISSION.—Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended by adding at the end the following new subparagraph:

''(G) FOREIGN GOVERNMENT OFFICIALS WHO HAVE ENGAGED IN PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.—Any alien who, while serving as a foreign government official, was responsible for or directly carried out, at any time during the preceding 24-month period, particularly severe violations of religious freedom, as defined in section 3 of the International Religious Freedom Act of 1998, and the spouse and children, if any, are inadmissible.''.

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

SEC. 605. STUDIES ON THE EFFECT OF EXPEDITED REMOVAL PROVISIONS ON ASYLUM CLAIMS.

(a) STUDIES.—

(1) COMMISSION REQUEST FOR PARTICIPATION BY EXPERTS ON REFUGEE AND ASYLUM ISSUES.—If the Commission so requests, the Attorney General shall invite experts designated by the Commission, who are recognized for their expertise and knowledge of refugee and asylum issues, to conduct a study, in cooperation with the Comptroller General of the United States, to determine whether immigration officers described in paragraph (2) are engaging in any of the conduct described in such paragraph.

(2) DUTIES OF COMPTROLLER GENERAL.—The Comptroller General of the United States shall conduct a study alone or, upon request by the Commission, in cooperation with experts designated by the Commission, to determine whether immigration officers performing duties under section 235(b) of the Immigration and Nationality Act (8 U.S.C. 1225(b)) with respect to aliens who may be eligible to be granted asylum are engaging in any of the following conduct:

(A) Improperly encouraging such aliens to withdraw their applications for admission.

(B) Incorrectly failing to refer such aliens for an interview by an asylum officer for a determination of whether they have a credible fear of persecution (within the meaning of section 235(b)(1)(B)(v) of such Act).

(C) Incorrectly removing such aliens to a country where they may be persecuted.

(D) Detaining such aliens improperly or in inappropriate conditions.

(b) REPORTS.—

(1) PARTICIPATION BY EXPERTS.—In the case of a Commission request under subsection (a), the experts designated by the Commission under that subsection may submit a report to the committees described in paragraph (2). Such report may be submitted with the Comptroller General's report under subsection (a)(2) or independently.

(2) DUTIES OF COMPTROLLER GENERAL.—Not later than September 1, 2000, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the House of Representatives and the Senate, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate a report containing the results of the study conducted under subsection (a)(2). If the Commission requests designated experts to participate with the Comptroller General in the preparation and submission of the report, the Comptroller General shall grant the request.

(c) ACCESS TO PROCEEDINGS.—

(1) IN GENERAL.—Except as provided in paragraph (2), to facilitate the studies and reports, the Attorney General shall permit the Comptroller General of the United States and, in the case of a Commission request under subsection (a), the experts designated under subsection (a) to have unrestricted access to all stages of all proceedings conducted under section 235(b) of the Immigration and Nationality Act.

(2) EXCEPTIONS.—Paragraph (1) shall not apply in cases in which the alien objects to such access, or the Attorney General determines that the security of a particular proceeding would be threatened by such access, so long as any restrictions on the access of experts designated by the Commission under subsection (a) do not contravene international law.

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. BUSINESS CODES OF CONDUCT.

(a) CONGRESSIONAL FINDING.—Congress recognizes the increasing importance of transnational corporations as global actors, and their potential for providing positive leadership in their host countries in the area of human rights.

(b) SENSE OF CONGRESS.—It is the sense of Congress that transnational corporations operating overseas, particularly those corporations operating in countries the governments of which have engaged in or tolerated violations of religious freedom, as identified in the Annual Report, should adopt codes of conduct—

(1) upholding the right to freedom of religion of their employees; and

(2) ensuring that a worker's religious views and peaceful practices of belief in no way affect, or be allowed to affect, the status or terms of his or her employment.

Amend the title so as to read: ''An act to express United States foreign policy with respect to, and to strengthen United States advocacy on behalf of, individuals persecuted in foreign countries on account of religion; to authorize United States actions in response to violations of religious freedom in foreign countries; to establish an Ambassador at Large for International Religious Freedom within the Department of State, a Commission on International Religious Freedom, and a Special Adviser on International Religious Freedom within the National Security Council; and for other purposes.''.

OREGON PUBLIC LAND TRANSFER AND PROTECTION ACT OF 1998

WYDEN (AND SMITH) AMENDMENTS NOS. 3790–3791

(Ordered to lie on the table.)

Mr. WYDEN (for himself and Mr. SMITH of Oregon) submitted two amendments intended to be proposed by them to the bill (S. 2513) to transfer administrative jurisdiction over certain Federal land located within or adjacent to Rogue River National Forest and to clarify the authority of the Bureau of Land Management to sell and exchange other Federal land in Oregon; as follows:

AMENDMENT NO. 3790

On page 2, before line 3, insert the following:

TITLE III—CONVEYANCE TO DESCHUTES COUNTY, OREGON

Sec. 301. Conveyance to Deschutes County, Oregon.

On page 2, strike lines 11 through 13 and insert the following:

depicted on the map entitled ''BLM/Rogue River NF Administrative Jurisdiction Transfer, North Half'' and dated April 28, 1998, and the map entitled ''BLM/Rogue River NF Administrative Jurisdiction Transfer, South Half'' and dated April 28, 1998, consisting of approximately

On page 3, strike lines 13 through 16 and insert the following:

(1) LAND TRANSFER.—The Federal land depicted on the maps described in subsection (a)(1), consisting of approximately 1,632

On page 4, strike lines 9 through 11 and insert the following:

Federal land depicted on the maps described in subsection (a)(1), consisting of

On page 5, strike lines 9 through 11 and insert the following:

maps described in subsection (a)(1), consisting of approximately 960 acres within

On page 6, strike lines 15 and 16 and insert the following:

on the map entitled ''BLM/Rogue River NF Boundary Adjustment, North Half'' and dated April 28, 1998, and the map entitled ''BLM/Rogue River NF Boundary Adjustment, South Half'' and dated April 28, 1998.

On page 10, after line 3, add the following:

TITLE III—CONVEYANCE TO DESCHUTES COUNTY, OREGON

SEC. 301. CONVEYANCE TO DESCHUTES COUNTY, OREGON.

(a) PURPOSES.—The purposes of this section are to authorize the Secretary of the Interior to sell at fair market value to Deschutes County, Oregon, certain land to be used to protect the public's interest in clean water in the aquifer that provides drinking water for residents and to promote the public interest in the efficient delivery of social services and public amenities in southern Deschutes County, Oregon, by—

(1) providing land for private residential development to compensate for development prohibitions on private land currently zoned for residential development the development of which would cause increased pollution of ground and surface water;

(2) providing for the streamlined and low-cost acquisition of land by nonprofit and governmental social service entities that offer needed community services to residents of the area;

(3) allowing the County to provide land for community amenities and services such as open space, parks, roads, and other public spaces and uses to area residents at little or no cost to the public; and

(4) otherwise assist in the implementation of the Deschutes County Regional Problem Solving Project.

(b) SALE OF LAND.—

(1) IN GENERAL.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management (referred to in this section as the ''Secretary'') may make available for sale at fair market value to Deschutes County, Oregon, the land in Deschutes County, Oregon (referred to in this section as the ''County''), comprising approximately 544 acres and lying in Township 22, S., Range 10 E. Willamette Meridian, described as follows:

(A) Sec. 1:

(i) Government Lot 3, the portion west of Highway 97;

(ii) Government Lot 4;

(iii) SENW, the portion west of Highway 97; SWNW, the portion west of Highway 97, NWSW, the portion west of Highway 97; SWSW, the portion west of Highway 97;

(B) Sec. 2:

(i) Government Lot 1;

(ii) SENE, SESW, the portion east of Huntington Road; NESE; NWSE; SWSE; SESE, the portion west of Highway 97;

(C) Sec. 11:

(i) Government Lot 10;

(ii) NENE, the portion west of Highway 97; NWNE; SWNE, the portion west of Highway 97; NENW, the portion east of Huntington Road; SWNW, the portion east of Huntington Road; SENW.

(2) SUITABILITY FOR SALE.—The Secretary shall convey the land under paragraph (1) only if the Secretary determines that the land is suitable for sale through the land use planning process.

(c) SPECIAL ACCOUNT.—The amount paid by the County for the conveyance of land under subsection (b)—

(1) shall be deposited in a special account in the Treasury of the United States; and

(2) may be used by the Secretary for the purchase of environmentally sensitive land east of Range Nine East in the State of Oregon that is consistent with the goals and objectives of the land use planning process of the Bureau of Land Management.

AMENDMENT NO. 3791

On page 2, before line 3, insert the following:

TITLE III—CONVEYANCE TO DESCHUTES COUNTY, OREGON

Sec. 301. Conveyance to Deschutes County, Oregon.

On page 2, strike lines 11 through 13 and insert the following:

depicted on the map entitled ''BLM/Rogue River NF Administrative Jurisdiction Transfer, North Half'' and dated April 28, 1998, and the map entitled ''BLM/Rogue River NF Administrative Jurisdiction Transfer, South Half'' and dated April 28, 1998, consisting of approximately

On page 3, strike lines 13 through 16 and insert the following:

(1) LAND TRANSFER.—The Federal land depicted on the maps described in subsection (a)(1), consisting of approximately 1,632

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On page 5, strike lines 9 through 11 and insert the following:

maps described in subsection (a)(1), consisting of approximately 960 acres within

On page 6, strike lines 15 and 16 and insert the following:

on the map entitled ''BLM/Rogue River NF Boundary Adjustment, North Half'' and dated April 28, 1998, and the map entitled ''BLM/Rogue River NF Boundary Adjustment, South Half'' and dated April 28, 1998.

On page 10, after line 3, add the following:

TITLE III—CONVEYANCE TO DESCHUTES COUNTY, OREGON

SEC. 301. CONVEYANCE TO DESCHUTES COUNTY, OREGON.

(a) PURPOSES.—The purposes of this section are to authorize the Secretary of the Interior to sell at fair market value to Deschutes County, Oregon, certain land to be used to protect the public's interest in clean water in the aquifer that provides drinking water for residents and to promote the public interest in the efficient delivery of social services and public amenities in southern Deschutes County, Oregon, by—

(1) providing land for private residential development to compensate for development prohibitions on private land currently zoned for residential development the development of which would cause increased pollution of ground and surface water;

(2) providing for the streamlined and low-cost acquisition of land by nonprofit and governmental social service entities that offer needed community services to residents of the area;

(3) allowing the County to provide land for community amenities and services such as open space, parks, roads, and other public spaces and uses to area residents at little or no cost to the public; and

(4) otherwise assist in the implementation of the Deschutes County Regional Problem Solving Project.

(b) SALE OF LAND.—

(1) IN GENERAL.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management (referred to in this section as the ''Secretary'') may make available for sale at fair market value to Deschutes County, Oregon, the land in Deschutes County, Oregon (referred to in this section as the ''County''), comprising approximately 544 acres and lying in Township 22, S., Range 10 E. Willamette Meridian, described as follows:

(A) Sec. 1:

(i) Government Lot 3, the portion west of Highway 97;

(ii) Government Lot 4;

(iii) SENW, the portion west of Highway 97; SWNW, the portion west of Highway 97, NWSW, the portion west of Highway 97; SWSW, the portion west of Highway 97;

(B) Sec. 2:

(i) Government Lot 1;

(ii) SENE, SESW, the portion east of Huntington Road; NESE; NWSE; SWSE; SESE, the portion west of Highway 97;

(C) Sec. 11:

(i) Government Lot 10;

(ii) NENE, the portion west of Highway 97; NWNE; SWNE, the portion west of Highway 97; NENW, the portion east of Huntington Road; SWNW, the portion east of Huntington Road; SENW.

(2) SUITABILITY FOR SALE.—The Secretary shall convey the land under paragraph (1)

only if the Secretary determines that the land is suitable for sale through the land use planning process.

(c) SPECIAL ACCOUNT.—The amount paid by the County for the conveyance of land under subsection (b)—

(1) shall be deposited in a special account in the Treasury of the United States; and

(2) may be used by the Secretary for the purchase of environmentally sensitive land east of Range Nine East in the State of Oregon that is consistent with the goals and objectives of the land use planning process of the Bureau of Land Management.

TORTURE VICTIMS RELIEF ACT OF 1998

GRAMS AMENDMENT NO. 3792

Mr. JEFFORDS (for Mr. GRAMS) proposed an amendment to the bill (H.R. 4309) to provide a comprehensive program of support for victims of torture; as follows:

Substitute language in Sec. 5 (b)(1) and (2) with the following:

(b) FUNDING.—(a) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated for the Department of Health and Human Services for fiscal years 1999 and 2000, there are authorized to be appropriated to carry out subsection (a) (relating to assistance for domestic centers and programs for the treatment of victims of torture) $5,000,000 for fiscal year 1999, and $7,500,000 for fiscal year 2000.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to this subsection shall remain available until expended.

ENERGY CONSERVATION REAUTHORIZATION ACT OF 1998

MURKOWSKI (AND AKAKA) AMENDMENT NO. 3793

Mr. JEFFORDS (for Mr. MURKOWSKI, for himself, and Mr. AKAKA) proposed an amendment to the bill (S. 417) to extend energy conservation programs under the Energy Policy and Conservation Act through September 30, 2002; as follows:

At the end, insert the following:

SEC. 9. PURCHASES FROM STRATEGIC PETROLEUM RESERVE BY ENTITIES IN INSULAR AREAS OF UNITED STATES AND FREELY ASSOCIATED STATES.

(a) Section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241) is amended by adding at the end the following:

''(j) PURCHASES FROM STRATEGIC PETROLEUM RESERVE BY ENTITIES IN INSULAR AREAS OF UNITED STATES AND FREELY ASSOCIATED STATES.—

''(1) DEFINITIONS.—In this subsection:

''(A) BINDING OFFER.—The term 'binding offer' means a bid submitted by the State of Hawaii for an assured award of a specific quantity of petroleum product, with a price to be calculated pursuant to paragraph (2) of this subsection, that obligates the offeror to take title to the petroleum product without further negotiation or recourse to withdraw the offer.

''(B) CATEGORY OF PETROLEUM PRODUCT.—The term 'category of petroleum product' means a master line item within a notice of sale.

''(C) ELIGIBLE ENTITY.—The term 'eligible entity' means an entity that owns or controls a refinery that is located within the State of Hawaii.

''(D) FULL TANKER LOAD.—The term 'full tanker load' means a tanker of approximately 700,000 barrels of capacity, or such lesser tanker capacity as may be designated by the State of Hawaii.

''(E) INSULAR AREA.—The term 'insular area' means the Commonwealth of Puerto Rico, The Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, the Freely Associated States of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

''(F) OFFERING.—The term 'offering' means a solicitation for bids for a quantity or quantities of petroleum product from the Strategic Petroleum Reserve as specified in the notice of sale.

''(G) NOTICE OF SALE.—The term 'notice of sale' means the document that announces—

''(i) the sale of Strategic Petroleum Reserve products;

''(ii) the quantity, characteristics, and location of the petroleum product being sold;

''(iii) the delivery period for the sale; and

''(iv) the procedures for submitting offers.

''(2) IN GENERAL.—In the case of an offering of a quantity of petroleum product during a drawdown of the Strategic Petroleum Reserve—

''(A) the State of Hawaii, in addition to having the opportunity to submit a competitive bid, may—

''(i) submit a binding offer, and shall on submission of the offer, be entitled to purchase a category of a petroleum product specified in a notice of sale at a price equal to the volumetrically weighted average of the successful bids made for the remaining quantity of the petroleum product within the category that is the subject of the offering; and

''(ii) submit 1 or more alternative offers, for other categories of the petroleum product, that will be binding if no price competitive contract is awarded for the category of petroleum product on which a binding offer is submitted under clause (i); and

''(B) at the request of the Governor of the State of Hawaii, a petroleum product purchased by the State of Hawaii at a competitive sale or through a binding offer shall have first preference in scheduling for lifting.

''(3) LIMITATION ON QUANTITY.—

''(A) IN GENERAL.—In administering this subsection, in the case of each offering, the Secretary may impose the limitation described in subparagraph (B) or (C) that results in the purchase of the lesser quantity of petroleum product.

''(B) PORTION OF QUANTITY OF PREVIOUS IMPORTS.—The Secretary may limit the quantity of a petroleum product that the State of Hawaii may purchase through a binding offer at any offering to 1/12 of the total quantity of imports of the petroleum product brought into the State during the previous year (or other period determined by the Secretary to be representative).

''(C) PERCENTAGE OF OFFERING.—The Secretary may limit the quantity that may be purchased through binding offers at any offering to 3 percent of the offering.

''(4) ADJUSTMENTS.—

''(A) IN GENERAL.—Notwithstanding any limitation imposed under paragraph (3), in administering this subsection, in the case of each offering, the Secretary shall, at the request of the Governor of the State of Hawaii, or an eligible entity certified under paragraph (7), adjust the quantity to be sold to the State of Hawaii in accordance with this paragraph.

''(B) UPWARD ADJUSTMENT.—The Secretary shall adjust upward to the next whole number increment of a full tanker load if the quantity to be sold is—

''(i) less than 1 full tanker load; or

''(ii) greater than or equal to 50 percent of a full tanker load more than a hole number increment of a full tanker load.

''(C) DOWNWARD ADJUSTMENT.—The Secretary shall adjust downward to the next whole number increment of a full tanker load if the quantity to be sold is less than 50 percent of a full tanker load more than a whole number increment of a full tanker load.

''(5) DELIVERY TO OTHER LOCATIONS.—The State of Hawaii may enter into an exchange or a processing agreement that requires delivery to other locations, if a petroleum product of similar value or quantity is delivered to the State of Hawaii.

''(6) STANDARD SALES PROVISIONS.—Except as otherwise provided in this Act, the Secretary may require the State of Hawaii to comply with the standard sales provisions applicable to purchasers of petroleum product at competitive sales.

''(7) ELIGIBLE ENTITIES—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C) and notwithstanding any other provision of this paragraph, if the Governor of the State of Hawaii certifies to the Secretary that the State has entered into an agreement with an eligible entity to carry out this Act, the eligible entity may act on behalf of the State of Hawaii to carry out this subsection.

''(B) LIMITATION.—The Governor of the State of Hawaii shall not certify more than 1 eligible entity under this paragraph for each notice of sale.

''(C) BARRED COMPANY.—If the Secretary has notified the Governor of the State of Hawaii that a company has been barred from bidding (either prior to, or at the time that a notice of sale is issued), the Governor shall not certify the company under this paragraph.

''(7) SUPPLIES OF PETROLEUM PRODUCTS.—At the request of the governor of an insular area, the Secretary shall, for a period not to exceed 180 days following a drawdown of the Strategic Petroleum Reserve, assist the insular area or the President of a Freely Associated State in its efforts to maintain adequate supplies of petroleum products from traditional and non-traditional suppliers.''.

(b) REGULATIONS.—

(1) IN GENERAL.—The Secretary of Energy shall issue such regulations as are necessary to carry out the amendment made by subsection (a).

(2) ADMINISTRATIVE PROCEDURE.—Regulations issued to carry out the amendment made by subsection (a) shall not be subject to—

(A) section 523 of the Energy Policy and Conservation Act (42 U.S.C. 6393); or

(B) section 501 of the Department of Energy Organization Act (42 U.S.C. 7191).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on the earlier of—

(1) the date that is 180 days after the date of enactment of this Act; or

(2) the date that final regulations are issued under subsection (a).

SEC. 10. INDIAN ENERGY RESOURCE DEVELOPMENT.

Section 2603 of the Energy Policy Act of 1992 (25 U.S.C. 3503) is amended in subsection (c) by striking ''and 1997'' each place it appears and inserting ''1999, 2000, 2001, 2002 and 2003'' in lieu thereof.

SEC. 11. REMEDIAL ACTION.

(a) Section 1001(b)(2)(C) of the Energy Policy Act of 1992 (42 U.S.C. 2296a) is amended by striking ''$65,000,000'' and inserting ''$140,000,000''.

(b) Section 1003(a) of such Act (42 U.S .C. 2296a–2) is amended by striking ''$415,000,000'' and inserting ''$490,000,000''.

(c) Section 1802(a) of the Atomic Energy Act of 1954 (42 U.S.C. 2297g–1) is amended by striking ''$480,000,000'' and inserting ''$488,333,333''.

GLACIER BAY NATIONAL PARK BOUNDARY ADJUSTMENT ACT OF 1998

MURKOWSKI AMENDMENT NO. 3794

Mr. JEFFORDS (for Mr. MURKOWSKI) proposed an amendment to the bill (H.R. 3903) to provide for an exchange of lands located near Gustavus, Alaska, and for other purposes, as follows:

On page 2 line 8 strike ''paragraph [4]'' and insert ''paragraph [2]''.

On page 2 line 9 strike ''paragraph [3]'' and insert ''paragraph [4]''.

On page 4 line 1 strike ''838.66'' and insert ''1191.75''.

On page 11 line 9 strike ''units'' and insert ''units resulting from this Act''.

On page 11 line 20 strike ''considered in applying'' and insert ''charged against''.

On page 12 line 1 strike ''units'' and insert ''units resulting from this Act''.

On page 12 beginning on line 1 strike ''be considered in applying'' and insert ''be charged against''.

CHARTER SCHOOLS AMENDMENTS ACT OF 1998

COATS (AND OTHERS) AMENDMENT NO. 3795

Mr. JEFFORDS (for Mr. COATS for himself, Mr. LIEBERMAN, Mr. D'AMATO, Mr. KERREY, Ms. LANDRIEU, and Mr. MCCAIN) proposed an amendment to the bill (H.R. 2616) to amend titles VI and X of the Elementary and Secondary Education Act of 1965 to improve and expand charter schools; as follows:

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Charter School Expansion Act of 1998''.

SEC. 2. INNOVATIVE CHARTER SCHOOLS.

Title VI of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7301 et seq.) is amended—

(1) in section 6201(a) (20 U.S.C. 7331(a))—

(A) in paragraph (1)(C), by striking ''and'' after the semicolon;

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

(C) by inserting after paragraph (1) the following:

''(2) support for planning, designing, and initial implementation of charter schools as described in part C of title X; and''; and

(2) in section 6301(b) (20 U.S.C. 7351(b))—

(A) in paragraph (7), by striking ''and'' after the semicolon;

(B) by redesignating paragraph (8) as paragraph (9); and

(C) by inserting after paragraph (7) the following:

''(8) planning, designing, and initial implementation of charter schools as described in part C of title X; and''.

SEC. 3. CHARTER SCHOOLS.

(a) PURPOSE.—Section 10301(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8061(b)) is amended—

(1) in paragraph (1)—

(A) by inserting ''planning, program'' before ''design''; and

(B) by striking ''and'' after the semicolon;

(2) in paragraph (2), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(3) expanding the number of high-quality charter schools available to students across the Nation.''.

(b) CRITERIA FOR PRIORITY TREATMENT.—Section 10302 of such Act of 1965 (20 U.S.C. 8062) is amended—

(1) in subsection (c)(2)—

(A) in subparagraph (A), by striking ''and'' after the semicolon;

(B) in subparagraph (B), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(C) not more than 2 years to carry out dissemination activities described in section 10304(f)(6)(B).'';

(2) by amending subsection (d) to read as follows:

''(d) LIMITATION.—A charter school may not receive—

''(1) more than 1 grant for activities described in subparagraphs (A) and (B) of subsection (c)(2); or

''(2) more than 1 grant for activities under subparagraph (C) of subsection (c)(2).''; and

(3) by adding at the end the following:

''(e) PRIORITY TREATMENT.—

''(1) IN GENERAL.—

''(A) FISCAL YEARS 1999, 2000, AND 2001.—In awarding grants under this part for any of the fiscal years 1999, 2000, and 2001 from funds appropriated under section 10311 that are in excess of $51,000,000 for the fiscal year, the Secretary shall give priority to States to the extent that the States meet the criteria described in paragraph (2) and 1 or more of the criteria described in subparagraph (A), (B), or (C) of paragraph (3).

''(B) SUCCEEDING FISCAL YEARS.—In awarding grants under this part for fiscal year 2002 or any succeeding fiscal year from any funds appropriated under section 10311, the Secretary shall give priority to States to the extent that the States meet the criteria described in paragraph (2) and 1 or more of the criteria described in subparagraph (A), (B), or (C) of paragraph (3).

''(2) REVIEW AND EVALUATION PRIORITY CRITERIA.—The criteria referred to in paragraph (1) is that the State provides for periodic review and evaluation by the authorized public chartering agency of each charter school, at least once every 5 years unless required more frequently by State law, to determine whether the charter school is meeting the terms of the school's charter, and is meeting or exceeding the academic performance requirements and goals for charter schools as set forth under State law or the school's charter.

''(3) PRIORITY CRITERIA.—The criteria referred to in paragraph (1) are the following:

''(A) The State has demonstrated progress, in increasing the number of high quality charter schools that are held accountable in the terms of the schools' charters for meeting clear and measurable objectives for the educational progress of the students attending the schools, in the period prior to the period for which a State educational agency or eligible applicant applies for a grant under this part.

''(B) The State—

''(i) provides for 1 authorized public chartering agency that is not a local educational agency, such as a State chartering board, for each individual or entity seeking to operate a charter school pursuant to such State law; or

''(ii) in the case of a State in which local educational agencies are the only authorized public chartering agencies, allows for an appeals process for the denial of an application for a charter school.

''(C) The State ensures that each charter school has a high degree of autonomy over the charter school's budgets and expenditures.

''(f) AMOUNT CRITERIA.—In determining the amount of a grant to be awarded under this part to a State educational agency, the Secretary shall take into consideration the number of charter schools that are operating, or are approved to open, in the State.''.

(c) APPLICATIONS.—Section 10303 of such Act (20 U.S.C. 8063) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by inserting ''and'' after the semicolon;

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

(C) by inserting after paragraph (1) the following:

''(2) describe how the State educational agency—

''(A) will inform each charter school in the State regarding—

''(i) Federal funds that the charter school is eligible to receive; and

''(ii) Federal programs in which the charter school may participate;

''(B) will ensure that each charter school in the State receives the charter school's commensurate share of Federal education funds that are allocated by formula each year, including during the first year of operation of the charter school; and

''(C) will disseminate best or promising practices of charter schools to each local educational agency in the State; and''; and

(D) in paragraph (3) (as redesignated by subparagraph (B))—

(i) in subparagraph (E), insert ''planning, program'' before ''design'';

(ii) in subparagraph (K), by striking ''and'' after the semicolon;

(iii) by redesignating subparagraph (L) as subparagraph (N); and

(iv) by inserting after subparagraph (K) the following:

''(L) a description of how a charter school that is considered a local educational agency under State law, or a local educational agency serving a school district in which a charter school is located, will comply with sections 613(a)(5) and 613(e)(1)(B) of the Individuals with Disabilities Education Act;

''(M) if the eligible applicant desires to use subgrant funds for dissemination activities under section 10302(c)(2)(C), a description of those activities and how those activities will involve charter schools, other public schools, local educational agencies, developers, or potential developers; and''; and

(2) in subsection (c), by striking ''10302(e)(1) or''; and

(3) in subsection (d)(1)—

(A) by striking ''subparagraphs (A) through (L)'' and inserting ''subparagraphs (A) through (N)''; and

(B) by striking ''subparagraphs (I), (J), and (K)'' and inserting ''subparagraphs (J), (K), and (N)''.

(d) ADMINISTRATION.—Section 10304 of such Act (20 U.S.C. 8064) is amended—

(1) in subsection (a)—

(A) in paragraph (4), by striking ''and'' after the semicolon;

(B) in paragraph (5), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

''(6) the number of high quality charter schools created under this part in the State; and

''(7) in the case of State educational agencies that propose to use grant funds to support dissemination activities under section 10302(c)(2)(C), the quality of those activities and the likelihood that those activities will improve student achievement.'';

(2) in subsection (b)—

(A) in paragraph (5), by striking ''and'' after the semicolon;

(B) in paragraph (6), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(7) in the case of an eligible applicant that proposes to use grant funds to support dissemination activities under section 10302(c)(2)(C), the quality of those activities and the likelihood that those activities will improve student achievement.'';

(3) in subsection (f)—

(A) in paragraph (1), by inserting before the period the following: '', except that the State educational agency may reserve not more than 10 percent of the grant funds to support dissemination activities described in paragraph (6)'';

(B) in paragraph (2), by inserting '', or to disseminate information about the charter school and successful practices in the charter school,'' after ''charter school'';

(C) in paragraph (5), by striking ''20 percent'' and inserting ''10 percent''; and

(D) by adding at the end the following:

''(6) DISSEMINATION.—

''(A) IN GENERAL.—A charter school may apply for funds under this part, whether or not the charter school has applied for or received funds under this part for planning, program design, or implementation, to carry out the activities described in subparagraph (B) if the charter school has been in operation for at least 3 consecutive years and has demonstrated overall success, including—

''(i) substantial progress in improving student achievement;

''(ii) high levels of parent satisfaction; and

''(iii) the management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school.

''(B) ACTIVITIES.—A charter school described in subparagraph (A) may use funds reserved under paragraph (1) to assist other schools in adapting the charter school's program (or certain aspects of the charter school's program), or to disseminate information about the charter school, through such activities as—

''(i) assisting other individuals with the planning and start-up of 1 or more new public schools, including charter schools, that are independent of the assisting charter school and the assisting charter school's developers, and that agree to be held to at least as high a level of accountability as the assisting charter school;

''(ii) developing partnerships with other public schools, including charter schools, designed to improve student performance in each of the schools participating in the partnership;

''(iii) developing curriculum materials, assessments, and other materials that promote increased student achievement and are based on successful practices within the assisting charter school; and

''(iv) conducting evaluations and developing materials that document the successful practices of the assisting charter school and that are designed to improve student performance in other schools.''.

(f) NATIONAL ACTIVITIES.—Section 10305 of such Act (20 U.S.C. 8065) is amended to read as follows:

''SEC. 10305. NATIONAL ACTIVITIES.

''(a) IN GENERAL.—The Secretary shall reserve for each fiscal year the greater of 5 percent or $5,000,000 of the amount appropriated to carry out this part, except that in no fiscal year shall the total amount so reserved exceed $8,000,000, to carry out the following activities:

''(1) To provide charter schools, either directly or through State educational agencies, with—

''(A) information regarding—

''(i) Federal funds that charter schools are eligible to receive; and

''(ii) other Federal programs in which charter schools may participate; and

''(B) assistance in applying for Federal education funds that are allocated by formula, including assistance with filing deadlines and submission of applications.

''(2) To provide for the completion of the 4-year national study (which began in 1995) of charter schools.

''(3) To provide for other evaluations or studies that include the evaluation of the impact of charter schools on student achievement, including information regarding—

''(A) students attending charter schools reported on the basis of race, age, disability, gender, limited English proficiency, and previous enrollment in public school; and

''(B) the professional qualifications of teachers within a charter school and the turnover of the teaching force.

''(4) To provide—

''(A) information to applicants for assistance under this part;

''(B) assistance to applicants for assistance under this part with the preparation of applications under section 10303;

''(C) assistance in the planning and startup of charter schools;

''(D) training and technical assistance to existing charter schools; and

''(E) for the dissemination to other public schools of best or promising practices in charter schools.

''(5) To provide (including through the use of 1 or more contracts that use a competitive bidding process) for the collection of information regarding the financial resources available to charter schools, including access to private capital, and to widely disseminate to charter schools any such relevant information and model descriptions of successful programs.

''(b) CONSTRUCTION.—Nothing in this section shall be construed to require charter schools to collect any data described in subsection (a).''.

(g) COMMENSURATE TREATMENT; RECORDS TRANSFER; PAPERWORK REDUCTION.—Part C of title X of such Act (20 U.S.C. 8061 et seq.) is amended—

(1) by redesignating sections 10306 and 10307 as sections 10310 and 10311, respectively; and

(2) by inserting after section 10305 the following:

''SEC. 10306. FEDERAL FORMULA ALLOCATION DURING FIRST YEAR AND FOR SUCCESSIVE ENROLLMENT EXPANSIONS.

''(a) IN GENERAL.—For purposes of the allocation to schools by the States or their agencies of funds under part A of title I, and any other Federal funds which the Secretary allocates to States on a formula basis, the Secretary and each State educational agency shall take such measures not later than 6 months after the date of enactment of the Charter School Expansion Act of 1998 as are necessary to ensure that every charter school receives the Federal funding for which the charter school is eligible not later than 5 months after the charter school first opens, notwithstanding the fact that the identity and characteristics of the students enrolling in that charter school are not fully and completely determined until that charter school actually opens. The measures similarly shall ensure that every charter school expanding its enrollment in any subsequent year of operation receives the Federal funding for which the charter school is eligible not later than 5 months after such expansion.

''(b) ADJUSTMENT AND LATE OPENINGS.—

''(1) IN GENERAL.—The measures described in subsection (a) shall include provision for appropriate adjustments, through recovery of funds or reduction of payments for the succeeding year, in cases where payments made to a charter school on the basis of estimated or projected enrollment data exceed the amounts that the school is eligible to receive on the basis of actual or final enrollment data.

''(2) RULE.—For charter schools that first open after November 1 of any academic year, the State, in accordance with guidance provided by the Secretary and applicable Federal statutes and regulations, shall ensure that such charter schools that are eligible for the funds described in subsection (a) for such academic year have a full and fair opportunity to receive those funds during the charter schools' first year of operation.

''SEC. 10307. SOLICITATION OF INPUT FROM CHARTER SCHOOL OPERATORS.

''To the extent practicable, the Secretary shall ensure that administrators, teachers, and other individuals directly involved in the operation of charter schools are consulted in the development of any rules or regulations required to implement this part, as well as in the development of any rules or regulations relevant to charter schools that are required to implement part A of title I, the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), or any other program administered by the Secretary that provides education funds to charter schools or regulates the activities of charter schools.

''SEC. 10308. RECORDS TRANSFER.

''State educational agencies and local educational agencies, to the extent practicable, shall ensure that a student's records and, if applicable, a student's individualized education program as defined in section 602(11) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(11)), are transferred to a charter school upon the transfer of the student to the charter school, and to another public school upon the transfer of the student from a charter school to another public school, in accordance with applicable State law.

''SEC. 10309. PAPERWORK REDUCTION.

''To the extent practicable, the Secretary and each authorized public chartering agency shall ensure that implementation of this part results in a minimum of paperwork for any eligible applicant or charter school.''.

(h) PART C DEFINITIONS.—Section 10310(1) of such Act (as redesignated by subsection (e)(1)) (20 U.S.C. 8066(1)) is amended—

(1) in subparagraph (A), by striking ''an enabling statute'' and inserting ''a specific State statute authorizing the granting of charters to schools'';

(2) in subparagraph (H), by inserting ''is a school to which parents choose to send their children, and that'' before ''admits'';

(3) in subparagraph (J), by striking ''and'' after the semicolon;

(4) in subparagraph (K), by striking the period and inserting ''; and''; and

(5) by adding at the end the following:

''(L) has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school.''.

(i) AUTHORIZATION OF APPROPRIATIONS.—Section 10311 of such Act (as redesignated by subsection (e)(1)) (20 U.S.C. 8067) is amended by striking ''$15,000,000 for fiscal year 1995'' and inserting ''$100,000,000 for fiscal year 1999''.

(j) TITLE XIV DEFINITIONS.—Section 14101 of such Act (20 U.S.C. 8801) is amended—

(1) in paragraph (14), by inserting ‘‘, including a public elementary charter school,’’ after ‘‘residential school’’; and

(2) in paragraph (25), by inserting ‘‘, including a public secondary charter school,’’ after ‘‘residential school’’.

(k) CONFORMING AMENDMENT.—The matter preceding paragraph (1) of section 10304(e) of such Act (20 U.S.C. 8064(e)) is amended by striking ‘‘10306(1)’’ and inserting ‘‘10310(1)’’.

BUSINESS AND EDUCATION SHARING TECHNOLOGY ACT (BEST)

CHAFEE AMENDMENT NO. 3796

Mr. JEFFORDS (for Mr. CHAFEE) proposed an amendment to the bill (S. 2427) to recognize businesses which show an exemplary commitment to participating with schools to enhance educators’ technology capabilities and to make every student technologically literate; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ‘‘Neotropical Migratory Bird Conservation Act’’.

SEC. 2. FINDINGS.

Congress finds that—

(1) of the nearly 800 bird species known to occur in the United States, approximately 500 migrate among countries, and the large majority of those species, the neotropical migrants, winter in Latin America and the Caribbean;

(2) neotropical migratory bird species provide invaluable environmental, economic, recreational, and aesthetic benefits to the United States, as well as to the Western Hemisphere;

(3)(A) many neotropical migratory bird populations, once considered common, are in decline, and some have declined to the point that their long-term survival in the wild is in jeopardy; and

(B) the primary reason for the decline in the populations of those species is habitat loss and degradation (including pollution and contamination) across the species’ range; and

(4)(A) because neotropical migratory birds range across numerous international borders each year, their conservation requires the commitment and effort of all countries along their migration routes; and

(B) although numerous initiatives exist to conserve migratory birds and their habitat, those initiatives can be significantly strengthened and enhanced by increased coordination.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to perpetuate healthy populations of neotropical migratory birds;

(2) to assist in the conservation of neotropical migratory birds by supporting conservation initiatives in the United States, Latin America, and the Caribbean; and

(3) to provide financial resources and to foster international cooperation for those initiatives.

SEC. 4. DEFINITIONS.

In this Act:

(1) ACCOUNT.—The term ‘‘Account’’ means the Neotropical Migratory Bird Conservation Account established by section 9(a).

(2) CONSERVATION.—The term ‘‘conservation’’ means the use of methods and procedures necessary to bring a species of neotropical migratory bird to the point at which there are sufficient populations in the wild to ensure the long-term viability of the species, including—

(A) protection and management of neotropical migratory bird populations;

(B) maintenance, management, protection, and restoration of neotropical migratory bird habitat;

(C) research and monitoring;

(D) law enforcement; and

(E) community outreach and education.

(3) SECRETARY.—The term ‘‘Secretary’’ means the Secretary of the Interior.

SEC. 5. FINANCIAL ASSISTANCE.

(a) IN GENERAL.—The Secretary shall establish a program to provide financial assistance for projects to promote the conservation of neotropical migratory birds.

(b) PROJECT APPLICANTS.—A project proposal may be submitted by—

(1) an individual, corporation, partnership, trust, association, or other private entity;

(2) an officer, employee, agent, department, or instrumentality of the Federal Government, of any State, municipality, or political subdivision of a State, or of any foreign government;

(3) a State, municipality, or political subdivision of a State;

(4) any other entity subject to the jurisdiction of the United States or of any foreign country; and

(5) an international organization (as defined in section 1 of the International Organizations Immunities Act (22 U.S.C. 288)).

(c) PROJECT PROPOSALS.—To be considered for financial assistance for a project under this Act, an applicant shall submit a project proposal that—

(1) includes—

(A) the name of the individual responsible for the project;

(B) a succinct statement of the purposes of the project;

(C) a description of the qualifications of individuals conducting the project; and

(D) an estimate of the funds and time necessary to complete the project, including sources and amounts of matching funds;

(2) demonstrates that the project will enhance the conservation of neotropical migratory bird species in Latin America, the Caribbean, or the United States;

(3) includes mechanisms to ensure adequate local public participation in project development and implementation;

(4) contains assurances that the project will be implemented in consultation with relevant wildlife management authorities and other appropriate government officials with jurisdiction over the resources addressed by the project;

(5) demonstrates sensitivity to local historic and cultural resources and complies with applicable laws;

(6) describes how the project will promote sustainable, effective, long-term programs to conserve neotropical migratory birds; and

(7) provides any other information that the Secretary considers to be necessary for evaluating the proposal.

(d) PROJECT REPORTING.—Each recipient of assistance for a project under this Act shall submit to the Secretary such periodic reports as the Secretary considers to be necessary. Each report shall include all information required by the Secretary for evaluating the progress and outcome of the project.

(e) COST SHARING.—

(1) FEDERAL SHARE.—The Federal share of the cost of each project shall be not greater than 33 percent.

(2) NON-FEDERAL SHARE.—

(A) SOURCE.—The non-Federal share required to be paid for a project shall not be derived from any Federal grant program.

(B) FORM OF PAYMENT.—

(i) PROJECTS IN THE UNITED STATES.—The non-Federal share required to be paid for a project carried out in the United States shall be paid in cash.

(ii) PROJECTS IN FOREIGN COUNTRIES.—The non-Federal share required to be paid for a project carried out in a foreign country may be paid in cash or in kind.

SEC. 6. DUTIES OF THE SECRETARY.

In carrying out this Act, the Secretary shall—

(1) develop guidelines for the solicitation of proposals for projects eligible for financial assistance under section 5;

(2) encourage submission of proposals for projects eligible for financial assistance under section 5, particularly proposals from relevant wildlife management authorities;

(3) select proposals for financial assistance that satisfy the requirements of section 5, giving preference to proposals that address conservation needs not adequately addressed by existing efforts and that are supported by relevant wildlife management authorities; and

(4) generally implement this Act in accordance with its purposes.

SEC. 7. COOPERATION.

(a) IN GENERAL.—In carrying out this Act, the Secretary shall—

(1) support and coordinate existing efforts to conserve neotropical migratory bird species, through—

(A) facilitating meetings among persons involved in such efforts;

(B) promoting the exchange of information among such persons;

(C) developing and entering into agreements with other Federal agencies, foreign, State, and local governmental agencies, and nongovernmental organizations; and

(D) conducting such other activities as the Secretary considers to be appropriate; and

(2) coordinate activities and projects under this Act with existing efforts in order to enhance conservation of neotropical migratory bird species.

(b) ADVISORY GROUP.—

(1) IN GENERAL.—To assist in carrying out this Act, the Secretary may convene an advisory group consisting of individuals representing public and private organizations actively involved in the conservation of neotropical migratory birds.

(2) PUBLIC PARTICIPATION.—

(A) MEETINGS.—The advisory group shall—

(i) ensure that each meeting of the advisory group is open to the public; and

(ii) provide, at each meeting, an opportunity for interested persons to present oral or written statements concerning items on the agenda.

(B) NOTICE.—The Secretary shall provide to the public timely notice of each meeting of the advisory group.

(C) MINUTES.—Minutes of each meeting of the advisory group shall be kept by the Secretary and shall be made available to the public.

(3) EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory group.

SEC. 8. REPORT TO CONGRESS.

Not later than October 1, 2002, the Secretary shall submit to Congress a report on the results and effectiveness of the program carried out under this Act, including recommendations concerning how the Act might be improved and whether the program should be continued.

SEC. 9. NEOTROPICAL MIGRATORY BIRD CONSERVATION ACCOUNT.

(a) ESTABLISHMENT.—There is established in the Multinational Species Conservation Fund of the Treasury a separate account to be known as the ‘‘Neotropical Migratory

Bird Conservation Account'', which shall consist of amounts deposited into the Account by the Secretary of the Treasury under subsection (b).

(b) DEPOSITS INTO THE ACCOUNT.—The Secretary of the Treasury shall deposit into the Account—

(1) all amounts received by the Secretary in the form of donations under subsection (d); and

(2) other amounts appropriated to the Account.

(c) USE.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may use amounts in the Account, without further Act of appropriation, to carry out this Act.

(2) ADMINISTRATIVE EXPENSES.—Of amounts in the Account available for each fiscal year, the Secretary may expend not more than 6 percent to pay the administrative expenses necessary to carry out this Act.

(d) ACCEPTANCE AND USE OF DONATIONS.—The Secretary may accept and use donations to carry out this Act. Amounts received by the Secretary in the form of donations shall be transferred to the Secretary of the Treasury for deposit into the Account.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Account to carry out this Act $8,000,000 for each of fiscal years 1999 through 2002, to remain available until expended, of which not less than 50 percent of the amounts made available for each fiscal year shall be expended for projects carried out outside the United States.

RHINOCEROS AND TIGER CONSERVATION ACT OF 1998

CHAFEE AMENDMENT NO. 3797

Mr. JEFFORDS (for Mr. CHAFEE) proposed an amendment to the bill (S. 361) to amend the Endangered Species Act of 1973 to prohibit the sale, import, and export of products labeled as containing endangered species, and for other purposes; as follows:

On page 5, line 23, insert ''or advertised'' after ''labeled''.

On page 6, line 4, insert '', or labeled or advertised as containing,'' after ''containing''.

On page 6, line 9, insert '', or labeled or advertised as containing,'' after ''containing''.

On page 7, line 20, insert ''**OR ADVERTISED**'' after ''**LABELED**''.

On page 8, line 2, insert ''**OR ADVERTISED**'' after ''**LABELED**''.

On page 10, line 17, insert ''**OR ADVERTISED**'' after ''**LABELED**''.

WATER RESOURCES DEVELOPMENT ACT OF 1998

CHAFEE AMENDMENT NO. 3798

Mr. JEFFORDS (for Mr. CHAFEE) proposed an amendment to the bill (S. 2131) to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes; as follows:

On page 31, line 3, strike ''**DEFINITIONS**'' and insert ''**DEFINITION**''.

On page 34, lines 3 and 4, strike ''The Secretary may complete'' and insert ''The project for completion of''.

On page 34, line 8, strike ''(16 U.S.C. 1005)'' and insert ''(16 U.S.C. 1005),''.

On page 34, line 25, after ''navigation'' insert ''at''.

On page 37, line 8, strike ''restoration'' and insert ''restoration,''.

On page 37, line 23, strike ''California at a total cost of $25,850,000'' and insert ''California, at a total cost of $25,850,000,''.

On page 38, line 21, strike ''Delaware'' and insert ''Delaware,''.

On page 39, line 12, strike ''Delaware'' and insert ''Delaware,''.

On page 40, line 5, strike ''Delaware'' and insert ''Delaware,''.

On page 40, line 15, strike ''Florida'' and insert ''Florida,''.

On page 40, line 22, strike ''Florida'' and insert ''Florida,''.

On page 41, line 3, strike ''Florida'' and insert ''Florida,''.

On page 41, line 9, strike ''Florida'' and insert ''Florida,''.

On page 41, line 14, strike ''Deepening, Georgia'' and insert ''deepening, Georgia,''.

On page 41, line 25, strike ''Dakota and East Grand Forks, Minnesota'' and insert ''Dakota, and East Grand Forks, Minnesota,''.

On page 42, lines 6 and 7, strike ''Extension, Pascagoula Harbor, Pascagoula, Mississippi'' and insert ''extension, Pascagoula Harbor, Pascagoula, Mississippi,''.

On page 42, line 14, strike ''Missouri and Kansas City, Kansas'' and insert ''Missouri, and Kansas City, Kansas,''.

On page 42, lines 21 and 22, strike ''restoration'' and insert ''restoration,''.

On page 42, line 24, strike ''New Jersey'' and insert ''New Jersey,''.

On page 43, line 14, strike ''Protection,'' and insert ''protection,''.

On page 43, line 16, strike ''New Jersey'' and insert ''New Jersey,''.

On page 44, line 6, strike ''Protection,'' and insert ''protection,''.

On page 44, line 7, strike ''New Jersey'' and insert ''New Jersey,''.

On page 44, line 20, strike ''River'' and insert ''River,''.

On page 45, line 4, strike ''3709)'' and insert ''3709),''.

On page 45, line 6, strike ''California'' and insert ''California,''

On page 45, lines 13 and 14, strike ''Public Law 104–303'' and insert ''the Water Resources Development Act of 1996''.

On page 46, line 12, strike ''sponsor'' and insert ''interests''.

On page 46, line 22, strike ''by Public Law'' and insert ''by the first section of Public Law''.

On page 47, line 8, strike ''California'' and insert ''California,''

On page 47, lines 18 and 19, strike ''(100 Stat. 4098)'' and insert ''(100 Stat. 4098),''.

On page 48, lines 3 and 4, strike ''(110 Stat. 3711)'' and insert ''(110 Stat. 3711),''.

On page 49, line 16, strike ''1944,'' and insert ''1944 (58 Stat. 891),''.

On page 50, lines 8 and 9, strike ''relocated'' and insert ''relocated,''.

On page 50, line 10, strike ''measures'' and insert ''measures,''.

On page 50, line 21, strike ''agencies, and'' and insert ''agencies,''.

On page 50, line 23, strike ''Such'' and insert ''The''.

On page 52, line 6, strike ''sponsor'' and insert ''interests''.

On page 52, lines 13 and 14, strike ''Connecticut'' and insert ''Connecticut,''.

On page 52, line 16, strike ''anchorage'' and insert ''anchorage area''.

On page 53, line 8, strike ''point'' and insert ''point,''.

On page 54, strike line 11 and insert the following: authorized by the first section of the Act entitled 'An

On page 54, strike line 14 and insert the following: ers and harbors, and for other purposes', approved

On page 54, line 21, strike ''reports'' and insert ''reports,''.

On page 56, line 14, strike ''which'' and insert ''that''.

On page 57, line 2, strike ''Florida'' and insert ''Florida,''.

On page 57, line 12, strike ''sponsor'' and insert ''interests''.

On page 57, line 18, strike ''Florida'' and insert ''Florida,''.

On page 58, line 3, strike ''sponsor'' and insert ''interests''.

On page 58, line 9, strike ''Florida'' and insert ''Florida,''.

On page 58, line 13, strike ''Navigational'' and insert ''Navigation''.

On page 58, line 23, strike ''project'' and insert ''Project, Louisiana''.

On page 59, line 11, strike ''this'' and insert ''that''.

On page 59, line 16, strike ''project'' and insert ''Project''.

On page 59, line 19, strike ''Orleans, Parish,'' and insert ''Orleans Parish, Louisiana,''.

On page 60, line 9, strike ''sponsor'' and insert ''interests''.

On page 63, line 13, strike ''reports'' and insert ''report''.

On page 64, line 9, strike ''the'' and insert ''a''.

On page 64, line 24, strike ''through the year 2020'' and insert ''through 2020''.

On page 66, line 19, strike ''(100 Stat. 4088; 110 Stat. 3677)'' and insert ''(33 U.S.C. 2215)''.

On page 67, line 24, strike ''as a'' and insert ''as''.

On page 68, line 7, strike ''the Environment'' and insert ''Environment''.

On page 69, line 14, strike ''(100 Stat. 4085)'' and insert ''(33 U.S.C. 2213(d))''.

On page 70, line 22, strike ''The third sentence of section'' and insert ''Section''.

On page 70, line 23, strike ''amended by'' and insert ''amended in the third sentence by''.

On page 71, line 11, strike ''(110 Stat. 3679)'' and insert ''(33 U.S.C. 2330(c))''.

On page 71, line 18, strike ''1962d–5b(b)), for any project undertaken'' and insert ''1962d–5b), for any project carried out''.

On page 71, line 20, strike ''entity'' and insert ''entity,''.

On page 71, line 24, strike ''(106 Stat. 4826; 110 Stat. 3680)'' and insert ''(33 U.S.C. 2326)''.

On page 72, line 1, strike ''ENTITIES'' and insert ''ENTITIES''.

On page 72, lines 2 and 3, strike ''(42 U.S.C. 1962d–5b(b))'' and insert ''(42 U.S.C. 1962d–5b)''.

On page 72, lines 8 and 9, strike ''Flood Control Act of 1936 (33 U.S.C. 701h)'' and insert ''Act of June 22, 1936 (33 U.S.C. 701h),''.

On page 79, line 8, strike ''SPONSOR'' and insert ''INTERESTS''.

On page 79, line 10, strike ''sponsor'' and insert ''interests''.

On page 79, line 21, strike ''**BENEFIT COST**'' and insert ''**BENEFIT-COST**''.

On page 80, line 17, strike ''amended—'' and insert ''amended by adding at the end the following:''.

On page 80, strike line 18 through 20.

On page 80, line 21, strike ''(1)'' and insert ''(19)''.

On page 81, line 1, strike ''(2)'' and insert ''(20)''.

On page 81, strike lines 4 and 5 and insert the following:

''(21) SAN RAMON, CALIFORNIA.—San Ramon Valley recycled water project, San Ramon, California.''.

On page 81, strike lines 24 and 25 and insert the following:

(1) in paragraph (15), by striking ''and'' at the end;

On page 82, lines 1 and 2, strike ''by striking the period at the end of paragraph (16)'' and insert ''in paragraph (16), by striking the period at the end''.

On page 82, line 6, after ''program'' insert a semicolon.

On page 84, line 5, strike ''(60 Stat. 653)'' and insert ''(33 U.S.C. 701r)''.

On page 84, line 9, strike ''1990 (100 Stat. 4251) and insert ''1986 (33 U.S.C. 2309a)''.

On page 84, line 11, strike ''quality, flows'' insert ''quality, water flows,''.

On page 84, line 19, strike ''areas'' and insert ''areas,''.

On page 85, line 6, strike ''Arkansas'' and insert ''Arkansas,''.

On page 85, line 11, strike ''PREFERENCES.—'' and insert ''REFERENCES.—''.

On page 87, strike line 2 and insert the following: the restoration project under subsection (a)—

(1) may provide all

On page 87, strike line 4 and insert the following: the form of in-kind services; and

(2) shall receive credit toward

On page 87, line 16, strike ''(a) PROJECT PURPOSE.—''.

Beginning on page 87, strike line 21 and all that follows through page 88, line 6, and insert the following:

''(4) PRACTICAL END-USE PRODUCTS.—Technologies selected for demonstration at the pilot scale shall result in practical end-use products.

''(5) ASSISTANCE BY THE SECRETARY.—The Secretary shall assist the project to ensure expeditious completion by providing sufficient quantities of contaminated dredged material to conduct the full-scale demonstrations to stated capacity.''; and

On page 88, lines 12 and 13, strike ''New York-New Jersey'' and insert ''New York/New Jersey''.

On page 88, line 17, strike ''following;'' and insert ''following:''.

On page 89, line 6, strike ''(aa)'' and insert ''(a)''.

On page 90, lines 10 and 11, strike ''on waterway systems'' and insert ''on the waterway system''.

On page 96, line 19, strike ''(110 Stat. 3684)'' and insert ''(33 U.S.C. 701b–13)''.

On page 97, line 5, strike ''(16 U.S.C. 3301 note)'' and insert ''(16 U.S.C. 3301 note; Public Law 104–303)''.

On page 99, line 3, strike ''transmit'' and insert ''submit''.

On page 99, lines 14 and 15, strike ''Engineers operated'' and insert ''Engineers-operated''.

On page 99, line 17, strike the quotation marks each place they appear.

On page 99, line 25, strike ''and Secretary'' and insert ''and the Secretary''.

On page 114, line 13, strike ''section 202;'' and insert ''section 202; and''.

On page 116, line 1, strike ''et seq.)'' and insert ''et seq.),''.

On page 119, line 14, strike ''et seq.)'' and insert ''et seq.),''.

On page 125, lines 8 and 9, strike ''any provision'' and insert ''any other provision''.

On page 125, lines 11 and 12, strike ''Flood Control Act of 1944 (33 U.S.C. 701–1 et seq.)'' and insert ''Act of December 22, 1944 (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et seq.)''.

CHAFEE (AND OTHERS) AMENDMENT NO. 3799

Mr. JEFFORDS (for Mr. CHAFEE for himself, Mr. BAUCUS, and Mr. WARNER) proposed an amendment to the bill, S. 2131, supra; as follows:

On page 31, between lines 12 and 13, insert the following:

(1) RIO SALADO (SALT RIVER), ARIZONA.—The project for environmental restoration, Rio Salado (Salt River), Arizona: Report of the Chief of Engineers, dated August 20, 1998, at a total cost of $85,900,000, with an estimated Federal cost of $54,980,000 and an estimated non-Federal cost of $30,920,000.

On page 31, line 13, strike ''(1)'' and insert ''(2)''.

On page 32, line 3, strike ''of this subsection''.

On page 32, line 6, strike ''in'' and insert ''by''.

On page 32, line 21, strike ''such'' and insert ''the''.

On page 33, line 2, strike ''Implementation'' and insert the following:

(I) IN GENERAL.—Implementation

On page 33, line 16, strike ''subparagraph (B)(ii)'' and insert ''clause (ii)''.

On page 33, line 17, strike ''The review'' and insert the following:

(II) PRINCIPLES AND GUIDELINES.—The review

On page 34, line 3, strike ''(2)'' and insert ''(3)''.

On page 34, lines 4 and 5, strike ''National Resources Conservation Services'' and insert ''Natural Resources Conservation Service''.

On page 34, between lines 13 and 14, insert the following:

(4) UPPER GUADALUPE RIVER, CALIFORNIA.—The Secretary may construct the locally preferred plan for flood damage reduction and recreation, Upper Guadalupe River, California, described as the Bypass Channel Plan of the Chief of Engineers dated August 18, 1998, at a total cost of $132,836,000, with an estimated Federal cost of $42,869,000 and an estimated non-Federal cost of $89,967,000.

(5) DELAWARE BAY COASTLINE: DELAWARE AND NEW JERSEY-BROADKILL BEACH, DELAWARE.—

(A) IN GENERAL.—The shore protection project for hurricane and storm damage reduction, Delaware Bay Coastline: Delaware and New Jersey-Broadkill Beach, Delaware, Report of the Chief of Engineers dated August 17, 1998, at a total cost of $8,871,000, with an estimated Federal cost of $5,593,000 and an estimated non-Federal cost of $3,278,000.

(B) PERIODIC NOURISHMENT.—Periodic nourishment is authorized for a 50-year period at an estimated average annual cost of $651,000, with an estimated annual Federal cost of $410,000 and an estimated annual non-Federal cost of $241,000.

On page 34, line 14, strike ''(3)'' and insert ''(6)''.

On page 34, between lines 22 and 23, insert the following:

(7) INDIAN RIVER COUNTY, FLORIDA.—Notwithstanding section 1001(a) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(a)), the project for shoreline protection, Indian River County, Florida, authorized by section 501(a) of that Act (100 Stat. 4134), shall remain authorized for construction through December 31, 2002.

(8) LIDO KEY BEACH, SARASOTA, FLORIDA.—

(A) IN GENERAL.—The project for shore protection at Lido Key Beach, Sarasota, Florida, authorized by section 101 of the River and Harbor Act of 1970 (84 Stat. 1819) and deauthorized by operation of section 1001(b) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)), is authorized to be carried out by the Secretary at a total cost of $5,200,000, with an estimated Federal cost of $3,380,000 and an estimated non-Federal cost of $1,820,000.

(B) PERIODIC NOURISHMENT.—Periodic nourishment is authorized for a 50-year period at an estimated average annual cost of $602,000, with an estimated annual Federal cost of $391,000 and an estimated annual non-Federal cost of $211,000.

(9) AMITE RIVER AND TRIBUTARIES, LOUISIANA, EAST BATON ROUGE PARISH WATERSHED.—The project for flood damage reduction and recreation, Amite River and Tributaries, Louisiana, East Baton Rouge Parish Watershed: Report of the Chief of Engineers, dated December 23, 1996, at a total cost of $110,045,000, with an estimated Federal cost of $71,343,000 and an estimated non-Federal cost of $38,702,000.

On page 34, line 23, strike ''(4)'' and insert ''(10)''.

On page 35, line 4, strike ''$19,126,000'' and insert ''$18,510,000''.

On page 35, line 5, strike ''$8,566,000'' and insert ''$9,182,000''.

On page 35, line 6, strike ''(5)'' and insert ''(11)''.

On page 35, line 13, strike ''(6)'' and insert ''(12)''.

On page 35, lines 21 and 22, strike ''is authorized to be carried out by the Secretary''.

On page 36, between lines 13 and 14, insert the following:

(1) NOME HARBOR IMPROVEMENTS, ALASKA.—The project for navigation, Nome Harbor Improvements, Alaska, at a total cost of $24,280,000, with an estimated first Federal cost of $19,162,000 and an estimated first non-Federal cost of $5,118,000.

(2) SAND POINT HARBOR, ALASKA.—The project for navigation, Sand Point Harbor, Alaska, at a total cost of $11,463,000, with an estimated Federal cost of $6,718,000 and an estimated first non-Federal cost of $4,745,000.

(3) SEWARD HARBOR, ALASKA.—The project for navigation, Seward Harbor, Alaska, at a total cost of $11,930,000, with an estimated first Federal cost of $3,816,000 and an estimated first non-Federal cost of $8,114,000.

On page 36, line 14, strike ''(1)'' and insert ''(4)''.

On page 36, line 17, strike ''$39,000,000'' and insert ''$55,100,000''.

On page 36, line 18, strike ''$29,000,000'' and insert ''$41,300,000''.

On page 36, line 19, strike ''$10,000,000'' and insert ''$13,800,000''.

On page 36, line 20, strike ''(2)'' and insert ''(5)''.

On page 36, line 23, strike ''$202,000,000'' and insert ''$214,900,000''.

On page 36, line 24, strike ''$120,000,000'' and insert ''$128,600,000''.

On page 36, line 25, strike ''$82,000,000'' and insert ''$86,300,000''.

On page 37, line 5, strike ''$43,000,000'' and insert ''$38,200,000''.

On page 37, line 6, strike ''(3)'' and insert ''(6)''.

On page 37, line 10, strike ''$64,770,000,'' and insert ''$65,410,000,''.

On page 37, line 11, strike ''$38,840,000'' and insert ''$39,104,000''.

On page 37, line 12, strike ''$25,930,000'' and insert ''$26,306,000''.

On page 37, strike lines 13 through 20.

On page 37, line 21, strike ''(5)'' and insert ''(7)''.

On page 38, strike lines 1 through 15.

On page 38, line 16, strike ''(7)'' and insert ''(8)''.

On page 39, line 5, strike ''(8)'' and insert ''(9)''.

On page 39, line 15, strike ''$2,647,000'' and insert ''$757,000''.

On page 39, line 21, strike ''$47,600'' and insert ''$48,000''.

On page 39, line 22, strike ''(9)'' and insert ''(10)''.

On page 40, line 7, strike ''$7,773,000'' and insert ''$7,733,000''.

On page 40, line 14, strike ''(10)'' and insert ''(11)''.

On page 40, line 19, strike ''(11)'' and insert ''(12)''.

On page 41, line 1, strike ''(12)'' and insert ''(13)''.

On page 41, line 7, strike ''(13)'' and insert ''(14)''.

On page 41, line 12, strike ''(14)'' and insert ''(15)''.

On page 41, strike lines 17 through 21 and insert the following:

(16) SAVANNAH HARBOR EXPANSION, GEORGIA.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary may carry out the project for navigation, Savannah Harbor expansion, Georgia, substantially in accordance with the plans, and subject to the conditions, recommended in a final report of the Chief of Engineers, with such modifications as the Secretary deems appropriate, at a total cost of $223,887,000 (of which amount a portion is authorized for implementation of the mitigation plan), with an estimated Federal cost of $141,482,000 and an estimated non-Federal cost of $82,405,000, if the final report of the Chief of Engineers is completed by December 31, 1998.

(B) CONDITIONS.—The project authorized by subparagraph (A) may be carried out only after—

(i) the Secretary, in consultation with affected Federal, State, regional, and local entities, has reviewed and approved an Environmental Impact Statement that includes—

(I) an analysis of the impacts of project depth alternatives ranging from 42 feet through 48 feet; and

(II) a selected plan for navigation and associated mitigation plan as required by section 906(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2283); and

(ii) the Secretary of the Interior, the Secretary of Commerce, and the Administrator of the Environmental Protection Agency, with the Secretary, have approved the selected plan and have determined that the mitigation plan adequately addresses the potential environmental impacts of the project.

(C) MITIGATION REQUIREMENTS.—The mitigation plan shall be implemented in advance of or concurrently with construction of the project.

On page 41, line 22, strike ''(16)'' and insert ''(17)''.

On page 42, line 1, strike ''$281,754,000'' and insert ''$307,750,000''.

On page 42, line 2, strike ''$140,877,000'' and insert ''$154,360,000''.

On page 42, line 3, strike ''$140,877,000'' and insert ''$153,390,000''.

On page 42, line 4, strike ''(17)'' and insert ''(18)''.

On page 42, line 9, strike ''$4,300,000'' and insert ''$3,705,000''.

On page 42, line 10, strike ''$1,400,000'' and insert ''$1,995,000''.

On page 42, line 11, strike ''(18)'' and insert ''(19)''.

On page 42, line 15, strike ''$38,594,000'' and insert ''$43,288,000''.

On page 42, line 16, strike ''$22,912,000'' and insert ''$25,840,000''.

On page 42, line 17, strike ''$15,682,000'' and insert ''$17,448,000''.

On page 42, line 18, strike ''(19)'' and insert ''(20)''.

On page 43, line 9, strike ''(20)'' and insert ''(21)''.

On page 43, line 22, strike ''$2,600,000'' and insert ''$454,000''.

On page 43, line 23, strike ''$1,700,000'' and insert ''$295,000''.

On page 43, line 24, strike ''$900,000'' and insert ''$159,000''.

On page 44, line 1, strike ''(21)'' and insert ''(22)''.

On page 44, line 7, strike ''$55,203,000'' and insert ''$55,204,000''.

On page 44, line 8, strike ''$35,882,000'' and insert ''$35,883,000''.

On page 44, between lines 16 and 17, insert the following:

(23) MEMPHIS HARBOR, MEMPHIS, TENNESSEE.—

(A) IN GENERAL.—Subject to subparagraph (B), the project for navigation, Memphis Harbor, Memphis, Tennessee, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4145) and deauthorized under section 1001(a) of that Act (33 U.S.C. 579a(a)) is authorized to be carried out by the Secretary.

(B) CONDITION.—No construction may be initiated unless the Secretary determines through a general reevaluation report using current data, that the project is technically sound, environmentally acceptable, and economically justified.

(24) METRO CENTER LEVEE, CUMBERLAND RIVER, NASHVILLE, TENNESSEE.—The project for flood damage reduction and recreation, Metro Certer Levee, Cumberland River, Nashville, Tennessee, at a total cost of $5,931,000, with an estimated Federal cost of $3,753,000 and an estimated non-Federal cost of $2,178,000.

(25) HOWARD HANSON DAM, WASHINGTON.—The project for water supply and ecosystem restoration, Howard Hanson Dam, Washington, at a total cost of $74,908,000, with an estimated Federal cost of $36,284,000 and an estimated non-Federal cost of $38,624,000.

On page 44, line 22, strike ''of floods'' and insert ''of the floods''.

On page 44, line 23, after ''Sacramento River,'', insert ''California,''.

On page 46, line 10, strike ''101(h)(13)'' and insert ''101(b)(13)''.

On page 47, line 11, strike ''$32,900,000'' and insert ''$32,600,000''.

On page 47, line 12, strike ''$24,700,000'' and insert ''$24,500,000''.

On page 47, line 13, strike ''$8,200,000'' and insert ''$8,100,000''.

On page 47, between lines 13 and 14, insert the following:

(2) THORNTON RESERVOIR, COOK COUNTY, ILLINOIS.—

(A) IN GENERAL.—The Thornton Reservoir project, an element of the project for flood control, Chicagoland Underflow Plan, Illinois, authorized by section 3(a)(5) of the Water Resources Development Act of 1988 (102 Stat. 4013), is modified to authorize the Secretary to include additional permanent flood control storage attributable to the Thorn Creek Reservoir project, Little Calumet River Watershed, Illinois, approved under the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001 et seq.).

(B) COST SHARING.—Costs for the Thornton Reservoir project shall be shared in accordance with section 103 of the Water Resources Development Act of 1986 (33 U.S.C. 2213).

(C) TRANSITIONAL STORAGE.—The Secretary of Agriculture may cooperate with non-Federal interests to provide, on a transitional basis, flood control storage for the Thorn Creek Reservoir project in the west lobe of the Thornton quarry.

(D) CREDITING.—The Secretary may credit against the non-Federal share of the Thornton Reservoir project all design and construction costs incurred by the non-Federal interests before the date of enactment of this Act.

(E) REEVALUATION REPORT.—The Secretary shall determine the credits authorized by subparagraph (D) that are integral to the Thornton Reservoir project and the current total project costs based on a limited reevaluation report.

(3) WELLS HARBOR, WELLS, MAINE.—

(A) IN GENERAL.—The project for navigation, Wells Harbor, Maine, authorized by section 101 of the River and Harbor Act of 1960 (74 Stat. 480), is modified to authorize the Secretary to realign the channel and anchorage areas based on a harbor design capacity of 150 craft.

(B) DEAUTHORIZATION OF CERTAIN PORTIONS.—The following portions of the project are not authorized after the date of enactment of this Act:

(i) The portion of the 6-foot channel the boundaries of which begin at a point with coordinates N177,992.00, E394,831.00, thence running south 83 degrees 58 minutes 14.8 seconds west 10.38 feet to a point N177,990.91, E394,820.68, thence running south 11 degrees 46 minutes 47.7 seconds west 991.76 feet to a point N177,020.04, E394,618.21, thence running south 78 degrees 13 minutes 45.7 seconds east 10.00 feet to a point N177,018.00, E394,628.00, thence running north 11 degrees 46 minutes 22.8 seconds east 994.93 feet to the point of origin.

(ii) The portion of the 6-foot anchorage the boundaries of which begin at a point with coordinates N177,778.07, E394,336.96, thence running south 51 degrees 58 minutes 32.7 seconds west 15.49 feet to a point N177,768.53, E394,324.76, thence running south 11 degrees 46 minutes 26.5 seconds west 672.87 feet to a point N177,109.82, E394,187.46, thence running south 78 degrees 13 minutes 45.7 seconds east 10.00 feet to a point N177,107.78, E394,197.25, thence running north 11 degrees 46 minutes 25.4 seconds east 684.70 feet to the point of origin.

(iii) The portion of the 10-foot settling basin the boundaries of which begin at a point with coordinates N177,107.78, E394,197.25, thence running north 78 degrees 13 minutes 45.7 seconds west 10.00 feet to a point N177,109.82, E394,187.46, thence running south 11 degrees 46 minutes 15.7 seconds west 300.00 feet to a point N176,816.13, E394,126.26, thence running south 78 degrees 12 minutes 21.4 seconds east 9.98 feet to a point N176,814.09, E394,136.03, thence running north 11 degrees 46 minutes 29.1 seconds east 300.00 feet to the point of origin.

(iv) The portion of the 10-foot settling basin the boundaries of which begin at a point with coordinates N177,018.00, E394,628.00, thence running north 78 degrees 13 minutes 45.7 seconds west 10.00 feet to a point N177,020.04, E394,618.21, thence running south 11 degrees 46 minutes 44.0 seconds west 300.00 feet to a point N176,726.36, E394,556.97, thence running south 78 degrees 12 minutes 30.3 seconds east 10.03 feet to a point N176,724.31, E394,566.79, thence running north 11 degrees 46 minutes 22.4 seconds east 300.00 feet to the point of origin.

(C) REDESIGNATIONS.—The following portions of the project shall be redesignated as part of the 6-foot anchorage:

(i) The portion of the 6-foot channel the boundaries of which begin at a point with coordinates N177,990.91, E394,820.68, thence running south 83 degrees 58 minutes 40.8 seconds west 94.65 feet to a point N177,980.98, E394,726.55, thence running south 11 degrees 46 minutes 22.4 seconds west 962.83 feet to a point N177,038.40, E394,530.10, thence running south 78 degrees 13 minutes 45.7 seconds east 90.00 feet to a point N177,020.04, E394,618.21, thence running north 11 degrees 46 minutes 47.7 seconds east 991.76 feet to the point of origin.

(ii) The portion of the 10-foot inner harbor settling basin the boundaries of which begin at a point with coordinates N177,020.04, E394,618.21, thence running north 78 degrees 13 minutes 30.5 seconds west 160.00 feet to a point N177,052.69, E394,461.58, thence running south 11 degrees 46 minutes 45.4 seconds west 299.99 feet to a point N176,759.02, E394,400.34, thence running south 78 degrees 13 minutes 17.9 seconds east 160 feet to a point N176,726.36, E394,556.97, thence running north 11 degrees 46 minutes 44.0 seconds east 300.00 feet to the point of origin.

(iii) The portion of the 6-foot anchorage the boundaries of which begin at a point with coordinates N178,102.26, E394,751.83, thence running south 51 degrees 59 minutes 42.1 seconds west 526.51 feet to a point N177,778.07, E394,336.96, thence running south 11 degrees 46 minutes 26.6 seconds west 511.83

feet to a point N177,277.01, E394,232.52, thence running south 78 degrees 13 minutes 17.9 seconds east 80.00 feet to a point N177,260.68, E394,310.84, thence running north 11 degrees 46 minutes 24.8 seconds east 482.54 feet to a point N177,733.07, E394,409.30, thence running north 51 degrees 59 minutes 41.0 seconds east 402.63 feet to a point N177,980.98, E394,726.55, thence running north 11 degrees 46 minutes 27.6 seconds east 123.89 feet to the point of origin.

(D) REALIGNMENT.—The 6-foot anchorage area described in subparagraph (C)(iii) shall be realigned to include the area located south of the inner harbor settling basin in existence on the date of enactment of this Act beginning at a point with coordinates N176,726.36, E394,556.97, thence running north 78 degrees 13 minutes 17.9 seconds west 160.00 feet to a point N176,759.02, E394,400.34, thence running south 11 degrees 47 minutes 03.8 seconds west 45 feet to a point N176,714.97, E394,391.15, thence running south 78 degrees 13 minutes 17.9 seconds 160.00 feet to a point N176,682.31, E394,547.78, thence running north 11 degrees 47 minutes 03.8 seconds east 45 feet to the point of origin.

(E) RELOCATION.—The Secretary may relocate the settling basin feature of the project to the outer harbor between the jetties.

On page 47, line 14, strike ''(2)'' and insert ''(4)''.

On page 47, strike lines 23 and 24 and insert the following:

(5) ARTHUR KILL, NEW YORK AND NEW JERSEY.—

(A) IN GENERAL.—The project for navigation, Arthur Kill, New

On page 48, line 6, strike ''$260,899,000'' and insert ''$269,672,000''.

On page 48, line 7, strike ''$195,705,000'' and insert ''$178,400,000''.

On page 48, line 8, strike ''$65,194,000'' and insert ''$91,272,000''.

On page 48, between lines 8 and 9, insert the following:

(B) BERTHING AREAS AND OTHER LOCAL SERVICE FACILITIES.—The non-Federal interests shall provide berthing areas and other local service facilities necessary for the project at an estimated cost of $37,936,000.

On page 49, between lines 4 and 5, insert the following:

(f) REDIVERSION PROJECT, COOPER RIVER, CHARLESTON HARBOR, SOUTH CAROLINA.—

(1) IN GENERAL.—The rediversion project, Cooper River, Charleston Harbor, South Carolina, authorized by section 101 of the River and Harbor Act of 1968 (82 Stat. 731) and modified by title I of the Energy and Water Development Appropriations Act, 1992 (105 Stat. 517), is modified to authorize the Secretary to pay the State of South Carolina not more than $3,750,000, if the State enters into an agreement with the Secretary providing that the State shall perform all future operation of the St. Stephen, South Carolina, fish lift (including associated studies to assess the efficacy of the fish lift).

(2) CONTENTS.—The agreement shall specify the terms and conditions under which payment will be made and the rights of, and remedies available to, the Secretary to recover all or a portion of the payment if the State suspends or terminates operation of the fish lift or fails to perform the operation in a manner satisfactory to the Secretary.

(3) MAINTENANCE.—Maintenance of the fish lift shall remain a Federal responsibility.

On page 49, line 5, strike ''(f)'' and insert ''(g)''.

On page 49, line 15, strike ''and other'' and insert ''and for other''.

On page 49, line 24, strike ''this authority'' and insert ''subparagraph (A)''.

On page 49, line 25, strike ''will'' and insert ''shall''.

On page 51, between lines 3 and 4, insert the following:

(h) TRINITY RIVER AND TRIBUTARIES, TEXAS.—The project for flood control and navigation, Trinity River and tributaries, Texas, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1091), is modified to add environmental restoration as a project purpose.

On page 51, line 4, strike ''(g)'' and insert ''(i)''.

On page 51, line 22, strike ''(h)'' and insert ''(j)''.

On page 52, line 5, strike ''(i)'' and insert ''(k)''.

On page 52, between lines 10 and 11, insert the following:

(l) MIAMI DADE AGRICULTURAL AND RURAL LAND RETENTION PLAN AND SOUTH BISCAYNE, FLORIDA.—Section 528(b)(3) of the Water Resources Development Act of 1996 (110 Stat. 3768) is amended by adding at the end the following:

''(D) CREDIT AND REIMBURSEMENT OF PAST AND FUTURE ACTIVITIES.—The Secretary may afford credit to or reimburse the non-Federal sponsors (using funds authorized by subparagraph (C)) for the reasonable costs of any work that has been performed or will be performed in connection with a study or activity meeting the requirements of subparagraph (A) if—

''(i) the Secretary determines that—

''(I) the work performed by the non-Federal sponsors will substantially expedite completion of a critical restoration project; and

''(II) the work is necessary for a critical restoration project; and

''(ii) the credit or reimbursement is granted pursuant to a project-specific agreement that prescribes the terms and conditions of the credit or reimbursement.''.

(m) LAKE MICHIGAN, ILLINOIS.—

(1) IN GENERAL.—The project for storm damage reduction and shoreline protection, Lake Michigan, Illinois, from Wilmette, Illinois, to the Illinois-Indiana State line, authorized by section 101(a)(12) of the Water Resources Development Act of 1996 (110 Stat. 3664), is modified to provide for reimbursement for additional project work undertaken by the non-Federal interest.

(2) CREDIT OR REIMBURSEMENT.—The Secretary shall credit or reimburse the non-Federal interest for the Federal share of project costs incurred by the non-Federal interest in designing, constructing, or reconstructing reach 2F (700 feet south of Fullerton Avenue and 500 feet north of Fullerton Avenue), reach 3M (Meigs Field), and segments 7 and 8 of reach 4 (43rd Street to 57th Street), if the non-Federal interest carries out the work in accordance with plans approved by the Secretary, at an estimated total cost of $83,300,000.

(3) REIMBURSEMENT.—The Secretary shall reimburse the non-Federal interest for the Federal share of project costs incurred by the non-Federal interest in reconstructing the revetment structures protecting Solidarity Drive in Chicago, Illinois, before the signing of the project cooperation agreement, at an estimated total cost of $7,600,000.

(n) MEASUREMENTS OF LAKE MICHIGAN DIVERSIONS, ILLINOIS.—Section 1142(b) of the Water Resources Development Act of 1986 (100 Stat. 4253) is amended by striking ''$250,000 per fiscal year for each fiscal year beginning after September 30, 1986'' and inserting ''a total of $1,250,000 for each of fiscal years 1999 through 2003''.

(o) PROJECT FOR NAVIGATION, DUBUQUE, IOWA.—The project for navigation at Dubuque, Iowa, authorized by section 101 of the River and Harbor Act of 1960 (74 Stat. 482), is modified to authorize the development of a wetland demonstration area of approximately 1.5 acres to be developed and operated by the Dubuque County Historical Society or a successor nonprofit organization.

(p) LOUISIANA STATE PENITENTIARY LEVEE.—The Secretary may credit against the non-Federal share work performed in the project area of the Louisiana State Penitentiary Levee, Mississippi River, Louisiana, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4117).

(q) JACKSON COUNTY, MISSISSIPPI.—The project for environmental infrastructure, Jackson County, Mississippi, authorized by section 219(c)(5) of the Water Resources Development Act of 1992 (106 Stat. 4835) and modified by section 504 of the Water Resources Development Act of 1996 (110 Stat. 3757), is modified to direct the Secretary to provide a credit, not to exceed $5,000,000, against the non-Federal share of the cost of the project for the costs incurred by the Jackson County Board of Supervisors since February 8, 1994, in constructing the project, if the Secretary determines that such costs are for work that the Secretary determines was compatible with and integral to the project.

(r) RICHARD B. RUSSELL DAM AND LAKE, SOUTH CAROLINA.—

(1) IN GENERAL.—Except as otherwise provided in this paragraph, the Secretary shall convey to the State of South Carolina all right, title, and interest of the United States in the parcels of land described in subparagraph (B) that are currently being managed by the South Carolina Department of Natural Resources for fish and wildlife mitigation purposes for the Richard B. Russell Dam and Lake, South Carolina, project authorized by the Flood Control Act of 1966 and modified by the Water Resources Development Act of 1986.

(2) LAND DESCRIPTION.—

(A) IN GENERAL.—The parcels of land to be conveyed are described in Exhibits A, F, and H of Army Lease No. DACW21–1–93–0910 and associated supplemental agreements or are designated in red in Exhibit A of Army License No. DACW21–3–85–1904, excluding all designated parcels in the license that are below elevation 346 feet mean sea level or that are less than 300 feet measured horizontally from the top of the power pool.

(B) MANAGEMENT OF EXCLUDED PARCELS.—Management of the excluded parcels shall continue in accordance with the terms of Army License No. DACW21–3–85–1904 until the Secretary and the State enter into an agreement under subparagraph (F).

(C) SURVEY.—The exact acreage and legal description of the land shall be determined by a survey satisfactory to the Secretary, with the cost of the survey borne by the State.

(3) COSTS OF CONVEYANCE.—The State shall be responsible for all costs, including real estate transaction and environmental compliance costs, associated with the conveyance.

(4) PERPETUAL STATUS.—

(A) IN GENERAL.—All land conveyed under this paragraph shall be retained in public ownership and shall be managed in perpetuity for fish and wildlife mitigation purposes in accordance with a plan approved by the Secretary.

(B) REVERSION.—If any parcel of land is not managed for fish and wildlife mitigation purposes in accordance with such plan, title to the parcel shall revert to the United States.

(5) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance as the Secretary considers appropriate to protect the interests of the United States.

(6) FISH AND WILDLIFE MITIGATION AGREEMENT.—

(A) IN GENERAL.—The Secretary may pay the State of South Carolina not more than $4,850,000 subject to the Secretary and the

State entering into a binding agreement for the State to manage for fish and wildlife mitigation purposes in perpetuity the lands conveyed under this paragraph and excluded parcels designated in Exhibit A of Army License No. DACW21–3–85–1904.

(B) FAILURE OF PERFORMANCE.—The agreement shall specify the terms and conditions under which payment will be made and the rights of, and remedies available to, the Federal Government to recover all or a portion of the payment if the State fails to manage any parcel in a manner satisfactory to the Secretary.

(s) LAND CONVEYANCE, CLARKSTON, WASHINGTON.—

(1) IN GENERAL.—The Secretary shall convey to the Port of Clarkston, Washington, all right, title, and interest of the United States in and to a portion of the land described in the Department of the Army lease No. DACW68–1–97–22, consisting of approximately 31 acres, the exact boundaries of which shall be determined by the Secretary and the Port of Clarkston.

(2) The Secretary may convey to the Port of Clarkston, Washington, at fair market value as determined by the Secretary, such additional land located in the vicinity of Clarkston, Washington, as the Secretary determines to be excess to the needs of the Columbia River Project and appropriate for conveyance.

(3) TERMS AND CONDITIONS.—The conveyances made under subsections (a) and (b) shall be subject to such terms and conditions as the Secretary determines to be necessary to protect the interests of the United States, including a requirement that the Port of Clarkston pay all administrative costs associated with the conveyances, including the cost of land surveys and appraisals and costs associated with compliance with applicable environmental laws and regulations.

(4) USE OF LAND.—The Port of Clarkston shall be required to pay the fair market value, as determined by the Secretary, of any land conveyed pursuant to subsection (a) that is not retained in public ownership or is used for other than public park or recreation purposes, except that the Secretary shall have a right of reverter to reclaim possession and title to any such land.

(t) WHITE RIVER, INDIANA.—The project for flood control, Indianapolis on West Fork of the White River, Indiana, authorized by section 5 of the Act entitled ''An Act authorizing the construction of certain public works on rivers and harbors for flood control, and other purposes'', approved June 22, 1936 (49 Stat. 1586, chapter 688), as modified by section 323 of the Water Resources Development Act of 1996 (110 Stat. 3716), is modified to authorize the Secretary to undertake the riverfront alterations described in the Central Indianapolis Waterfront Concept Plan, dated February 1994, for the Canal Development (Upper Canal feature) and the Beveridge Paper feature, at a total cost not to exceed $25,000,000, of which $12,500,000 is the estimated Federal cost and $12,500,000 is the estimated non-Federal cost, except that no such alterations may be undertaken unless the Secretary determines that the alterations authorized by this subsection, in combination with the alterations undertaken under section 323 of the Water Resources Development Act of 1996 (110 Stat. 3716), are economically justified.

(u) FOX POINT HURRICANE BARRIER, PROVIDENCE, RHODE ISLAND.—The project for hurricane-flood protection, Fox Point, Providence, Rhode Island, authorized by section 203 of the Flood Control Act of 1958 (72 Stat. 306) is modified to direct the Secretary to undertake the necessary repairs to the barrier, as identified in the Condition Survey and Technical Assessment dated April 1998 with Supplement dated August 1998, at a total cost of $3,000,000, with an estimated Federal cost of $1,950,000 and an estimated non-Federal cost of $1,050,000.

On page 54, between lines 4 and 5, insert the following:

(c) BOOTHBAY HARBOR, MAINE.—The project for navigation, Boothbay Harbor, Maine, authorized by the Act of July 25, 1912 (37 Stat. 201, chapter 253), is not authorized after the date of enactment of this Act.

On page 54, line 5, strike ''(c)'' and insert ''(d)''.

On page 55, between lines 21 and 22, insert the following:

(c) CADDO LEVEE, RED RIVER BELOW DENISON DAM, ARIZONA, LOUISIANA, OKLAHOMA, AND TEXAS.—The Secretary shall conduct a study to determine the feasibility of undertaking a project for flood control, Caddo Levee, Red River Below Denison Dam, Arizona, Louisiana, Oklahoma, and Texas, including incorporating the existing levee, along Twelve Mile Bayou from its juncture with the existing Red River Below Denison Dam Levee approximately 26 miles upstream to its terminus at high ground in the vicinity of Black Bayou, Louisiana.

(d) FIELDS LANDING CHANNEL, HUMBOLDT HARBOR, CALIFORNIA.—The Secretary—

(1) shall conduct a study for the project for navigation, Fields Landing Channel, Humboldt Harbor and Bay, California, to a depth of minus 35 feet (MLLW), and for that purpose may use any feasibility report prepared by the non-Federal sponsor under section 203 of the Water Resources Development Act of 1986 (33 U.S.C. 2231) for which reimbursement of the Federal share of the study is authorized subject to the availability of appropriations; and

(2) may carry out the project under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577), if the Secretary determines that the project is feasible.

On page 55, line 22, strike ''(c)'' and insert ''(e)''.

On page 55, line 25, strike ''to determine'' and insert ''and''.

On page 56, line 3, strike ''(d)'' and insert ''(f)''.

On page 56, line 8, strike ''(e)'' and insert ''(g)''.

On page 56, line 16, strike ''(f)'' and insert ''(h)''.

On page 56, line 20, strike ''(g)'' and insert ''(i)''.

On page 57, line 3, strike ''(h)'' and insert ''(j)''.

On page 57, line 13, strike ''(i)'' and insert ''(k)''.

On page 57, line 22, strike ''(j)'' and insert ''(l)''.

On page 58, line 4, strike ''(k)'' and insert ''(m)''.

On page 58, between lines 9 and 10, insert the following:

(n) SAINT JOSEPH RIVER, SOUTH BEND, INDIANA.—The Secretary shall conduct a study to determine the feasibility of undertaking erosion control, bank stabilization, and flood control along the Saint Joseph River, Indiana, including the South Bend Dam and the banks of the East Bank and Island Park.

On page 58, line 10, strike ''(l)'' and insert ''(o)''.

On page 58, between lines 14 and 15, insert the following:

(p) CAMERON PARISH WEST OF CALCASIEU RIVER, LOUISIANA.—The Secretary shall conduct a study to determine the feasibility of a storm damage reduction and ecosystem restoration project for Cameron Parish west of Calcasieu River, Louisiana.

(q) BENEFICIAL USE OF DREDGED MATERIAL, COASTAL LOUISIANA.—The Secretary shall conduct a study to determine the feasibility of using dredged material from maintenance activities at Federal navigation projects in coastal Louisiana to benefit coastal areas in the State.

On page 58, line 15, strike ''(m)'' and insert ''(r)''.

On page 58, line 19, strike ''(n)'' and insert ''(s)''.

On page 59, line 1, strike ''(o)'' and insert ''(t)''.

On page 59, line 13, strike ''(p)'' and insert ''(u)''.

On page 59, line 21, strike ''(q)'' and insert ''(v)''.

On page 60, line 7, strike ''(r)'' and insert ''(w)''.

On page 60, between lines 10 and 11, insert the following:

(x) DETROIT RIVER, MICHIGAN, GREENWAY CORRIDOR STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of a project for shoreline protection, frontal erosion, and associated purposes in the Detroit River shoreline area from the Belle Isle Bridge to the Ambassador Bridge in Detroit, Michigan.

(2) POTENTIAL MODIFICATIONS.—As a part of the study, the Secretary shall review potential project modifications to any existing Corps projects within the same area.

(y) ST. CLAIR SHORES FLOOD CONTROL, MICHIGAN.—The Secretary shall conduct a study to determine the feasibility of constructing a flood control project at St. Clair Shores, Michigan.

On page 60, line 11, strike ''(s)'' and insert ''(z)''.

On page 60, line 22, strike ''(t)'' and insert ''(aa)''.

On page 61, line 7, strike ''use'' and insert ''shall use''.

On page 61, line 13, strike ''(u)'' and insert ''(bb)''.

SEC. bb. Irrigation Diversion Protection and Fisheries Enhancement Assistance.—The Secretary may provide technical planning and design assistance to non-Federal interests and may conduct other site-specific studies to formulate and evaluate fish screens, fish passages devices and other measures to decrease the incidence of juvenile and adult fish inadvertently entering into irrigation systems. Measures shall be developed in cooperation with Federal and State resource agencies and not impair the continued withdrawal of water for irrigation purposes. In providing such assistance priority shall be given based on the objectives of the Endangered Species Act, cost-effectiveness, and the potential for reducing fish mortality. Non-Federal interests shall agree by contract to contribute 50 percent of the cost of such assistance. Not more than one-half of such non-Federal contribution may be made by the provision of services, materials, supplies, or other in-kind services. No construction activities are authorized by this section. Not later than two years after the date of enactment of this section, the Secretary shall report to Congress on fish mortality caused by irrigation water intake devices, appropriate measures to reduce mortality, the extent to which such measures are currently being employed in the arid States, the construction costs associated with such measures, and the appropriate Federal role, if any, to encourage the use of such measures.

On page 61, lines 22 and 23, strike ''Resource'' and insert ''Resources''.

On page 61, line 24, strike ''Montana, tribal'' and insert ''Montana and tribal''.

On page 62, line 4, strike ''(v)'' and insert ''(cc)''.

On page 62, line 12, strike ''(w)'' and insert ''(dd)''.

On page 62, line 20, strike ''(x)'' and insert ''(ee)''.

On page 62, line 24, strike ''(y)'' and insert ''(ff)''.

On page 63, line 11, strike ''REMEDIATION'' and insert ''RESTORATION''.

On page 63, line 18, insert ''the'' before ''Federal''.

On page 63, strike lines 20 through 23 and insert the following:

(3) REPORT.—The Secretary may use funds from the ongoing navigation study for New York and New Jersey Harbor to complete a reconnaissance report for environmental restoration by December 31, 1999. The navigation study to deepen New York and New Jersey Harbor shall consider beneficial use of dredged material.

(gg) BANK STABILIZATION, MISSOURI RIVER, NORTH DAKOTA.—

(1) STUDY.—

(A) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of bank stabilization on the Missouri River between the Garrison Dam and Lake Oahe in North Dakota.

(B) ELEMENTS.—In conducting the study, the Secretary shall study—

(i) options for stabilizing the erosion sites on the banks of the Missouri River between the Garrison Dam and Lake Oahe identified in the report developed by the North Dakota State Water Commission, dated December 1997, including stabilization through nontraditional measures;

(ii) the cumulative impact of bank stabilization measures between the Garrison Dam and Lake Oahe on fish and wildlife habitat and the potential impact of additional stabilization measures, including the impact of nontraditional stabilization measures;

(iii) the current and future effects, including economic and fish and wildlife habitat effects, that bank erosion is having on creating the delta at the beginning of Lake Oahe; and

(iv) the impact of taking no additional measures to stabilize the banks of the Missouri River between the Garrison Dam and Lake Oahe.

(C) INTERESTED PARTIES.—In conducting the study, the Secretary shall, to the maximum extent practicable, seek the participation and views of interested Federal, State, and local agencies, landowners, conservation organizations, and other persons.

(D) REPORT.—

(i) IN GENERAL.—The Secretary shall report to Congress on the results of the study not later than 1 year after the date of enactment of this Act.

(ii) STATUS.—If the Secretary cannot complete the study and report to Congress by the day that is 1 year after the date of enactment of this Act, the Secretary shall, by that day, report to Congress on the status of the study and report, including an estimate of the date of completion.

(2) EFFECT ON EXISTING PROJECTS.—This subsection does not preclude the Secretary from establishing or carrying out a stabilization project that is authorized by law.

(hh) SANTEE DELTA WETLAND HABITAT, SOUTH CAROLINA.—Not later than 18 months after the date of enactment of this Act, the Secretary shall complete a comprehensive study of the ecosystem in the Santee Delta focus area of South Carolina to determine the feasibility of undertaking measures to enhance the wetland habitat in the area.

(ii) WACCAMAW RIVER, SOUTH CAROLINA.—The Secretary shall conduct a study to determine the feasibility of a flood control project for the Waccamaw River in Horry County, South Carolina.

On page 63, between lines 23 and 24, insert the following:

(jj) UPPER SUSQUEHANNA-LACKAWANNA, PENNSYLVANIA, WATERSHED MANAGEMENT AND RESTORATION STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of a comprehensive flood plain management and watershed restoration project for the Upper Susquehanna-Lackawanna Watershed, Pennsylvania.

(2) GEOGRAPHIC INFORMATION SYSTEM.—In conducting the study, the Secretary shall use a geographic information system.

(3) PLANS.—The study shall formulate plans for comprehensive flood plain management and environmental restoration.

(4) CREDITING.—Non-Federal interests may receive credit for in-kind services and materials that contribute to the study. The Secretary may credit non-Corps Federal assistance provided to the non-Federal interest toward the non-Federal share of study costs to the maximum extent authorized by law.

On page 63, line 24, strike ''(z)'' and insert ''(kk)''.

On page 64, between lines 6 and 7, insert the following:

(ll) SANTA CLARA RIVER, UTAH.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of undertaking measures to alleviate damage caused by flooding, bank erosion, and sedimentation along the watershed of the Santa Clara River, Utah, above the Gunlock Reservoir.

(2) CONTENTS.—The study shall include an analysis of watershed conditions and water quality, as related to flooding and bank erosion, along the Santa Clara River in the vicinity of the town of Gunlock, Utah.

On page 64, line 7, strike ''(aa)'' and insert ''(mm)''.

On page 64, between lines 12 and 13, insert the following:

(nn) AGAT SMALL BOAT HARBOR, GUAM.—The Secretary shall conduct a study to determine the feasibility of undertaking the repair and reconstruction of Agat Small Boat Harbor, Guam, including the repair of existing shore protection measures and construction or a revetment of the breakwater seawall.

(oo) APRA HARBOR SEAWALL, GUAM.—The Secretary shall conduct a study to determine the feasibility of undertaking measures to repair, upgrade, and extend the seawall protecting Apra Harbor, Guam, and to ensure continued access to the harbor via Route 11B.

(pp) APRA HARBOR FUEL PIERS, GUAM.—The Secretary shall conduct a study to determine the feasibility of undertaking measures to upgrade the piers and fuel transmission lines at the fuel piers in the Apra Harbor, Guam, and measures to provide for erosion control and protection against storm damage.

(qq) MAINTENANCE DREDGING OF HARBOR PIERS, GUAM.—The Secretary shall conduct a study to determine the feasibility of Federal maintenance of areas adjacent to piers at harbors in Guam, including Apra Harbor, Agat Harbor, and Agana Marina.

On page 64, line 13, strike ''(bb)'' and insert ''(rr)''.

On page 65, line 2, strike ''may be'' and insert ''are''.

On page 65, lines 19 and 20, strike ''undertake'' and insert ''carry out''.

On page 66, line 4, strike ''this authority'' and insert ''the program''.

On page 66, line 16, strike ''IN GENERAL.—'' and insert ''STUDIES.—''.

On page 66, line 20, strike ''PAYMENT PERCENTAGE.—'' and insert ''PROJECTS.—''.

On page 67, line 1, strike ''projects, and the'' and insert ''projects. The''.

On page 67, line 9, strike ''authority'' and insert ''section''.

On page 68, line 18, strike ''Saint Genevieve'' and insert ''LeMay''.

On page 69, line 15, strike ''construction'' and insert ''constructing''.

On page 69, line 17, strike ''construction'' and insert ''constructing''.

On page 70, line 11, strike ''projects'' and insert ''authority''.

On page 74, strike lines 23 and 24.

On page 77, line 21, strike ''under subsection (b)''.

On page 77, line 22, strike ''(c)'' and insert ''(b)''.

On page 79, line 4, after ''amended'', insert ''in the second sentence''.

On page 80, line 2, strike ''and''.

On page 80, line 8, strike the final period and insert ''; and''.

On page 80, between lines 8 and 9, insert the following:

(4) in the first sentence of subsection (e) (as redesignated by paragraph (2)), by striking ''(b)'' and inserting ''(d)''.

On page 81, strike lines 8 through 10 and insert the following:

Section 503 of the Water Resources Development Act of 1996 (110 Stat. 3756) is amended—

(1) in subsection (d)—

(A) by striking paragraph (10) and inserting the following:

''(10) Regional Atlanta Watershed, Atlanta, Georgia, and Lake Lanier of Forsyth and Hall Counties, Georgia.''; and

(B) by adding at the end the following:

On page 81, line 20, strike the quotation marks and the final period.

On page 81, between lines 20 and 21, insert the following:

''(22) Bronx River watershed, New York.

''(23) Catawba River watershed, North Carolina.'';

(2) by redesignating subsection (e) as subsection (f); and

(3) by inserting after subsection (d) the following:

''(e) NONPROFIT ENTITIES.—Notwithstanding section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(b)), for any project undertaken under this section, with the consent of the affected local government, a non-Federal interest may include a nonprofit entity.''.

On page 81, line 22, after ''Resources'' insert ''Development''.

On page 82, between lines 6 and 7, insert the following:

''(18) Flints Pond, Hollis, New Hampshire, removal of excessive aquatic vegetation.

On page 82, line 7, strike ''(18)'' and insert ''(19)''.

On page 82, line 21, after ''estimated'' insert ''Federal''.

On page 82, lines 22 and 23, strike ''**Repaupo Creek and Delaware River, Gloucester County, New Jersey.**'' and insert ''**small flood control projects.**''.

On page 83, line 2, strike ''(17) through (24)'' and insert ''(16) through (23)''.

On page 83, line 3, strike ''and''.

On page 83, strike lines 9 and 10 and insert the following:

and the Delaware River, Gloucester County, New Jersey; and

(3) by adding at the end the following:

''(24) IRONDEQUOIT CREEK, NEW YORK.—Project for flood control, Irondequoit Creek watershed, New York.

On page 83, line 11, strike ''(16)'' and insert ''(25)''.

On page 83, line 22, strike ''Fortesque'' and insert ''Fortescue''.

On page 84, between lines 1 and 2, insert the following:

(a) ARCTIC OCEAN, BARROW, ALASKA.—The Secretary shall evaluate and, if justified under section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r), carry out storm damage reduction and coastal erosion measures at the town of Barrow, Alaska.

(b) SAGINAW RIVER, BAY CITY, MICHIGAN.—The Secretary may construct appropriate control structures in areas along the Saginaw River in the city of Bay City, Michigan,

under authority of section 14 of the Flood Control Act of 1946 (33 Stat. 701s).

On page 84, line 2, strike ''The'' and insert ''(c) YELLOWSTONE RIVER, BILLINGS, MONTANA.—The''.

On page 84, between lines 5 and 6, insert the following:

(d) MONONGAHELA RIVER, POINT MARION, PENNSYLVANIA.—The Secretary shall evaluate and, if justified under section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r), carry out streambank erosion control measures along the Monongahela River at the borough of Point Marion, Pennsylvania.

On page 84, line 16, strike ''Army''.

On page 85, lines 3 and 4, strike ''**, arkansas floodway ditch no. 5**'' and insert ''**floodway ditch**''

On page 85, line 10, strike '', Arkansas Floodway Ditch No. 5'' and insert ''Floodway Ditch''.

On page 85, line 15, strike '', Arkansas Floodway Ditch No. 5'' and insert ''Floodway Ditch''.

Beginning on page 85, strike line 16 and all that follows through page 86, line 5.

Beginning on page 92, strike line 1 and all that follows through page 96, line 16, and insert the following:

SEC. 142. UPPER MISSISSIPPI RIVER MANAGEMENT.

Section 1103 of the Water Resources Development Act of 1986 (33 U.S.C. 652) is amended—

(1) in subsection (e)—

(A) by striking ''(e)'' and all that follows through the end of paragraph (2) and inserting the following:

''(e) UNDERTAKINGS.—

''(1) IN GENERAL.—

''(A) AUTHORITY.—The Secretary, in consultation with the Secretary of the Interior and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, is authorized to undertake—

''(i) a program for the planning, construction, and evaluation of measures for fish and wildlife habitat rehabilitation and enhancement; and

''(ii) implementation of a program of long-term resource monitoring, computerized data inventory and analysis, and applied research.

''(B) REQUIREMENTS FOR PROJECTS.—Each project carried out under subparagraph (A)(i) shall—

''(i) to the maximum extent practicable, simulate natural river processes;

''(ii) include an outreach and education component; and

''(iii) on completion of the assessment under subparagraph (D), address identified habitat and natural resource needs.

''(C) ADVISORY COMMITTEE.—In carrying out subparagraph (A), the Secretary shall create an independent technical advisory committee to review projects, monitoring plans, and habitat and natural resource needs assessments.

''(D) HABITAT AND NATURAL RESOURCE NEEDS ASSESSMENT.—

''(i) AUTHORITY.—The Secretary is authorized to undertake a systemic, river reach, and pool scale assessment of habitat and natural resource needs to serve as a blueprint to guide habitat rehabilitation and long-term resource monitoring.

''(ii) DATA.—The habitat and natural resource needs assessment shall, to the maximum extent practicable, use data in existence at the time of the assessment.

''(iii) TIMING.—The Secretary shall complete a habitat and natural resource needs assessment not later than 3 years after the date of enactment of this subparagraph.

''(2) REPORTS.—On December 31, 2005, in consultation with the Secretary of the Interior and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, the Secretary shall prepare and submit to Congress a report that—

''(A) contains an evaluation of the programs described in paragraph (1);

''(B) describes the accomplishments of each program;

''(C) includes results of a habitat and natural resource needs assessment; and

''(D) identifies any needed adjustments in the authorization under paragraph (1) or the authorized appropriations under paragraphs (3), (4), and (5).'';

(B) in paragraph (3)—

(i) by striking ''paragraph (1)(A)'' and inserting ''paragraph (1)(A)(i)''; and

(ii) by striking ''Secretary not to exceed'' and all that follows and inserting ''Secretary not to exceed $22,750,000 for each of fiscal years 1999 through 2009.'';

(C) in paragraph (4)—

(i) by striking ''paragraph (1)(B)'' and inserting ''paragraph (1)(A)(ii)''; and

(ii) by striking ''$7,680,000'' and all that follows and inserting ''$10,420,000 for each of fiscal years 1999 through 2009.'';

(D) by striking paragraphs (5) and (6) and inserting the following:

''(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out paragraph (1)(C) not to exceed $350,000 for each of fiscal years 1999 through 2009.

''(6) TRANSFER OF AMOUNTS.—

''(A) IN GENERAL.—For each fiscal year beginning after September 30, 1992, the Secretary, in consultation with the Secretary of the Interior and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, may transfer appropriated amounts between the programs under clauses (i) and (ii) of paragraph (1)(A) and paragraph (1)(C).

''(B) APPORTIONMENT OF COSTS.—In carrying out paragraph (1)(D), the Secretary may apportion the costs equally between the programs authorized by paragraph (1)(A).''; and

(E) in paragraph (7)—

(i) in subparagraph (A)—

(I) by inserting ''(i)'' after ''paragraph (1)(A)''; and

(II) by inserting before the period at the end the following: ''and, in the case of any project requiring non-Federal cost sharing, the non-Federal share of the cost of the project shall be 35 percent''; and

(ii) in subparagraph (B), by striking ''paragraphs (1)(B) and (1)(C) of this subsection'' and inserting ''paragraph (1)(A)(ii)'';

(2) in subsection (f)(2)—

(A) in subparagraph (A), by striking ''(A)''; and

(B) by striking subparagraph (B); and

(3) by adding at the end the following:

''(k) ST. LOUIS AREA URBAN WILDLIFE HABITAT.—The Secretary shall investigate and, if appropriate, carry out restoration of urban wildlife habitat, with a special emphasis on the establishment of greenways in the St. Louis, Missouri, area and surrounding communities.''.

On page 99, line 2, strike ''Act'' and insert ''section''.

On page 100, between lines 14 and 15, insert the following:

SEC. 145. NINE MILE RUN HABITAT RESTORATION, PENNSYLVANIA.

The Secretary may credit against the non-Federal share such costs as are incurred by the non-Federal interests in preparing environmental and other preconstruction documentation for the habitat restoration project, Nine Mile Run, Pennsylvania, if the Secretary determines that the documentation is integral to the project.

SEC. 146. SHORE DAMAGE PREVENTION OR MITIGATION.

Section 111 of the River and Harbor Act of 1968 (33 U.S.C. 426(i)) is amended—

(1) in the first sentence, by striking ''The Secretary'' and inserting ''(a) IN GENERAL.—The Secretary'';

(2) in the second sentence, by striking ''The costs'' and inserting the following:

''(b) COST SHARING.—The costs'';

(3) in the third sentence—

(A) by striking ''No such'' and inserting the following:

''(c) REQUIREMENT FOR SPECIFIC AUTHORIZATION.—No such''; and

(B) by striking ''$2,000,000'' and inserting ''$5,000,000''; and

(4) by adding at the end the following:

''(d) COORDINATION.—The Secretary shall—

''(1) coordinate the implementation of the measures under this section with other Federal and non-Federal shore protection projects in the same geographic area; and

''(2) to the extent practicable, combine mitigation projects with other shore protection projects in the same area into a comprehensive regional project.''.

SEC. 147. LARKSPUR FERRY CHANNEL, CALIFORNIA.

The Secretary shall work with the Secretary of Transportation on a proposed solution to carry out the project to maintain the Larkspur Ferry Channel, Larkspur, California, authorized by section 601(d) of the Water Resources Development Act of 1986 (100 Stat. 4148).

SEC. 148. COMPREHENSIVE FLOOD IMPACT-RESPONSE MODELING SYSTEM.

(a) IN GENERAL.—The Secretary may study and implement a Comprehensive Flood Impact-Response Modeling System for the Coralville Reservoir and the Iowa River watershed, Iowa.

(b) STUDY.—The study shall include—

(1) an evaluation of the combined hydrologic, geomorphic, environmental, economic, social, and recreational impacts of operating strategies within the watershed;

(2) creation of an integrated, dynamic flood impact model; and

(3) the development of a rapid response system to be used during flood and emergency situations.

(c) REPORT TO CONGRESS.—Not later than 5 years after the date of enactment of this Act, the Secretary shall transmit a report to Congress on the results of the study and modeling system and such recommendations as the Secretary determines to be appropriate.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated a total of $2,250,000 to carry out this section.

SEC. 149. STUDY REGARDING INNOVATIVE FINANCING FOR SMALL AND MEDIUM-SIZED PORTS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study and analysis of various alternatives for innovative financing of future construction, operation, and maintenance of projects in small and medium-sized ports.

(b) REPORT.—Not later than 270 days after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Environment and Public Works of the Senate and Committee on Transportation and Infrastructure of the House of Representatives and the results of the study and any related legislative recommendations for consideration by Congress.

SEC. 150. CANDY LAKE PROJECT, OSAGE COUNTY, OKLAHOMA.

(a) DEFINITIONS.—In this section:

(1) FAIR MARKET VALUE.—The term ''fair market value'' means the amount for which a willing buyer would purchase and a willing seller would sell a parcel of land, as determined by a qualified, independent land appraiser.

(2) PREVIOUS OWNER OF LAND.—The term ''previous owner of land'' means a person (including a corporation) that conveyed, or a

descendant of a deceased individual who conveyed, land to the Army Corps of Engineers for use in the Candy Lake project in Osage County, Oklahoma.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Army.

(b) LAND CONVEYANCES.—

(1) IN GENERAL.—The Secretary shall convey, in accordance with this section, all right, title, and interest of the United States in and to the land acquired by the United States for the Candy Lake project in Osage County, Oklahoma.

(2) PREVIOUS OWNERS OF LAND.—

(A) IN GENERAL.—The Secretary shall give a previous owner of land first option to purchase the land described in paragraph (1).

(B) APPLICATION.—

(i) IN GENERAL.—A previous owner of land that desires to purchase the land described in paragraph (1) that was owned by the previous owner of land, or by the individual from whom the previous owner of land is descended, shall file an application to purchase the land with the Secretary not later than 180 days after the official date of notice to the previous owner of land under subsection (c).

(ii) FIRST TO FILE HAS FIRST OPTION.—If more than 1 application is filed for a parcel of land described in paragraph (1), first options to purchase the parcel of land shall be allotted in the order in which applications for the parcel of land were filed.

(C) IDENTIFICATION OF PREVIOUS OWNERS OF LAND.—As soon as practicable after the date of enactment of this Act, the Secretary shall, to the extent practicable, identify each previous owner of land.

(D) CONSIDERATION.—Consideration for land conveyed under this subsection shall be the fair market value of the land.

(3) DISPOSAL.—Any land described in paragraph (1) for which an application has not been filed under paragraph (2)(B) within the applicable time period shall be disposed of in accordance with law.

(4) EXTINGUISHMENT OF EASEMENTS.—All flowage easements acquired by the United States for use in the Candy Lake project in Osage County, Oklahoma, are extinguished.

(c) NOTICE.—

(1) IN GENERAL.—The Secretary shall notify—

(A) each person identified as a previous owner of land under subsection (b)(2)(C), not later than 90 days after identification, by United States mail; and

(B) the general public, not later than 90 days after the date of enactment of this Act, by publication in the Federal Register.

(2) CONTENTS OF NOTICE.—Notice under this subsection shall include—

(A) a copy of this section;

(B) information sufficient to separately identify each parcel of land subject to this section; and

(C) specification of the fair market value of each parcel of land subject to this section.

(3) OFFICIAL DATE OF NOTICE.—The official date of notice under this subsection shall be the later of—

(A) the date on which actual notice is mailed; or

(B) the date of publication of the notice in the Federal Register.

SEC. 151. SALCHA RIVER AND PILEDRIVER SLOUGH, FAIRBANKS, ALASKA.

The Secretary shall evaluate and, if justified under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), carry out flood damage reduction measures along the lower Salcha River and on Piledriver Slough, from its headwaters at the mouth of the Salcha River to the Chena Lakes Flood Control Project, in the vicinity of Fairbanks, Alaska, to protect against surface water flooding.

SEC. 152. EYAK RIVER, CORDOVA, ALASKA.

The Secretary shall evaluate and, if justified under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), carry out flood damage reduction measures along the Eyak River at the town of Cordova, Alaska.

SEC. 153. NORTH PADRE ISLAND STORM DAMAGE REDUCTION AND ENVIRONMENTAL RESTORATION PROJECT.

The Secretary shall carry out a project for ecosystem restoration and storm damage reduction at North Padre Island, Corpus Christi Bay, Texas, at a total estimated cost of $30,000,000, with an estimated Federal cost of $19,500,000 and an estimated non-Federal cost of $10,500,000, if the Secretary finds that the work is technically sound, environmentally acceptable, and economically justified.

SEC. 154. KANOPOLIS LAKE, KANSAS.

(a) WATER SUPPLY.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in cooperation with the State of Kansas or another non-Federal interest, shall complete a water supply reallocation study at the project for flood control, Kanopolis Lake, Kansas, as a basis on which the Secretary shall enter into negotiations with the State of Kansas or another non-Federal interest for the terms and conditions of a reallocation of the water supply.

(2) OPTIONS.—The negotiations for storage reallocation shall include the following options for evaluation by all parties:

(A) Financial terms of storage reallocation.

(B) Protection of future Federal water releases from Kanopolis Dam, consistent with State water law, to ensure that the benefits expected from releases are provided.

(C) Potential establishment of a water assurance district consistent with other such districts established by the State of Kansas.

(D) Protection of existing project purposes at Kanopolis Dam to include flood control, recreation, and fish and wildlife.

(b) IN-KIND CREDIT.—

(1) IN GENERAL.—The Secretary may negotiate a credit for a portion of the financial repayment to the Federal Government for work performed by the State of Kansas, or another non-Federal interest, on land adjacent or in close proximity to the project, if the work provides a benefit to the project.

(2) WORK INCLUDED.—The work for which credit may be granted may include watershed protection and enhancement, including wetland construction and ecosystem restoration.

SEC. 155. NEW YORK CITY WATERSHED.

Section 552(d) of the Water Resources Development Act of 1996 (110 Stat. 3780) is amended by striking ''for the project to be carried out with such assistance'' and inserting '', or a public entity designated by the State director, to carry out the project with such assistance, subject to the project's meeting the certification requirement of subsection (c)(1)''.

SEC. 156. CITY OF CHARLEVOIX REIMBURSEMENT, MICHIGAN.

The Secretary shall review and, if consistent with authorized project purposes, reimburse the city of Charlevoix, Michigan, for the Federal share of costs associated with construction of the new revetment connection to the Federal navigation project at Charlevoix Harbor, Michigan.

SEC. 157. HAMILTON DAM FLOOD CONTROL PROJECT, MICHIGAN.

The Secretary may construct the Hamilton Dam flood control project, Michigan, under authority of section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).

SEC. 158. NATIONAL CONTAMINATED SEDIMENT TASK FORCE.

(a) DEFINITION OF TASK FORCE.—In this section, the term ''Task Force'' means the National Contaminated Sediment Task Force established by section 502 of the National Contaminated Sediment Assessment and Management Act (33 U.S.C. 1271 note; Public Law 102–580).

(b) CONVENING.—The Secretary and the Administrator shall convene the Task Force not later than 90 days after the date of enactment of this Act.

(c) REPORTING ON REMEDIAL ACTION.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Task Force shall submit to Congress a report on the status of remedial actions at aquatic sites in the areas described in paragraph (2).

(2) AREAS.—The report under paragraph (1) shall address remedial actions in—

(A) areas of probable concern identified in the survey of data regarding aquatic sediment quality required by section 503(a) of the National Contaminated Sediment Assessment and Management Act (33 U.S.C. 1271);

(B) areas of concern within the Great Lakes, as identified under section 118(f) of the Federal Water Pollution Control Act (33 U.S.C. 1268(f));

(C) estuaries of national significance identified under section 320 of the Federal Water Pollution Control Act (33 U.S.C. 1330);

(D) areas for which remedial action has been authorized under any of the Water Resources Development Acts; and

(E) as appropriate, any other areas where sediment contamination is identified by the Task Force.

(3) ACTIVITIES.—Remedial actions subject to reporting under this subsection include remedial actions under—

(A) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) or other Federal or State law containing environmental remediation authority;

(B) any of the Water Resources Development Acts;

(C) section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344); or

(D) section 10 of the Act of March 3, 1899 (30 Stat. 1151, chapter 425).

(4) CONTENTS.—The report under paragraph (1) shall provide, with respect to each remedial action described in the report, a description of—

(A) the authorities and sources of funding for conducting the remedial action;

(B) the nature and sources of the sediment contamination, including volume and concentration, where appropriate;

(C) the testing conducted to determine the nature and extent of sediment contamination and to determine whether the remedial action is necessary;

(D) the action levels or other factors used to determine that the remedial action is necessary;

(E) the nature of the remedial action planned or undertaken, including the levels of protection of public health and the environment to be achieved by the remedial action;

(F) the ultimate disposition of any material dredged as part of the remedial action;

(G) the status of projects and the obstacles or barriers to prompt conduct of the remedial action; and

(H) contacts and sources of further information concerning the remedial action.

SEC. 159. GREAT LAKES BASIN PROGRAM.

(a) STRATEGIC PLANS.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, and every 2 years thereafter, the Secretary shall report to Congress on a plan for programs of the Army Corps of Engineers in the Great Lakes basin.

(2) CONTENTS.—The plan shall include details of the projected environmental and

navigational projects in the Great Lakes basin, including—

(A) navigational maintenance and operations for commercial and recreational vessels;

(B) environmental restoration activities;

(C) water level maintenance activities;

(D) technical and planning assistance to States and remedial action planning committees;

(E) sediment transport analysis, sediment management planning, and activities to support prevention of excess sediment loadings;

(F) flood damage reduction and shoreline erosion prevention;

(G) all other activities of the Army Corps of Engineers; and

(H) an analysis of factors limiting use of programs and authorities of the Army Corps of Engineers in existence on the date of enactment of this Act in the Great Lakes basin, including the need for new or modified authorities.

(b) GREAT LAKES BIOHYDROLOGICAL INFORMATION.—

(1) INVENTORY.—

(A) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall request each Federal agency that may possess information relevant to the Great Lakes biohydrological system to provide an inventory of all such information in the possession of the agency.

(B) RELEVANT INFORMATION.—For the purpose of subparagraph (A), relevant information includes information on—

(i) ground and surface water hydrology;

(ii) natural and altered tributary dynamics;

(iii) biological aspects of the system influenced by and influencing water quantity and water movement;

(iv) meteorological projections and weather impacts on Great Lakes water levels; and

(v) other Great Lakes biohydrological system data relevant to sustainable water use management.

(2) REPORT.—

(A) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary, in consultation with the States, Indian tribes, and Federal agencies, and after requesting information from the provinces and the federal government of Canada, shall—

(i) compile the inventories of information;

(ii) analyze the information for consistency and gaps; and

(iii) submit to Congress, the International Joint Commission, and the Great Lakes States a report that includes recommendations on ways to improve the information base on the biohydrological dynamics of the Great Lakes ecosystem as a whole, so as to support environmentally sound decisions regarding diversions and consumptive uses of Great Lakes water.

(B) RECOMMENDATIONS.—The recommendations in the report under subparagraph (A) shall include recommendations relating to the resources and funds necessary for implementing improvement of the information base.

(C) CONSIDERATIONS.—In developing the report under subparagraph (A), the Secretary, in cooperation with the Secretary of State, the Secretary of Transportation, and other relevant agencies as appropriate, shall consider and report on the status of the issues described and recommendations made in—

(i) the Report of the International Joint Commission to the Governments of the United States and Canada under the 1977 reference issued in 1985; and

(ii) the 1993 Report of the International Joint Commission to the Governments of Canada and the United States on Methods of Alleviating Adverse Consequences of Fluctuating Water Levels in the Great Lakes St. Lawrence Basin.

(c) GREAT LAKES RECREATIONAL BOATING.—Not later than 18 months after the date of enactment of this Act, the Secretary shall, using information and studies in existence on the date of enactment of this Act to the maximum extent practicable, and in cooperation with the Great Lakes States, submit to Congress a report detailing the economic benefits of recreational boating in the Great Lakes basin, particularly at harbors benefiting from operation and maintenance projects of the Army Corps of Engineers.

(d) COOPERATION.—In undertaking activities under this section, the Secretary shall—

(1) encourage public participation; and

(2) cooperate, and, as appropriate, collaborate, with Great Lakes States, tribal governments, and Canadian federal, provincial, tribal governments.

(e) WATER USE ACTIVITIES AND POLICIES.—The Secretary may provide technical assistance to the Great Lakes States to develop interstate guidelines to improve the consistency and efficiency of State-level water use activities and policies in the Great Lakes basin.

(f) COST SHARING.—The Secretary may seek and accept funds from non-Federal entities to be used to pay up to 25 percent of the cost of carrying out subsections (b), (c), (d), and (e).

SEC. 160. PROJECTS FOR IMPROVEMENT OF THE ENVIRONMENT.

Section 1135(c) of the Water Resources Development Act of 1986 (33 U.S.C. 2309a(c)) is amended—

(1) by striking ''If the Secretary'' and inserting the following:

''(1) IN GENERAL.—If the Secretary''; and

(2) by adding at the end the following:

''(2) CONTROL OF SEA LAMPREY.—Congress finds that—

''(A) the Great Lakes navigation system has been instrumental in the spread of sea lamprey and the associated impacts to its fishery; and

''(B) the use of the authority under this subsection for control of sea lamprey at any Great Lakes basin location is appropriate.''.

SEC. 161. WATER QUALITY, ENVIRONMENTAL QUALITY, RECREATION, FISH AND WILDLIFE, FLOOD CONTROL, AND NAVIGATION.

(a) IN GENERAL.—The Secretary may investigate, study, evaluate, and report on—

(1) water quality, environmental quality, recreation, fish and wildlife, flood control, and navigation in the western Lake Erie watershed, including the watersheds of the Maumee River, Ottawa River, and Portage River in the States of Indiana, Ohio, and Michigan; and

(2) measures to improve water quality, environmental quality, recreation, fish and wildlife, flood control, and navigation in the western Lake Erie basin.

(b) COOPERATION.—In carrying out studies and investigations under subsection (a), the Secretary shall cooperate with Federal, State, and local agencies and nongovernmental organizations to ensure full consideration of all views and requirements of all interrelated programs that those agencies may develop independently or in coordination with the Army Corps of Engineers.

On page 101, lines 2 and 3, strike '', acting through the Assistant Secretary for Civil Works''.

On page 102, strike lines 10 through 14 and insert the following:

and submit the plan, with any comments, to the appropriate committees of the Senate and the House of Representatives.

On page 102, line 21, strike ''(2)'' and insert ''(3)''.

On page 103, line 14, strike ''(2)'' and insert ''(3)''.

On page 113, line 24, strike ''States'' and insert ''sites''.

On page 115, line 8, strike ''The Secretary'' and insert the following:

(A) IN GENERAL.—The Secretary

On page 115, between lines 14 and 15, insert the following:

(B) PERMITS, RIGHTS-OF-WAY, AND EASEMENTS.—All permits, rights-of-way, and easements granted by the Secretary of the Army to the Oglala Sioux Tribe for land on the west side of the Missouri River between the Oahe Dam and Highway 14, and all permits, rights-of-way, and easements on any other land administered by the Secretary and used by the Oglala Sioux Rural Water Supply System, are granted to the Oglala Sioux Tribe in perpetuity to be held in trust under section 3(e) of the Mni Wiconi Project Act of 1988 (102 Stat. 2568).

On page 115, line 16, strike ''and'' and insert ''outside the''.

On page 116, line 12, insert a comma after ''Oahe''.

On page 116, lines 12 and 13, strike ''Garvin's'' and insert ''Gavin's''.

On page 117, line 4, strike ''and''.

On page 117, line 5, strike the period and insert ''; and''.

On page 117, between lines 5 and 6, insert the following:

(4) is not the recreation area known as ''Cottonwood'', ''Training Dike'', or ''Tailwaters''; and

(5) is located below Gavin's Point Dam in the State of South Dakota in accordance with boundary agreements and reciprocal fishing agreements between the State of South Dakota and the State of Nebraska in effect on the date of enactment of this Act, which agreements shall continue to be honored by the State of South Dakota as the agreements apply to any land or recreation areas transferred under this title to the State of South Dakota below Gavin's Point Dam and on the waters of the Missouri River.

On page 117, lines 23 and 24, strike ''South Dakota Game, Fish, and Parks''.

On page 118, lines 5 and 6, strike ''respective Trust Fund described in section 204'' and insert ''Trust Fund described in section 203''.

On page 118, line 23, strike ''Nothing'' and insert the following:

(1) IN GENERAL.—Nothing

On page 118, lines 24 and 25, strike ''hunting and fishing on the waters of the Missouri River'' and insert ''the land and water below the exclusive flood pool of the Missouri River within the State of South Dakota, including affected Indian reservations''.

On page 119, line 2, after ''continue'' insert ''in perpetuity''.

On page 119, between lines 3 and 4, insert the following:

(2) NO EFFECT ON RESPECTIVE JURISDICTIONS.—The Secretary may not adopt any regulation or otherwise affect the respective jurisdictions of the State of South Dakota, the Lower Brule River Sioux Tribe, or the Cheyenne River Sioux Tribe described in paragraph (1).

(h) APPLICABILITY OF LAW.—Notwithstanding any other provision of this Act, the following provisions of law shall apply to land transferred under this section:

(1) The National Historic Preservation Act (16 U.S.C. 470 et seq.), including sections 106 and 304 of that Act (16 U.S.C. 470f, 470w–3).

(2) The Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.), including sections 4, 6, 7, and 9 of that Act (16 U.S.C. 470cc, 470ee, 470ff, 470hh).

(3) The Native American Graves Protection Act and Repatriation Act (25 U.S.C. 3001 et seq.), including subsections (a) and (d) of section 3 of that Act (25 U.S.C. 3003).

On page 119, line 18, strike ''Tribes'' and insert ''Secretary of the Interior''.

On page 120, line 9, after ''of'', insert ''the reservation of''.

On page 121, line 21, strike ''respective'' and insert ''State and tribal''.

On page 122, line 10, strike ''JURISDICTION.—'' and insert ''HUNTING AND FISHING.—''.

On page 122, lines 14 through 16, strike ''Jurisdiction over the land and waters shall continue in accordance with the Flood Control Act of 1944 (33 U.S.C. 701–1 et seq.).'' and insert ''The State of South Dakota, the Lower Brule Sioux Tribe, and the Cheyenne River Sioux Tribe shall continue to exercise, in perpetuity, the jurisdiction they possess on the date of enactment of this Act with regard to those lands and waters. The Secretary may not adopt any regulation or otherwise affect the respective jurisdictions of the State of South Dakota, the Lower Brule River Sioux Tribe, or the Cheyenne River Sioux Tribe described in the preceding sentence.''.

On page 122, line 18, after ''as'' insert ''that over''.

On page 123, line 14, strike ''valid, existing''.

On page 125, line 5, strike ''Act shall relieve'' and insert ''title relieves''.

On page 125, strike line 13 and insert the following:

SEC. 208. STUDY.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Army shall arrange for the United States Geological Survey, in consultation with the Bureau of Indian Affairs and other appropriate Federal agencies, to conduct a comprehensive study of the potential impacts of the transfer of land under sections 205(b) and 206(b), including potential impacts on South Dakota Sioux Tribes having water claims within the Missouri River Basin, on water flows in the Missouri River.

(b) NO TRANSFER PENDING DETERMINATION.—No transfer of land under section 205(b) or 206(b) shall occur until the Secretary determines, based on the study, that the transfer of land under either section will not significantly reduce the amount of water flow to the downstream States of the Missouri River.

SEC. 209. AUTHORIZATION OF APPROPRIATIONS.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, October 8, 1998, at 3:30 p.m. in open session, to review the recommendation to elevate the position of the Director, Office of Non-Proliferation and National Security of the Department of Energy.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, October 8, 1998, at 9:30 a.m. on the nominations of Ashish Sen to be Director of the Bureau of Transportation Statistics, Department of Transportation and Albert S. Jacquez to be Administrator of the Saint Lawrence Seaway Development Corporation in room SR–253 of the Russell Senate Office Building.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, October 8, 1998, at 10:00 a.m. to hold a hearing.

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

COMMITTEE ON THE JUDICIARY

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary, be authorized to hold an executive business meeting during the session of the Senate on Thursday, October 8, 1998, at 10:00 a.m. in room SD–226 of the Senate Dirksen Office Building.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, October 8, 1998, at 2:30 p.m. to hold a closed hearing on intelligence matters.

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

SUBCOMMITTEE ON DRINKING WATER, FISHERIES, AND WILDLIFE

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Subcommittee on Drinking Water, Fisheries, and Wildlife be granted permission to conduct an oversight hearing on scientific and engineering issues relating to Columbia/Snake River system salmon recovery Thursday, October 8, 1998, 9:30 a.m., Hearing Room (SD–406).

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

SUBCOMMITTEE ON TECHNOLOGY, TERRORISM, AND GOVERNMENT

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Subcommittee on Technology, Terrorism, and Government Information, of the Senate Judiciary Committee be authorized to hold a hearing during the session of the Senate on Thursday, October 8, 1998, at 8:00 a.m. in room 215, Senate Dirksen Office Building, on: ''National Security Considerations in Asylum Applications: A Case Study of 6 Iraqis.''

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

ADDITIONAL STATEMENTS

CAMPAIGN FINANCE REFORM

• Mr. ALLARD. Mr. President, now that it seems the debate on campaign finance is over for this session, I wanted to make a few comments concerning the current approach to reform and what I believe would be the best approach. I agree that something needs to be done in fixing the system, but the problem is that the approaches debated this year raise constitutional issues.

I have supported Congressional reform since entering Congress in 1990, especially term limits. If we want to end the so-called money chase, then lets end the life terms in Congress. Many outside groups who favor campaign finance reform are against term limits for they believe it to be undemocratic. I find quieting peoples voices and stopping them from participating in the electoral process to be even more undemocratic, and probably unconstitutional.

We have heard that people have become disenchanted with the process. I believe this disenchantment has less to do with the fact that campaigns have become expensive, than they are tired of campaign laws being broken. Let's enforce the laws on the books before we pass more laws and make it even more difficult for citizens to participate. Let's not penalize law abiding citizens because some elected officials will not follow current laws.

Regarding expensive campaigns, lets take a look at some numbers. When I first came to Congress in 1990, there were 1,759 federal election candidates in the U.S., who raised 471.7 million dollars and spent 446.3 million dollars. This roughly averages to 268,168 dollars raised and 253,753 dollars spent by each federal candidate in the U.S.

By comparison, in 1996 there were 2,605 federal election candidates which raised 790.5 million dollars and spent 765.3 million dollars. This means that each candidate raised 303,454 dollars and spent 293,781 dollars.

We can see that spending on campaigns has increased but so has the number of candidates. This influx of new candidates could make some incumbents nervous. But, I say that competition is a positive thing for the electoral system. So, when we hear that there are fewer people who want to run because of the cost of campaigns, we know that this is incorrect according to the Federal Election Commission.

Yes, fewer incumbents are running for reelection, but more people are trying to replace them in representing their states or districts.

With overall campaign spending going up, I can understand how some in this body and around the United States find that the cost of campaigns are just too high. However, during my 63 town meetings in 1998, this topic has come up only a few times. But, more and more people are complaining abut taxes being too high.

Last year, as a percentage of GDP, federal tax revenue reached its highest level since World War II to 19.8% and rising to 19.9% this year. I am much more worried about the working man and woman who must work long hard hours to make ends meet only to find that nearly 40% of their hard earned money must be given to the local, state, and federal government. I think we should give the American people a tax cut.

My town meetings also indicated that Coloradans are concerned about

the national debt and the interest their children and grandchildren will pay. I don't see this getting much attention by the so-called ''good government'' groups. I am more concerned about the abusive 5.5 trillion dollar debt that we have levied on this nation. Let's pass my bill, S. 1608, the American Debt Repayment Act, and get this burden off the American people's back.

In regards to campaign finance reform, I believe that reform should pass three tests. First, it should be voluntary; Second, it should be inclusive, not exclusive; And third, it should be constitutional.

The United States is based on freedom and we have become the model for freedom around the world. However, with freedom comes rights and responsibilities. One of these rights is the ability to join or not to join, to participate or not to participate, to speak or not to speak. The decision to participate should be made by the individual and Congress has the responsibility to preserve this right for all Americans.

When I ran for the Senate, people participated in my campaign only if they wanted to. They could give either their time or their money. I had to assume that if they did, they did so because they believed in me and the ideas that I stressed. I never forced any person to put out a sign, wear a button, or give a contribution to my campaign, it was always voluntary.

We need to ensure that any campaign finance reform makes participation a voluntary activity for all individuals. If someone doesn't want to give, they have the right to say no or at least should be able to provide their consent.

That is why it is important to include the Paycheck Protection Act in any campaign finance reform. I find it confusing at best that we allow labor unions to take money out of a paycheck and use it on political matters without their members expressed written consent.

According to the Department of Labor, 80 percent, or 8.1 million, of all private sector workers covered by a union contract are required under that contract to pay union dues as a condition of employment, American workers should not have to choose between their jobs which provide the food and clothing or political activity with which they may disagree. I have yet to hear a solid reason how asking people to give their consent to use their required dues for political purposes would hinder a group's ability to participate.

When I was a small business owner, I was a member of a few groups, but I joined each one voluntarily. I could have removed my name at any time without any threat to my job or well being. Whenever a person is forced to join a group, like those in a closed shop, their dues should never be used for political purposes unless they first state that it is OK to do so. To do less would be deceptive.

Another problem area is the possibility that the FCC may require free TV time to be provided to federal candidates.

First, I have never believed that a regulatory agency should act without the authorization of Congress. The Constitution states that ''all legislative powers herein granted shall be vested in a Congress of the United States * * *.'' Regulatory agencies only enforce the laws as set by Congress, not make them.

Second, the American media is a large, vast enterprise. I understand that the broadcasting medium is unique, but I am afraid that this may take us down a slippery slope. How long will it take before we order free space in newspapers and magazines, or free time on cable, or free web sites on the Internet, or free postage for our mailings, just in the name of clean campaigns?

Lastly, for the states without any major media outlets, such as New Jersey and Delaware, their neighboring states which supply the broadcasting signal will be subsidizing not only their own federal candidates but also the federal candidates of the states that depend on them for the broadcast. Not only do I believe it is wrong for the FCC to implement this without Congressional authorization, but it would force the media to be unwitting volunteers for candidates.

Freedom must be preserved for all individuals to choose the ideas that they support or oppose. Thomas Jefferson said it best, ''To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves, is sinful and tyrannical.''

The Supreme Court has been very clear in its decisions regarding the First Amendment and campaign finance laws. Since the post-Watergate changes to the Federal Election Campaign Act of 1971, twenty-four Congressional actions have been declared unconstitutional, with nine rejections based on the First Amendment. Out of those nine, four dealt directly with campaign finance reform laws. In each case, the Supreme Court has ruled that political spending equals political speech. This Senate attempted to change this through a constitutional amendment limiting the amount one can spend in a campaign, which only tells me that this fact is undeniably recognized by this body.

The First Amendment is not there to hinder Americans from speaking their ideas, but to ensure that their ideas can be spoken. One way Congress and outside groups speak is through political campaigns, and it is a fact of life that it takes money. After deciding the Valeo vs. Buckley case, former Supreme Court Justice Thurgood Marshall stated that, ''One of the points of which all Members of the Court agree is that money is essential for effective communication in a political campaign.''

When we pull the rug out from underneath people who want to speak their mind, whether they have little or lots of money, we pull the rug out from underneath their basic right to freedom of speech.

From the much quoted Buckley case, this fact is placed into its proper context. It states, ''A restriction on the amount of money a person or group can spend on political communication during a campaign necessarily reduces the quantity of expression by restricting the number of issues discussed, the depth of exploration, and the size of audience reached. This is because virtually every means of communicating ideas in today's mass society requires the expenditure of money.'' This encompasses the ''distribution of the humblest handbill'' to the more ''expensive modes of communication'' such as radio and television.

The Court ensures that ''a major purpose of the [First] Amendment was to protect the free discussion of governmental affairs'' and that any limitations of contributions and/or expenditures ''operate in an area of the most fundamental First Amendment activities.'' While, the Court found that contribution limits were constitutional up to a certain point, expenditure limits were not.

The Buckley decision also stated that ''* * * the mere growth in the cost of federal election campaigns in and of itself provides no basis for government restrictions on the quantity of campaign spending.'' They went further to say, ''the First Amendment denies government the power to determine that spending to promote one's political views is wasteful, excessive, or unwise. In the free society ordained by our Constitution, it is not the government, but the people—individually as citizens and candidates and collectively as associations and political committees—who must retain control over the quantity and range of debate on public issues in a political campaign.''

Simply stated, the government can not ration or regulate the political speech of a citizen through spending limits or limit its quantity any more than it can regulate what newspapers publishes, its circulation, or when it can be printed.

Which brings me to another point concerning who and how one can spend their money. Our system should not exclude people from expressing their ideas. In the much debated McCain-Feingold bill, there is a provision which would not allow groups to issue ads 60 days before an election. A person or a group's speech is just as valid the day before an election as it is 61 days before. We all have experienced attack ads during a campaign and many times they are very difficult to take. But to quiet them so that a candidate can have an easier time during an election is just flat wrong. Every American should have the opportunity to speak in favor or against any elected official whenever they choose.

So how can I support legislation which I believe would make our system exclusive, when our political process

should be inclusive for all citizens who want to speak their minds? I truly do believe it is wrong for me to try and silence people who want to criticize my voting record. That is their right and they should be able to do so whenever they choose and I should be able to defend it whenever I choose and groups that support positions I take should be able to support my position whenever they choose.

From the beginning, I have believed the 60 day blackout provision to be unconstitutional and a recent case in Michigan shows this to be right. In August, a federal court struck down, on First Amendment grounds, a Michigan election rule prohibited incorporated groups and labor unions from using the names and likeness of political candidates for 45 days before the election. The state argued that the ban should be allowed because it applied ''only'' to a limited time period and did not apply to PACs and that ''the rule does not suffer from constitutional overbreadth because it is content neutral, and is narrowly tailored to serve a compelling state interest in the integrity of the electoral process.'' However, the U.S. District Judge Robert Holmes Bell ruled that the ban violated the First Amendment.

Judge Bell ruled that ''[I]n this case the censorial effect of the Rule on issue advocacy is neither speculative nor insubstantial.'' He also stated that ''[W]hile the time period is short, it could involve a critical time period for communications. . . . A 45-day blackout on using names would protect incumbents seeking re-election from grassroots lobbying efforts on pending legislation, and incumbents would soon learn to schedule votes on controversial legislation during this time period and thus avoid unwanted publicity and attention. . . . The ban on the use of candidates' names is a heavy burden on highly protected First Amendment expression. Voters have an interest in knowing what legislators are associated with pending litigation, an organization's ability to educate the public on pending legislation is unduly hampered if they are unable to name the legislators involved.''

In conclusion, Judge Bell said, ''The mere fact that we are dealing with a corporation rather than an individual does not remove its speech from the ambit of the First Amendment. . . . Because the rule not only prohibits expenditures in support of or in opposition to a candidate, but also prohibits the use of corporate treasury funds for communications containing the name or likeness of a candidate, without regard to whether the communication can be understood as supporting or opposing the candidate, there is a realistic danger that the Rule will significantly compromise the First Amendment protections of not only the Plaintiff, but many other organizations which seek to have a voice in political issue advocacy.''

I believe Judge Bell's ruling will stand the test of appeal for he stated that any decision regarding the ''constitutionality of campaign finance must begin with and usually ends'' with the Buckley case. And again, the Buckley decision clearly states that, ''. . . the distinction between discussion of issues and candidates and advocacy of election or defeat of candidates may often dissolve in practical application. Candidates, especially incumbents, are intimately tied to public issues involving legislative proposals and governmental actions. Not only do candidates campaign on the basis of their positions on various public issues, but campaigns themselves generate issues of public interest.''

This clearly states that it is a constitutional right to criticize an elected official and their record, and that no citizen needs to ask permission from the government when and how this can be done. Believe me, I can understand wanting to control the debate of a campaign and silence some of the critics, but I cannot constitutionally, or in good conscience, do that. For every citizen has the right to be a part of the debate. I believe that placing a road block to the First Amendment only closes doors to the system not opens them.

We will always hear that money is the reason why people don't run or get involved. I can say that I am not a wealthy man. I started a veterinarian hospital with sweat and hard work. When I decided to run for Congress, I didn't have a lot of money, but worked hard to make myself known. When I ran for the Senate, I still wasn't wealthy, but I did run against a wealthy man. When the campaign was over, I had more votes and no campaign debt despite the fact that I was outspent by 750,000 dollars, three-quarter of a million dollars. You don't have to have a lot of money to win a race, just the right message. I will not vote for legislation that I believe would stop someone from speaking their message, even if it's my opponent.

While I do not believe closing the door on the First Amendment is the right approach, I do believe that opening up the system to fuller and more timely disclosure would provide for a much more robust campaign system.

This is why I introduced my own bill, the Campaign Finance Integrity Act, S. 1190. My bill does not restrict one from exercising their political speech rights, but asks for complete and honest disclosure of all campaign spending. While this statement is not one of endorsement concerning my legislation, the American Civil Liberties Union did state in a review of the McCain-Feingold bill that, ''Disclosure, rather than limitation, of large soft money contributions to political parties, is the more appropriate and less restrictive alternative.'' My bill does just that. As a matter of fact, I believe my bill has some of the strongest disclosure requirements of any bill introduced.

My bill also:

Requires candidates to raise at least 50 percent of their contributions from individuals in the state or district in which they are running.

Equalize contributions from individuals and political action committees (PACs) by raising the individual limit from $1000 to $2500 and reducing the PAC limit from $5000 to $2500.

Indexes individual and PAC contribution limits for inflation.

Reduces the influence of a candidate's personal wealth by allowing political party committees to match dollar for dollar the personal contribution of a candidate above $5000, by using only hard money.

Requires organizations, groups, and political party committees to disclose within 24 hours the amount and type of independent expenditures over $1,000 in support of or against a candidate. Only the organization discloses it expenditures, not the names of the individual donors.

Requires corporations and labor organizations to seek separate, voluntary authorization of the use of any dues, initiation fees or payment as a condition of employment for political activity, and requires annual full disclosure of those activities to union members and shareholders.

Prohibits depositing of an individual contribution by a campaign unless the individual's profession and employer are reported.

Encourages the Federal Election Commission to allow filing of reports by computers and other emerging technologies and to make that information accessible to the public on the Internet less than 24 hours of receipt.

Completely bans the use of taxpayer financed mass mailings.

Lastly, S. 1190 creates a tax deduction for political contributions up to $100 for individuals and $200 for a joint return to encourage small donations.

Another way to ''clean up'' the campaign finance system and reduce the so-called special interest money is to reduce the size and scope of the Federal Government and I am not alone in believing this. Last year, Rasmussen Research did a survey showing that 62% of Americans think that reducing government spending would reduce corruption in government. The same survey showed that 44% think that cutting government spending would do more to reduce corruption than campaign finance reform, while 42% think campaign finance reform would reduce corruption more than cutting government spending. I have said many times, if the government rids itself of special interest funding and corporate welfare, then there would be little influence left for these large donors.

I know that no one in this chamber takes the first amendment lightly. It is the cornerstone by which many of the rights we enjoy today are set. It is there to ensure that the Government does not control us, but that the Government is under control. In 1808, Thomas Jefferson stated what the first

amendment should and would mean to each of us—''The liberty of speaking and writing guards our other liberties.'' And again in 1828, he said, ''The force of public opinion cannot be resisted when permitted to freely be expressed. The agitation it produces must be submitted to.'' This is why any campaign finance reform should be reform that preserves the right of free speech and which allows all Americans to voice their opinion.●

INTERNATIONAL MONETARY FUND

● Mrs. BOXER. Mr. President, a little more than a year ago serious financial problems began to arise in Thailand. What began in Thailand, however, quickly spread to other Asian financial markets like Indonesia, South Korea, and even Hong Kong and Japan. In recent months, we have seen this financial crisis creep into other economies around the world, most notably, perhaps, Russia and Brazil. This crisis is not just about Asia, Russia or Latin America, however; it's about the U.S. as well.

In today's increasingly intertwined global economy, the U.S. has an important national interest in working to stabilize the economies of its trading partners around the world. It is the U.S. that ultimately stands to lose if other economies fail—economies that are markets for our products. Reductions in Asian purchasing power or Latin American purchasing power mean lower profits for U.S. companies operating in those markets and fewer high-paying jobs in U.S. export industries.

East Asian nations, for example, are important trading partners for the U.S. U.S. exports to East Asia accounted for 28 percent of all American merchandise exports in 1996. This number far exceeds the 9.2 percent of exports that went to Mexico, and even the 21.4 percent that went to Canada.

Brazil, Latin America's largest economy, is also an important market for the U.S. Brazil is the U.S.' 11th-largest export market with $16 billion in sales last year. Moreover, and perhaps more important, Brazil is one of the few major trading partners with whom the U.S. has a positive balance of trade. U.S. companies' exports to Brazil grew 25% last year and are now roughly five times the value of Russia's before Russia's crash.

I want to elaborate a little on the importance of the stability of the Brazilian economy to the U.S. And in do doing, I think it is important to remember that the U.S. is not an economic island unto itself. We are truly part of an interdependent global economy.

Capital flows freely, without regard to geographical boundaries and to places we couldn't have imagined even 5 or 10 years ago. One of the places where a substantial amount of that capital has been flowing over the past 5 years or so is Brazil. In fact, U.S. investments in Brazil now exceed the U.S. investments in Mexico.

Largely as a result of the reforms adopted during the administration of President Fernando Henrique Cardoso, Brazil has emerged from its so-called ''Lost Decade'' of the eighties. During that decade, Brazil's economy languished in inflation and stagnation. That inflation and stagnation continued into the mid-nineties, and reached as high as 2,700 percent in 1994.

Since then, however, key infrastructure industries such as energy, telecommunications, and ports have begun modernizing and expanding. Moreover, state monopolies in oil, electricity, and telecommunications have ended, and many businesses have now been privatized. Such privatization can only mean good things for U.S. companies seeking to expand their markets.

As the Brazilian Finance Minister in 1993 and 1994, Mr. Cardoso, along with other liberal economists, developed the ''Real Plan.'' This plan opened Brazil to foreign investment and pegged the Real—the Brazilian currency—to the U.S. dollar. This plan has been credited with lowering inflation from its high in 1994 to single digits this year.

Yet, since mid-August, the economic debacles in Asia and Russia have pushed Brazil to the precipice of economic and financial collapse. The stakes for America and Americans are considerable. If the Brazilian economy fails, the financial crisis now gripping large parts of the rest of the world will be on America's doorstep.

The huge Brazilian economy, the ninth largest in the world, is the backbone of Latin America. Economists warn that if Brazil's economy collapses, the economies of Argentina, Chile, and the rest of Latin America will be in serious peril.

Almost twenty percent of our exports are purchased by Latin America and it is host to an increasing number of American-owned factories whose sales and profits are important contributors to the balance sheets of corporate America. A sharp reduction in the flow of this income, combined with the sharp reductions which have already occurred in Asia, would seriously imperil economic growth here in the U.S. As an economist at Salomon Smith Barney stated, ''there is just no way we can allow Brazil to fail.''

The economic crises in Asia, Brazil and other parts of the world, are potentially particularly problematic for my home state of California. California is the world's seventh largest economy, it has a gross state product of more than $1 trillion, and is by far the nation's largest state market. It exports more than any other state in the country; and thus, not surprisingly sensitive to the financial crises faced by our trading partners.

The Asian financial crisis is illustrative of this point. Because of California's geographical proximity to Asia, and what had been Asia's rapidly expanding economies, a growing number of California's exports were, and are, going to Asia.

Of California's top 10 export markets, 6 are Asian. Moreover, forty-four percent of all California exports are to Asia and approximately 725,000 California jobs are supported by exports to Asia. During the first quarter of 1998, however, California's exports to Japan decreased by 12 percent, exports to Singapore decreased by 14 percent, to Indonesia by almost 25 percent, and to South Korea by 40 percent.

Although Brazil ranked 17th among California's export markets in 1997, Brazil's financial troubles do present added risks to California's ability to export goods and services. California's high technology companies have reportedly been building a presence in Brazil and a consumer class has emerged. Moreover, California's trade officials, and many California exporters, have said they had begun to look to the Latin American markets to offset the slowdown in Asia and help keep the state's exports growing—exports which are so vital to the California economy.

Given this global economic interdependence, the question is—what can we, as legislators, do to help, aid, or assist in getting these distressed economies back on track?

While there are some things we cannot do, like dictate or direct that countries follow economic practices and policies set forth by the U.S., there are things we can do. One of the things we can do, and I believe we must do, is provide technical and financial assistance to economically distressed countries through our participation in the International Monetary Fund—the IMF.

Last September, while the Asian financial crisis was still unfolding, the IMF Executive Board agreed on quota increases for its members. The request for U.S. commitments to the IMF consists of: (1) $14.5 billion for our share of the increase in normal quota resources, and (2) $3.5 billion for U.S. participation in the New Arrangements to Borrow, an addition to the Fund's emergency credit lines for use in systemic financial crises.

In late March, the Senate, with strong bi-partisan support, voted to include the Administration's full IMF funding request, of approximately $18 billion, in its 1998 supplemental appropriations bill. The House, however, refused to include this funding in its supplemental appropriations bill.

Although the House did agree to provide the IMF $3.4 billion in funding on September 17, that amount is far short of the $18 billion requested by the Administration, approved by the Senate and needed to help curb the economic crisis which threatens several regions around the globe. The House and Senate are now debating this important issue, and I support and encourage Chairman Stevens' steadfast insistence that the House recede to the Senate on the issue of full IMF funding.

The IMF is the world's largest lender of last resort and is designed to foster trade and economic growth by helping maintain stability in the international monetary system. Countries join the Fund by agreeing to a capital subscription and abiding by rules set up in the Articles of Agreement.

The 182 member countries may borrow money from the IMF to finance short-term balance of payment deficits and to help manage more serious longer-term financial imbalances. In return, borrowing countries must adopt economic policies negotiated with IMF economists, and approved by the Executive Board, designed to ensure the underlying problems which caused the crisis are corrected.

These policies, or conditions, are market-oriented measures that vary depending on the situation, but often focus on reducing government spending, implementing banking and financial industry reforms, and taking often painful steps to control inflation. IMF loans to its members are repaid with interest. Although, the IMF has had to restructure some of the outstanding loan balances of the poorest countries, no country has ever defaulted on its IMF loan.

It is important to note that in addition to U.S. economic interests, U.S. national security interests are also at risk as a result of the Asian economic crisis, as well as the economic crises in Russia and in other parts of the world. Many of the countries affected by the crisis are key strategic allies.

The U.S. has 100,000 troops based in Asia, 37,000 on the Korean Peninsula alone. History has shown that economic distress and financial instability can threaten political stability and security.

Mr. President, in closing I want to note my agreement with many of my colleagues who believe the IMF needs to make some reforms. I do not disagree. Chairman Greenspan said during his September 16 testimony before the House Banking Committee, ''I think that the IMF requires a fundamental review in all of its aspects, but not now, we need the structure of the IMF and its funding procedures and its conditionality, because that's all we've got.''

I hope the House of Representatives will heed the words of Chairman Greenspan, and agree, as the Senate has already done, that it is in our national economic interest and our national security interest to provide full funding to the IMF.●

RECOGNIZING ''CHARACTER COUNTS!''

● Mr. ABRAHAM. Mr. President, I rise today to recognize a very important organization in the state of Michigan. The CHARACTER COUNTS!sm coalition, a national grassroots organization which promotes character education with a program utilizing six components: respect, responsibility, fairness, caring, citizenship and trustworthiness.

Across the country, individuals, organizations, and entire communities are coming together on a united front dedicated to enforcing a set of ethical values which are the very foundation of a free, democratic society. My colleagues and I truly appreciate their dedication to educate and improve the character of our nation's youth .

As the Honorary Chairman for CHARACTER COUNTS!sm in Michigan and in light of National CHARACTER COUNTS!sm week, I extend my best wishes to Pat Malijewski the CHARACTER COUNTS!sm in Michigan Project Coordinator and everyone involved in making CHARACTER COUNTS!sm a tremendous success in Michigan and across this great country.●

TRIBUTE TO CARL YOUNGBLOM

● Mr. WELLSTONE. Mr. President, I rise today to pay tribute to Carl Youngblom, a great American from my state, who unexpectedly passed away earlier this year.

Carl proudly served his nation as a Korean War veteran. He proudly served his community as former president of the St. Peter Rotary International. And he proudly served disabled veterans as a past Minnesota Department Commander of the Disabled American Veterans (DAV).

In fact, I got to know Carl after he was elected DAV Department Commander in 1995. I can tell you from personal experience that he was a staunch advocate for disabled veterans and their families, often urging us in Congress to do well for our veterans, and I deeply respected him for that. According to his wife Val, he became such a strong veterans advocate out of love for his older brother, whose life was changed from being wounded in combat during World War II.

Carl also had a strong connection to agriculture, starting as a family farmer and then moving to a career in agriculture finance. He was a fine athlete who loved to swim, cross country ski, and run. But perhaps most impressive was how his kindness touched people and how his compassion helped build consensus during times of conflict. We will miss him dearly.

Mr. President, I conclude by asking my colleagues to join me in expressing to his loving wife Val and their children and grandchildren our nation's eternal gratitude for Carl Youngblom's significant and myriad contributions.●

CLARIFICATION OF VOTE—AMENDMENT NO. 3719, AS AMENDED, AS MODIFIED

● Mr. THOMAS. Mr. President, on Rollcall vote No. 306, I inadvertently voted aye when I meant to vote no. I wish to clarify in the RECORD my opposition to the motion to table the McCain amendment number 3719 (as amended and modified).●

WORLD FOOD DAY AND THE UN WORLD FOOD PROGRAMME

● Mr. DURBIN. Mr. President, I rise today to call attention to the celebration of World Food Day on October 16th. I also rise to recognize the many successes achieved by the UN World Food Programme (WFP), the world's largest international food aid organization, over the past 18 years.

The WFP provides humanitarian relief to the world's poorest and most downtrodden people by distributing food to those individuals who are the most vulnerable to malnutrition and famine, particularly women and children. Last year alone, the WFP fed over 52.9 million people, by transporting food to needy and malnourished families in 84 countries. The WFP also provides much needed assistance to the tens of millions of victims world-wide who have suffered through natural disasters, such as earthquakes, severe floods and drought. Moreover, the WFP has committed itself to ensuring peace and stability around the world by providing food to people in war-torn countries like Sudan and Rwanda. Finally, the WFP uses donated food for development activities such as paying individuals that replant forests in Ethiopia and providing nourishment to workers repairing dikes in Vietnam. These activities help developing countries build strong infrastructures and promote economic stability.

With nowhere else to turn, the poorest of the world's poor have been able to find solace in the hard work and dedication of the WFP's many volunteers and employees.

American citizens have a particular reason to be proud on World Food Day. The United States has committed itself to be a world leader in the global battle against hunger. The U.S. was a primary founder of the WFP and has consistently been the world's single largest donor of food to the world's poor.

As World Food Day is celebrated this year, we can applaud the progress the U.N. World Food Programme has achieved and the compassion that has been shown. We all must be reminded, however, that substantial work remains to be undertaken and completed. In recognition of this special day, I ask that we all carry with us the vision of a new day when abundant food is available to each and every human being and that we renew our collective commitment to achieve that vision.●

REINVESTMENT AND ENVIRONMENTAL RESTORATION ACT OF 1998

● Mr. CHAFEE. Mr. President, I would like to commend my colleague from Louisiana, Senator LANDRIEU, for her herculean efforts in developing this legislation. She has worked tirelessly with other Senators, the House, and numerous stakeholders, including industry groups and environmental groups alike. The bill she introduces

today reflects her tremendous dedication to this issue.

I also applaud Senator LANDRIEU's efforts to shape this legislation into a significant conservation initiative. Her legislation includes two titles devoted to environmental protection—title II for funding the Land and Water Conservation Fund (LWCF), and title III for funding non-game species protection by the States, known as Teaming with Wildlife. These worthwhile programs have not received the attention or funding they deserve on their own, and the inclusion in this legislation gives them an opportunity to fulfill their potential. In particular, the LWCF was created in 1964 with the principle that revenues from a resource extraction activity—offshore oil drilling—should be reinvested in the acquisition and protection of other natural resources with lasting value. Senator LANDRIEU's bill remains true to this principle.

S. 2566 is a major piece of legislation, with much promise. It deserves careful consideration. I intend to give the bill this consideration during recess. I intend to consult with different groups here, and with constituents in my home state of Rhode Island. Some groups have raised concerns that this bill will encourage offshore drilling, despite the Senator's strong statement that this bill is ''drilling-neutral.'' I would like to reach my own conclusion on this score. Different interest groups have made suggestions to improve the provisions in all three titles, and I would like to explore those as well during recess.

Senator LANDRIEU has expressed a genuine openness to consider new ideas, and a genuine willingness to incorporate good ideas into her legislation. I look forward to working with my colleague from Louisiana during the coming months on this initiative, and again, I wholeheartedly congratulate her on how far she has come already.●

U.S. ROLE IN ERADICATING POLIO

● Mr. BUMPERS. Mr. President, there are fewer than 800 days left before we reach the goal of eliminating polio throughout the world by the end of the year 2000. That victory will mark the second time in history we have been able to eradicate an infectious disease. The first was the eradication of smallpox, a disease that claimed millions of lives through the centuries. As recently as the 1950's, smallpox was killing over 2 million people each year, despite the fact that an effective vaccine for the disease had been in use since 1796. Smallpox eradication began in 1967. The campaign required 11 years to complete and cost nearly $300 million—$200 million from countries with endemic smallpox and an additional $100 million from international donors. The U.S. was the largest international contributor with a total investment of $32 million. And that investment has repaid itself many times over. Beyond the humanitarian benefits of eliminating this vicious killer, we have enjoyed tremendous economic benefits. The U.S. alone has recouped the equivalent of its entire investment every 26 days since the disease was eradicated.

The polio effort began in 1988 when the World Health Assembly endorsed the program and set the year 2000 as the target date for global eradication. Thus far, the campaign has been a dramatic success story. Today, four out of every five of the world's children receive polio vaccine. Over the past ten years, polio cases have been reduced by over 90 percent and today more than 150 nations report no polio. All countries in the Western Hemisphere have been polio-free since 1991, and all countries in Europe and the Western Pacific Region—including China, Vietnam and Cambodia—have been polio free for one or more years.

In my view, the program's achievements are the result of a model public-private partnership. Rotary International began working on immunization programs in the early 1980's and when the World Health Assembly endorsed the polio eradication program in 1988, Rotary became the primary private-sector partner in the campaign. We estimate that Rotary International will have contributed $450 million by the end of the year 2000—the largest private contribution to a public health initiative in history.

In a combined effort with the health ministries in each country, Rotary, UNICEF, WHO and CDC have mobilized thousands of volunteers to recruit, educate, transport and vaccinate children in a mass campaign strategy. The scope of the program is enormous. In 1997 alone, more than 450 million children in 80 countries were vaccinated against polio through the use of mass campaigns. And the partners have enjoyed unparalleled success in densely populated areas where the risk of disease has been high. During India's first campaign in 1996, more than 87 million children were vaccinated by 100,000 volunteers over a three-day period.

The last frontier for the program is Africa, where the polio campaign faces formidable challenges. Efforts there have been hindered by poverty, civil conflicts and logistical problems in vaccine delivery. Even with these barriers, the program has enjoyed significant success in many areas of the continent. National Immunization Days have been conducted in over 35 African countries and have put a real dent in the number of polio cases.

Experts in the field, including my wife Betty who participated in a mass campaign in West Africa earlier this year, have all returned with the same message—We can win the war against polio and Africa can put us over the top by the year 2000, but only if we intensify our efforts in Africa over the next two years. This means more funding from all the donors and more logistical support for programs that are conducted in countries racked by civil conflict and supply shortages.

As was the case with smallpox, the rewards will far exceed the costs. The U.S. alone will reap annual savings of over $230 million and worldwide savings will exceed $1.5 billion each year. More importantly, we will have conquered a disease responsible for crippling millions of children over our history. Finally, we will have set the stage for our next campaign—the eradication of measles. Regional efforts to eliminate measles have already begun and an international effort is on the horizon. Historically, measles has killed more children than any other infectious disease. Even today, it is responsible for one out of every 10 deaths in children under age 5. Many leaders in the public health field believe that we should begin planning an international strategy over the next two years so that resources can be easily shifted from the polio effort to a measles campaign once polio is eradicated.

I would like to conclude by paraphrasing the testimony of several witnesses at a recent Appropriations Committee hearing on measles and polio eradication. We live in a time when government and politicians are the targets of great criticism. At the same time, there are few instances of social justice by groups other than government. No social club, no church group, no other organization represents all of us. Only government does that.

Our immunization successes in this country have resulted from government at its best—government was an aim to protect every child individually and society collectively. It is the product of politics at its best.

Likewise, while the U.S. effort to support smallpox eradication, polio eradication, child health and child immunization is a consequence of enlightened self interest, it also expresses our understanding, as Americans, of a responsibility to the world and to the future. It is the U.S. government at its very best.●

IOWA NORTHLAND REGIONAL COUNCIL OF GOVERNMENTS

● Mr. GRASSLEY. Mr. President, on the occasion of its 25th anniversary, I would like to congratulate the Iowa Northland Regional Council of Governments (INRCOG). Organized January 1973, INRCOG was the first council of governments formed in the State of Iowa.

As a voluntary association of local governments serving the member jurisdictions in Black Hawk, Bremer, Buchanan, Butler, Chicksaw and Grundy Counties, INRCOG has long been recognized as a leader among service and planning organizations. Responsible for coordinating, assisting, and facilitating programs in community and economic development, transportation, housing, environment, safety, planning, administration and transit, INRCOG's services have benefitted all

governmental bodies in the INRCOG region and the State of Iowa.

Through INRCOG's intergovernmental communication and cooperation have flourished and public-private partnerships have been enhanced. The ability of Iowa communities to plan for their own future has been enriched. I wish them many more years of successful service for the success of Iowa's communities, for their efforts will continue to strengthen the backbone of America's governmental system, thus enriching the lives of our citizens.●

REMEMBERING VETERANS

● Mrs. FEINSTEIN. Mr. President, I rise today to make a few remarks about the distinguished service of United States veterans. As Veterans Day approaches, we look forward to honoring the men and women who have served this country with bravery, honor, and valor. I am submitting, for my colleagues, a May 28, 1998 article from the Los Angeles Times written by Patty Andrews, one of the Andrews Sisters. The Andrews Sisters spent much of World War II entertaining the young men who fought so courageously in Europe, the Pacific, Africa, and other parts of the world. In this stirring piece, Ms. Andrews details the service and sacrifices of all of those who contributed to the war effort, and describes how she and her sisters helped to build morale and comforted the wounded.

The article follows:

[From the Los Angeles Times, May 25, 1998]

BUGLE BOYS OF COMPANY B DIED TO KEEP AMERICA FREE

(By Patty Andrews)

My sisters and I probably met face to face with more soldiers in World War II than any general or field marshal. The Andrews Sisters entertained tens of thousands of GIs at bases here and abroad throughout the war and I can still see so many of their smiling American faces. I sometimes wonder how many of those faces made it home safely and how many are now just faint memories. I'll carry their memory for as long as I live. But then what? With nothing to publicly commemorate those GIs, their deeds will be forgotten.

The faces of the survivors are now creased and seasoned by the years—but they still smile when they see me. And I see them all the time, in airports and shopping malls. The veterans of global war are living their autumn years happily, oblivious to the fact that they are walking history.

We have a common bond. We were all soldiers in the greatest war ever. And we share a knowing wink—if you weren't there you'd never understand the terror of total war or exhilaration of saving the world from evil incarnate. I guess I remind the veterans that it all really happened, that it wasn't some hazy memory, that they answered the call and succeeded beyond all expectation. They won a victory so complete that we hardly remember a time when America wasn't a superpower or the most prosperous nation on Earth or one of the few remaining democracies standing against a global gang of dictators. Today we take it all for granted.

Those who died to make it possible for us to forget that brutal era would no doubt be satisfied that their sacrifice was worth it. But they were so young. The soldiers who were in their late teens and early 20s. So young that the shows had the flavor of a huge high school football game or a Boy Scout jamboree. Nearly half a million of these brave kids would never know if we won or lost the war or how 50 years of peace and prosperity would transform their country. Their faces will always be innocent and brave, but unknowing.

My sisters and I were innocent too, but not for long. We cheered the boys as they left for war but we also welcomed back the wounded and shattered. Those are some of the faces I will never forget. In one San Francisco hospital ward we were briefed about what we were about to see, and we were told not to show too much emotion. Behind the doors of that dire ward were young faces contorted with pain or frozen and mute. The sight of these boys—no different than the thousands of others we entertained except that they had been chewed up and spat out by the maw of war—brought home to me the absolute horror of war and the enormity of our debt to them.

In that frightful infirmary we talked, sang and tried to do something—anything—to bring a moment of pleasure, maybe a smile or a look of hope that life will somehow be better. I tried but could not begin to match their contribution. None of us can ever fully repay those boys who sacrificed their youth so we could forget such horror existed. But we need to try.

Today, before the memories fade and before the last veteran dies, we need to enshrine their courage. We need a permanent place to honor the generation that gave so much so long ago. We need a memorial that matches their monumental sacrifice and their towering devotion to freedom. In short, we need an official World War II Memorial on the National Mall in Washington. The site has already been selected—all we need now is the will to build it.

Helping to build morale and comfort the wounded through our music changed and fulfilled my life, as it did the lives of my sisters, Laverne and Maxene. We were privileged to know so many courageous men and women willing to give their lives for freedom. It's ironic that because of their sacrifice, we can use words like ''freedom'' and ''democracy'' today without having to measure their cost. We must honor those brave young people who paid the price.●

RECOGNIZING OMER O'NEIL

● Mr. ABRAHAM. Mr. President, I rise today to recognize Omer O'Neil of the Southern Wayne County Chamber of Commerce. He has announced his retirement after serving as President of the Southern Wayne County Chamber of Commerce since 1987.

Omer O'Neil has been a true leader with the Southern Wayne County Chamber of Commerce and in the Downriver communities of Metropolitan Detroit. During his tenure as President, the Chamber saw a growth in its membership as well as its leadership role in the communities it serves. The Southern Wayne County Chamber of Commerce represents over 1,200 member businesses and has become a leader in redefining the economic landscape of the Downriver area.

Omer O'Neil's service expands beyond his role with the Chamber. He served on the Allen Park City Council and was twice elected Mayor Pro-Tempore and has volunteered numerable hours to local charitable organizations and causes, including Right to Life of Michigan.

I want to once again express my sincerest appreciation and congratulations to Omer O'Neil for the service and leadership he has provided the Southern Wayne County Chamber of Commerce and the Downriver communities. I wish Omer well in his retirement years.●

CLASS ACTION REFORM

● Mr. KOHL. Mr. President, I rise to express my continued strong interest in meaningful class action reform—and to announce that, although we do not have the time necessary to move legislation any further this year, class action reform remains one of my highest priorities. Although many class action lawsuits do result in significant and important benefits for class members and society, too many class lawyers put their self-interest above the best interests of their clients—resulting in unfair and abusive settlements that shortchange class members while their lawyers line their pockets with high fees.

To address this growing problem, Senator GRASSLEY and I introduced the Class Action Fairness Act of 1998 (S. 2083). The bill is a moderate approach to weed out the worst abuses, while preserving the benefits of class actions. It encourages closer scrutiny of class actions through several provisions. It requires that proposed class action settlements be in plain, easily understandable English and be sent to state attorneys general, so they have an opportunity to weigh in with any objections. It requires courts to determine what damages will actually be paid to class members before awarding attorneys' fees, rather than calculating fees based on overvalued estimates of meaningless coupon settlements. And it moves more class actions to federal courts, which generally give closer scrutiny than state courts and can promote efficiency and avoid a collusive ''race to settlement'' by consolidating overlapping cases.

These proposals have earned a broad range of support. Even Judge Paul Niemeyer, the Chair of the Judicial Conference's Advisory Committee on Civil Rules, who has studied class actions closely and testified before Congress on this issue, expressed his support for this ''modest'' measure, noting in particular that increasing federal jurisdiction over class actions will be a positive ''meaningful step.''

This year, our bipartisan measure was reported favorably by the Judiciary Subcommittee on Administrative Oversight and the Courts. Unfortunately, as the term has winded down, we have been too busy with other pressing issues to give this proposal the full consideration it deserves. Still, we already have made several revisions

to improve the bill and address concerns that have been raised, and in my view any remaining concerns can be worked out.

So next year, class action reform will be one of my highest priorities. I look forward to working with my colleagues to ensure that we eliminate those abuses that too often give class actions a bad name.

TRIBUTE TO DR. STEVEN DEKOSKY

● Mr. SPECTER. Mr. President, next month our nation acknowledges the more than 4 million Americans who suffer from Alzheimer's disease and the 19 million who are their caregivers. National Alzheimer's month is a time to reflect on those who are afflicted as well as those who are dedicating their lives to eradicating this disease.

I bring to your attention one of those who is committed to creating a world without Alzheimer's. His name is Dr. Steven DeKosky and since 1990, he has been an the faculty of the University of Pittsburgh School of Medicine where among other things, he directs the Alzheimer's Disease Research Center funded by the National Institute on Aging. Dr. DeKosky's accomplishments are enormous as reflected in his curriculum vitae, which is some 36 pages long. If I tried to list all of his achievements it would fill dozens of pages of the CONGRESSIONAL RECORD. In the interests of the taxpayers, I'll mention only a few of Dr. DeKosky's contributions.

As a renowned Alzheimer researcher, clinician and teacher, Dr. DeKosky is dedicated to finding answers to the Alzheimer's puzzle. To this end, he is active in basic and clinical research. His basic research is on the structural and neurochemical changes in human brains with dementia. His clinical research focuses on four key areas. One is to find ways of diagnosing the disease more effectively and differentiating it from other related diseases. A second area involves neuroimaging, which helps to confirm other diagnostic techniques, but also opens ''windows'' to the brain to enable scientists to understand the disease better. A third area of study, and one that is offering very exciting possibilities for treatment, is the assessment of genetic risk factors in Alzheimer's. Finally, he is involved in clinical trials to assess new medications for Alzheimer's disease.

Dr. DeKosky is active in the American Academy of Neurology and the American Neurological Association. The latter organization honored him with its ''Presidential Award'' in 1988. He is listed in ''The Best Doctors in America.'' He serves on the editorial boards of the ''Archives of Neurology'' and the ''Alzheimer Disease and Associated Disorders: An International Journal.'' He also received a Teacher Investigator Development Award from the National Institute of Neurological Disorders and Stroke.

Despite his involvement in dozens of research projects and other academic pursuits, Dr. DeKosky contributes vast amounts of time as a volunteer to the Alzheimer cause. He currently chairs the national Alzheimer's Association's Medical and Scientific Advisory Council and is a member of the board of the Alzheimer's Association. He chairs the Professional Advisory Board of the Greater Pittsburgh Chapter of the Alzheimer's Association and was a founding member of the Lexington-Blue Grass Chapter of the Alzheimer's Association.

Dr. DeKosky has a special gift as a communicator of science. Whether in the classroom or speaking to groups of family members in the community, Dr. DeKosky has a knack for making the complex seem simple. He expresses the enthusiasm and hope created by scientific research in Alzheimer's, which is offering promise to Americans of all ages that their future may not be blighted by this dread disease. And, he has a sense of humor and a healthy dose of humility, which allows him to ''connect'' to those to whom he speaks.

Mr. President, I believe it is important to acknowledge the unsung heroes who are working tirelessly in laboratories and in the clinic to make our world less disease-prone. Dr. Steven DeKosky is one of those exemplary citizens who through his daily efforts is bringing about a better tomorrow.●

THE YEAR 2000 PROBLEM

● Mr. LAUTENBERG. Mr. President, I rise today to express my great concern about the Year 2000 computer problem, and to urge that funding be approved on an emergency basis to address this problem.

Mr. President, in less than 500 days, an unknown number of computers around the world will fail because they can't tell the difference between the year 1900 and the year 2000. Although this may seem like a minor problem that could be easily fixed, it is not. It's time consuming, difficult, and expensive to address. And the implications of failure are enormous.

We have known about the Year 2000 problem for some time, Mr. President, but many have failed to appreciate its severity. Throughout the private and public sectors, top officials assumed that someone else would find a solution. Or they simply did not appreciate the importance of making this problem a priority.

Fortunately, Mr. President, many in the private sector are now taking this threat seriously. One Federal Reserve official speculated that private sector spending on the problem could exceed $50 billion. While many small businesses are just beginning to face the problem, most major large businesses are acting aggressively. Banks, utilities, hospitals, factories, insurance companies, and railroads are scrambling to ensure that they will be ready. Many understand that this truly is an emergency, and they're treating it that way.

Still, I am afraid that most Americans still do not appreciate the severity of the Y2K problem. And I would urge all those listening to educate themselves about it. Admittedly, it is very difficult for most of us to evaluate the risks. But many credible experts have discussed scenarios that are truly alarming.

Consider, for example, the impact of the Y2K problem on public utilities. Senators BENNETT and DODD, the co-chairs of the Senate Special Committee on the Year 2000 Technology Problem, have held a hearing on this, and I commend both of them for their leadership. Their Committee surveyed major utilities and found that many are far from ready for the year 2000. The Committee's work raises very serious questions about the risks of major power outages throughout our country, and the impact of such outages on our financial and telecommunications systems. Indeed, the essential infrastructure of our nation could be at risk.

Largely because of such threats, some economists have argued that the Year 2000 problem is likely to lead to a severe recession. Some see a parallel to the downturn of the 1970's when oil supplies were disrupted. In fact, quick and reliable computing may be even more important to our economy than oil was two decades ago. Without reliable computer information, as without oil, production and distribution systems could break down. And that could dramatically increase unemployment, interest rates and inflation, all at the same time.

Now, Mr. President, I'm not saying that this is bound to happen. Experts disagree about the likelihood of major economic and social dislocations. However, even if the odds of a significant breakdown are modest, the potential enormity of the problem demands that we take it seriously.

I do know from my own experience that software problems can be terribly serious and difficult to address. Before I came to public life, I was an executive in a computer services firm, a firm that has been quite successful. I can tell you that nothing is more vexing than a seemingly insignificant software glitch that grinds an entire program to a halt. Fixing such a glitch can require laborious, line-by-line examination of impenetrable computer code. Meanwhile, everything is often brought to a standstill.

While analysts may disagree about the scope of the Y2K problem, Mr. President, it does seem clear that some things will go wrong on January 1, 2000. We just can't say exactly which, or how many. Compounding matters, even if one system has had its Y2K problems fixed, it still can be corrupted by interacting with other systems that are flawed. We have a systemic problem—and it will only be solved if all of us work together.

What is the government's role in all this? Well, our first responsibility is to put our own house in order.

As the General Accounting Office has reported, Y2K could have a devastating impact on the provision of public services. These include air traffic control, Social Security and Medicare payments, supervision of the financial system, monitoring of nuclear facilities, and a wide variety of other services. And let's not forget the Nation's defense. We are all proud of our modern military with its smart weapons and computerized battlefields. But a technology-dependent military is subject to the same computer hazards as everyone else.

Unfortunately, Mr. President, many agencies are way behind schedule in fixing the Y2K problem. According to GAO, ''unless agency progress improves dramatically, a substantial number of mission-critical systems will not be compliant in time.''

So, Mr. President, this is truly an emergency, and it's critical that we act as soon as possible. Unlike many problems we face in the Congress, this one can't be delayed or postponed. We can't set up a commission. We can't put it off until the next Congress. On January 1, 2000, the problem will hit, whether we like it or not. And we have to do everything we can to prepare.

Mr. President, let me commend my colleagues on the Appropriations Committee, and throughout the Senate, for approving emergency funding to address the Y2K problem. I wish we had done so earlier. Unfortunately, there are many Members in the House of Representatives who strongly oppose treating this funding as an emergency. And they have created serious obstacles to allocating the funding. I urge them to reconsider their opposition, and am hopeful they will.

Beyond increasing funding, Mr. President, there are other steps that the Federal government must consider to address the Y2K problem. For example, we need to reform laws that discourage businesses from sharing relevant information with each other. We need to ensure that businesses accurately report on their compliance efforts to the SEC and investors. We need to support small businesses' efforts to fix their computers. I have actively supported these types of legislative initiatives. But I recognize that they are not sufficient. We also need to communicate better with our constituents about the problem, so that all Americans can prepare.

Mr. President, given differing views on the actual risks, the only wise thing is to prepare for the worst. When a hurricane approaches, we never know exactly where it will hit, or how destructive it will be. But that doesn't stop us from evacuating and boarding up our homes in expectation of the worst case scenario. Sometimes, those preparations prove unnecessary. And, if the hurricane does hit, there will also be cleanup costs later. But the better one prepares, the more efficient, and less expensive, the cleanup will be. And the same is true for Y2K.

So, Mr. President, I would strongly urge this Congress to focus serious attention on Y2K, and to strongly support all funding needed to solve the problem. This is an emergency, and the time to act is now. We shouldn't panic. But we must prepare. Even if nobody knows the exact dimensions of the problem, this is one threat that we ignore at our peril.●

CORRECTION TO THE LIST OF OBJECTIONABLE PROVISIONS IN THE FISCAL YEAR 1999 INTERIOR APPROPRIATIONS BILL

● Mr. MCCAIN. Mr. President, I wish to make a clarification to my list of objectionable provisions to the Senate passed version of the FY'99 Interior Appropriations bill.

I was pleased to learn that the Indian health facility that is designated to be constructed on the Hopi reservation in Arizona was requested for funding in this year's budget. I had previously objected to this item in my pork list, not based on the merits of the project, but what appeared to be an unrequested, directed earmark.

The Hopi Health Center in Polacca, Arizona is requested for funding at the level of $14,400,000 for construction of Indian health facilities, which is consistent with the budget request. I will remove this item as an objectionable provision.

I assure Chairman Wayne Taylor and the Hopi Tribe that I continue to be supportive of establishing an Indian health center for the Hopi community.

TAIWAN'S NATIONAL DAY

● Mr. ROCKEFELLER. Mr. President, I rise today to offer my congratulations to President Lee Teng-hui and the people of the Republic of China on Taiwan on the occasion of their National Day which will occur October 10. It is a deep honor for me to join in the celebration of this momentous occasion.

The remarkable achievements of Taiwan continue to tell a powerful story of how democracy can grow in Asia, and that it is compatible with a commitment to capitalism. Taiwan's ability to survive the Asian financial crisis better than any other free economy in the region is just another example of the significance of Taiwan's leadership. Quite simply, Taiwan's economic and political miracles never cease to amaze me.

It is a true honor for me to have a long-standing, very personal friendship with Taiwan. My own state of West Virginia has benefitted from Taiwan's commitment to the U.S. in profound and long-lasting ways. I am more committed than ever to the people of Taiwan to keep building on a relationship that holds so much more promise in the years ahead. I know that we will continue to look to Taiwan to continue setting an example in their commitment to democracy, to vibrant economic ties with the U.S. and the rest of the world, and to peace.●

ELLEN BERLINER

● Mr. SPECTER. Mr. President, with more that 4 million Americans suffering from Alzheimer's disease at a cost to our society of more than $100 billion annually, it is time we take a moment to reflect on the work of those who are dedicating their energies to helping do something about this terrible disease.

One of those people is Ellen Berliner. Ms. Berliner, who lives in Pittsburgh, Pennsylvania, took care of her husband with Alzheimer's disease for 13 years. For those of us who have not been a caregiver for an Alzheimer patient, it is difficult to comprehend what the experience is like. It has been described as the ''36 hour day'' or the ''endless funeral'' because the demands are greater and more stressful than what most of us can deal with in a normal 24 hour day, and the losses and emotional strain are enormous. Ms. Berliner, like so many other Americans, stepped up to the challenge of caregiving and performed courageously out of love for her husband and her family.

But, Ms. Berliner didn't stop there. Drawing on her pain and struggles as a caregiver, she decided to do something to help others. In 1988, she helped create the Greater Pittsburgh chapter of the Alzheimer's Association and became its founding Board President. In the past ten years, she has contributed more than 16,000 hours of volunteer service to the chapter and to the families in the greater Pittsburgh area. She has developed support groups and services to help families. She has been active in advocacy to help improve the policies that affect the lives of families and people suffering from Alzheimer's. And, she has stuffed envelopes and made phone calls to help raise the necessary funds to support the work of this important charity.

Ms. Berliner has a long history of community service. In 1974 she cofounded the Women's Center and Shelter of Greater Pittsburgh. The center, which provides a safe haven for battered women, was one of the first in the nation. For her work with battered women and for other community services, Ms. Berliner was nominated for the Jefferson Award of the American Institute for Public Service in 1992. In 1996, Ms. Berliner received the ''New Person Award'' given by the Thomas Merton Center for People Over 70. The award is given in appreciation of lifelong works for peace and social justice.

Mr. President, I bring Ms. Berliner to the attention of this body because I believe we should shine a light on the good works of our citizens, heroic work really, that is done without personal gain and with no desire for public recognition. Our nation has grown strong because of people like Ellen Berliner who use their own time and resources to make life a little better for the rest of us.

So, I say ''thank you'' to Ms. Ellen Berliner for helping the people of Pittsburgh deal with the devastation caused by Alzheimer's disease, and for being a

role model to her peers and to future generations.●

BIG SKY AIRLINES TWENTIETH ANNIVERSARY

● Mr. BAUCUS. Mr. President, I rise today to congratulate a small business in my state, Big Sky Airlines, on their 20th Anniversary.

Big Sky Airlines commenced scheduled passenger service on September 11, 1978. The initial flight flew from Billings to Helena with continuing service to Kalispell. The aircraft was a Hadley-Paige Jetstream with a seating capacity of 19.

Today, Big Sky operates a fleet of six nineteen-passenger Metro III aircraft, with service to 12 cities in Montana and Spokane, Washington. The company operates out of its hub in Billings and provides connecting opportunities from Eastern and Central Montana to it's markets in the west. The Montana cities are Glasgow, Glendive, Miles City, Wolf Point and Sidney in the east. Havre and Lewistown in central Montana and Great Falls, Helena, Missoula, Kalispell and Spokane in the west. All of the eastern and central Montana service is operated under the Essential Air Service subsidy contract with the Department of Transportation.

Big Sky Airlines has been through a lot in their 20 years of providing service in Montana. They've had their good times and bad. However, through it all they continued to provide service to remote areas that would have been further isolated from the Nation's economic centers without them. The Essential Air Service program is critical to these communities. Without this service, these communities would be seriously hampered in their efforts to attract new business or even to retain those they now have, resulting in further strain on local economies and loss of jobs.

In my visits to the state, I frequently fly on Big Sky Airlines. In our state, to many cities, it's the ONLY way to fly. I've had lots of experiences, I could tell you about. However, I'd rather talk about the many families I've seen reunited as the Big Sky plane lands in those rural communities.

I'd like to congratulate the Board of Big Sky Airlines and their chairman, Jon Marchi for their foresight and perseverance. I'd also like to congratulate the officers of the company: Kim Champney, the President and CEO, and Craig Denney, the Executive Vice President and Chief Operating officer. Kim has only been there a short time, but is moving the company in exciting new directions. I've personally seen Craig load the luggage, check in the passengers and send the airplane on it's way. He knows how to do every job in the company and do it well.

I'd also like to congratulate John Rabenberg and the other members of the Essential Air Service task force for the hard work they do in their communities for this program.

Big Sky Airlines currently employs 103 people throughout its system (all in Montana). And you can tell it's a good company to work for. Whether you are checking in at the counter, or watching the pilots get ready to take-off, they are very customer service oriented. It's a pleasure to fly with them, and Mr. President, it's a pleasure for me today to congratulate them on their 20th Anniversary and to wish them many more years of flying the big sky of Montana.●

DOMESTIC VIOLENCE

● Mr. FRIST. Mr. President, I rise today to raise awareness of a startlingly common problem occurring every 15 seconds across our nation—and that is the issue of domestic violence. October is Domestic Violence Awareness Month, and I would like to take this opportunity to discuss the devastating impact of domestic violence on individuals, families and our communities.

Few people want to tell the dark secrets of their family. Though many keep incidents of domestic violence secret, it is a sad part of our national landscape. Through the efforts of medical researchers, law enforcement officers, advocates, and victims, more attention is now being paid. In the last two years alone, according to the National Library of Medicine, approximately 500 articles have been written on domestic violence in prominent journals and periodicals.

Despite these efforts, many remain uncomfortable talking about domestic violence. According to the Department of Justice Violence Against Women Office, domestic violence is a crime that is frequently underreported to law enforcement authorities. Victims often live in fear and do not share their troubled secrets. They fear threats, additional violence and more pain.

The U.S. Department of Justice estimates that 3 to 4 million women are battered each year by their husbands or boyfriends. Data published by the Commonwealth Fund shows that women are more often the victims of domestic violence than victims of burglary, muggings or other physical crimes combined. The National Crime Victimization Survey indicates that from 1991 to 1996, approximately half of female victims of domestic violence were physically injured.

Unfortunately, only one in five of those injured victims sought treatment at a medical facility. As a physician, I know that our health care delivery systems can be critical links in identifying cases of domestic violence. In a 1990 study published in the Journal of the American Medical Association, 22 to 35% of women treated in emergency rooms were there for injuries related to ongoing abuse. Health care providers can have a significant impact in identifying such cases, and we must give them the tools to help us address the problem.

Another sad truth is that domestic violence crosses all racial, gender, age and economic boundaries. Children, men and the elderly are also victims. Child abuse is 15 times more likely to occur in families where domestic violence is present. In the late 1980's, reports of elder abuse increased by almost 20% nationally. With these staggering numbers before us, it is apparent that domestic violence necessitates a coordinated community response with partners at the local, state and federal levels.

That's why I am particularly heartened by efforts in Tennessee to address the issue. The Tennessee Task Force Against Domestic Violence is dedicated to ending violence in the lives of women and children through their network of coalitions and shelters. The Task Force has partnered with the Tennessee Medical Association to educate health care providers. They also work closely with law enforcement authorities. My home town of Nashville, for example, has the largest domestic violence division of any police department in the country. Working together with the Task Force, the city's police department has seen an increase in the number of calls from victims who now have more confidence in the system. Knoxville, Chattanooga and Memphis have similar efforts underway. I am proud of my fellow Tennesseans for the example they are setting and the models they are creating. They are sending a clear message that domestic violence is wrong and has no place in our society.

We are working to send a similar message at the federal level. I have authored three bills which contain provisions to address domestic violence. S. 1754, the ''Health Professions Education Partnerships Act of 1998,'' passed the Senate by unanimous consent in July. Among other things, it requests that the Institute of Medicine examine and make recommendations regarding the training needs of health professionals with respect to detection and referral of victims. In S. 1722, the ''Women's Health Research and Prevention Amendments of 1998,'' and in S. 2330, the ''Patients' Bill of Rights,'' we authorize federal funding for community programs on domestic violence through the Family Violence Prevention and Services Act. I have recently joined my colleagues Senators DOMENICI and STEVENS to cosponsor S. 2395, the ''Prescription for Abuse Act,'' which will help health care providers to identify, address and prevent domestic violence.

Domestic violence warrants our full and responsive consideration. I urge my colleagues to take time during October—Domestic Violence Awareness Month—to determine what more we can do to address this challenge. Together we can send a clear message that domestic violence must continue to be addressed comprehensively, creatively, and compassionately.●

SAFE AND SOUND COMMUNITIES ACT

• Mr. KOHL. Mr. President, I rise to outline my proposal for reducing juvenile crime—the ''Safe and Sound Communities Act,'' which I will make available as a discussion draft today. In the past few years, we have begun to make real advances in fighting juvenile crime. And in cities across the country, juvenile crime has started to fall. For example, after Boston implemented a city-wide anti-crime plan, the number of juveniles murdered declined 80 percent, and in more than two years not a single child was killed by a gun. Not one child. And in three ''Weed & Seed'' neighborhoods in Milwaukee, violent felonies dropped 46 percent, gun crimes fell 46 percent, and crime overall was down 21 percent. Now we need to build on what works, in order to protect our children and to make our communities ''safe and sound.'' This measure will be an important step in the right direction.

Indeed, we do not have to reinvent the wheel to reduce juvenile crime. The lesson from Boston, Milwaukee and other cities is clear. There is no one magic solution. But a number of steps, taken together, can and will make a difference: put dangerous criminals behind bars; keep guns out of the hands of juveniles; and give children after-school alternatives to gangs and drugs. That's what works in Boston and Milwaukee and the rest of America. And that's what this proposal is all about. It builds on each of these three basic strategies and expands them to more cities and more rural communities across the nation. Let me explain.

PUT DANGEROUS CRIMINALS BEHIND BARS

First, this proposal makes it easier to lock up dangerous juveniles. We can't even begin to stop violent kids unless we have police officers on the street to catch them, and state and local prosecutors to try them. So this measure extends the highly successful COPS program, which is due to expire in two years, through the year 2003. And it provides $100 million per year for state and local prosecutors to go after juvenile criminals.

Of course, we can't keep criminals off the streets unless we have a place to send them. Unfortunately, although we provide states with hundreds of millions of dollars each year to build new prisons, most states use all of these funds for adult prisons only. So this measure requires states to set aside 10 percent of federal prison funding to juvenile prisons or alternative placements of delinquent children. This commitment is consistent with the Senate-passed 1994 crime bill, which set the stage for spending billions of dollars on prisons through the 1994 Crime Act.

This proposal also helps rural communities keep dangerous kids behind bars. Now, although the closest juvenile facility may be hundreds of miles away, federal law prohibits rural police from locking up juveniles in adult jails for more than 24 hours. This means that state law enforcement officials either have to waste the time and resources to criss-cross the state even for initial court appearances, or simply let dangerous teens go free. In my view, that's a no-win situation. This measure gives rural police the flexibility they need by letting them detain juveniles in adult jails for up to 72 hours.

And this measure will help lock up violent gun-toting kids—and the people who illegally supply them with weapons. It builds on my 1994 Youth Handgun Safety Act by turning illegal possession of a handgun by a minor into a felony. And the same goes for anyone who illegally sells handguns to kids. Kids and handguns don't mix, and our law needs to make clear that this is a serious crime.

KEEP GUNS OUT OF THE HANDS OF CHILDREN

Second, this proposal will help keep firearms out of the hands of young people. It promotes gun safety by requiring the sale of child safety locks with every new handgun. Child safety locks can help save many of the 500 children and teenagers killed each year in firearms accidents, and the 1,500 kids each year who use guns to commit suicide. Just as importantly, they can help prevent some of the 7,000 violent juvenile crimes committed every year with guns children took from their own homes.

It also helps identify who is supplying kids with guns, so we can put them out of business and behind bars. The Bureau of Alcohol, Tobacco and Firearms has been working closely with cities like Milwaukee and Boston to trace guns used by young people back to the source. Using ATF's national database, police and prosecutors can target illegal suppliers of firearms and help stop the flow of firearms into our communities. This measure will expand the program to other cities and, with the increased penalties outlined above, it will help cut down illegal gun trafficking.

In addition, this measure closes a loophole that allows violent young offenders to buy guns legally when they turn 18. Under current law, violent adult offenders can't buy firearms, but violent juveniles can—even the kids convicted of the schoolyard killings in Jonesboro, Arkansas—at least once they are released at age 18. This has to stop. So this measure declares that all violent felons are disqualified from buying firearms, regardless of whether they were 14 or 24, or a day short of their 18th or 28th birthday, at the time of their offense.

CRIME PREVENTION AND AFTER-SCHOOL ALTERNATIVES TO GANGS AND DRUGS

Third, a balanced approach also requires a significant investment in crime prevention, so we can stop crime before it's too late. Even law enforcement officials agree that we need a bigger investment in prevention. For example, more than 400 police chiefs, sheriffs and prosecutors nationwide have endorsed a call for after-school programs for all children. And in my home state of Wisconsin, 90 percent of police chiefs and sheriffs surveyed agreed that we need to increase federal prevention spending.

This proposal promotes prevention by concentrating funding in programs that already have a record of success, like Weed & Seed, and those that rely on proven strategies, like programs that give children a safe place to go in the after-school hours between 3 and 8 p.m., when juvenile crime peaks.

For example, it expands the Weed & Seed program, a Republican program which combines aggressive enforcement and safe havens for at-risk kids. The measure also gives more schools the resources necessary to stay open after school, through expansion of the 21st Century Learning Center program. It promotes innovative locally-tailored prevention initiatives by reauthorizing and expanding the Title V At-Risk Children Challenge Grant program, which I authored. It builds on our support for the valuable work of Boys & Girls Clubs, by extending that program and expanding it to support other successful organizations like the YMCA. And it requires that at least 20 percent of the new juvenile crime funds—namely the recently-initiated $500 million juvenile accountability block grant—be dedicated to prevention.

Of course, we shouldn't blindly invest in prevention programs, just because they sound good. Quality, not quantity, matters. That's why my measure cuts $1.6 billion in prevention programs authorized by the Crime Act—so we don't waste money on redundant programs which don't have records of success or bipartisan support. And that's why my measure requires five to ten percent of all prevention funds to be set aside for rigorous evaluations—so we can keep funding the programs that work, and eliminate the programs that don't. We also reward cities that adopt comprehensive anti-juvenile crime strategies, like Boston's and Milwaukee's—so prevention is part of a balanced, coordinated overall plan.

This combination of tough enforcement, reducing youth access to guns, and effective prevention will help stem juvenile crime. In addition, several other necessary reforms in this proposal will make a difference. It strongly encourages states to share the records of violent juvenile offenders, and provides the funding necessary for improved record-keeping. The fact is that law enforcement officials need full disclosure in order to make informed judgments about how to treat—and whether to incarcerate—a child.

The measure also addresses the dangerous problem of school violence. It increases school security by encouraging states to use COPS funding to place police officers on school grounds. It encourages the development of initiatives to prevent school violence. And because understanding the problem is essential to any comprehensive solution,

it requires better reporting of firearms-related incidents in public schools. Unfortunately, many states do not report guns seized on school grounds.

Mr. President, the question about how to reduce juvenile crime is no longer a mystery. We have a good idea about what works. The real question is this: When will we act? As the chances for a juvenile crime bill this year look increasingly slim, I recommend this framework as a good starting point for next year. Let's build on what works so we can make our communities safer and sounder places to live. I ask unanimous consent that a summary of this proposal be printed in the RECORD.

The summary follows:

SUMMARY OF SEN. HERB KOHL'S SAFE AND SOUND COMMUNITIES ACT

TITLE I: INCREASED PLACEMENT OF JUVENILES IN APPROPRIATE CORRECTIONAL FACILITIES

States must dedicate 10 percent of all prison funding from the 1994 Crime Act to juvenile facilities or alternative placements for delinquent juveniles. Expands ability to detain juveniles temporarily in rural adult jails by permitting detention for up to 72 hours and ending requirement of separate staff to oversee juveniles and adults.

TITLE II: REDUCING YOUTH ACCESS TO FIREARMS

Limits access of juveniles and juvenile offenders to firearms. Requires the sale of child safety locks with all handguns. Expands Department of the Treasury's youth crime gun tracing program to identify more illegal gun traffickers who are supplying guns to children. Increases jail time for individuals who transfer handguns to juveniles and for juveniles who illegally possess handguns. Prohibits the sale of firearms to violent juvenile offenders after they become eighteen years old.

TITLE III: CONSOLIDATION OF PREVENTION PROGRAMS

Repeals over $1.6 billion in authorized prevention programs from the 1994 Crime Act. Expands Weed & Seed to $200 million per year (from $33.5 million in 1998), the Title V At-Risk Children Challenge Grants to $200 million per year (from $20 million), and the 21st Century Learning Centers to $200 million per year (from $40 million), and extends Boys & Girls Club funding for five more years, increasing funding to $75 million per year (from $20 million) and expanding the program to support other successful community organizations like the YMCA. Consolidates several gang prevention programs into one $25 million program. Rewards cities that adopt a comprehensive anti-juvenile crime strategy based on the Boston model. Sets aside five to ten percent of prevention funding for evaluation, implementing the proposal of the DOJ-sponsored University of Maryland report.

TITLE IV: JUVENILE CRIME CONTROL AND ACCOUNTABILITY BLOCK GRANT

Promotes funding for prosecutors, improved-record keeping, juvenile prisons, and prevention through $500 million block grant. Qualifying states must trace all firearms recovered from individuals under age 21 to identify illegal firearm traffickers, and must share criminal records of all juvenile violent offenders with other jurisdictions. $100 million of this grant program must be dedicated to both prevention and to hiring more prosecutors.

TITLE V—SCHOOL VIOLENCE PREVENTION

Expands role of police officers on school campuses through COPS program. Encourages better reporting of incidents of firearms violence in schools, including gun tracing to identify suppliers of firearms recovered on school property. Complements expansion of school violence prevention programs in Title IV block grant.

TITLE VI—EXTENSION OF COPS AND JUVENILE JUSTICE PROGRAMS

Extends program to hire new community police officers. Reauthorizes Office of Juvenile Justice and Delinquency Prevention.

TITLE VII—EXTENSION OF VIOLENT CRIME REDUCTION TRUST FUND

Extends trust fund established by 1994 Crime Act to pay for anti-crime programs with savings from reduction of federal workforce.●

20TH ANNIVERSARY OF THE RUTH AND MAX ALPERIAN SCHECHTER DAY SCHOOL

● Mr. CHAFEE. Mr. President, next month a very special school will be celebrating its 20th anniversary. On November 15th, 1978, the Ruth and Max Alperian Schechter Day School in Providence, Rhode Island opened its doors to ten students. Today, its classrooms are filled with over 230 students, and it is one of the fastest growing Jewish institutions in Rhode Island.

The Ruth and Max Alperian Schechter Day School is a state accredited, egalitarian, conservative Jewish Day School serving children from kindergarten through grade eight. In addition to having a fine reputation for providing its students with a well-rounded education, the Alperian Schechter Day School also focuses on academic growth, ethical values, and Jewish identity. Its academic programs are both rich and challenging in general and Judaic studies.

Recognizing that a partnership with parents is essential to the education of our youngsters, the Alperian Schechter Day School continues to promote open communication with families. As a community of learners, the entire school body works together to create a community of successful, well-rounded members while encouraging continued learning and increased participation in school activities.

In fact, students from the Alperian Schechter Day School continue to build on their education, even after graduating. As academic advisors work with families and students to ensure future success, Alperian Schechter Day School graduates have gone on to attend a variety of colleges and universities including, Yale University, Harvard University, University of Rhode Island, Georgetown University, Rhode Island School of Design, and many, many other fine institutions of higher learning. In addition, students have had the opportunity to serve as interns in our nation's capital, build houses with Habitat for Humanity, and work with disabled children.

In closing, I want to congratulate the Ruth and Max Alperian Schechter Day School on its 20th Anniversary and hope for its continued success in providing academic excellence to our youngsters.●

DETROIT ATHLETIC CLUB HONORS CHUCK DAVEY

Mr. ABRAHAM. Mr. President, I rise today to honor Mr. Charles Chuck'' Davey on the occasion of the Detroit Athletic Club's Fall Boxing Classic.

This year's honoree began his impressive boxing career while at Michigan State University. Remarkably, Chuck won his first NCAA Championship at age 17, a collegiate record, and was the NCAA's only four time boxing champion in four different weight classes. He also served as Captain and was recognized as an Outstanding BOXER from 1947–1949. Deservedly, he is viewed to be the greatest collegiate boxer of all time.''

He was a member of the 1948 Olympic Team and is one of the finest professional boxers ever to come out of Detroit. From October 1949 to January of 1953, Chuck went through 39 bouts without a loss, scoring 25 kayos, taking 12 decisions and participating in two draws.

When Chuck turned professional as a welterweight, Davey defeated champions Rocky Graziano, Johnny Saxton, Carmen Bassilio and Ike Williams. At Chicago stadium in 1953, before the largest ever paid indoor attendance in boxing history, Davey fought world champion Kid'' Gavilan. Chuck proved to be a true sports hero.

Since retiring from boxing in 1955, he was a color broadcaster on WCAR with Bruce Martin for MSU football games. He also served as Michigan's Boxing Commissioner from 1965 to 1980 and was one of the founders and the first President of the United States Boxing Association. In addition, he served four terms as Vice President of the World Boxing Association.

For his lifetime of accomplishments in the sport of boxing, he was elected to the Michigan Sports Hall of Fame in 1980 and just this year was elected to the World Boxing Hall of Fame.

Throughout his life, Chuck has been a dedicated family man and grandfather. He is married to Patricia and they are the proud parents of nine children and enjoy nineteen grandchildren.

I want to express my congratulations to Chuck Davey for his impressive achievements both inside and outside of the ring. He is truly an inspiration.

POMC 8TH ANNUAL LOVE FOR LIFE BENEFIT

● Mr. ABRAHAM. Mr. President, I rise today to honor the organization Parents of Murdered Children, Inc., Metro Detroit Chapter, on the occasion of their 8th Annual Love for Life Benefit.

The POMC was founded in Cincinnati, Ohio, 18 years ago by Charlotte and Bob Hullinger after their daughter was murdered in Germany by a former boyfriend, who traveled there and stalked her. They sought out other families who were dealing with the violent death of a loved one, to gain mutual support. This is the only organization in the United States to support

surviving family members and friends of all homicide victims who are in need of such assistance.

The Metro Detroit Chapter is celebrating its 16th anniversary this year. They have tirelessly helped hundreds of families and friends in Michigan. They also reach out to families and friends outside of Michigan whose loved ones were murdered here. The nation's second Sibling Group was founded by the Metro Detroit Chapter for the unique needs of brothers and sisters who suffer the violent death of a sibling.

POMC's dedication to help the families and friends of those who have died by violence is commendable. POMC has made a significant impact in easing the difficult times many people have encountered while improving the legal system and the rights of the victims of crime.

I want to express my congratulations to POMC, Inc. Metro Detroit Chapter for their tremendous accomplishments. I also wish them much success in their continued work on behalf of our families and our communities.●

WATERFORD SENIOR CENTER 25TH ANNIVERSARY

● Mr. ABRAHAM. Mr. President, I rise today to honor the Waterford Senior Center which is celebrating its 25th Anniversary of serving the local senior population on Thursday, October 22, 1998.

The mission of the center has been to offer services, administer programs, and sponsor activities for older adults which are designed to enhance the independence and dignity of their lives.

The center has served as a focal point for older adults in the community and has proven that it will continue its tireless dedication to the Waterford area seniors for many years to come.

I want to express to the Waterford Senior Center my congratulations and best wishes on their 25th anniversary. I wish them many more years of success.●

CLOVER TECHNOLOGIES GRAND OPENING

● Mr. ABRAHAM. Mr. President, I rise today to honor Clover Technologies as they celebrate the Grand Opening Ceremonies for their new 93,000 square foot headquarters in Wixom, Michigan.

Established in 1952, Clover Technologies' new headquarters makes Clover one of the largest employers in Wixom with over 400 employees.

With the high-tech industry playing an increasingly important role in the Michigan economy, expansions such as this serve as a testament to the competitiveness of Michigan-based industries in the global market. Clover Technologies has proven that the right combination of quality and dedication can lead to a prosperous future.

The vision and leadership of Clover have made them an industry leader, and have enabled them, the employees of Clover, and others in the community to continue sharing in the American Dream.

Their worldwide commitment to excellence in the automotive industry and customer service is to be commended.

I want to express my congratulations to Clover Technologies on the dedication of their new headquarters, and wish them the best in their future endeavors.●

STANBRIDGE 50TH WEDDING ANNIVERSARY

● Mr. ABRAHAM. Mr. President, I rise today to honor Donald and Shirley Stanbridge on the occasion of their 50th Wedding Anniversary. They were married on November 5, 1948.

Don and Shirley were introduced by Shirley's mother in 1945 and began dating shortly thereafter. Don entered the service in 1946 and asked for Shirley's hand in marriage in 1947. They have resided in St. Clair Shores, Michigan, for 45 years where they raised two children, and now enjoy three grandchildren.

Throughout their fifty years together they have dedicated themselves to their family, their church—Bethlehem Lutheran Church in Eastpointe and now St. Thomas Lutheran Church in Roseville, and their local community.

A long and successful marriage is truly a cause for celebration, well worthy of recognition by the United States Senate. The Stanbridge's commitment to each other and their family is commendable and a great contribution to the tradition of strong American families.

Martin Luther once wrote: There is no more lovely, friendly and charming relationship, communion or company than a good marriage.'' They are blessed to enjoy the special bond of a strong, enduring marriage.

I want to express my congratulations and happy anniversary to Donald and Shirley Stanbridge on this day, November 5, 1998, and I wish them many more years of joy in marriage.●

REINVESTMENT AND ENVIRONMENTAL RESTORATION ACT OF 1998—S. 2566

The text of the bill (S. 2566), introduced on October 7, 1998, is as follows:

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Reinvestment and Environmental Restoration Act of 1998.''

TITLE I—COASTAL IMPACT ASSISTANCE

SECTION 101. SHORT TITLE.

This title may be cited as the ''Coastal Conservation and Impact Assistance Act of 1998''.

SEC. 102. AMENDMENT TO OUTER CONTINENTAL SHELF LANDS ACT.

The Outer Continental Shelf Lands Act Amendments of 1978 (92 Stat. 629), as amended, is amended to add at the end thereof a new Title VII as follows:

''SEC. 701. FINDINGS.

''The Congress finds and declares that—

''(1) The Nation owns valuable mineral resources that are located both onshore and in the Federal Outer Continental Shelf, and the Federal Government develops these resources for the benefit of the Nation, under certain restrictions designed to prevent environmental damage and other adverse impacts.

''(2) Nonetheless, the development of these mineral resources of the Nation is accompanied by unavoidable environmental impacts and public service impacts in the States that host this development, whether the development occurs onshore or on the Federal Outer Continental Shelf.

''(3) The Federal Government has a responsibility to the States affected by development of Federal mineral resources to mitigate adverse environmental and public service impacts incurred due to that development.

''(4) The Federal Government discharges its responsibility to States where onshore Federal mineral development occurs by sharing 50 percent of the revenue derived from the Federal mineral development in that State pursuant to section 35 of the Mineral Leasing Act.

''(5) Federal mineral development is occurring as far as 200 miles offshore and occurs off the coast of only 6 States, yet section 8(g) of the Outer Continental Shelf Lands Act does not adequately compensate these States for the onshore impacts of the offshore Federal mineral development.

''(6) Federal Outer Continental Shelf mineral development is an important and secure source of our Nation's supply of oil and natural gas.

''(7) Further technological advancements in oil and natural gas exploration and production need to be pursued and encouraged.

''(8) These technological achievements have and will continue to result in new Outer Continental Shelf production having an unparalleled record of excellence on environmental safety issues.

''(9) Additional technological advances with appropriate incentives will further improve new resource recovery and therefore increase revenues to the Treasury for the benefit of all Americans who enjoy programs funded by Outer Continental Shelf moneys.

''(10) The Outer Continental Shelf Advisory Committee of the Department of the Interior, consisting of representatives of coastal States, recommended in October 1997 that Federal mineral revenue derived from the entire Outer Continental Shelf be shared with all coastal States and territories to mitigate onshore impacts from Federal offshore mineral development and for other environmental mitigation; and

''(11) The Nation's Federal mineral resources are a nonrenewable, capital asset of the Nation, with the production and sale of this resource producing revenue for the Nation, a portion of the revenue derived from the production and sale of Federal mineral resources should be reinvested in the Nation through environmental mitigation and public service improvements.

''SEC. 702. DEFINITIONS.

''For purposes of this Act:

''(1) The term 'allocable share' means, for a coastal State, that portion of revenue that is available to be distributed to that coastal State under this title. For an eligible political subdivision of a coastal State, such term means that portion of revenue that is available to be distributed to that political subdivision under this title.

''(2) The term 'coastal State' means the population of political subdivisions, as determined by the most recent official data of the

Census Bureau, contained in whole or in part within the designated coastal boundary of a State as defined in a State's coastal zone management program under the Coastal Zone Management Act (16 U.S.C. §1455).

''(3) The term 'coastline' has the same meaning that is has in the Submerged Lands Act (43 U.S.C. §1301 et seq.).

''(4) The term 'eligible political subdivision' means a coastal political subdivision of a coastal State which political subdivision has a seaward boundary that lies within a distance of 200 miles from the geographic center of any leased tract. The Secretary shall annually provide a list of all eligible political subdivisions of each coastal State to the Governor of such State.

''(5) The term 'political subdivision' means the local political jurisdiction immediately below the level of State government, including counties, parishes, and boroughs. If State law recognizes an entity of general government that functions in lieu of, and is not within, a county, parish, or borough, the Secretary may recognize an area under the jurisdiction of such other entities of general government as a political subdivision for purposes of this Act.

''(6) The term 'coastal State' means any State of the United States bordering on the Atlantic Ocean, the Pacific Ocean, the Arctic Ocean, the Bering Sea, the Gulf of Mexico, or any of the Great Lakes, Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

''(7) The term 'distance' means minimum great circle distance, measured in statute miles.

''(8) The term 'fiscal year' means the Federal Government's accounting period which begins on October 1st and ends on September 30th, and is designated by the calendar year in which it ends.

''(9) The term 'Governor' means the highest elected official of a coastal State.

''(10) The term 'leased tract' means a tract, leased under section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. §1337) for the purpose of drilling for, developing and producing oil and natural gas resources, which is a unit consisting of either a block, a portion of a block, a combination of blocks and/or portions of blocks, as specified in the lease, and as depicted on an Outer Continental Shelf Official Protraction Diagram.

''(11) The term 'revenues' means all moneys received by the United States as bonus bids, rents, royalties (including payments for royalty taken in kind and sold), net profit share payments, and related late-payment interest from natural gas and oil leases issued pursuant to the Outer Continental Shelf Lands Act.

''(12) The term 'Outer Continental Shelf' means all submerged lands lying seaward and outside of the area of 'lands beneath navigable waters' as defined in section 2(a) of the Submerged Lands Act (43 U.S.C. §1301(a)), and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

''(13) The term 'Secretary' means the Secretary of the Interior or the Secretary's designee.

''SEC. 702. IMPACT ASSISTANCE FORMULA AND PAYMENTS.

''(a) ESTABLISHMENT OF FUND.—(1) There is established in the Treasury of the United States a fund which shall be known as the 'Outer Continental Shelf Impact Assistance Fund' (referred to in this Act as 'the Fund'). The Secretary shall deposit in the Fund 27 percent of the revenues from each leased tract or portion of a leased tract lying seaward of the zone defined and governed by section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. §1337(g)), or lying within such zone but to which section 8(g) does not apply, the geographic center of which lies within a distance of 200 miles from any part of the coastline of any coastal State.

''(2) The Secretary of the Treasury shall invest moneys in the Fund that are excess to expenditures at the written request of the Secretary, in public debt securities with maturities suitable to the needs of the Fund, as determined by the Secretary, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity.

''(b) PAYMENT TO STATES.—Notwithstanding section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. §1338), the Secretary shall, without further appropriation, make payments in each fiscal year to coastal States and to eligible political subdivisions equal to the amount deposited in the Fund for the prior fiscal year, together with the portion of interest earned from investment of the funds which corresponds to that amount (reduced by any refunds paid under section 705(c)). Such payments shall be allocated among the coastal States and eligible political subdivisions as provided in this section.

''(c) DETERMINATION OF STATES' ALLOCABLE SHARES.—

''(1) ALLOCABLE SHARE FOR EACH STATE.—For each coastal State, the Secretary shall determine the State's allocable share of the total amount of the revenues deposited in the Fund for each fiscal year using the following weighted formula:

''(A) 25 percent of the State's allocable share shall be based on the ratio of such State's shoreline miles to the shoreline miles of all coastal States.

''(B) 25 percent of the State's allocable share shall be based on the ratio of such State's coastal population to the coastal population of all coastal States.

''(C) 50 percent of the State's allocable share shall be computed based upon Outer Continental Shelf production. If any portion of a coastal State lies within a distance of 200 miles from the geographic center of any leased tract, such State shall receive 50 percent of its allocable share based on the Outer Continental Shelf oil and gas production offshore of such State. Such part of its allocable share shall be inversely proportional to the distance between the nearest point on the coastline of such State and the geographic center of each leased tract or portion of the leased tract (to the nearest whole mile), as determined by the Secretary.

''(2) MINIMUM STATE SHARE.—

''(A) IN GENERAL.—The allocable share of revenues determined by the Secretary under this subsection for each coastal State with an approved coastal management program (as defined by the Coastal zone Management Act (16 U.S.C. §1451) or which is making satisfactory progress toward one shall not be less than 0.50 percent of the total amount of the revenues deposited in the Fund for each fiscal year. For any other coastal State the allocable share of such revenues shall not be less than 0.25 percent of such revenues.

''(B) RECOMPUTATION.—Where one or more coastal States' allocable shares, as compared under paragraph (1), are increased by any amount under this paragraph, the allocable share for all other coastal States shall be recomputed and reduced by the same amount so that not more than 100 percent of the amount deposited in the fund is allocated to all coastal States. The reduction shall be divided pro rata among such other coastal States.

''(d) PAYMENTS TO STATES AND POLITICAL SUBDIVISIONS.—Each coastal State's allocable share shall be divided between the State and political subdivision in that State as follows:

''(1) 40 percent of each State's allocable share, as determined under subsection (c), shall be paid to the State;

''(2) 40 percent of each State's allocable share, as determined under subsection (c), shall be paid to the eligible political subdivisions in such State, with the funds to be allocated among the eligible political subdivisions using the following weighted formula:

''(A) 50 percent of an eligible political subdivision's allocable share shall be based on the ratio of that eligible political subdivision's acreage within the State's coastal zone, as defined in an approved State coastal management program (as defined by the Coastal Zone Management Act (16 U.S.C. §1451)), to the entire acreage within the coastal zone in such State: *Provided, however,* That if the State in which the eligible subdivision is located does not have an approved coastal management program, then the allocable share shall be based on the ratio of that eligible political subdivision's shoreline miles to the total shoreline miles in that coastal State.

''(B) 25 percent of an eligible political subdivision's allocable share shall be based on the ratio of such eligible political subdivision's coastal population to the coastal population of all eligible political subdivisions in that State.

''(C) 25 percent of an eligible political subdivision's allocable share shall be based on ratios that are inversely proportional to the distance between the nearest point on the seaward boundary of each such eligible political subdivision and the geographic center of each leased tract or portion of the leased tract (to the nearest whole mile), as determined by the Secretary.

''(3) 20 percent of each State's allocable share, as determined under subsection (c), shall be allocated to political subdivisions in the coastal State that do not qualify as eligible political subdivisions but which are determined by the Governor or the Secretary to have impacts from Outer Continental Shelf related activities and which have an approved plan under this subsection.

''(4) PROJECT SUBMISSION.—Prior to the receipt of funds pursuant to this subsection for any fiscal year, a political subdivision must submit to the Governor of the State in which it is located a plan setting forth the projects and activities for which the political subdivision proposes to expend such funds. Such plan shall state the amounts proposed to be expended for each project or activity during the upcoming fiscal year.

''(5) PROJECT APPROVAL.—(A) Prior to the payment of funds pursuant to this subsection to any political subdivision for any fiscal year, the Governor must approve the plan submitted by the political subdivision pursuant to this subsection and notify the Secretary of such approval. State approval of any such plan shall be consistent with all applicable State and Federal law. In the event the Governor disapproves any such plan, the funds that would otherwise be paid to the political subdivision shall be placed in escrow by the Secretary pending modification and approval of such plan, at which time such funds together with interest thereon shall be paid to the political subdivision.

''(B) A political subdivision that fails to receive approval from the Governor for a plan may appeal to the Secretary and the Secretary may approve or disapprove such plan based on the criteria set forth in section 704: *Provided, however,* That the Secretary shall have no authority to consider an appeal of a political subdivision if the Governor of the State has certified in writing to the Secretary that the State has adopted a State program that by its express terms addresses

the allocation of revenues to political subdivisions.

''(e) TIME OF PAYMENT.—(1) Payments to coastal States and political subdivisions under this section shall be made not later than December 31 of each year from revenues received and interest earned thereon during the immediately preceding fiscal year. Payment shall not commence before the date 12 months following the date of enactment of this Act.

''(2) Any amount in the Fund not paid to coastal States and political subdivisions under this section in any fiscal year shall be disposed of according to the law otherwise applicable to revenues from leases on the Outer Continental Shelf.

''SEC. 704. USES OF FUNDS.

''Funds received pursuant to this Act shall be used by the coastal States and political subdivisions for projects and activities, including but not limited to the following:

''(a) air quality, water quality, fish and wildlife, wetlands, or other coastal resources, including shoreline protection and coastal restoration;

''(b) other activities of such State or political subdivision, authorized by the Coastal Zone Management Act of 1972 (16 U.S.C. §1451 et seq.), the provisions of subtitle B of title IV of the Oil Pollution Act of 1990 (104 Stat. 523), or the Federal Water Pollution Control Act (33 U.S.C. §1251 et seq.);

''(c) administrative costs of complying with the provisions of this subtitle;

''(d) uses related to the Outer Continental Shelf Lands Act; and

''(e) mitigating impacts of Outer Continental Shelf activities, including onshore infrastructure and public service needs.

''SEC. 705. CERTIFICATION; ANNUAL REPORT; REFUNDS.

''(a) CERTIFICATION.—Not later than 60 days after the end of the fiscal year, any political subdivision receiving moneys from the Fund must certify to the Governor—

''(1) the amount of such funds expended by the political subdivision during the previous fiscal year;

''(2) the amounts expended on each project or activity;

''(3) a general description of how the funds were expended; and

''(4) the status of each project or activity.

''(b) REPORT.—On June 15 of each year, the Governor of each State receiving moneys from the Fund shall account for all moneys so received for the previous fiscal year in a written report to the Secretary and the Congress. This report shall include a description of all projects and activities receiving funds under this Act, including all information required under subsection (a).

''(c) REFUNDS.—In those instances where through judicial decision, administrative review, arbitration, or other means there are royalty refunds owed to entities generating revenues under this Act, 27 percent of such refunds shall be paid from amounts available in the Fund.''

SEC. 103. AMENDMENT TO SECTION 8 OF THE OUTER CONTINENTAL SHELF LANDS ACT.

The first sentence of section 8(g)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. §1337(g)(2)) is amended by inserting after ''three nautical miles'' each place it appears the following: ''(or in the case of Alabama, nine nautical miles)''.

TITLE II—LAND AND WATER CONSERVATION FUND REFORM

SECTION. 201. SHORT TITLE.

This title may be cited as the ''Land and Water Conservation Fund Reform Act of 1998''.

SEC. 202. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) The Land and Water Conservation Fund Act of 1965 embodied a visionary concept—that a portion of the proceeds from Outer Continental Shelf mineral leasing revenues and the depletion of a nonrenewable natural resource should result in a legacy of public places accessible for public recreation and benefit from resources belonging to all people, of all generations, and the enhancement of the most precious and most renewable natural resource of any nation, healthy and active citizens.

(2) The States and local governments were to occupy a pivotal role in accomplishing the purposes of the Land and Water Conservation Fund Act of 1965 and the Act originally provided an equitable portion of funds to the States, and through them, to local governments.

(3) However, because of competition for limited Federal moneys and the need for an annual appropriation, this original intention has been abandoned and, in recent years, the States have not received an equitable proportion of funds.

(4) Nonetheless, with population growth and urban sprawl, the demand for recreation and conservation areas, at the State and local level, including urban localities, remains a high priority for our citizens.

(5) In addition to the demand at the State and local level, there has been an increasing unmet need for Federal moneys to be made available for Federal purposes, with lands identified as important for Federal acquisition not being acquired for several years due to insufficient funds.

(6) A new vision is called for—a vision that encompasses a multilevel national network of parks, recreation and conservation areas that reaches across the country to touch all communities. National parks are not enough; the federal government alone cannot accomplish this. A national vision, backed by realistic national funding support, to stimulate State, local and private sector, as well as Federal efforts, is the only way to effectively address our ongoing outdoor recreation and conservation needs.

(b) PURPOSE.—The purpose of this title is to provide a secure source of funds available for Federal purposes authorized by the Land and Water Conservation Fund Act of 1965 and to revitalize and complement State, local and private commitments envisioned in the Land and Water Conservation Fund Act of 1965 and the Urban Park and Recreation Recovery Act of 1978 by providing grants for State, local and urban recreation and conservation needs.

SEC. 203. LAND AND WATER CONSERVATION FUND AMENDMENTS.

(a) REVENUES.—Section 2(c)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §460*l*–5(c)(1)) is amended as follows:

(1) By inserting ''(A)'' after ''(c)(1)''.

(2) By striking ''there are authorized'' and all that follows and inserting ''from 16 percent of the revenues, as that term is defined in the Reinvestment and Environmental Restoration Act of 1998, shall be deposited in the Land and Water Conservation Fund in the Treasury and shall be available, without further appropriation, to carry out this Act for each fiscal year thereafter through September 30, 2015.''

(3) By adding at the end the following new subparagraph:

''(B) In those instances where through judicial decision, administrative review, arbitration, or other means there are royalty refunds owed to entities generating revenues available for purposes of this Act, 16 percent of such refunds shall be paid from amounts available under this subsection.''.

(b) AUTHORIZATION.—Section 2(c)(2) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §460*l*–5(c)(2)) is amended by striking ''equivalent amounts provided in clause (1)'' and inserting ''$900,000,000''.

(c) APPROPRIATION.—Section 3 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §460*l*–6) is amended by striking ''Moneys'' and inserting ''Except as provided under section 460*l*–5(c)(1), moneys''.

(d) ALLOCATION OF FUNDS.—Section 5 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §460*l*–7) is amended as follows:

(1) by inserting ''(a)'' at the beginning;

(2) by striking ''Those appropriations from the fund'' and all that follows; and

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

''(b) Moneys credited to the fund under section 2(c)(1) of this Act (16 U.S.C. §460*l*–5(c)(1)) for obligation or expenditure may be obligated or expended only as follows—

''(1) 45 percent shall be available for Federal purposes. Notwithstanding section 7 of this Act (16 U.S.C. §460*l*–9), 25 percent of such moneys shall be made available to the Secretary of Agriculture for the acquisition of lands, waters, or interests, in land or water within the exterior boundaries of areas of the National Forest System or any other land management unit established by an Act of Congress and managed by the Secretary of Agriculture and 75 percent of such moneys shall be available to the Secretary of the Interior for the acquisition of lands, waters, or interests in land or water within the exterior boundaries of areas of the National Park System, National Wildlife Refuge System, or other land management unit established by an Act of Congress: *Provided,* That at least two-thirds of the moneys available under this paragraph for Federal purposes shall be spent east of the 100th meridian.

''(2) 45 percent shall be available for financial assistance to the States under section 6 of this Act (16 U.S.C. §460*l*–8) distributed according to the following allocation formula;

''(A) 60 percent shall be apportioned equally among the several States;

''(B) 20 percent shall be apportioned on the basis of the ratio which the population of each State bears to the total population of the United States;

''(C) 20 percent shall be apportioned on the basis of the urban population in each State (as defined by Metropolitan Statistical Areas).

''(3) 10 percent shall be available to local governments through the Urban Parks and Recreation Recovery Program (16 U.S.C. §§2501–2514) of the Department of the Interior.

So much, not to exceed 2 percent, of the total of such moneys credited to the fund under section 2(c)(1) of this Act (16 U.S.C. §460*l*–5(c)) in each fiscal year as the Secretary of the Interior may estimate to be necessary for expenses in the administration and execution of this subsection shall be deducted for that purpose, and such sum is authorized to be made available therefor until the expiration of the next succeeding fiscal year, and within 60 days after the close of such fiscal year the Secretary shall apportion such part thereof as remains unexpended, if any, on the same basis and in the same manner as is provided under paragraphs (1), (2) and (3).''.

(e) TRIBES AND ALASKA NATIVE VILLAGE CORPORATIONS.—Subsection 6(b)(5) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §460*l*–8(b)(5)) is amended as follows:

(1) By inserting ''(A)'' after ''(5)''.

(2) By adding at the end the following new subparagraph:

''(B) For the purposes of paragraph (1), all federally recognized Indian tribes and Alaska Native Village Corporations (as defined in section 3(j) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(j)) shall be treated collectively as 1 State, and shall receive

shares of the apportionment under paragraph (1) in accordance with a competitive grant program established by the Secretary by rule. Such rule shall ensure that in each fiscal year no single tribe or Village Corporation receives more than 10 percent of the total amount made available to all tribes and Village Corporations pursuant to the apportionment under paragraph (1). Funds received by an Indian tribe or Village Corporation under this subparagraph may be expended only for the purposes specified in paragraphs (1) and (3) of subsection (b).''

(f) LOCAL ALLOCATION.—Subsection 6(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §460*l*–8(b)(5)) is amended by adding at the end the following new paragraph:

''(6) Absent some compelling and annually documented reason to the contrary acceptable to the Secretary, each State (other than an area treated as a State under paragraph (5)) shall make available as grants to local governments at least 50 percent of the annual State apportionment, or an equivalent amount made available from other sources.''

(g) MATCH.—Subsection 6(c) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §460*l*–8(c)) is amended to read as follows:

''(c) MATCHING REQUIREMENTS.—Payments to any State shall cover not more than 50 percent of the cost of outdoor recreation and conservation planning, acquisition or development projects that are undertaken by the State.''

(h) STATE ACTION AGENDA.—Subsection 6(d) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §460*l*–8(d)) is amended to read as follows:

''(d) STATE ACTION AGENDA REQUIRED.—Each State may define its own priorities and criteria for selection of outdoor recreation and conservation acquisition and development projects eligible for grants under this Act so long as it provides for public involvement in this process and publishes an accurate and current State Action Agenda for Community Recreation and Conservation indicating the needs it has identified and the priorities and criteria it has established. In order to assess its needs and establish its overall priorities, each State, in partnership with its local governments and Federal agencies, and in consultation with its citizens, shall develop a State Action Agenda for Community Recreation and Conservation, within five years of enactment, that meets the following requirements:

''(1) The agenda must be strategic, originating in broad-based and long-term needs, but focused on actions that can be funded over the next 4 years.

''(2) The agenda must be updated at least once every 4 years and certified by the Governor that the State Action Agenda for Community Recreation and Conservation conclusions and proposed actions have been considered in an active public involvement process.

State Action Agendas for Community Recreation and Conservation shall take into account all providers of recreation and conservation lands within each State, including Federal, regional and local government resources and shall be correlated whenever possible with other State, regional, and local plans for parks, recreation, open space and wetlands conservation.

''Each State Action Agenda for Community Recreation and Conservation shall specifically address wetlands within that State as important outdoor recreation and conservation resources. Each State Action Agenda for Community Recreation and Conservation shall incorporate a wetlands priority plan developed in consultation with the State agency with responsibility for fish and wildlife resources which is consistent with that national wetlands priority conservation plan developed under section 301 of the Emergency Wetlands Resources Act.

''Recovery action programs developed by urban localities under section 1007 of the Urban Park and Recreation Recovery Act of 1978 shall be used by a State as one guide to the conclusions, priorities and action schedules contained in the State Action Agenda for Community Recreation and Conservation. Each State shall assure that any requirements for local outdoor recreation and conservation planning that are promulgated as conditions for grants minimize redundancy of local efforts by allowing, wherever possible, use of the findings, priorities, and implementation schedules of recovery action programs to meet such requirements.''

(i) Comprehensive State Plans developed by any State under section 6(d) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §460*l*–8(d)) before the enactment of this Act shall remain in effect in that State until or State Action Agenda for Community Recreation and Conservation has been adopted pursuant to the amendment made by this subsection, but no later than 5 years after the enactment of this Act.

(j) STATE PLANS.—Subsection 6(e) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §460*l*–8(e)) is amended—

(1) by striking ''State comprehensive plan'' at the end of the first paragraph and inserting ''State Action Agenda for Community Recreation and Conservation'';

(2) by striking ''State comprehensive plan'' in paragraph (1) and inserting ''State Action Agenda for Community Recreation and Conservation''; and

(3) by striking ''but not including incidental costs related to acquisition'' at the end of paragraph (1).

(k) CONVERSION.—Paragraph 6(f)(3) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. §460*l*–8(f)(3)) is amended by striking the second sentence and inserting: ''With the exception of those properties that are no longer viable as an outdoor recreation and conservation facility due to changes in demographics or must be abandoned because of environmental contamination which endanger public health and safety, the Secretary shall approve such conversion only if the State demonstrates no prudent or feasible alternative exists. Any conversion must satisfy any conditions the Secretary deems necessary to assure the substitution of other recreation and conservation properties of at least equal fair market value, or reasonably equivalent usefulness and location and which are in accord with the existing State Action Agenda for Community Recreation and Conservation: *Provided*, That wetland areas and interests therein as identified in the wetlands provisions of the action agenda and proposed to be acquired as suitable replacement property within that same State that is otherwise acceptable to the Secretary shall be considered to be of reasonably equivalent usefulness with the property proposed for conversion.''

SEC. 204. URBAN PARK AND RECREATION RECOVERY ACT OF 1978 AMENDMENTS.

(a) GRANTS.—Section 1004 of the Urban Park and Recreation Recovery Act (16 U.S.C. §2503) is amended by redesignating subsections (d), (e), and (f) as subsections (f), (g), and (h) respectively, and by inserting the following after subsection (c):

''(d) 'development grants' means matching capital grants to local units of government to cover costs of development and construction on existing or new neighborhood recreation sites, including indoor and outdoor recreation facilities, support facilities, and landscaping, but excluding routine maintenance and upkeep activities;'';

''(e) 'acquisition grants' means matching capital grants to local units of government to cover the direct and incidental costs of purchasing new parkland to be permanently dedicated and made accessible for public recreation use;''.

(b) ELIGIBILITY.—Subsection 1005(a) of the Urban Park and Recreation Recovery Act (16 U.S.C. §2504) is amended to read as follows:

''(a) Eligibility of general purpose local governments to compete for assistance under this title shall be based upon needed as determined by the Secretary. Generally, the list of eligible governments shall include the following:

''(1) All central cities of Metropolitan, Primary or Consolidated Statistical Areas as currently defined by the census.

''(2) All political subdivisions included in Metropolitan, Primary or Consolidated Statistical Areas as currently defined by the census.

''(3) Any other city or town within a Metropolitan Area with a total population of 50,000 or more in the census of 1970, 1980 or 1990.

''(4) Any other county, parish or township with a total population of 250,000 or more in the census of 1970, 1980 or 1990.''.

(c) MATCHING GRANTS.—Subsection 1006(a) of the Urban Park and Recreation Recovery Act (16 U.S.C. §2505(a)) is amended by striking all through paragraph (3) and inserting the following:

''SEC. 1006.(a) The Secretary is authorized to provide 70 percent matching grants for rehabilitation, innovation, development or acquisition purposes to eligible general purpose local governments upon his approval of applications therefor by the chief executives of such governments.

''(1) At the discretion of such applicants, and if consistent with an approved application, rehabilitation, innovation, development or acquisition grants may be transferred in whole or in part to independent special purpose local governments, private nonprofit agencies or country or regional park authorities; except that, such grantees shall provide assurance to the Secretary that they will maintain public recreation opportunities at assisted areas and facilities owned or managed by them in accordance with section 1010 of this Act.

''(2) Payments may be made only for those rehabilitation, innovation, development, or acquisition projects which have been approved by the Secretary. Such payments may be made from time to time in keeping with the rate of progress toward completion of a project, on a reimbursable basis.''.

(d) COORDINATION.—Section 1008 of the Urban Park and Recreation Recovery Act (16 U.S.C. §2507) is amended by striking the last sentence and inserting the following: ''The Secretary and general purpose local governments are encouraged to coordinate preparation of recovery action programs required by this title with State Action Agendas for Community Recreation and Conservation required by section 6 of the Land and Water Conservation Fund Act of 1965, including the allowance of flexibility in local preparation of recovery action programs so that they may be used to meet State or local qualifications for local receipt of Land and Water Conservation Fund grants or State grants for similar purposes or for other recreation or conservation purposes. The Secretary shall also encourage States to consider the findings, priorities, strategies and schedules included in the recovery action program of their urban localities in preparation and updating of the State Action Agendas for Community Recreation and Conservation, in accordance with the public coordination and citizen consultation requirements of subsection 6(d) of the Land and Water Conservation Fund Act of 1965.''

(e) CONVERSION.—Section 1010 of the Urban Park and Recreation Recovery Act (16 U.S.C. §2509) is amended by striking the first sentence and inserting the following: ''No property acquired or improved or developed under this title shall, without the approval of the Secretary, be converted to other than public recreation uses. The Secretary shall approve such conversion only if the grantee demonstrates no prudent or feasible alternative exists (with the exception of those properties that are no longer a viable recreation facility due to changes in demographics or must be abandoned because of environmental contamination which endanger public health and safety). Any conversion must satisfy any conditions the Secretary deems necessary to assure the substitution of other recreation properties of at least equal fair market value, or reasonably equivalent usefulness and location and which are in accord with the current recreation recovery action program.''

(f) REPEAL.—Section 1014 of the Urban Park and Recreation Recovery Act (16 U.S.C. 2513) is repealed.

TITLE III—WILDLIFE CONSERVATION AND RESTORATION

SEC. 301. SHORT TITLE.

This title may be cited as the ''Wildlife Conservation and Restoration Act of 1998''.

SEC. 302. FINDINGS.

The Congress finds and declares that—

(1) a diverse array of species of fish and wildlife is of significant value to the Nation for many reasons: aesthetic, ecological, educational, cultural, recreational, economic, and scientific;

(2) it should be the objective of the United States to retain for present and future generations the opportunity to observe, understand, and appreciate a wide variety of wildlife;

(3) millions of citizens participate in outdoor recreation through hunting, fishing, and wildlife observation, all of which have significant value to the citizens who engage in these activities;

(4) providing sufficient and properly maintained wildlife associated recreational opportunities is important to enhancing public appreciation of a diversity of wildlife and the habitats upon which they depend;

(5) lands and waters which contain species classified neither as game nor identified as endangered or threatened also can provide opportunities for wildlife associated recreation and education such as hunting and fishing permitted by applicable State or Federal law;

(6) hunters and anglers have for more than 60 years willingly paid user fees in the form of Federal excise taxes on hunting and fishing equipment to support wildlife diversity and abundance, through enactment of the Federal Aid in Wildlife Restoration Act (commonly referred to as the Pittman-Robertson Act) and the Federal Aid in Sport Fish Restoration Act (commonly referred to as the Dingell-Johnson/Wallop-Breaux Act);

(7) State programs, adequately funded to conserve a broader array of wildlife in an individual State and conducted in coordination with Federal, State, tribal, and private landowners and interested organizations, would continue to serve as a vital link in a nationwide effort to restore game and nongame wildlife, and the essential elements of such programs should include conservation measures which manage for a diverse variety of populations of wildlife; and

(8) It is proper for Congress to bolster and extend this highly successful program to aid game and nongame wildlife in supporting the health and diversity of habitat, as well as providing funds for conservation education.

SEC. 303. PURPOSES.

The purposes of this title are—

(1) to extend financial and technical assistance to the States under the Federal Aid to Wildlife Restoration Act for the benefit of a diverse array of wildlife and associated habitats, including species that are not hunted or fished, to fulfill unmet needs of wildlife within the States while recognizing the mandate of the States to conserve all wildlife;

(2) to assure sound conservation policies through the development, revision and implementation of wildlife associated recreation and wildlife associated education and wildlife conservation law enforcement;

(3) to encourage State fish and wildlife agencies to create partnerships between the Federal Government, other State agencies, wildlife conservation organizations, and outdoor recreation and conservation interests through cooperative planning and implementation of this title; and

(4) to encourage State fish and wildlife agencies to provide for public involvement in the process of development and implementation of a wildlife conservation and restoration program.

SEC. 304. DEFINITIONS.

(a) REFERENCE TO LAW.—In this title, the term ''Federal Aid in Wildlife Restoration Act'' means the Act of September 2, 1937 (16 U.S.C. 669 et seq.), commonly referred to as the Federal Aid in Wildlife Restoration Act or the Pittman-Robertson Act.

(b) WILDLIFE CONSERVATION AND RESTORATION PROGRAM.—Section 2 of the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669a) is amended by inserting after ''shall be construed'' in the first place it appears the following: ''to include the wildlife conservation and restoration program and''.

(c) STATE AGENCIES.—Section 2 of the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669a) is amended by inserting ''or State fish and wildlife department'' after ''State fish and game department''.

(d) CONSERVATION.—Section 2 is amended by striking the period at the end thereof, substituting a semicolon, and adding the following: ''the term 'conservation' shall be construed to mean the use of methods and procedures necessary or desirable to sustain healthy populations of wildlife including all activities associated with scientific resources management such as research, census, monitoring of populations, acquisition, improvement and management of habitat, live trapping and transplantation, wildlife damage management, and periodic or total protection of a species or population as well as the taking of individuals within wildlife stock or population if permitted by applicable State and Federal law; the term 'wildlife conservation and restoration program' shall be construed to mean a program developed by a State fish and wildlife department that the Secretary determines meets the criteria in section 6(d), the projects that constitute such a program, which may be implemented in whole or part through grants and contracts by a State to other State, Federal, or local agencies wildlife conservation organizations and outdoor recreation and conservation education entities from funds apportioned under this title, and maintenance of such projects; the term 'wildlife' shall be construed to mean any species of wild, free-ranging fauna including fish, and also fauna in captive breeding programs the object of which is to reintroduce individuals of a depleted indigenous species into previously occupied range; the term 'wildlife-associated recreation' shall be construed to mean projects intended to meet the demand for outdoor activities associated with wildlife including, but not limited to, hunting and fishing, such projects as construction or restoration of wildlife viewing areas, observation towers, blinds, platforms, land and water trails, water access, trailheads, and access for such projects; and the term 'wildlife conservation education' shall be construed to mean projects, including public outreach, intended to foster responsible natural resource stewardship.''.

(3) 7 PERCENT.—Subsection 3(a) of the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669b(a)) is amended in the first sentence by—

(1) inserting ''(1)'' after ''(beginning with the fiscal year 1975)''; and

(2) inserting after ''Internal Revenue Code of 1954'' the following: '', and (2) from 7 percent of the revenues, as that term is defined in the Reinvestment Act and Environmental Restoration Act of 1998,''.

SEC. 305. SUBACCOUNTS AND REFUNDS.

Section 3 of the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669b) is amended by adding at the end the following new subsections:

''(c) A subaccount shall be established in the Federal aid to wildlife restoration fund in the Treasury to be known as the 'wildlife conservation and restoration account' and the credits to such account shall be equal to the 7 percent of revenues referred to in subsection (a)(2). Amounts in such account shall be invested by the Secretary of the Treasury as set forth in subsection (b) and shall be made available without further appropriation, together with interest, for apportionment at the beginning of fiscal year 2000 and each fiscal year thereafter to carry out State wildlife conservation and restoration programs.

''(d) Funds covered into the wildlife conservation and restoration account shall supplement, but not replace, existing funds available to the States from the sport fish restoration and wildlife restoration accounts and shall be used for the development, revision, and implementation of wildlife conservation and restoration programs and should be used to address the unmet needs for a diverse array of wildlife and associated habitats, including species that are not hunted or fished, for wildlife conservation, wildlife conservation education, and wildlife-associated recreation projects: *Provided,* such funds may be used for new programs and projects as well as to enhance existing programs and projects.

''(e) Notwithstanding subsections (a) and (b) of this Act, with respect to the wildlife conservation and restoration account so much of the appropriation apportioned to any State for any fiscal year as remains unexpended at the close thereof is authorized to be made available for expenditure in that State until the close of the fourth succeeding fiscal year. Any amount apportioned to any State under this subsection that is unexpended or unobligated at the end of the period during which it is available for expenditure on any project is authorized to be reapportioned to all States during the succeeding fiscal year.

''(f) In those instances where through judicial decision, administrative review, arbitration, or other means there are royalty refunds owed to entities generating revenues available for purposes of this Act, 7 percent of such refunds shall be paid from amounts available under subsection (a)(2).''.

SEC. 306. ALLOCATION OF SUBACCOUNT RECEIPTS.

Section 4 of the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669c) is amended by adding the following new subsection:

''(c)(1) Notwithstanding subsection (a), so much, not to exceed 2 percent, of the revenues covered into the wildlife conservation and restoration account in each fiscal year as the Secretary of the Interior may estimate to be necessary for expenses in the administration and execution of programs carried out under the wildlife conservation and

restoration account shall be deducted for that purpose, and such sum is authorized to be made available therefor until the expiration of the next succeeding fiscal year, and within 60 days after the close of such fiscal year the Secretary of the Interior shall apportion such part thereof as remains unexpended, if any, on the same basis and in the same manner as is provided under paragraphs (2) and (3).

''(2) The Secretary of the Interior, after making the deduction under paragraph (1), shall make the following apportionment from the amount remaining in the wildlife conservation and restoration account:

''(A) to the District of Columbia and to the Commonwealth of Puerto Rico, each a sum equal to not more than ½ of 1 percent thereof; and

''(B) to Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands, each a sum equal to not more than ⅙ of 1 percent thereof.

''(3) The Secretary of the Interior, after making the deduction under paragraph (1) and the apportionment under paragraph (2), shall apportion the remaining amount in the wildlife conservation and restoration account for each year among the States in the following manner:

''(A) ⅓ which is based on the ratio to which the land area of such State bears to the total land area of all such States; and

''(B) ⅔ of which is based on the ratio to which the population of such State bears to the total population of all such States.

The amounts apportioned under this paragraph shall be adjusted equitably so that no such State shall be apportioned a sum which is less than ½ of 1 percent of the amount available for apportionment under this paragraph for any fiscal year or more than 5 percent of such amount.''.

''(d) WILDLIFE CONSERVATION AND RESTORATION PROGRAMS.—Any State, through its fish and wildlife department, may apply to the Secretary for approval of a wildlife conservation and restoration program or for funds to develop a program, which shall—

''(1) contain provision for vesting in the fish and wildlife department of overall responsibility and accountability for development and implementation of the program; and

''(2) contain provision for development and implementation of—

''(A) wildlife conservation projects which expand and support existing wildlife programs to meet the needs of a diverse array of wildlife species,

''(B) wildlife associated recreation programs, and

''(C) wildlife conservation education projects.

If the Secretary of the Interior finds that an application for such program contains the elements specified in paragraphs (1) and (2), the Secretary shall approve such application and set aside from the apportionment to the State made pursuant to section 4(c) an amount that shall not exceed 90 percent of the estimated cost of developing and implementing segments of the program for the first 5 fiscal years following enactment of this subsection and not to exceed 75 percent thereafter. Not more than 10 percent of the amounts apportioned to each State from this subaccount for the State's wildlife conservation and restoration program may be used for law enforcement. Following approval, the Secretary may make payments on a project that is a segment of the State's wildlife conservation and restoration program as the project progresses but such payments, including previous payments on the project, if any, shall not be more than the United States pro rata share of such project. The Secretary, under such regulations as he may prescribe, may advance funds representing the United States pro rata share of a project that is a segment of a wildlife conservation and restoration program, including funds to develop such program. For purposes of this subsection, the term 'State' shall include the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.''.

(b) FACA.—Coordination with State fish and wildlife department personnel or with personnel of other State agencies pursuant to the Federal Aid in Wildlife Restoration Act or the Federal Aid in Sport Fish Restoration Act shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.). Except for the preceding sentence, the provisions of this title relate solely to wildlife conservation and restoration programs as defined in this title and shall not be construed to affect the provisions of the Federal Aid in Wildlife Restoration Act relating to wildlife restoration projects or the provisions of the Federal Aid in Sport Fish Restoration Act relating to fish restoration and management projects.

SEC. 307. LAW ENFORCEMENT AND PUBLIC RELATIONS.

The third sentence of subsection (a) of section 8 of the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669g) is amended by inserting before the period at the end thereof: '', except that funds available from this subaccount for a State wildlife conservation and restoration program may be used for law enforcement and public relations''.

SEC. 308. PROHIBITION AGAINST DIVERSION.

No designated State agency shall be eligible to receive matching funds under this Act if sources of revenue available to it on January 1, 1998, for conservation of wildlife are diverted for any purpose other than the administration of the designated State agency, it being the intention of Congress that funds available to States under this Act be added to revenues from existing State sources and not serve as a substitute for revenues from such sources. Such revenues shall include interest, dividends, or other income earned on the foregoing.

LONG-TERM CARE PATIENT PROTECTION ACT OF 1998—S. 2570

The text of the bill (S. 2570), introduced on October 7, 1998, is as follows:

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

SEC. 1. ESTABLISHMENT OF PROGRAM TO PREVENT ABUSE OF NURSING FACILITY RESIDENTS.

(a) NURSING FACILITY AND SKILLED NURSING FACILITY REQUIREMENTS.—

(1) MEDICAID PROGRAM.—Section 1919(b), as amended by section 2(a), is amended by adding after paragraph (8) the following new paragraph:

''(9) SCREENING OF NURSING FACILITY WORKERS.—

''(A) BACKGROUND CHECKS ON APPLICANTS.—Subject to subparagraph (B)(ii), before hiring an individual, a nursing facility shall—

''(i) give the individual written notice that the facility is required to perform background checks with respect to applicants;

''(ii) require, as a condition of employment, that such individual—

''(I) provide a written statement disclosing any conviction for a relevant crime or finding of patient or resident abuse;

''(II) provide a statement signed by the individual authorizing the facility to request the search and exchange of criminal records;

''(III) provide in person a copy of the individual's fingerprints; and

''(IV) provide any other identification information the Secretary may specify in regulation;

''(iii) initiate a check of the registry under section 1128F in accordance with regulations promulgated by the Secretary to determine whether such registry contains any disqualifying information with respect to such individual; and

''(iv) if such registry does not contain any such disqualifying information—

''(I) request that the State initiate a State and national criminal background check on such individual in accordance with the provisions of subsection (e)(9); and

''(II) furnish to the State the information described in subclauses (II) through (IV) of clause (ii) not more than 7 days (excluding Saturdays, Sundays, and legal public holidays under section 6103(a) of title 5, United States Code) after completion of the check against the registry initiated under clause (iii).

''(B) PROHIBITION ON HIRING OF ABUSIVE WORKERS.—

''(i) IN GENERAL.—A nursing facility may not knowingly employ any individual who has any conviction for a relevant crime or with respect to whom a finding of patient or resident abuse has been made.

''(ii) PROBATIONARY EMPLOYMENT.—After complying with the requirements of clauses (i), (ii), and (iii) of subparagraph (A), a nursing facility may provide for a probationary period of employment (not to exceed 90 days) for an individual pending completion of the check against the registry described under subparagraph (A)(iii) and the background check described under subparagraph (A)(iv). Such facility shall maintain supervision of the individual during the individual's probationary period of employment.

''(C) REPORTING REQUIREMENTS.—A nursing facility shall report to the State any instance in which the facility determines that an individual has committed an act of resident neglect or abuse or misappropriation of resident property in the course of employment by the facility.

''(D) USE OF INFORMATION.—

''(i) IN GENERAL.—A nursing facility that obtains information about an individual pursuant to clauses (iii) and (iv) of subparagraph (A) may use such information only for the purpose of determining the suitability of the individual for employment.

''(ii) IMMUNITY FROM LIABILITY.—A nursing facility that, in denying employment for an applicant, reasonably relies upon information about an individual provided by the State pursuant to subsection (e)(9) shall not be liable in any action brought by the individual based on the employment determination resulting from the incompleteness or inaccuracy of the information.

''(iii) CRIMINAL PENALTY.—Whoever knowingly violates the provisions of subparagraph (D)(i) shall be fined in accordance with title 18, United States Code, imprisoned for not more than 2 years, or both.

''(E) DEFINTIONS.—As used in this paragraph—

''(i) the term 'conviction for a relevant crime' means any State or Federal criminal conviction for—

''(I) any offense described in paragraphs (1) through (4) of section 1128(a); and

''(II) such other types of offenses as the Secretary may specify in regulations;

''(ii) the term 'finding of patient or resident abuse' means any substantiated finding by a State agency under subsection (g)(1)(C) or a Federal agency that an individual has committed—

''(I) an act of patient or resident abuse or neglect or a misappropriation of patient or resident property; or

''(II) such other types of acts as the Secretary may specify in regulations; and

''(iii) the term 'disqualifying information' means information about a conviction for a relevant crime or a finding of patient or resident abuse.''.

(2) MEDICARE PROGRAM.—Section 1819(b), as amended by section 2(b), is amended by adding after paragraph (8) the following new paragraph:

''(9) SCREENING OF NURSING FACILITY WORKERS.—

''(A) BACKGROUND CHECKS ON APPLICANTS.—Subject to subparagraph (B)(ii), before hiring an individual, a skilled nursing facility shall—

''(i) give the individual written notice that the facility is required to perform background checks with respect to applicants;

''(ii) require, as a condition of employment, that such individual—

''(I) provide a written statement disclosing any conviction for a relevant crime or finding of patient or resident abuse;

''(II) provide a statement signed by the individual authorizing the facility to request the search and exchange of criminal records;

''(III) provide in person a copy of the individual's fingerprints; and

''(IV) provide any other identification information the Secretary may specify in regulation;

''(iii) initiate a check of the registry under section 1128F in accordance with regulations promulgated by the Secretary to determine whether such registry contains any disqualifying information with respect to such individual; and

''(iv) if such registry does not contain any such disqualifying information—

''(I) request that the State initiate a State and national criminal background check on such individual in accordance with the provisions of subsection (e)(7); and

''(II) furnish to the State the information described in subclauses (II) through (IV) of clause (ii) not more than 7 days (excluding Saturdays, Sundays, and legal public holidays under section 6103(a) of title 5, United States Code) after completion of the check against the registry initiated under clause (iii).

''(B) PROHIBITION ON HIRING OF ABUSIVE WORKERS.—

''(i) IN GENERAL.—A skilled nursing facility may not knowingly employ any individual who has any conviction for a relevant crime or with respect to whom a finding of patient or resident abuse has been made.

''(ii) PROBATIONARY EMPLOYMENT.—After complying with the requirements of clauses (i), (ii), and (iii) of subparagraph (A), a skilled nursing facility may provide for a probationary period of employment (not to exceed 90 days) for an individual pending completion of the check against the registry described under subparagraph (A)(iii) and the background check described under subparagraph (A)(iv). Such facility shall maintain supervision of the individual during the individual's probationary period of employment.

''(C) REPORTING REQUIREMENTS.—A skilled nursing facility shall report to the State any instance in which the facility determines that an individual has committed an act of resident neglect or abuse or misappropriation of resident property in the course of employment by the facility.

''(D) USE OF INFORMATION.—

''(i) IN GENERAL.—A skilled nursing facility that obtains information about an individual pursuant to clauses (iii) and (iv) of subparagraph (A) may use such information only for the purpose of determining the suitability of the individual for employment.

''(ii) IMMUNITY FROM LIABILITY.—A skilled nursing facility that, in denying employment for an applicant, reasonably relies upon information about an individual provided by the State pursuant to subsection (e)(9) shall not be liable in any action brought by the individual based on the employment determination resulting from the incompleteness or inaccuracy of the information.

''(iii) CRIMINAL PENALTY.—Whoever knowingly violates the provisions of subparagraph (D)(i) shall be fined in accordance with title 18, United States Code, imprisoned for not more than 2 years, or both.

''(E) DEFINITIONS.—As used in this paragraph—

''(i) the term 'conviction for a relevant crime' means any State or Federal criminal conviction for—

''(I) any offense described in paragraphs (1) through (4) of section 1128(a); and

''(II) such other types of offenses as the Secretary may specify in regulations;

''(ii) the term 'finding of patient or resident abuse' means any substantiated finding by a State agency under subsection (g)(1)(C) or a Federal agency that an individual has committed—

''(I) an act of patient or resident abuse or neglect or a misappropriation of patient or resident property; or

''(II) such other types of acts as the Secretary may specify in regulations; and

''(iii) the term 'disqualifying information' means information about a conviction for a relevant crime or a finding of patient or resident abuse.''.

''(b) STATE REQUIREMENTS.—

''(1) MEDICAID PROGRAMS.—

''(A) EXPANSION OF STATE REGISTRY TO COLLECT INFORMATION ABOUT NURSING FACILITY EMPLOYEES OTHER THAN NURSE AIDES.—Section 1919, as amended by section 2(a), is amended—

''(i) in subsection (e)(2)—

''(I) in the paragraph heading, by striking ''NURSE AIDE REGISTRY'' and inserting ''NURSING FACILITY EMPLOYEE REGISTRY'''

''(II) in subparagraph (A)—

''(aa) by striking ''By not later than January 1, 1989, the'' and inserting ''The'';

''(bb) by striking ''a registry of all individuals'' and inserting ''a registry of (I) all individuals''; and

''(cc) by inserting before the period '', and (II) all other nursing facility employees with respect to whom the State has made a finding described in subparagraph (B)'';

''(III) in subparagraph (B), by striking ''involving an individual listed in the registry'' and inserting ''involving a nursing facility employee''; and

''(IV) in subparagraph (C), by striking ''nurse aide'' and inserting ''nursing facility employee or applicant for employment''; and

''(ii) in subsection (g)(1)—

''(I) in subparagraph (C)—

''(aa) in the first sentence, by striking ''nurse aide'' and inserting ''nursing facility employee''; and

''(bb) in the third sentence, by striking ''nurse aide'' each place it appears and inserting ''nursing facility employee''; and

''(II) in subparagraph (D), by striking ''nurse aide'' each place it appears and inserting ''nursing facility employee''.

''(B) STATE AND FEDERAL REQUIREMENT TO CONDUCT BACKGROUND CHECKS.—Section 1919(e), as amended by section 2(a), is amended by adding at the end the following new paragraph:

''(9) STATE AND FEDERAL REQUIREMENTS CONCERNING CRIMINAL BACKGROUND CHECKS ON NURSING FACILITY EMPLOYEES.—

''(A) IN GENERAL.—Upon receipt of a request by a nursing facility pursuant to subsection (b)(9) that is accompanied by the information described in subclauses (II) through (IV) of subsection (b)(9)(A)(ii), a State, after checking appropriate State records and finding no disqualifying information (as defined in subsection (b)(9)(E)), shall submit such request and information to the Attorney General and shall request the Attorney General to conduct a search and exchange of records with respect to the individual as described in subparagraph (B).

''(B) SEARCH AND EXCHANGE OF RECORDS BY ATTORNEY GENERAL.—Upon receipt of a submission pursuant to subparagraph (A), the Attorney General shall direct a search of the records of the Federal Bureau of Investigation for any criminal history records corresponding to the fingerprints or other positive identification information submitted. The Attorney General shall provide any corresponding information resulting from the search to the State.

''(C) STATE REPORTING OF INFORMATION TO NURSING FACILITY.—Upon receipt of the information provided by the Attorney General pursuant to subparagraph (B), the State shall—

''(i) review the information to determine whether the individual has any conviction for a relevant crime (as defined in subsection (b)(9)(E)); and

''(iii) report to the nursing facility the results of such review.

''(D) FEES FOR PERFORMANCE OF CRIMINAL BACKGROUND CHECKS.—

''(i) AUTHORITY TO CHARGE FEES.—

''(I) ATTORNEY GENERAL.—The Attorney General may charge a fee to any State requesting a search and exchange of records pursuant to this paragraph and subsection (b)(9) for conducting the search and providing the records. The amount of such fee shall not exceed the lesser of the actual cost of such activities or $50. Such fees shall be available to the Attorney General, or, in the Attorney General's discretion, to the Federal Bureau of Investigation, until expended.

''(II) STATE.—A State may charge a nursing facility a fee for initiating the criminal background check under this paragraph and subsection (b)(9), including fees charged by the Attorney General, and for performing the review and report required by subparagraph (C). The amount of such fee shall not exceed the actual cost of such activities.

''(ii) TREATMENT OF FEES FOR PURPOSES OF COST REPORTS.—An entity may not include a fee assessed pursuant to this subparagraph as an allowable item on a cost report under this title or title XVIII.

''(iii) PROHIBITION ON CHARGING APPLICANTS OR EMPLOYEES.—An entity may not impose on an applicant for employment or an employee any charges relating to the performance of a background check under this paragraph.

''(E) REGULATIONS.—In addition to the Secretary's authority to promulgate regulations under this title, the Attorney General, in consultation with the Secretary, may promulgate such regulations as are necessary to carry out the Attorney General's responsibilities under this paragraph and subsection (b)(9), including regulations regarding the security, confidentiality, accuracy, use, destruction, and dissemination of information, audits and recordkeeping and the imposition of fees.

''(F) REPORT.—Not later than 2 years after the date of enactment of the ''Long-Term Care Patient Protection Act of 1998'', the Attorney General shall submit a report to Congress on the number of requests for searches and exchanges of records made under this section and the disposition of such requests.''.

(2) MEDICARE PROGRAM.—

(A) EXPANSION OF STATE REGISTRY TO COLLECT INFORMATION ABOUT SKILLED NURSING FACILITY EMPLOYEES OTHER THAN NURSE AIDES.—Section 1819, as amended by section 2(b), is amended—

(i) in subsection (e)(2)—

(I) in the paragraph heading, by striking ''NURSE AIDE REGISTRY'' and inserting ''SKILLED NURSING CARE EMPLOYEE REGISTRY'';

(II) in subparagraph (A)—

(aa) by striking ''By not later than January 1, 1989, the'' and inserting ''The'';

(bb) by striking ''a registry of all individuals'' and inserting ''a registry of (I) all individuals''; and

(cc) by inserting before the period '', and (II) all other skilled nursing facility employees with respect to whom the State has made a finding described in subparagraph (B)'';

(III) in subparagraph (B), by striking ''involving an individual listed in the registry'' and inserting ''involving a skilled nursing facility employee''; and

(IV) in subparagraph (C), by striking ''nurse aide'' and inserting ''skilled nursing facility employee or applicant for employment''; and

(ii) in subsection (g)(1)—

(I) in subparagraph (C)—

(aa) in the first sentence, by striking ''nurse aide'' and inserting ''skilled nursing facility employee''; and

(bb) in the third sentence, by striking ''nurse aide'' each place it appears and inserting ''skilled nursing facility employee''; and

(II) in subparagraph (D), by striking ''nurse aide'' each place it appears and inserting ''skilled nursing facility employee''.

(B) STATE AND FEDERAL REQUIREMENT TO CONDUCT BACKGROUND CHECKS.—Section 1819(e), as amended by section 2(b), is amended by adding at the end the following new paragraph:

''(7) STATE AND FEDERAL REQUIREMENTS CONCERNING CRIMINAL BACKGROUND CHECKS ON SKILLED NURSING FACILITY EMPLOYEES.—

''(A) IN GENERAL.—Upon receipt of a request by a skilled nursing facility pursuant to subsection (b)(9) that is accompanied by the information described in subclauses (II) through (IV) of subsection (b)(9)(A)(ii), a State, after checking appropriate State records and finding no disqualifying information (as defined in subsection (b)(9)(E)), shall submit such request and information to the Attorney General and shall request the Attorney General to conduct a search and exchange of records with respect to the individual as described in subparagraph (B).

''(B) SEARCH AND EXCHANGE OF RECORDS BY ATTORNEY GENERAL.—Upon receipt of a submission pursuant to subparagraph (A), the Attorney General shall direct a search of the records of the Federal Bureau of Investigation for any criminal history records corresponding to the fingerprints or other positive identification information submitted. The Attorney General shall provide any corresponding information resulting from the search to the State.

''(C) STATE REPORTING OF INFORMATION TO NURSING FACILITY.—Upon receipt of the information provided by the Attorney General pursuant to subparagraph (B), the State shall—

''(i) review the information to determine whether the individual has any conviction for a relevant crime (as defined in subsection (b)(9)(E)); and

''(ii) report to the skilled nursing facility the results of such review.

''(D) FEES FOR PERFORMANCE OF CRIMINAL BACKGROUND CHECKS.—

''(i) AUTHORITY TO CHARGE FEES.—

''(I) ATTORNEY GENERAL.—The Attorney General may charge a fee to any State requesting a search and exchange of records pursuant to this paragraph and subsection (b)(9) for conducting the search and providing the records. The amount of such fee shall not exceed the lesser of the actual cost of such activities or $50. Such fees shall be available to the Attorney General, or, in the Attorney General's discretion, to the Federal Bureau of Investigation until expended.

''(II) STATE.—A State may charge a skilled nursing facility a fee for initiating the criminal background check under this paragraph and subsection (b)(9), including fees charged by the Attorney General, and for performing the review and report required by subparagraph (C). The amount of such fee shall not exceed the actual cost of such activities.

''(ii) TREATMENT OF FEES FOR PURPOSES OF COST REPORTS.—An entity may not include a fee assessed pursuant to this subparagraph as an allowable item on a cost report under this title or title XIX.

''(iii) PROHIBITION ON CHARGING APPLICANTS OR EMPLOYESS.—An entity may not impose on an applicant for employment or an employee any charges relating to the performance of a background check under this paragraph.

''(E) REGULATIONS.—In addition to the Secretary's authority to promulgate regulations under this title, the Attorney General, consultation with the Secretary, may promulgate such regulations as are necessary to carry out the Attorney General's responsibilities under this paragraph and subsection (b)(9), including regulations regarding the Security confidentiality, accuracy, use, destruction, and dissemination of information, audits and recordkeeping, and the imposition of fees.

''(F) REPORT.—Not later than 2 years after the date of enactment of the ''Long-Term Care Patient Protection Act of 1998'', the Attorney General shall submit a report to Congress on the number of requests for searches and exchanges of records made under this section and the disposition of such requests.''.

''(c) ESTABLISHMENT OF NATIONAL REGISTRY OF ABUSIVE NURSING FACILITY WORKERS.—Title XI of the Social Security Act is amended by adding after section 1128E the following new section:

''NATIONAL REGISTRY OF ABUSIVE NURSING FACILITY WORKERS

''SEC. 1128F. (a) IN GENERAL.—The Secretary shall establish a national data collection program for the reporting of information described in subsection (b), with access as set forth in subsection (c), and shall maintain a database of the information collected under the section.

''(b) REPORTING OF INFORMATION.—Each State shall report the information collected pursuant to sections 1819(e)(2)(B) and 1919(e)(2)(B) in such form and manner as the Secretary may prescribe by regulation.

''(c) ACCESS TO REPORTED INFORMATION.—

''(1) AVAILABILITY.—The information in the database maintained under this section shall be available, pursuant to producers maintained under this section, to—

''(A) Federal and State government agencies;

''(B) nursing facilities participating in the program under title XIX and skilled nursing facilities participating in a program under title XVIII; and

''(C) such other persons as the Secretary may specify by regulations,

but only for the purpose of determining the suitability for employment in a nursing facility or skilled nursing facility.

''(2) INFORMATION.—The information in the database shall be exempt from disclosure under 5 U.S.C. 552.

''(3) FEES FOR DISCLOSURE.—

''(A) IN GENERAL.—The Secretary may establish or approve reasonable fees for the disclosure of information in such data base. The amount of such a fee shall be sufficient to recover the full costs of operating the database. Such fees shall be available to the Secretary or, in the Secretary's discretion, to the agency designated under this section to cover such costs.

''(B) AVAILABILITY OF FEES.—Fees collected pursuant to this subsection shall remain available until expended, in the amounts provided in appropriation acts, for necessary expenses related to the purposes for which the fees were assessed.

''(C) TREATMENT OF FEES FOR PURPOSES OF COST REPORTS.—An entity may not include a fee assessed pursuant to this subsection as an allowable item on a cost report under this title or title XIX.

''(D) PROHIBITION ON CHARGING APPLICANTS OR EMPLOYEES.—An entity may not impose on an applicant for employment or an employee any charges relating to the registry established and maintained under this section.''.

SEC. 2. EFFECTIVE DATA.

The provisions of and amendments made by the Act shall be effective on and after the date of enactment, without regard to whether implementing regulations are in effect.

CARL D. PERKINS VOCATIONAL-TECHNICAL EDUCATION ACT AMENDMENTS—CONFERENCE REPORT

Mr. JEFFORDS. Mr. President, I submit a report of the committee of conference on the bill (H.R. 1853) to amend the Carl D. Perkins Vocational and Applied Technology Education Act, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1853), have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 8, 1998.)

Mr. JEFFORDS. Mr. President, I will make a few comments on the vocational education bill at this time.

Today we are considering the reauthorization of the Carl D. Perkins Vocational and Applied Technology Education Act.

This is one of the most important proposals we will consider in the 105th Congress. In July, we passed the Workforce Investment Act. The reauthorization of vocational education is an important partner to the Workforce Investment Act.

There are presently between 200,000 and 300,000 unfilled positions in the technology field. The reason for the difficulty in filling these positions is not because of low unemployment numbers, but because of the lack of skilled workers. Many of these jobs do not require four years and plus of post-secondary education. They do require an excellent vocational education system and the ability to pursue further technical education following high school education.

One of the most fascinating facts to come out of the Senate Labor Committee's hearings on vocational education, was that Malaysia has replicated our Tech Prep model. Tech Prep was created in this country and we have many model Tech Prep programs, but not as many as we should have. Malaysia realized Tech Prep was a key answer to improving their skilled workforce and they have put the resources behind it to make it very successful.

The 1998 vocational education reauthorization strengthens the Tech Prep program by emphasizing the importance of the business community as a partner with the education sector.

The United States is the most productive country in the world, but we are losing our edge to other industrialized nations such as Japan and Germany as well as other rapidly developing countries such as Taiwan, Korea, and China.

Over the past 25 years, the standard of living for those Americans without at least a four year postsecondary degree has plunged. In the next decade, we are in danger of being surpassed as the world's foremost economic power if we don't begin to redefine our priorities at the national, state, and local levels.

Our international competitors have been leaders in making the important connection between education and work.

Last year, a report released by the National Center for Research in Vocational Education, a report which I requested as part of the 1990 vocational education reauthorization, highlighted the importance of a cohesive partnership between educators and employers. Employers are active participants in the governance of work-related education and training in Australia, Great Britain, France, and Germany.

Another significant finding of the report was that European nations, such as the Netherlands and Denmark, are attempting to develop a technical education system that can serve as either a bridge to additional vocational training or pursuing college level courses.

This reauthorization package emphasizes the important balance between a strong academic background and a vocational and technical education system that reflects today's global economy.

The 1998 reauthorization also requires the states and local communities to set-up an accountability system which will give us a visual picture of how states and local communities are implementing vocational and technical education programs. Most importantly, how these programs are impacting vocational and technical education students.

I would like to thank my colleagues on the Senate Labor Committee and the staff, especially the Congressional Research Staff and the legislative counsel staff who have all put in countless hours on this bill which is an excellent foundation for the 21st century workforce.

I thank my colleagues on the Senate Labor Committee and the staff, especially the Congressional Research staff and the legislative counsel staff who all put in countless hours on this bill which is an excellent foundation for the 21st century workforce. I also commend the members of my committee, certainly, but also the Members of the House. We are bringing this to a close just at the end of the session. For a long period of time, it looked like we would not be here, but we are. I thank Chairman GOODLING, in particular, and Congressman BUCK MCKEON for their tremendous help in bringing this to fruition.

Mr. KENNEDY. Mr. President, I strongly support this reauthorization of the Vocational Education Act, the Carl Perkins Vocational and Applied Technology Education Amendments of 1998. This bill, along with the Workforce Investment Act passed earlier this year, are important steps to improve the quality of the nation's workforce. Well-educated and well-trained workers are essential for the nation's future. As students prepare to enter the workforce, they should have a variety of choices, and this bill gives it to them.

It encourages more effective integration of academic skills and job skills. It helps school districts form partnerships with community colleges, area technical schools, and businesses of all sizes to combine quality academic instruction with real-world work experiences. These partnerships will provide internships, apprenticeships, and practical job experience that will teach students about many difficult aspects of the world of work.

It also encourages schools to use state-of-the-art techniques and equipment in teaching, so that students are offered challenging courses, and so that graduates can continue their education or enter the workforce better prepared for good careers.

States are also guaranteed a greater flexibility in providing funds to local schools to improve their vocational and technical education programs.

The Perkins Act has had a highly positive effect on the quality of vocational education across the nation. Its goal is to encourage innovation and ensure fairer opportunities for all students—especially those who have historically been denied access to high-level careers, and have suffered the most from the inequities in the job market.

The bill also recognizes the importance of preparing students and trainees for non-traditional employment. Supporting these underserved populations is increasingly important if we are to meet the demands of the 21st Century economy.

Finally, this legislation retains our commitment to the important role of gender equity in vocational education. Gender equity issues must continue to be part of every state's priority. Every student should be convinced that good careers are not out of reach because of such discrimination. Vocational education must expand opportunities, not restrict them.

Overall, this legislation enables the nation to move forward in all of these important ways. I urge the Senate to support it, and I'm confident it will be effective in bringing us closer to the goals we share for vocational education in the years ahead.

Mr. JEFFORDS. I ask unanimous consent that all time be yielded back on the conference report to accompany H.R. 1853, the vocational education bill. I further ask that the conference report be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the conference report appear at this point in the RECORD.

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

The conference report was agreed to.

REDESIGNATING THE UNITED STATES CAPITOL POLICE HEADQUARTERS BUILDING THE ''ENEY, CHESTNUT, GIBSON MEMORIAL BUILDING''

Mr. JEFFORDS. I ask unanimous consent that the Rules Committee be discharged from further consideration S. Con. Res. 120, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 120) to redesignate the United States Capitol Police headquarters building located at 119 D Street, Northeast, Washington, DC, as the ''Eney, Chestnut, Gibson Memorial Building.''

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. JEFFORDS. I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, that the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD at this point.

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

The concurrent resolution (S. Con. Res. 120) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

S. CON. RES. 120

Whereas the United States Capitol Police force has protected the Capitol and upheld the beacon of democracy in America;

Whereas 3 officers of the United States Capitol Police have lost their lives in the line of duty;

Whereas Sgt. Christopher Eney was killed on August 24, 1984, during a training exercise;

Whereas officer Jacob ''J.J.'' Chestnut was killed on July 24, 1998, while guarding his post at the Capitol; and

Whereas Detective John Gibson was killed on July 24, 1998, while protecting the lives of

visitors, staff, and the Office of the Majority Whip of the House of Representatives: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the United States Capitol Police headquarters building located at 119 D Street, Northeast, Washington, D.C., shall be known and designated as the ''Eney, Chestnut, Gibson Memorial Building''.

VITIATION OF PASSAGE OF S. 777

Mr. JEFFORDS. I ask unanimous consent that Senate passage of S. 777 be vitiated.

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

The bill will be returned to the calendar.

NONCITIZEN BENEFIT CLARIFICATION AND OTHER TECHNICAL AMENDMENTS ACT OF 1998

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4558, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4558) to make technical amendments to clarify the provision of benefits for noncitizens, and to improve the provision of unemployment insurance, child support, and supplemental security income benefits.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. ROTH. Mr. President, the bill now before the Senate contains seven technical amendments. Although each provision may seem minor, every one serves a larger, more important purpose. Also, as I will describe, the legislation is time sensitive, which is why the Senate is considering this bill in an expedited manner. Let me also note that the bill has bipartisan support and passed the House on a voice vote on September 23rd. Also, the small cost of the bill is fully paid for.

The first provision would ensure that every elderly or disabled noncitizen dependent on SSI and Medicaid benefits when welfare reform was enacted in August 1996 will remain eligible. The Balanced Budget Act of 1997 grandfathered most legal aliens receiving SSI. However, at that time, a small number—about 22,000—received only a temporary extension, until September 30, 1998, pending a study of their legal status. That issue has been largely resolved, and this provision would complete the work of BBA.

The bill also makes a number of common sense changes that encourage work and personal responsibility in several programs under the jurisdiction of the Finance Committee.

Finally, I would like to highlight an important humanitarian provision in this legislation. Many members are undoubtedly aware of the Make-A-Wish Foundation and similar organizations that help fulfill the dreams of children with life-threatening or terminal illnesses. For example, the child with cancer who gets a trip to Disney World. Yet, a sick child could lose SSI and Medicaid benefits if the cash value of their ''wish'' exceed current law income limits. This bill would fix that problem.

I urge the support of all Members of this legislation.

Mr JEFFORDS. I ask unanimous consent the bill be considered read the third time and passed, and the motion to reconsider be laid upon the table.

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

The bill (H.R. 4558) was deemed read the third time and passed.

CRIME IDENTIFICATION TECHNOLOGY ACT OF 1998

Mr. JEFFORDS. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (S. 2022) to provide for the improvement of interstate criminal justice identification, information, communications, and forensics.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2022) entitled ''An Act to provide for the improvement of interstate criminal justice identification, information, communications, and forensics'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Table of contents.

TITLE I—CRIME IDENTIFICATION TECHNOLOGY ACT OF 1998

Sec. 101. Short title.

Sec. 102. State grant program for criminal justice identification, information, and communication.

TITLE II—NATIONAL CRIMINAL HISTORY ACCESS AND CHILD PROTECTION ACT

Sec. 201. Short title.

Subtitle A—Exchange of Criminal History Records for Noncriminal Justice Purposes

Sec. 211. Short title.

Sec. 212. Findings.

Sec. 213. Definitions.

Sec. 214. Enactment and consent of the United States.

Sec. 215. Effect on other laws.

Sec. 216. Enforcement and implementation.

Sec. 217. National Crime Prevention and Privacy Compact.

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ARTICLE I—DEFINITIONS

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ARTICLE III—RESPONSIBILITIES OF COMPACT PARTIES

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ARTICLE V—RECORD REQUEST PROCEDURES

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ARTICLE VII—RATIFICATION OF COMPACT

ARTICLE VIII—MISCELLANEOUS PROVISIONS

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ARTICLE X—SEVERABILITY

ARTICLE XI—ADJUDICATION OF DISPUTES

Subtitle B—Volunteers for Children Act

Sec. 221. Short title.

Sec. 222. Facilitation of fingerprint checks.

TITLE I—CRIME IDENTIFICATION TECHNOLOGY ACT OF 1998

SEC. 101. SHORT TITLE.

This title may be cited as the ''Crime Identification Technology Act of 1998''.

SEC. 102. STATE GRANT PROGRAM FOR CRIMINAL JUSTICE IDENTIFICATION, INFORMATION, AND COMMUNICATION.

(a) IN GENERAL.—Subject to the availability of amounts provided in advance in appropriations Acts, the Office of Justice Programs relying principally on the expertise of the Bureau of Justice Statistics shall make a grant to each State, in a manner consistent with the national criminal history improvement program, which shall be used by the State, in conjunction with units of local government, State and local courts, other States, or combinations thereof, to establish or upgrade an integrated approach to develop information and identification technologies and systems to—

(1) upgrade criminal history and criminal justice record systems, including systems operated by law enforcement agencies and courts;

(2) improve criminal justice identification;

(3) promote compatibility and integration of national, State, and local systems for—

(A) criminal justice purposes;

(B) firearms eligibility determinations;

(C) identification of sexual offenders;

(D) identification of domestic violence offenders; and

(E) background checks for other authorized purposes unrelated to criminal justice; and

(4) capture information for statistical and research purposes to improve the administration of criminal justice.

(b) USE OF GRANT AMOUNTS.—Grants under this section may be used for programs to establish, develop, update, or upgrade—

(1) State centralized, automated, adult and juvenile criminal history record information systems, including arrest and disposition reporting;

(2) automated fingerprint identification systems that are compatible with standards established by the National Institute of Standards and Technology and interoperable with the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation;

(3) finger imaging, live scan, and other automated systems to digitize fingerprints and to communicate prints in a manner that is compatible with standards established by the National Institute of Standards and Technology and interoperable with systems operated by States and by the Federal Bureau of Investigation;

(4) programs and systems to facilitate full participation in the Interstate Identification Index of the National Crime Information Center;

(5) systems to facilitate full participation in any compact relating to the Interstate Identification Index of the National Crime Information Center;

(6) systems to facilitate full participation in the national instant criminal background check system established under section 103(b) of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note) for firearms eligibility determinations;

(7) integrated criminal justice information systems to manage and communicate criminal justice information among law enforcement agencies, courts, prosecutors, and corrections agencies;

(8) noncriminal history record information systems relevant to firearms eligibility determinations for availability and accessibility to the national instant criminal background check system established under section 103(b) of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note);

(9) court-based criminal justice information systems that promote—

(A) reporting of dispositions to central State repositories and to the Federal Bureau of Investigation; and

(B) compatibility with, and integration of, court systems with other criminal justice information systems;

(10) ballistics identification and information programs that are compatible and integrated with the National Integrated Ballistics Network (NIBN);

(11) the capabilities of forensic science programs and medical examiner programs related to the administration of criminal justice, including programs leading to accreditation or certification of individuals or departments, agencies, or laboratories, and programs relating to the identification and analysis of deoxyribonucleic acid;

(12) sexual offender identification and registration systems;

(13) domestic violence offender identification and information systems;

(14) programs for fingerprint-supported background checks capability for noncriminal justice purposes, including youth service employees and volunteers and other individuals in positions of responsibility, if authorized by Federal or State law and administered by a government agency;

(15) criminal justice information systems with a capacity to provide statistical and research products including incident-based reporting systems that are compatible with the National Incident-Based Reporting System (NIBRS) and uniform crime reports; and

(16) multiagency, multijurisdictional communications systems among the States to share routine and emergency information among Federal, State, and local law enforcement agencies.

(c) ASSURANCES.—

(1) IN GENERAL.—To be eligible to receive a grant under this section, a State shall provide assurances to the Attorney General that the State has the capability to contribute pertinent information to the national instant criminal background check system established under section 103(b) of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note).

(2) INFORMATION SHARING.—Such assurances shall include a provision that ensures that a statewide strategy for information sharing systems is underway, or will be initiated, to improve the functioning of the criminal justice system, with an emphasis on integration of all criminal justice components, law enforcement, courts, prosecution, corrections, and probation and parole. The strategy shall be prepared after consultation with State and local officials with emphasis on the recommendation of officials whose duty it is to oversee, plan, and implement integrated information technology systems, and shall contain—

(A) a definition and analysis of ''integration'' in the State and localities developing integrated information sharing systems;

(B) an assessment of the criminal justice resources being devoted to information technology;

(C) Federal, State, regional, and local information technology coordination requirements;

(D) an assurance that the individuals who developed the grant application took into consideration the needs of all branches of the State Government and specifically sought the advice of the chief of the highest court of the State with respect to the application;

(E) State and local resource needs;

(F) the establishment of statewide priorities for planning and implementation of information technology systems; and

(G) a plan for coordinating the programs funded under this title with other federally funded information technology programs, including directly funded local programs such as the Local Law Enforcement Block Grant program (described under the heading 'Violent Crime Reduction Programs, State and Local Law Enforcement Assistance' of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105–119)) and the M.O.R.E. program established pursuant to part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968.

(d) MATCHING FUNDS.—The Federal share of a grant received under this title may not exceed 90 percent of the costs of a program or proposal funded under this title unless the Attorney General waives, wholly or in part, the requirements of this subsection.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $250,000,000 for each of fiscal years 1999 through 2003.

(2) LIMITATIONS.—Of the amount made available to carry out this section in any fiscal year—

(A) not more than 3 percent may be used by the Attorney General for salaries and administrative expenses;

(B) not more than 5 percent may be used for technical assistance, training and evaluations, and studies commissioned by Bureau of Justice Statistics of the Department of Justice (through discretionary grants or otherwise) in furtherance of the purposes of this section;

(C) not less than 20 percent shall be used by the Attorney General for the purposes described in paragraph (11) of subsection (b); and

(D) the Attorney General shall ensure the amounts are distributed on an equitable geographic basis.

(f) GRANTS TO INDIAN TRIBES.—Notwithstanding any other provision of this section, the Attorney General may use amounts made available under this section to make grants to Indian tribes for use in accordance with this section.

TITLE II—NATIONAL CRIMINAL HISTORY ACCESS AND CHILD PROTECTION ACT

SEC. 201. SHORT TITLE.

This title may be cited as the ''National Criminal History Access and Child Protection Act''.

Subtitle A—Exchange of Criminal History Records for Noncriminal Justice Purposes

SEC. 211. SHORT TITLE.

This subtitle may be cited as the ''National Crime Prevention and Privacy Compact Act of 1998''.

SEC. 212. FINDINGS.

Congress finds that—

(1) both the Federal Bureau of Investigation and State criminal history record repositories maintain fingerprint-based criminal history records;

(2) these criminal history records are shared and exchanged for criminal justice purposes through a Federal-State program known as the Interstate Identification Index System;

(3) although these records are also exchanged for legally authorized, noncriminal justice uses, such as governmental licensing and employment background checks, the purposes for and procedures by which they are exchanged vary widely from State to State;

(4) an interstate and Federal-State compact is necessary to facilitate authorized interstate criminal history record exchanges for noncriminal justice purposes on a uniform basis, while permitting each State to effectuate its own dissemination policy within its own borders; and

(5) such a compact will allow Federal and State records to be provided expeditiously to governmental and nongovernmental agencies that use such records in accordance with pertinent Federal and State law, while simultaneously enhancing the accuracy of the records and safeguarding the information contained therein from unauthorized disclosure or use.

SEC. 213. DEFINITIONS.

In this subtitle:

(1) ATTORNEY GENERAL.—The term ''Attorney General'' means the Attorney General of the United States.

(2) COMPACT.—The term ''Compact'' means the National Crime Prevention and Privacy Compact set forth in section 217.

(3) COUNCIL.—The term ''Council'' means the Compact Council established under Article VI of the Compact.

(4) FBI.—The term ''FBI'' means the Federal Bureau of Investigation.

(5) PARTY STATE.—The term ''Party State'' means a State that has ratified the Compact.

(6) STATE.—The term ''State'' means any State, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 214. ENACTMENT AND CONSENT OF THE UNITED STATES.

The National Crime Prevention and Privacy Compact, as set forth in section 217, is enacted into law and entered into by the Federal Government. The consent of Congress is given to States to enter into the Compact.

SEC. 215. EFFECT ON OTHER LAWS.

(a) PRIVACY ACT OF 1974.—Nothing in the Compact shall affect the obligations and responsibilities of the FBI under section 552a of title 5, United States Code (commonly known as the ''Privacy Act of 1974'').

(b) ACCESS TO CERTAIN RECORDS NOT AFFECTED.—Nothing in the Compact shall interfere in any manner with—

(1) access, direct or otherwise, to records pursuant to—

(A) section 9101 of title 5, United States Code;

(B) the National Child Protection Act;

(C) the Brady Handgun Violence Prevention Act (Public Law 103–159; 107 Stat. 1536);

(D) the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 2074) or any amendment made by that Act;

(E) the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.); or

(F) the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.); or

(2) any direct access to Federal criminal history records authorized by law.

(c) AUTHORITY OF FBI UNDER DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATION ACT, 1973.—Nothing in the Compact shall be construed to affect the authority of the FBI under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92–544 (86 Stat. 1115)).

(d) FEDERAL ADVISORY COMMITTEE ACT.—The Council shall not be considered to be a Federal advisory committee for purposes of the Federal Advisory Committee Act (5 U.S.C. App.).

(e) MEMBERS OF COUNCIL NOT FEDERAL OFFICERS OR EMPLOYEES.—Members of the Council (other than a member from the FBI or any at-large member who may be a Federal official or employee) shall not, by virtue of such membership, be deemed—

(1) to be, for any purpose other than to effect the Compact, officers or employees of the United States (as defined in sections 2104 and 2105 of title 5, United States Code); or

(2) to become entitled by reason of Council membership to any compensation or benefit payable or made available by the Federal Government to its officers or employees.

SEC. 216. ENFORCEMENT AND IMPLEMENTATION.

All departments, agencies, officers, and employees of the United States shall enforce the Compact and cooperate with one another and with all Party States in enforcing the Compact and effectuating its purposes. For the Federal Government, the Attorney General shall make such rules, prescribe such instructions, and take such other actions as may be necessary to carry out the Compact and this subtitle.

SEC. 217. NATIONAL CRIME PREVENTION AND PRIVACY COMPACT.

The Contracting Parties agree to the following:

OVERVIEW

(a) IN GENERAL.—This Compact organizes an electronic information sharing system among the Federal Government and the States to exchange criminal history records for noncriminal justice purposes authorized by Federal or State law, such as background checks for governmental licensing and employment.

(b) OBLIGATIONS OF PARTIES.—Under this Compact, the FBI and the Party States agree to maintain detailed databases of their respective criminal history records, including arrests and dispositions, and to make them available to the Federal Government and to Party States for authorized purposes. The FBI shall also manage the Federal data facilities that provide a significant part of the infrastructure for the system.

ARTICLE I—DEFINITIONS

In this Compact:

(1) ATTORNEY GENERAL.—The term ''Attorney General'' means the Attorney General of the United States;

(2) COMPACT OFFICER.—The term ''Compact officer'' means—

(A) with respect to the Federal Government, an official so designated by the Director of the FBI; and

(B) with respect to a Party State, the chief administrator of the State's criminal history record repository or a designee of the chief administrator who is a regular full-time employee of the repository.

(3) COUNCIL.—The term ''Council'' means the Compact Council established under Article VI.

(4) CRIMINAL HISTORY RECORDS.—The term ''criminal history records''—

(A) means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, or other formal criminal charges, and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, or release; and

(B) does not include identification information such as fingerprint records if such information does not indicate involvement of the individual with the criminal justice system.

(5) CRIMINAL HISTORY RECORD REPOSITORY.—The term ''criminal history record repository'' means the State agency designated by the Governor or other appropriate executive official or the legislature of a State to perform centralized recordkeeping functions for criminal history records and services in the State.

(6) CRIMINAL JUSTICE.—The term ''criminal justice'' includes activities relating to the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice includes criminal identification activities and the collection, storage, and dissemination of criminal history records.

(7) CRIMINAL JUSTICE AGENCY.—The term ''criminal justice agency''—

(A) means—

(i) courts; and

(ii) a governmental agency or any subunit thereof that—

(I) performs the administration of criminal justice pursuant to a statute or Executive order; and

(II) allocates a substantial part of its annual budget to the administration of criminal justice; and

(B) includes Federal and State inspectors general offices.

(8) CRIMINAL JUSTICE SERVICES.—The term ''criminal justice services'' means services provided by the FBI to criminal justice agencies in response to a request for information about a particular individual or as an update to information previously provided for criminal justice purposes.

(9) CRITERION OFFENSE.—The term ''criterion offense'' means any felony or misdemeanor offense not included on the list of nonserious offenses published periodically by the FBI.

(10) DIRECT ACCESS.—The term ''direct access'' means access to the National Identification Index by computer terminal or other automated means not requiring the assistance of or intervention by any other party or agency.

(11) EXECUTIVE ORDER.—The term ''Executive order'' means an order of the President of the United States or the chief executive officer of a State that has the force of law and that is promulgated in accordance with applicable law.

(12) FBI.—The term ''FBI'' means the Federal Bureau of Investigation.

(13) INTERSTATE IDENTIFICATION SYSTEM.—The term ''Interstate Identification Index System'' or ''III System''—

(A) means the cooperative Federal-State system for the exchange of criminal history records; and

(B) includes the National Identification Index, the National Fingerprint File and, to the extent of their participation in such system, the criminal history record repositories of the States and the FBI.

(14) NATIONAL FINGERPRINT FILE.—The term ''National Fingerprint File'' means a database of fingerprints, or other uniquely personal identifying information, relating to an arrested or charged individual maintained by the FBI to provide positive identification of record subjects indexed in the III System.

(15) NATIONAL IDENTIFICATION INDEX.—The term ''National Identification Index'' means an index maintained by the FBI consisting of names, identifying numbers, and other descriptive information relating to record subjects about whom there are criminal history records in the III System.

(16) NATIONAL INDICES.—The term ''National indices'' means the National Identification Index and the National Fingerprint File.

(17) NONPARTY STATE.—The term ''Nonparty State'' means a State that has not ratified this Compact.

(18) NONCRIMINAL JUSTICE PURPOSES.—The term ''noncriminal justice purposes'' means uses of criminal history records for purposes authorized by Federal or State law other than purposes relating to criminal justice activities, including employment suitability, licensing determinations, immigration and naturalization matters, and national security clearances.

(19) PARTY STATE.—The term ''Party State'' means a State that has ratified this Compact.

(20) POSITIVE IDENTIFICATION.—The term ''positive identification'' means a determination, based upon a comparison of fingerprints or other equally reliable biometric identification techniques, that the subject of a record search is the same person as the subject of a criminal history record or records indexed in the III System. Identifications based solely upon a comparison of subjects' names or other nonunique identification characteristics or numbers, or combinations thereof, shall not constitute positive identification.

(21) SEALED RECORD INFORMATION.—The term ''sealed record information'' means—

(A) with respect to adults, that portion of a record that is—

(i) not available for criminal justice uses;

(ii) not supported by fingerprints or other accepted means of positive identification; or

(iii) subject to restrictions on dissemination for noncriminal justice purposes pursuant to a court order related to a particular subject or pursuant to a Federal or State statute that requires action on a sealing petition filed by a particular record subject; and

(B) with respect to juveniles, whatever each State determines is a sealed record under its own law and procedure.

(22) STATE.—The term ''State'' means any State, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

ARTICLE II—PURPOSES

The purposes of this Compact are to—

(1) provide a legal framework for the establishment of a cooperative Federal-State system for the interstate and Federal-State exchange of criminal history records for noncriminal justice uses;

(2) require the FBI to permit use of the National Identification Index and the National Fingerprint File by each Party State, and to provide, in a timely fashion, Federal and State criminal history records to requesting States, in accordance with the terms of this Compact and with rules, procedures, and standards established by the Council under Article VI;

(3) require Party States to provide information and records for the National Identification Index and the National Fingerprint File and to provide criminal history records, in a timely fashion, to criminal history record repositories of other States and the Federal Government for noncriminal justice purposes, in accordance with the terms of this Compact and with rules, procedures, and standards established by the Council under Article VI;

(4) provide for the establishment of a Council to monitor III System operations and to prescribe system rules and procedures for the effective and proper operation of the III System for noncriminal justice purposes; and

(5) require the FBI and each Party State to adhere to III System standards concerning record dissemination and use, response times, system security, data quality, and other duly established standards, including those that enhance the accuracy and privacy of such records.

ARTICLE III—RESPONSIBILITIES OF COMPACT PARTIES

(a) FBI RESPONSIBILITIES.—The Director of the FBI shall—

(1) appoint an FBI Compact officer who shall—

(A) administer this Compact within the Department of Justice and among Federal agencies and other agencies and organizations that submit search requests to the FBI pursuant to Article V(c);

(B) ensure that Compact provisions and rules, procedures, and standards prescribed by the Council under Article VI are complied with by the Department of Justice and the Federal agencies and other agencies and organizations referred to in Article III(1)(A); and

(C) regulate the use of records received by means of the III System from Party States when such records are supplied by the FBI directly to other Federal agencies;

(2) provide to Federal agencies and to State criminal history record repositories, criminal history records maintained in its database for the noncriminal justice purposes described in Article IV, including—

(A) information from Nonparty States; and

(B) information from Party States that is available from the FBI through the III System, but is not available from the Party State through the III System;

(3) provide a telecommunications network and maintain centralized facilities for the exchange of criminal history records for both criminal justice purposes and the noncriminal justice purposes described in Article IV, and ensure that the exchange of such records for criminal justice purposes has priority over exchange for noncriminal justice purposes; and

(4) modify or enter into user agreements with Nonparty State criminal history record repositories to require them to establish record request procedures conforming to those prescribed in Article V.

(b) STATE RESPONSIBILITIES.—Each Party State shall—

(1) appoint a Compact officer who shall—

(A) administer this Compact within that State;

(B) ensure that Compact provisions and rules, procedures, and standards established by the Council under Article VI are complied with in the State; and

(C) regulate the in-State use of records received by means of the III System from the FBI or from other Party States;

(2) establish and maintain a criminal history record repository, which shall provide—

(A) information and records for the National Identification Index and the National Fingerprint File; and

(B) the State's III System-indexed criminal history records for noncriminal justice purposes described in Article IV;

(3) participate in the National Fingerprint File; and

(4) provide and maintain telecommunications links and related equipment necessary to support the services set forth in this Compact.

(c) COMPLIANCE WITH III SYSTEM STANDARDS.—In carrying out their responsibilities under this Compact, the FBI and each Party State shall comply with III System rules, procedures, and standards duly established by the Council concerning record dissemination and use, response times, data quality, system security, accuracy, privacy protection, and other aspects of III System operation.

(d) MAINTENANCE OF RECORD SERVICES.—

(1) Use of the III System for noncriminal justice purposes authorized in this Compact shall be managed so as not to diminish the level of services provided in support of criminal justice purposes.

(2) Administration of Compact provisions shall not reduce the level of service available to authorized noncriminal justice users on the effective date of this Compact.

ARTICLE IV—AUTHORIZED RECORD DISCLOSURES

(a) STATE CRIMINAL HISTORY RECORD REPOSITORIES.—To the extent authorized by section 552a of title 5, United States Code (commonly known as the ''Privacy Act of 1974''), the FBI shall provide on request criminal history records (excluding sealed records) to State criminal history record repositories for noncriminal justice purposes allowed by Federal statute, Federal Executive order, or a State statute that has been approved by the Attorney General and that authorizes national indices checks.

(b) CRIMINAL JUSTICE AGENCIES AND OTHER GOVERNMENTAL OR NONGOVERNMENTAL AGENCIES.—The FBI, to the extent authorized by section 552a of title 5, United States Code (commonly known as the ''Privacy Act of 1974''), and State criminal history record repositories shall provide criminal history records (excluding sealed records) to criminal justice agencies and other governmental or nongovernmental agencies for noncriminal justice purposes allowed by Federal statute, Federal Executive order, or a State statute that has been approved by the Attorney General, that authorizes national indices checks.

(c) PROCEDURES.—Any record obtained under this Compact may be used only for the official purposes for which the record was requested. Each Compact officer shall establish procedures, consistent with this Compact, and with rules, procedures, and standards established by the Council under Article VI, which procedures shall protect the accuracy and privacy of the records, and shall—

(1) ensure that records obtained under this Compact are used only by authorized officials for authorized purposes;

(2) require that subsequent record checks are requested to obtain current information whenever a new need arises; and

(3) ensure that record entries that may not legally be used for a particular noncriminal justice purpose are deleted from the response and, if no information authorized for release remains, an appropriate ''no record'' response is communicated to the requesting official.

ARTICLE V—RECORD REQUEST PROCEDURES

(a) POSITIVE IDENTIFICATION.—Subject fingerprints or other approved forms of positive identification shall be submitted with all requests for criminal history record checks for noncriminal justice purposes.

(b) SUBMISSION OF STATE REQUESTS.—Each request for a criminal history record check utilizing the national indices made under any approved State statute shall be submitted through that State's criminal history record repository. A State criminal history record repository shall process an interstate request for noncriminal justice purposes through the national indices only if such request is transmitted through another State criminal history record repository or the FBI.

(c) SUBMISSION OF FEDERAL REQUESTS.—Each request for criminal history record checks utilizing the national indices made under Federal authority shall be submitted through the FBI or, if the State criminal history record repository consents to process fingerprint submissions, through the criminal history record repository in the State in which such request originated. Direct access to the National Identification Index by entities other than the FBI and State criminal history records repositories shall not be permitted for noncriminal justice purposes.

(d) FEES.—A State criminal history record repository or the FBI—

(1) may charge a fee, in accordance with applicable law, for handling a request involving fingerprint processing for noncriminal justice purposes; and

(2) may not charge a fee for providing criminal history records in response to an electronic request for a record that does not involve a request to process fingerprints.

(e) ADDITIONAL SEARCH.—

(1) If a State criminal history record repository cannot positively identify the subject of a record request made for noncriminal justice purposes, the request, together with fingerprints or other approved identifying information, shall be forwarded to the FBI for a search of the national indices.

(2) If, with respect to an request forwarded by a State criminal history record repository under paragraph (1), the FBI positively identifies the subject as having a III System-indexed record or records—

(A) the FBI shall so advise the State criminal history record repository; and

(B) the State criminal history record repository shall be entitled to obtain the additional criminal history record information from the FBI or other State criminal history record repositories.

ARTICLE VI—ESTABLISHMENT OF COMPACT COUNCIL

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established a council to be known as the ''Compact Council'', which shall have the authority to promulgate rules and procedures governing the use of the III System for noncriminal justice purposes, not to conflict with FBI administration of the III System for criminal justice purposes.

(2) ORGANIZATION.—The Council shall—

(A) continue in existence as long as this Compact remains in effect;

(B) be located, for administrative purposes, within the FBI; and

(C) be organized and hold its first meeting as soon as practicable after the effective date of this Compact.

(b) MEMBERSHIP.—The Council shall be composed of 15 members, each of whom shall be appointed by the Attorney General, as follows:

(1) Nine members, each of whom shall serve a 2-year term, who shall be selected from among the Compact officers of Party States based on the recommendation of the Compact officers of all Party States, except that, in the absence of the requisite number of Compact officers available to serve, the chief administrators of the criminal history record repositories of Nonparty States shall be eligible to serve on an interim basis.

(2) Two at-large members, nominated by the Director of the FBI, each of whom shall serve a 3-year term, of whom—

(A) 1 shall be a representative of the criminal justice agencies of the Federal Government and may not be an employee of the FBI; and

(B) 1 shall be a representative of the noncriminal justice agencies of the Federal Government.

(3) Two at-large members, nominated by the Chairman of the Council, once the Chairman is elected pursuant to Article VI(c), each of whom shall serve a 3-year term, of whom—

(A) 1 shall be a representative of State or local criminal justice agencies; and

(B) 1 shall be a representative of State or local noncriminal justice agencies.

(4) One member, who shall serve a 3-year term, and who shall simultaneously be a member of the FBI's advisory policy board on criminal justice information services, nominated by the membership of that policy board.

(5) One member, nominated by the Director of the FBI, who shall serve a 3-year term, and who shall be an employee of the FBI.

(c) CHAIRMAN AND VICE CHAIRMAN.—

(1) IN GENERAL.—From its membership, the Council shall elect a Chairman and a Vice Chairman of the Council, respectively. Both the Chairman and Vice Chairman of the Council—

(A) shall be a Compact officer, unless there is no Compact officer on the Council who is willing to serve, in which case the Chairman may be an at-large member; and

(B) shall serve a 2-year term and may be reelected to only 1 additional 2-year term.

(2) DUTIES OF VICE CHAIRMAN.—The Vice Chairman of the Council shall serve as the Chairman of the Council in the absence of the Chairman.

(d) MEETINGS.—

(1) IN GENERAL.—The Council shall meet a least once each year at the call of the Chairman. Each meeting of the Council shall be open to the public. The Council shall provide prior public notice in the Federal Register of each meeting of the Council, including the matters to be addressed at such meeting.

(2) QUORUM.—A majority of the Council or any committee of the Council shall constitute a quorum of the Council or of such committee, respectively, for the conduct of business. A lesser number may meet to hold hearings, take testimony, or conduct any business not requiring a vote.

(e) RULES, PROCEDURES, AND STANDARDS.—The Council shall make available for public inspection and copying at the Council office within the FBI, and shall publish in the Federal Register, any rules, procedures, or standards established by the Council.

(f) ASSISTANCE FROM FBI.—The Council may request from the FBI such reports, studies, statistics, or other information or materials as the Council determines to be necessary to enable the Council to perform its duties under this Compact. The FBI, to the extent authorized by law, may provide such assistance or information upon such a request.

(g) COMMITTEES.—The Chairman may establish committees as necessary to carry out this Compact and may prescribe their membership, responsibilities, and duration.

ARTICLE VII—RATIFICATION OF COMPACT

This Compact shall take effect upon being entered into by 2 or more States as between those

States and the Federal Government. Upon subsequent entering into this Compact by additional States, it shall become effective among those States and the Federal Government and each Party State that has previously ratified it. When ratified, this Compact shall have the full force and effect of law within the ratifying jurisdictions. The form of ratification shall be in accordance with the laws of the executing State.

ARTICLE VIII—MISCELLANEOUS PROVISIONS

(a) RELATION OF COMPACT TO CERTAIN FBI ACTIVITIES.—Administration of this Compact shall not interfere with the management and control of the Director of the FBI over the FBI's collection and dissemination of criminal history records and the advisory function of the FBI's advisory policy board chartered under the Federal Advisory Committee Act (5 U.S.C. App.) for all purposes other than noncriminal justice.

(b) NO AUTHORITY FOR NONAPPROPRIATED EXPENDITURES.—Nothing in this Compact shall require the FBI to obligate or expend funds beyond those appropriated to the FBI.

(c) RELATING TO PUBLIC LAW 92–544.—Nothing in this Compact shall diminish or lessen the obligations, responsibilities, and authorities of any State, whether a Party State or a Nonparty State, or of any criminal history record repository or other subdivision or component thereof, under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92–544), or regulations and guidelines promulgated thereunder, including the rules and procedures promulgated by the Council under Article VI(a), regarding the use and dissemination of criminal history records and information.

ARTICLE IX—RENUNCIATION

(a) IN GENERAL.—This Compact shall bind each Party State until renounced by the Party State.

(b) EFFECT.—Any renunciation of this Compact by a Party State shall—

(1) be effected in the same manner by which the Party State ratified this Compact; and

(2) become effective 180 days after written notice of renunciation is provided by the Party State to each other Party State and to the Federal Government.

ARTICLE X—SEVERABILITY

The provisions of this Compact shall be severable, and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of any participating State, or to the Constitution of the United States, or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If a portion of this Compact is held contrary to the constitution of any Party State, all other portions of this Compact shall remain in full force and effect as to the remaining Party States and in full force and effect as to the Party State affected, as to all other provisions.

ARTICLE XI—ADJUDICATION OF DISPUTES

(a) IN GENERAL.—The Council shall—

(1) have initial authority to make determinations with respect to any dispute regarding—

(A) interpretation of this Compact;

(B) any rule or standard established by the Council pursuant to Article V; and

(C) any dispute or controversy between any parties to this Compact; and

(2) hold a hearing concerning any dispute described in paragraph (1) at a regularly scheduled meeting of the Council and only render a decision based upon a majority vote of the members of the Council. Such decision shall be published pursuant to the requirements of Article VI(e).

(b) DUTIES OF FBI.—The FBI shall exercise immediate and necessary action to preserve the integrity of the III System, maintain system policy and standards, protect the accuracy and privacy of records, and to prevent abuses, until the Council holds a hearing on such matters.

(c) RIGHT OF APPEAL.—The FBI or a Party State may appeal any decision of the Council to the Attorney General, and thereafter may file suit in the appropriate district court of the United States, which shall have original jurisdiction of all cases or controversies arising under this Compact. Any suit arising under this Compact and initiated in a State court shall be removed to the appropriate district court of the United States in the manner provided by section 1446 of title 28, United States Code, or other statutory authority.

Subtitle B—Volunteers for Children Act

SEC. 221. SHORT TITLE.

This subtitle may be cited as the ''Volunteers for Children Act''.

SEC. 222. FACILITATION OF FINGERPRINT CHECKS.

(a) STATE AGENCY.—Section 3(a) of the National Child Protection Act of 1993 (42 U.S.C. 5119a(a)) is amended by adding at the end the following:

''(3) In the absence of State procedures referred to in paragraph (1), a qualified entity designated under paragraph (1) may contact an authorized agency of the State to request national criminal fingerprint background checks. Qualified entities requesting background checks under this paragraph shall comply with the guidelines set forth in subsection (b) and with procedures for requesting national criminal fingerprint background checks, if any, established by the State.''.

(b) FEDERAL LAW.—Section 3(b)(5) of the National Child Protection Act of 1993 (42 U.S.C. 5119a(b)(5)) is amended by inserting before the period at the end the following: '', except that this paragraph does not apply to any request by a qualified entity for a national criminal fingerprint background check pursuant to subsection (a)(3)''.

(c) AUTHORIZATION.—Section 4(b)(2) of the National Child Protection Act of 1993 (42 U.S.C. 5119b(b)(2)) is amended by striking ''1994, 1995, 1996, and 1997'' and inserting ''1999, 2000, 2001, and 2002''.

Mr. DEWINE. Mr. President, final passage of this bill—S. 2022, comprising the Crime Identification Technology Act of 1998 and the National Criminal History Access and Child Protection Act of 1998—is truly a historic achievement. I want to thank my colleagues on both sides of the aisle, and in both Houses of Congress, for their hard work on this legislation. S. 2022 is based on the principle that technology is the future of police work. It is the number one edge our law enforcement officers are going to have in the struggle against criminals, well into the 21st century.

The Crime Identification Technology Act (CETA) authorizes $1.25 billion over the next five years in grants administered by the Office of Justice Programs (OJP) in the Department of Justice, with reliance upon the expertise of the Bureau of Justice Statistics (BJS), also in the Department of Justice, to help every state to establish or upgrade its use of information and identification and forensics technologies across the entire criminal justice system. Title II of the Act, the National Criminal History Access and Child Protection Act, establishes an Interstate Compact which binds the Federal Bureau of Investigation and, upon approval by the state legislatures, the states to participate in the non-criminal justice access program of the Interstate Identification Index (III) in accordance with the Compact and established system policies.

I would like, first, to address Title I of this legislation.

NATIONAL CRIMINAL HISTORY IMPROVEMENT PROGRAM

In a certain sense, Title I of the Act, The Crime Identification Technology Act, replaces the National Criminal History Improvement Program (NCHIP) which expired at the end of fiscal year 1998. NCHIP monies, totaling almost 200 million dollars, were provided to the states by BJS and the Department of Justice and have been enormously successful in helping states to enhance their automated criminal history records and to identify and develop other relevant information systems for instantaneous firearms eligibility determinations. Because more needs to be done and because it is important not to lose momentum in building a fast, comprehensive and reliable National Instant Check System for firearms eligibility, S. 2022 will permit the federal government and the states to continue to build upon this important work.

SYSTEMS INTEGRATION

S. 2022, however, does much more. In particular, Title I provides for systems integration, permitting all components of criminal justice (law enforcement, courts, correction and prosecution) to share information and communicate more effectively and on a real-time basis. Revolutionary improvements in information and identification and communications technologies have created opportunities and, indeed, responsibilities, for all of our nation's criminal justice agencies to build integrated information and identification systems. This bill will provide leadership and, in partnership with state and local governments, the resources necessary to build these important systems. S. 2022 will also support the courts and their use of information and identification technology. The courts are a critical part of the criminal justice information system. Not only are the courts a supplier of information on disposition, they are also an all-important consumer of information on arrest and conviction. The courts require state-of-the-art, integrated information identification systems for both functions. Until now, the courts have lagged behind in their use of technology—and this bill will help them to catch up.

INTERSTATE IDENTIFICATION INDEX

S. 2022 addresses virtually every technology-based, information identification and forensics need of state and local criminal justice agencies. Title I of S. 2022, for example, will support participation by all states in the Interstate Identification Index, which is the decentralized federal system that permits state, local and federal criminal justice agencies to exchange arrest and

conviction information on a reliable, national and real-time basis.

IAFIS AND NCIC 2000

S. 2022 will also help state and local agencies to take advantage of two important FBI initiatives which are nearing completion. The FBI's Integrated Automated Fingerprint Identification System (IAFIS) and the FBI's NCIC 2000 (National Criminal Information Center) will create a platform for the FBI to use state-of-the-art identification and information and technology, both internally and to communicate with state and local agencies. Obviously, state and local agencies must also be able to upgrade their information identification technologies in a way that is compatible with the FBI's new systems if the FBI and the Nation are to obtain full benefit from these FBI initiatives for which the Congress has appropriated several hundred million dollars over the last few years.

EMPLOYMENT AND LICENSING

S. 2022 will also support faster, more complete and more reliable state and local responses to employment and licensing background check requests. Over the last decade, employers and non-criminal justice government agencies have emerged as the largest group of consumers of arrest and conviction record information for background checks for child care workers, school bus drivers, private security guards and a host of other individuals seeking employment and licensing in sensitive positions of trust. We simply must do a better job of providing appropriate arrest and conviction information on a fast and reliable basis. S. 2022 will go a long way toward helping our state and local law enforcement agencies to achieve this capability.

AGGREGATE STATISTICAL DATA

S. 2022 will also support statistical and research systems, which can together provide community-relevant information to support smarter decisions and more cost efficient and effective administration of criminal justice resources.

SEX OFFENDER REGISTRIES

S. 2022 will permit state and local criminal justice agencies to continue to build more useful and effective sexual offender identification registration systems, as well as domestic violence identification and information systems.

COMMUNICATIONS TECHNOLOGIES

S. 2022 will also help our criminal justice agencies to acquire and implement communications systems which are compatible with neighboring police systems, compatible with systems operated by other components of the criminal justice system and compatible among federal, state and local criminal justice agencies. Every criminal justice agency should be able to communicate with other criminal justice agencies in an instantaneous and reliable way in order to respond to emergency situations and to promote the routine and appropriate sharing of information.

FORENSICS

Finally, S. 2022 provides a 20 percent set-aside for forensic science and Medical Examiner programs. New forensics technologies are creating a truly remarkable potential to solve crimes that previously could not have been solved and to convict offenders who previously could not have been convicted. Implementing and using this technology across the nation takes leadership and resources. S. 2022 will provide both. The 20 percent set-aside applies to the amount actually funded under S. 2022 and is not a requirement which is made mandatory for each state. In other words, a state which does not wish to draw down 20 percent of its funding under this Act for forensic science and medical examiner purposes is not required to do so. We will be monitoring the states' use of funding for forensic science and Medical Examiner purposes, with an eye to reexamining whether this kind of earmark is necessary and, if so, at what level.

OVERALL IMPACT

The Crime Identification Technology Act does more than provide support for critical information, identification, communications and forensic technology applications. S. 2022 creates a vision and makes a commitment. The Act envisions a criminal justice system in which all parts of the system—law enforcement, courts, prosecution and correction—use state-of-the-art, information, identification, communication and forensics technologies in a compatible and integrated manner, so as to mount the most effective and cost efficient challenge yet to crime. The Act also represents a federal commitment that every criminal justice agency in this country should have the resources, in partnership with state and local funding, to obtain and use state-of-the-art technology in the war against crime.

MATCHING REQUIREMENT

In this regard, the Act requires a 10 percent match to be borne by the states. As a practical matter, we expect that the states will spend state monies far in excess of 10 percent of the funding under this Act in the acquisition, implementation and use of crime fighting technologies. Because of this, it is expected that OJP will take into account all relevant costs borne by the state, regardless of the nature or character of these costs, so long as they truly support the application of technology for the administration of criminal justice. Furthermore, it is expected that OJP, working through the Bureau of Justice Statistics, will publish guidelines regarding the criteria for waiving a match, which will assure that states or components of the criminal justice system within a state which are deserving of a grant but which cannot meet the match requirement, are not disadvantaged. It is further expected that the match will not apply to grants made pursuant to Subparagraph (2)(B) of Subsection (d) which provides grants and funding for technical assistance, training, evaluations and other support for this technology initiative.

BJS EXPERTISE

Title I, while vesting grant administration authority in the Office of Justice Programs, directs the Office to rely principally upon the expertise of BJS in administering the program. This is important because the structure of the grant program is modeled after the National Criminal History Improvement Program, which was very successfully administered by BJS. Under that program, every state was required to receive a grant. Moreover, while the program was discretionary, it was administered by BJS in a manner that has permitted the states wide discretion in the purposes for which NCHIP grant monies were applied. A similar approach should be taken in the S. 2022 grant program. The identification, information, communications and forensics programs which are identified in S. 2022 are purposefully broad, so that each state can use grant monies for its own particular technology needs.

At the same time, the discretionary approach and requirements in the bill that each state develop a statewide strategy for information sharing, with an emphasis on the integration of all criminal justice components, assures that the needs of all components of criminal justice, including the courts, are taken into account and assures that adequate planning and implementation strategies have been developed so that the use of technology is compatible and integrated.

OJP's role is important because the Department of Justice administers several justice assistance programs which can be and are being used for important, criminal justice identification, information and communications purposes. None of these programs are repealed, and funding should and will continue under these programs. Accordingly, coordination is important and OJP is expected to provide that coordination.

CONTRIBUTIONS TO NICS

S. 2022 also requires, by way of assurances, that states assure the Attorney General that the state ''has the capability to contribute pertinent information to the National Instant Criminal Background Check System.'' This language does not mean that states are required to operate their own Instant Check Systems or to otherwise be a ''point-of-contact'' or intermediary between licensed firearms dealers and the FBI's National Instant Background Check System. Rather, this assurance requires that states are contributing criminal history information and, if practicable and required by the FBI, other pertinent information to the national system. States which are participating in III or working actively toward participating in III are presumed to meet this assurance.

INTERSTATE IDENTIFICATION INDEX SYSTEM COMPACT

Finally, Title II, the National Crime Prevention and Privacy Compact of 1998, establishes a uniform standard for the interstate and federal-state exchange of criminal history records for non-criminal justice purposes. In addition, Title II permits each state to continue to enforce its own record dissemination laws within its own borders. The Compact facilitates the interstate and federal-state exchange of criminal history information by clarifying the obligations and responsibilities of participating parties, streamlining the processing of background search applications, and eliminating record maintenance duplication at federal and state levels. Finally, the Compact provides a mechanism for establishing and enforcing uniform standards for record accuracy and for the confidentiality and privacy interests of record subjects.

This is a landmark piece of legislation, and I thank my colleagues for helping to move it toward enactment.

Mr. LEAHY. Mr. President, I am delighted that the Senate will pass the Crime Identification Technology Act of 1998, S. 2022, sending it to the President for his signature into law.

I am proud to join Senator DEWINE in supporting our bipartisan legislation to authorize comprehensive Department of Justice grants to every state for criminal justice identification, information and communications technologies and systems. I applaud the Senator from Ohio, Senator DEWINE, for his leadership. I also commend the Chairman of the Judiciary Committee and the Democratic Leader for their strong support of the Crime Identification Technology Act.

I know from my experience in law enforcement in Vermont over the last 30 years that access to quality, accurate information in a timely fashion is of vital importance. As we prepare to enter the 21st Century, we must provide our state and local law enforcement officers with the resources to develop the latest technological tools and communications systems to solve and prevent crime. I believe this bill accomplishes that goal.

The Crime Identification Technology Act authorizes $250 million for each of the next five years in grants to states for crime information and identification systems. The Attorney General is directed to make grants to each state to be used in conjunction with units of local government, and other states, to use information and identification technologies and systems to upgrade criminal history and criminal justice record systems.

Grants made under our legislation may include programs to establish, develop, update or upgrade——

State, centralized, automated criminal history record information systems, including arrest and disposition reporting;

Automated fingerprint identification systems that are compatible with the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation;

Finger imaging, live scan and other automated systems to digitize fingerprints and to communicate prints in a manner that is compatible with systems operated by states and the Federal Bureau of Investigation;

Systems to facilitate full participation in the Interstate Identification Index (III);

Programs and systems to facilitate full participation in the Interstate Identification Index National Crime Prevention and Privacy Compact;

Systems to facilitate full participation in the National Instant Criminal Background Check System (NICS) for firearms eligibility determinations;

Integrated criminal justice information systems to manage and communicate criminal justice information among law enforcement, courts, prosecution, and corrections;

Non-criminal history record information systems relevant to firearms eligibility determinations for availability and accessibility to the NICs;

Court-based criminal justice information systems to promote reporting of dispositions to central state repositories and to the FBI and to promote the compatibility with, and integration of, court systems with other criminal justice information systems;

Ballistics identification programs that are compatible and integrated with the ballistics programs of the National Integrated Ballistics Network (NIBN);

Information, identification and communications programs for forensic purposes;

DNA programs for forensic and identification purposes; Sexual offender identification and registration systems; Domestic violence offender identification and information systems;

Programs for fingerprint-supported background checks for non-criminal justice purposes including youth service employees and volunteers and other individuals in positions of trust, if authorized by federal or state law and administered by a government agency;

Criminal justice information systems with a capacity to provide statistical and research products including incident-based reporting systems and uniform crime reports;

Online and other state-of-the-art communications technologies and programs; and

Multi-agency, multi-jurisdictional communications systems to share routine and emergency information among federal, state and local law enforcement agencies.

Let me just give a couple of examples from my home State of Vermont that illustrate how our comprehensive legislation will aid state and local law enforcement agencies across the country.

The future of law enforcement must focus on working together to harness the power of today's information age to prevent crime and catch criminals. One way to work together is for State and local law enforcement agencies to band together to create efficiencies of scale. For example, together with New Hampshire and Maine, the State of Vermont has pooled its resources together to build a tri-State IAFIS system to identify fingerprints. Our bipartisan legislation would foster these partnerships by allowing groups of States to apply together for grants.

Another challenge for law enforcement agencies across the country is communication difficulties between Federal, State, and local law enforcement officials. In a recent report, the Department of Justice's National Institute of Justice concluded that law enforcement agencies throughout the Nation lack adequate communications systems to respond to crimes that cross State and local jurisdictions.

A 1997 incident along the Vermont and New Hampshire border underscored this problem. During a cross border shooting spree that left four people dead including two New Hampshire State Troopers, Vermont and New Hampshire officers were forced to park two police cruisers next to one another to coordinate activities between Federal, State, and local law enforcement officers because the two States' police radios could not communicate with one another.

The Vermont Department of Public Safety, the Vermont U.S. Attorney's Office and others have reacted to these communication problems by developing the Northern Lights proposal. This project will allow the northern borders States of Vermont, New York, New Hampshire, and Maine to integrate their law enforcement communications systems to better coordinate interdiction efforts and share intelligence data seamlessly.

Our legislation would provide grants for the development of integrated Federal, State, and local law enforcement communications systems to foster cutting edge efforts like the Northern Lights project.

In addition, our bipartisan legislation will help each of our States meet its obligations under national anti-crime initiatives. For instance, the FBI will soon bring online NCIC 2000 and IAFIS which will require States to update their criminal justice systems for the country to benefit. States are also being asked to participate in several other national programs such as sexual offender registries, national domestic violence legislation, Brady Act, and National Child Protection Act.

Currently, there are no comprehensive programs to support these national crime-fighting systems. Our legislation will fill this void by helping each State meet its obligations under these Federal laws.

The Crime Identification Technology Act provides a helping hand without the heavy hand of a top-down, Washington-knows-best approach. Unfortunately, some in Congress have pushed legislation mandating minute detail

changes that States must make in their laws to qualify for Federal funds. Our bill rejects this approach. Instead, we provide the States with Federal support to improve their criminal justice identification, information and communication systems without prescriping new Federal mandates.

Mr. President, I am also pleased we are passing, as title II of this bill, the Federal-State ''III'' Compact for exchange of criminal history records for noncriminal justice purposes. This Compact is the product of a decade-long effort by federal and state law enforcement officials to establish a legal framework for the exchange of criminal history records for authorized noncriminal justice purposes, such as security clearances, employment or licensing background checks.

Since 1924, the FBI has collected and maintained duplicate state and local fingerprint cards, along with arrest and disposition records. Today, the FBI has over 200 million fingerprint cards in its system. These FBI records are accessible to authorized government entities for both criminal and authorized noncriminal justice purposes.

Maintaining duplicate files at the FBI is costly and leads to inaccuracies in the criminal history records, since follow-up disposition information from the States is often incomplete. Such a large central database of routinely incomplete criminal history records raises significant privacy concerns.

In addition, the FBI releases these records for noncriminal justice purposes (as authorized by Federal law), to State agencies upon request, even if the State from which the records originated or the receiving State more narrowly restricts the dissemination of such records for noncriminal justice purposes.

The Compact is an effort to get the FBI out of the business of holding a duplicate copy of every State and local criminal history record, and instead to keep those records at the State level. Once fully implemented, the FBI will only need to hold the Interstate Identification Index (III), consisting of the national fingerprint file and a pointer index to direct the requestor to the correct State records repository. The Compact would eliminate the necessity for duplicate records at the FBI for those States participating in the Compact.

Eventually, when all the States become full participants in the Compact, the FBI's centralized files of state offender records will be discontinued and users of such records will obtain those records from the appropriate State's central repository (or from the FBI if the offender has a Federal record).

The Compact would establish both a framework for this cooperative exchange of criminal history records for noncriminal justice purposes, and create a Compact Council with representatives from the FBI and the States to monitor system operations and issue necessary rules and procedures for the integrity and accuracy of the records and compliance with privacy standards. Importantly, this Compact would not in any way expand or diminish noncriminal justice purposes for which criminal history records may be used under existing State or Federal law.

Overall, I believe that the Compact would increase the accuracy, completeness and privacy protection for criminal history records.

In addition, the Compact would result in important cost savings from establishing a decentralized system. Under the system envisioned by the Compact, the FBI would hold only an ''index and pointer'' to the records maintained at the originating State. The FBI would no longer have to maintain duplicate State records. Moreover, States would no longer have the burden and costs of submitting arrest fingerprints and charge/disposition data to the FBI for all arrests. Instead, the State would only have to submit to the FBI the fingerprints and textual identification data for a person's first arrest.

With this system, criminal history records would be more up-to-date, or complete, because a decentralized system will keep the records closer to their point of origin in State repositories, eliminating the need for the States to keep sending updated disposition information to the FBI. To ensure further accuracy, the Compact would require requests for criminal history checks for noncriminal justice purposes to be submitted with fingerprints or some other form of positive identification, to avoid mistaken release of records.

Furthermore, under the Compact, the newly-created Council must establish procedures to require that the most current records are requested and that when a new need arises, a new record check is conducted.

Significantly, the newly-created Council must establish privacy enhancing procedures to ensure that requested criminal history records are only used by authorized officials for authorized purposes. Furthermore, the Compact makes clear that only the FBI and authorized representatives from the State repository may have direct access to the FBI index.

The Council must also ensure that only legally appropriate information is released and, specifically, that record entries that may not be used for noncriminal justice purposes are deleted from the response.

Thus, while the Compact would require the release of arrest records to a requesting State, the Compact would also ensure that if disposition records are available that the complete record be released. Also, the Compact would require States receiving records under the Compact to ensure that the records are disseminated in compliance with the authorized uses in that State. Consequently, under the Compact, a State that receives arrest-only information would have to give effect to disposition-only policies in that State and not release that information for noncriminal justice purposes. Thus, in my view, the impact of the Compact for the privacy and accuracy of the records would be positive.

I am pleased to have joined with Senators HATCH and DEWINE to make a number of refinements to the Compact as transmitted by to us by the Administration. Specifically, we have worked to clarify that (1) the work of the Council includes establishing standards to protect the privacy of the records; (2) sealed criminal history records are not covered or subject to release for noncriminal justice purposes under the Compact; (3) the meetings of the Council are open to the public, and (4) the Council's decisions, rules and procedures are available for public inspection and copying and published in the Federal Register.

Commissioner Walton of the Vermont Department of Public Safety supports this Compact. He hopes that passage of the Compact will encourage Vermont to become a full participant in III for both criminal and noncriminal justice purposes, so that Vermont can ''reap the benefits of cost savings and improved data quality.'' The Compact is also strongly supported by the FBI and SEARCH.

We all have an interest in making sure that the criminal history records maintained by our law enforcement agencies at the local, State and Federal levels, are complete, accurate and accessible only to authorized personnel for legally authorized purposes. This Compact is a significant step in the process of achieving that goal.

I know that the Justice Department, under Attorney General Reno's leadership, has made it a priority to modernize and automate criminal history records. Our legislation will continue that leadership by providing each State with the necessary resources to continue to make important efforts to bring their criminal justice systems up to date.

Mr. President, the Crime Identification Technology Act will ensure that each State has the resources to capture the power of emerging information, communications and record-keeping technologies to serve and protect all of our citizens.

Mr. JEFFORDS. I ask unanimous consent that the Senate agree to the amendment of the House.

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

COMMEMORATING THE 20TH ANNIVERSARY OF THE FOUNDING OF THE VIETNAM VETERANS OF AMERICA

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 476, S. Res. 207.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 207) commemorating the 20th anniversary of the founding of the Vietnam Veterans of America.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. JEFFORDS. Mr. President, I was proud to submit S. Res. 207 on April 2nd of this year, and I am very pleased to mark its adoption tonight.

Tonight's action by the Senate is but one small step to redress the very reason why the founders of the Vietnam Veterans of America (VVA) felt compelled to take action 20 years ago. In 1978, Vietnam Veterans were suffering under the wave of anti-Vietnam sentiment that had swept the nation. Little recognition was given to their sacrifices during the war. And in fact, there was even a great deal of official denial about the extent of the price that had been paid by these veterans, both physical and emotional. For instance, it would be years before Post-Traumatic Stress Disorder was a recognized condition for many veterans and before the Federal Government admitted that our use of Agent Orange had left a terrible legacy of continued suffering for our veterans. The founders of the VVA felt that they needed an organization to speak directly to those needs. The outpouring of enthusiasm from the veterans themselves demonstrated the depth of these feelings.

I am also very proud that Chapter One was founded in my home town of Rutland, Vermont. Vermonters have maintained a prominent voice in the organization, and are active in defining its future direction.

The VVA is not focused just on the three decades behind us. It continues to look to the large challenges ahead both for veterans as a group and Vietnam Veterans in particular. Just as the Vietnam Veterans Memorial is a permanent reminder of the sacrifices of the past, the VVA will be a continual voice for pragmatism and commitment to the needs of the veteran.

I ask unanimous consent the resolution be agreed to, the preamble be agreed to, a motion to reconsider be laid upon the table, and a statement of explanation appear in the RECORD.

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

The resolution (S. Res. 207) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 207

Whereas the year 1998 marks the 20th anniversary of the founding of the Vietnam Veterans of America;

Whereas the history of the Vietnam Veterans of America organization is a story of America's gradual recognition of the tremendous sacrifices of its Vietnam-era veterans and their families;

Whereas the Vietnam Veterans of America is dedicated to serving its membership through advocacy for its membership;

Whereas the Vietnam Veterans of America provides public and member awareness of critical issues affecting Vietnam-era veterans and their families;

Whereas the local grassroots efforts of Vietnam Veterans of America chapters like Chapter One in Rutland, Vermont, which was founded 18 years ago in April 1980, have greatly contributed to the quality of lives of veterans in our Nation's communities;

Whereas the Vietnam Veterans of America promotes its principles through volunteerism, professional advocacy, and claims work; and

Whereas the future of the Vietnam Veterans of America relies not only on its past accomplishments, but on future accomplishments of its membership that will ensure the Vietnam Veterans of America remains a leader among veterans advocacy organizations: Now, therefore, be it

Resolved, That the Senate—

(1) commemorates the 20th anniversary of the founding of the Vietnam Veterans of America and commends it for its advancement of veterans rights which set the standard for other veterans organizations around the country;

(2) asks all Americans to join in the celebration of the 20th birthday of the Vietnam Veterans of America and 20 years of advocacy for Vietnam veterans; and

(3) encourages the Vietnam Veterans of America to continue into the next millennium to represent and promote the goals of its organization in the veterans community and on Capitol Hill, and to continue organizing to keep its national membership of 51,000 members and 500 chapters strong.

TORTURE VICTIMS RELIEF ACT OF 1998

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 4309, which is at the desk.

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

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4309) to provide a comprehensive program of support for victims of torture.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3792

Mr. JEFFORDS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS], for Mr. GRAMS, proposes an amendment numbered 3792.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

Substitute language in Sec. 5 (b)(1) and (2) with the following:

(b) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated for the Department of Health and Human Services for fiscal years 1999 and 2000, there are authorized to be appropriated to carry out subsection (a) (relating to assistance for domestic centers and programs for the treatment of victims of torture) $5,000,000 for fiscal year 1999, and $7,5000,000 for fiscal year 2000.

(2) AVAILABILTY OF FUNDS.—Amounts appropriated pursuant to this subsection shall remain available until expended.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the amendment be agreed to, that the bill be considered read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

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

The amendment (No. 3792) was agreed to.

The bill (H.R. 4309), as amended, was considered read the third time, and passed.

PERSIAN GULF WAR VETERANS ACT OF 1998

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 686, S. 2358.

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

The clerk will report.

The legislative clerk read as follows:

A bill (S. 2358) to provide for the establishment of a service-connection for illnesses associated with service in the Persian Gulf war, to extend and enhance certain health care authorities relating to such service, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Veteran's Affairs, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 2358

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 ''Persian Gulf War Veterans Act of 1998''.

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

Sec. 1. Short title; table of contents.

TITLE I—SERVICE CONNECTION FOR *PERSIAN* GULF WAR ILLNESSES

Sec. 101. Presumption of service connection for illnesses associated with service in the Persian Gulf during the Persian Gulf War.

Sec. 102. Agreement with National Academy of Sciences.

Sec. 103. Monitoring of health status and health care of Persian Gulf War veterans.

Sec. 104. Reports on recommendations for additional scientific research.

Sec. 105. Outreach.

Sec. 106. Definitions.

TITLE II—EXTENSION AND ENHANCEMENT OF *PERSIAN* GULF WAR HEALTH CARE AUTHORITIES

Sec. 201. Extension of authority to provide health care for Persian Gulf War veterans.

Sec. 202. Extension and improvement of evaluation of health status of spouses and children of Persian Gulf War veterans.

TITLE III—MISCELLANEOUS

Sec. 301. Assessment of establishment of independent entity to evaluate post-conflict illnesses among members of the Armed Forces and health care provided by DoD and VA before and after deployment of such members.

TITLE I—SERVICE CONNECTION FOR *PERSIAN* GULF WAR ILLNESSES

SEC. 101. PRESUMPTION OF SERVICE CONNECTION FOR ILLNESSES ASSOCIATED WITH SERVICE IN THE PERSIAN GULF DURING THE PERSIAN GULF WAR.

(a) IN GENERAL.—(1) Subchapter II of chapter 11 of title 38, United States Code, is amended by adding at the end the following:

''§ 1118. Presumptions of service connection for illnesses associated with service in the Persian Gulf during the Persian Gulf War

''(a)(1) For purposes of section 1110 of this title, and subject to section 1113 of this title, each illness, if any, described in paragraph (2) shall be considered to have been incurred in or aggravated by service referred to in that paragraph, notwithstanding that there is no record of evidence of such illness during the period of such service.

''(2) An illness referred to in paragraph (1) is any diagnosed or undiagnosed illness that—

''(A) the Secretary determines in regulations prescribed under this section to warrant a presumption of service connection by reason of having a positive association with exposure to a biological, chemical, or other toxic agent, environmental or wartime hazard, or preventive medicine or vaccine known or presumed to be associated with service in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War; and

''(B) becomes manifest within the period, if any, prescribed in such regulations in a veteran who served on active duty in that theater of operations during that war and by reason of such service was exposed to such agent, hazard, or medicine or vaccine.

''(3) For purposes of this subsection, a veteran who served on active duty in the Southwest Asia theater of operations during the Persian Gulf War and has an illness described in paragraph (2) shall be presumed to have been exposed by reason of such service to the agent, hazard, or medicine or vaccine associated with the illness in the regulations prescribed under this section unless there is conclusive evidence to establish that the veteran was not exposed to the agent, hazard, or medicine or vaccine by reason of such service.

''(b)(1)(A) Whenever the Secretary makes a determination described in subparagraph (B), the Secretary shall prescribe regulations providing that a presumption of service connection is warranted for the illness covered by that determination for purposes of this section.

''(B) A determination referred to in subparagraph (A) is a determination based on sound medical and scientific evidence that a positive association exists between—

''(i) the exposure of humans or animals to a biological, chemical, or other toxic agent, environmental or wartime hazard, or preventive medicine or vaccine known or presumed to be associated with service in the Southwest Asia theater of operations during the Persian Gulf War; and

''(ii) the occurrence of a diagnosed or undiagnosed illness in humans or animals.

''(2)(A) In making determinations for purposes of paragraph (1), the Secretary shall take into account—

''(i) the reports submitted to the Secretary by the National Academy of Sciences under section 102 of the Persian Gulf War Veterans Act of 1998; and

''(ii) all other sound medical and scientific information and analyses available to the Secretary.

''(B) In evaluating any report, information, or analysis for purposes of making such determinations, the Secretary shall take into consideration whether the results are statistically significant, are capable of replication, and withstand peer review.

''(3) An association between the occurrence of an illness in humans or animals and exposure to an agent, hazard, or medicine or vaccine shall be considered to be positive for purposes of this subsection if the credible evidence for the association is equal to or outweighs the credible evidence against the association.

''(c)(1) Not later than 60 days after the date on which the Secretary receives a report from the National Academy of Sciences under section 102 of the Persian Gulf War Veterans Act of 1998, the Secretary shall determine whether or not a presumption of service connection is warranted for each illness, if any, covered by the report.

''(2) If the Secretary determines under this subsection that a presumption of service connection is warranted, the Secretary shall, not later than 60 days after making the determination, issue proposed regulations setting forth the Secretary's determination.

''(3)(A) If the Secretary determines under this subsection that a presumption of service connection is not warranted, the Secretary shall, not later than 60 days after making the determination, publish in the Federal Register a notice of the determination. The notice shall include an explanation of the scientific basis for the determination.

''(B) If an illness already presumed to be service connected under this section is subject to a determination under subparagraph (A), the Secretary shall, not later than 60 days after publication of the notice under that subparagraph, issue proposed regulations removing the presumption of service connection for the illness.

''(4) Not later than 90 days after the date on which the Secretary issues any proposed regulations under this subsection, the Secretary shall issue final regulations. Such regulations shall be effective on the date of issuance.

''(d) Whenever the presumption of service connection for an illness under this section is removed under subsection (c)—

''(1) a veteran who was awarded compensation for the illness on the basis of the presumption before the effective date of the removal of the presumption shall continue to be entitled to receive compensation on that basis; and

''(2) a survivor of a veteran who was awarded dependency and indemnity compensation for the death of a veteran resulting from the illness on the basis of the presumption before that date shall continue to be entitled to receive dependency and indemnity compensation on that basis.

''(e) Subsections (b) through (d) shall cease to be effective 10 years after the first day of the fiscal year in which the National Academy of Sciences submits to the Secretary the first report under section 102 of the Persian Gulf War Veterans Act of 1998.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1117 the following new item:

''1118. Presumptions of service connection for illnesses associated with service in the Persian Gulf during the Persian Gulf War.''.

(b) CONFORMING AMENDMENTS.—Section 1113 of title 38, United States Code, is amended—

(1) by striking out ''or 1117'' each place it appears and inserting in lieu thereof ''1117, or 1118''; and

(2) in subsection (a), by striking out ''or 1116'' and inserting in lieu thereof '', 1116, or 1118''.

(c) COMPENSATION FOR UNDIAGNOSED GULF WAR ILLNESSES.—Section 1117 of title 38, United States Code, is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by inserting after subsection (b) the following new subsection (c):

''(c)(1) Whenever the Secretary determines under section 1118(c) of this title that a presumption of service connection for an undiagnosed illness (or combination of undiagnosed illnesses) previously established under this section is no longer warranted—

''(A) a veteran who was awarded compensation under this section for such illness (or combination of illnesses) on the basis of the presumption shall continue to be entitled to receive compensation under this section on that basis; and

''(B) a survivor of a veteran who was awarded dependency and indemnity compensation for the death of a veteran resulting from the disease on the basis of the presumption before that date shall continue to be entitled to receive dependency and indemnity compensation on that basis.

''(2) This subsection shall cease to be effective 10 years after the first day of the fiscal year in which the National Academy of Sciences submits to the Secretary the first report under section 102 of the Persian Gulf War Veterans Act of 1998.''.

SEC. 102. AGREEMENT WITH NATIONAL ACADEMY OF SCIENCES.

(a) PURPOSE.—The purpose of this section is to provide for the National Academy of Sciences, an independent nonprofit scientific organization with appropriate expertise, to review and evaluate the available scientific evidence regarding associations between illnesses and exposure to toxic agents, environmental or wartime hazards, or preventive medicines or vaccines associated with Gulf War service.

(b) AGREEMENT.—The Secretary of Veterans Affairs shall seek to enter into an agreement with the National Academy of Sciences for the Academy to perform the activities covered by this section and [sections 103(a)(6) and 104(d)] *section 103(a)(6)*. The Secretary shall seek to enter into the agreement not later than two months after the date of enactment of this Act.

(c) IDENTIFICATION OF AGENTS AND ILLNESSES.—(1) Under the agreement under subsection (b), the National Academy of Sciences shall—

(A) identify the biological, chemical, or other toxic agents, environmental or wartime hazards, or preventive medicines or vaccines to which members of the Armed Forces who served in the Southwest Asia theater of operations during the Persian Gulf War may have been exposed by reason of such service; and

(B) identify the illnesses (including diagnosed illnesses and undiagnosed illnesses) that are manifest in such members.

(2) In identifying illnesses under paragraph (1)(B), the Academy shall review and summarize the relevant scientific evidence regarding *chronic* illnesses among the members described in paragraph (1)(A) and among other

appropriate populations of individuals, including mortality, symptoms, and adverse reproductive health outcomes among such members and individuals.

(d) INITIAL CONSIDERATION OF SPECIFIC AGENTS.—(1) In identifying under subsection (c) the agents, hazards, or preventive medicines or vaccines to which members of the Armed Forces may have been exposed for purposes of the first report under subsection (i), the National Academy of Sciences shall consider, within the first six months after the date of enactment of this Act, the following:

(A) The following organophosphorous pesticides:

(i) Chlorpyrifos.

(ii) Diazinon.

(iii) Dichlorvos.

(iv) Malathion.

(B) The following carbamate pesticides:

(i) Proxpur.

(ii) Carbaryl.

(iii) Methomyl.

(C) The carbamate pyridostigmine bromide used as nerve agent prophylaxis.

(D) The following chlorinated dydrocarbon and other pesticides and repellents:

(i) Lindane.

(ii) Pyrethrins.

(iii) Permethrins.

(iv) Rodenticides (bait).

(v) Repellent (DEET).

(E) The following low-level nerve agents and precursor compounds at exposure levels below those which produce immediately apparent incapacitating symptoms:

(i) Sarin.

(ii) Tabun.

(F) The following synthetic chemical compounds:

(i) Mustard agents at levels below those which cause immediate blistering.

(ii) Volatile organic compounds.

(iii) Hydrazine.

(iv) Red fuming nitric acid.

(v) Solvents.

[(vi) Uranium.]

(G) The following [ionizing] *sources of* radiation:

(i) Depleted uranium.

(ii) Microwave radiation.

(iii) Radio frequency radiation.

(H) The following environmental particulates and pollutants:

(i) Hydrogen sulfide.

(ii) Oil fire byproducts.

(iii) Diesel heater fumes.

(iv) Sand micro-particles.

(I) Diseases endemic to the region (including the following):

(i) Leishmaniasis.

(ii) Sandfly fever.

(iii) Pathogenic escherechia coli.

(iv) Shigellosis.

(J) Time compressed administration of multiple live, ''attenuated'', and toxoid vaccines.

(2) The consideration of agents, hazards, and medicines and vaccines under paragraph (1) shall not preclude the Academy from identifying other agents, hazards, or medicines or vaccines to which members of the Armed Forces may have been exposed for purposes of any report under subsection (i).

(3) Not later than six months after the date of enactment of this Act, the National Academy of Science shall submit to the designated congressional committees a report specifying the agents, hazards, and medicines and vaccines considered under paragraph (1).

(e) DETERMINATIONS OF ASSOCIATIONS BETWEEN AGENTS AND ILLNESSES.—(1) For each agent, hazard, or medicine or vaccine and illness identified under subsection (c), the National Academy of Sciences shall determine, to the extent that available scientific data permit meaningful determinations—

(A) whether a statistical association exists between exposure to the agent, hazard, or medicine or vaccine and the illness, taking into account the strength of the scientific evidence and the appropriateness of the scientific methodology used to detect the association;

(B) the increased risk of the illness among human or animal populations exposed to the agent, hazard, or medicine or vaccine; and

(C) whether a plausible biological mechanism or other evidence of a causal relationship exists between exposure to the agent, hazard, or medicine or vaccine and the illness.

(2) The Academy shall include in its reports under subsection (i) a full discussion of the scientific evidence and reasoning that led to its conclusions under this subsection.

(f) REVIEW OF POTENTIAL TREATMENT MODELS FOR CERTAIN ILLNESSES.—Under the agreement under subsection (b), the National Academy of Sciences shall separately review, for each chronic undiagnosed illness identified under subsection (c)(1)(B) and for any other chronic illness that the Academy determines to warrant such review, the available scientific data in order to identify empirically valid models of treatment for such illnesses which employ successful treatment modalities for populations with similar symptoms.

(g) RECOMMENDATIONS FOR ADDITIONAL SCIENTIFIC STUDIES.—(1) Under the agreement under subsection (b), the National Academy of Sciences shall make any recommendations that it considers appropriate for additional scientific studies (including studies relating to treatment models) to resolve areas of continuing scientific uncertainty relating to the health consequences of exposure to toxic agents, environmental or wartime hazards, or preventive medicines or vaccines associated with Gulf War service.

(2) In making recommendations for additional studies, the Academy shall consider the available scientific data, the value and relevance of the information that could result from such studies, and the cost and feasibility of carrying out such studies.

(h) SUBSEQUENT REVIEWS.—(1) Under the agreement under subsection (b), the National Academy of Sciences shall conduct on a periodic and ongoing basis additional reviews of the evidence and data relating to its activities under this section.

(2) As part of each review under this subsection, the Academy shall—

(A) conduct as comprehensive a review as is practicable of the evidence referred to in subsection (c) and the data referred to in subsections (e), (f), and (g) that became available since the last review of such evidence and data under this section; and

(B) make determinations under the subsections referred to in subparagraph (A) on the basis of the results of such review and all other reviews previously conducted for purposes of this section.

(i) REPORTS.—(1) Under the agreement under subsection (b), the National Academy of Sciences shall submit to the committees and officials referred to in paragraph (5) periodic written reports regarding the Academy's activities under the agreement.

(2) The first report under paragraph (1) shall be submitted not later than 18 months after the date of enactment of this Act. That report shall include—

(A) the determinations and discussion referred to in subsection (e);

(B) the results of the review of models of treatment under subsection (f); and

(C) any recommendations of the Academy under subsection (g).

(3) Reports shall be submitted under this subsection at least once every two years, as measured from the date of the report under paragraph (2).

(4) In any report under this subsection (other than the report under paragraph (2)), the Academy may specify an absence of meaningful developments in the scientific or medical community with respect to the activities of the Academy under this section during the 2-year period ending on the date of such report.

(5) Reports under this subsection shall be submitted to the following:

(A) The designated congressional committees.

(B) The Secretary of Veterans Affairs.

(C) The Secretary of Defense.

(j) SUNSET.—This section shall cease to be effective 10 years after the last day of the fiscal year in which the National Academy of Sciences submits the first report under subsection (i).

(k) ALTERNATIVE CONTRACT SCIENTIFIC ORGANIZATION.—(1) If the Secretary is unable within the time period set forth in subsection (b) to enter into an agreement with the National Academy of Sciences for the purposes of this section on terms acceptable to the Secretary, the Secretary shall seek to enter into an agreement for purposes of this section with another appropriate scientific organization that is not part of the Government, operates as a not-for-profit entity, and has expertise and objectivity comparable to that of the National Academy of Sciences.

(2) If the Secretary enters into an agreement with another organization under this subsection, any reference in this section, sections 103 and 104, and section 1118 of title 38, United States Code (as added by section 101), to the National Academy of Sciences shall be treated as a reference to such other organization.

SEC. 103. MONITORING OF HEALTH STATUS AND HEALTH CARE OF PERSIAN GULF WAR VETERANS.

(a) INFORMATION DATA BASE.—(1) The Secretary of Veterans Affairs shall, in consultation with the Secretary of Defense, develop a plan for the establishment and operation of a single computerized information data base for the collection, storage, and analysis of information on—

(A) the diagnosed illnesses and undiagnosed illnesses suffered by current and former members of the Armed Forces who served in the Southwest Asia theater of operations during the Persian Gulf War; and

(B) the health care utilization patterns of such members with—

(i) any chronic undiagnosed illnesses; and

(ii) any chronic illnesses for which the National Academy of Sciences has identified a valid model of treatment pursuant to its review under section 102(f).

(2) The plan shall provide for the commencement of the operation of the data base not later than 18 months after the date of enactment of this Act.

(3) The Secretary shall ensure in the plan that the data base provides the capability of monitoring and analyzing information on—

(A) the illnesses covered by paragraph (1)(A);

(B) the health care utilization patterns referred to in paragraph (1)(B); and

(C) the changes in health status of veterans covered by paragraph (1).

(4) In order to meet the requirement under paragraph (3), the plan shall ensure that the data base includes the following:

(A) Information in the Persian Gulf War Veterans Health Registry established under section 702 of the Persian Gulf War Veterans' Health Status Act (title VII of Public Law 102–585; 38 U.S.C. 527 note).

(B) Information in the Comprehensive Clinical Evaluation Program for Veterans established under section 734 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (10 U.S.C. 1074 note).

(C) Information derived from other examinations and treatment provided by Department of Veterans Affairs health care facilities to veterans who served in the Southwest Asia theater of operations during the Persian Gulf War.

(D) Information derived from other examinations and treatment provided by military health care facilities to current members of the Armed Forces (including members of the active components and members of the reserve components) who served in that theater of operations during that war.

(E) Such other information as the Secretary of Veterans Affairs and the Secretary of Defense consider appropriate.

(5) Not later than one year after the date of enactment of this Act, the Secretary shall submit the plan developed under paragraph (1) to the following:

(A) The designated congressional committees.

(B) The Secretary of Veterans Affairs.

(C) The Secretary of Defense.

(D) The National Academy of Sciences.

(6)(A) The agreement under section 102 shall require the evaluation of the plan developed under paragraph (1) by the National Academy of Sciences. The Academy shall complete the evaluation of the plan not later than 90 days after the date of its submittal to the Academy under paragraph (5).

(B) Upon completion of the evaluation, the Academy shall submit a report on the evaluation to the committees and individuals referred to in paragraph (5).

(7) Not later than 90 days after receipt of the report under paragraph (6), the Secretary shall—

(A) modify the plan in light of the evaluation of the Academy in the report; and

(B) commence implementation of the plan as so modified.

(b) ANNUAL REPORT.—Not later than April 1 each year after the year in which operation of the data base under subsection (a) commences, the Secretary of Veterans Affairs and the Secretary of Defense shall jointly submit to the designated congressional committees a report containing—

(1) with respect to the data compiled under this section during the preceding year—

(A) an analysis of the data;

(B) a discussion of the types, incidences, and prevalence of the illnesses identified through such data;

(C) an explanation for the incidence and prevalence of such illnesses; and

(D) other reasonable explanations for the incidence and prevalence of such illnesses; and

(2) with respect to the most current information received under section 102(i) regarding treatment models reviewed under section 102(f)—

(A) an analysis of the information;

(B) the results of any consultation between such Secretaries regarding the implementation of such treatment models in the health care systems of the Department of Veterans Affairs and the Department of Defense; and

(C) in the event either such Secretary determines not to implement such treatment models, an explanation for such determination.

SEC. 104. REPORTS ON RECOMMENDATIONS FOR ADDITIONAL SCIENTIFIC RESEARCH.

(a) REPORTS.—Not later than 90 days after the date on which the Secretary of Veterans Affairs receives any recommendations from the National Academy of Sciences for additional scientific studies under section 102(g), the Secretary of Veterans Affairs, Secretary of Defense, and Secretary of Health and Human Services shall jointly submit to the designated congressional committees a report on such recommendations, including whether or not the Secretaries intend to carry out any recommended studies.

(b) ELEMENTS.—In each report under subsection (a), the Secretaries shall—

(1) set forth a plan for each study, if any, that the Secretaries intend to carry out; or

(2) in case of each study that the Secretaries intend not to carry out, set forth a justification for the intention not to carry out such study.

SEC. 105. OUTREACH.

(a) OUTREACH BY SECRETARY OF VETERANS AFFAIRS.—The Secretary of Veterans Affairs shall, in consultation with the Secretary of Defense and the Secretary of Health and Human Services, carry out an ongoing program to provide veterans who served in the Southwest Asia theater of operations during the Persian Gulf War the information described in subsection (c).

(b) OUTREACH BY SECRETARY OF DEFENSE.—The Secretary of Defense shall, in consultation with the Secretary of Veterans Affairs and the Secretary of Health and Human Services, carry out an ongoing program to provide current members of the Armed Forces (including members of the active components and members of the reserve components) who served in that theater of operations during that war the information described in subsection (c).

(c) COVERED INFORMATION.—Information under this subsection is information relating to—

(1) the health risks, if any, resulting from exposure to toxic agents, environmental or wartime hazards, or preventive medicines or vaccines associated with Gulf War service; and

(2) any services or benefits available with respect to such health risks.

SEC. 106. DEFINITIONS.

In this title:

(1) The term ''toxic agent, environmental or wartime hazard, or preventive medicine or vaccine associated with Gulf War service'' means a biological, chemical, or other toxic agent, environmental or wartime hazard, or preventive medicine or vaccine that is known or presumed to be associated with service in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War, whether such association arises as a result of single, repeated, or sustained exposure and whether such association arises through exposure singularly or in combination.

(2) The term ''designated congressional committees'' means the following:

(A) The Committees on Veterans' Affairs and Armed Services of the Senate.

(B) The Committees on Veterans' Affairs and National Security of the House of Representatives.

(3) The term ''Persian Gulf War'' has the meaning given that term in section 101(33) of title 38, United States Code.

TITLE II—EXTENSION AND ENHANCEMENT OF *PERSIAN* GULF WAR HEALTH CARE AUTHORITIES

SEC. 201. EXTENSION OF AUTHORITY TO PROVIDE HEALTH CARE FOR PERSIAN GULF WAR VETERANS.

Section 1710(e)(3)(B) of title 38, United States Code, is amended by striking out ''December 31, 1998'' and inserting in lieu thereof ''December 31, 2001''.

SEC. 202. EXTENSION AND IMPROVEMENT OF EVALUATION OF HEALTH STATUS OF SPOUSES AND CHILDREN OF PERSIAN GULF WAR VETERANS.

(a) EXTENSION.—Subsection (b) of section 107 of the Persian Gulf War Veterans' Benefits Act (title I of Public Law 103–446; 38 U.S.C. 1117 note) is amended by striking out ''ending on December 31, 1998.'' and inserting in lieu thereof ''ending on the earlier of—

''(1) the date of the completion of expenditure of funds available for the program under subsection (c); or

''(2) December 31, 2001.''.

(b) TERMINATION OF CERTAIN TESTING AND EVALUATION REQUIREMENTS.—Subsection (a) of that section is amended by striking out the flush matter following paragraph (3).

(c) OUTREACH.—Subsection (g) of that section is amended—

(1) by inserting ''(1)'' before ''The Secretary'';

(2) by redesignating paragraphs (1) and (2) of paragraph (1), as designated by paragraph (1) of this subsection, as subparagraphs (A) and (B) of that paragraph; and

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

''(2) In addition to the outreach activities under paragraph (1), the Secretary shall also provide outreach with respect to the following:

''(A) The existence of the program under this section.

''(B) The purpose of the program.

''(C) The availability under the program of medical examinations and tests, and not medical treatment.

''(D) The findings of any published, peer-reviewed research with respect to any associations (or lack thereof) between the service of veterans in the Southwest Asia theater of operations and particular illnesses or disorders of their spouses or children.

''(3) Outreach under this subsection shall be provided any veteran who served as a member of the Armed Forces in the Southwest Asia theater of operations and who—

''(A) seeks health care or services at medical facilities of the Department of Veterans Affairs; or

''(B) is or seeks to be listed in the Persian Gulf War Veterans Registry.''.

(d) ENHANCED FLEXIBILITY IN EXAMINATIONS.—That section is further amended—

(1) by redesignating subsections (i) and (j) as subsections (k) and (*l*), respectively; and

(2) by inserting after subsection (h) the following new subsection (i):

''(i) ENHANCED FLEXIBILITY IN EXAMINATIONS.—In order to increase the number of diagnostic tests and medical examinations under the program under this section, the Secretary may—

''(1) reimburse the primary physicians of spouses and children covered by that subsection for the costs of conducting such tests or examinations, with such rates of reimbursement not to exceed the rates paid contract entities under subsection (d) for conducting tests or examinations under the program;

''(2) conduct such tests or examinations of spouses covered by that subsection in medical facilities of the Department; and

''(3) in the event travel is required in order to facilitate such tests or examinations by contract entities referred to in paragraph (1), reimburse the spouses and children concerned for the costs of such travel and of related lodging.''.

(e) ENHANCED MONITORING OF PROGRAM.—That section is further amended by inserting after subsection (i), as amended by subsection (d) of this section, the following new subsection (j):

''(j) ENHANCED MONITORING OF PROGRAM.—In order to enhance monitoring of the program under this section, the Secretary shall provide for monthly reports to the Central Office of the Department on activities with respect to the program by elements of the Department and contract entities under subsection (d).''.

TITLE III—MISCELLANEOUS

SEC. 301. ASSESSMENT OF ESTABLISHMENT OF INDEPENDENT ENTITY TO EVALUATE POST-CONFLICT ILLNESSES AMONG MEMBERS OF THE ARMED FORCES AND HEALTH CARE PROVIDED BY DOD AND VA BEFORE AND AFTER DEPLOYMENT OF SUCH MEMBERS.

(a) AGREEMENT FOR ASSESSMENT.—The Secretary of Veterans Affairs shall seek to enter into an agreement with the National Academy of Sciences, or other appropriate independent organization, under which agreement the Academy shall carry out the assessment referred to in subsection (b).

(b) ASSESSMENT.—(1) Under the agreement, the Academy shall assess the need for and feasibility of establishing an independent entity to—

(A) evaluate and monitor interagency coordination on issues relating to the post-deployment health concerns of members of the Armed Forces, including coordination relating to outreach and risk communication, recordkeeping, research, utilization of new technologies, international cooperation and research, health surveillance, and other health-related activities;

(B) evaluate the health care (including preventive care and responsive care) provided to members of the Armed Forces both before and after their deployment on military operations;

(C) monitor and direct government efforts to evaluate the health of members of the Armed Forces upon their return from deployment on military operations for purposes of ensuring the rapid identification of any trends in diseases or injuries among such members as a result of such operations;

(D) provide and direct the provision of ongoing training of health care personnel of the Department of Defense and the Department of Veterans Affairs in the evaluation and treatment of post-deployment diseases and health conditions, including nonspecific and unexplained illnesses; and

(E) make recommendations to the Department of Defense and the Department of Veterans Affairs regarding improvements in the provision of health care referred to in subparagraph (B), including improvements in the monitoring and treatment of members referred to in that subparagraph.

(2) The assessment shall cover the health care provided by the Department of Defense and, where applicable, by the Department of Veterans Affairs.

(c) REPORT.—(1) The agreement shall require the Academy to submit to the committees referred to in paragraph (3) a report on the results of the assessment under this section not later than one year after the date of enactment of this Act.

(2) The report shall include the following:

(A) The recommendation of the Academy as to the need for and feasibility of establishing an independent entity as described in subsection (b) and a justification of such recommendation.

(B) If the Academy recommends that an entity be established, the recommendations of the Academy as to—

(i) the organizational placement of the entity;

(ii) the personnel and other resources to be allocated to the entity;

(iii) the scope and nature of the activities and responsibilities of the entity; and

(iv) mechanisms for ensuring that any recommendations of the entity are carried out by the Department of Defense and the Department of Veterans Affairs.

(3) The report shall be submitted to the following:

(A) The Committee on Veterans' Affairs and the Committee on Armed Services of the Senate.

(B) The Committee on Veterans' Affairs and the Committee on National Security of the House of Representatives.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the committee amendments be agreed to, the bill be read the third time and passed, the amendment to the title and the title, as amended, be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

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

The committee amendments were agreed to.

The bill (S. 2358), as amended, was considered read the third time, and passed, as follows:

S. 2358

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 ''Persian Gulf War Veterans Act of 1998''.

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

Sec. 1. Short title; table of contents.

TITLE I—SERVICE CONNECTION FOR PERSIAN GULF WAR ILLNESSES

Sec. 101. Presumption of service connection for illnesses associated with service in the Persian Gulf during the Persian Gulf War.

Sec. 102. Agreement with National Academy of Sciences.

Sec. 103. Monitoring of health status and health care of Persian Gulf War veterans.

Sec. 104. Reports on recommendations for additional scientific research.

Sec. 105. Outreach.

Sec. 106. Definitions.

TITLE II—EXTENSION AND ENHANCEMENT OF PERSIAN GULF WAR HEALTH CARE AUTHORITIES

Sec. 201. Extension of authority to provide health care for Persian Gulf War veterans.

Sec. 202. Extension and improvement of evaluation of health status of spouses and children of Persian Gulf War veterans.

TITLE III—MISCELLANEOUS

Sec. 301. Assessment of establishment of independent entity to evaluate post-conflict illnesses among members of the Armed Forces and health care provided by DoD and VA before and after deployment of such members.

TITLE I—SERVICE CONNECTION FOR PERSIAN GULF WAR ILLNESSES

SEC. 101. PRESUMPTION OF SERVICE CONNECTION FOR ILLNESSES ASSOCIATED WITH SERVICE IN THE PERSIAN GULF DURING THE PERSIAN GULF WAR.

(a) IN GENERAL.—(1) Subchapter II of chapter 11 of title 38, United States Code, is amended by adding at the end the following:

''§ 1118. Presumptions of service connection for illnesses associated with service in the Persian Gulf during the Persian Gulf War

''(a)(1) For purposes of section 1110 of this title, and subject to section 1113 of this title, each illness, if any, described in paragraph (2) shall be considered to have been incurred in or aggravated by service referred to in that paragraph, notwithstanding that there is no record of evidence of such illness during the period of such service.

''(2) An illness referred to in paragraph (1) is any diagnosed or undiagnosed illness that—

''(A) the Secretary determines in regulations prescribed under this section to warrant a presumption of service connection by reason of having a positive association with exposure to a biological, chemical, or other toxic agent, environmental or wartime hazard, or preventive medicine or vaccine known or presumed to be associated with service in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War; and

''(B) becomes manifest within the period, if any, prescribed in such regulations in a veteran who served on active duty in that theater of operations during that war and by reason of such service was exposed to such agent, hazard, or medicine or vaccine.

''(3) For purposes of this subsection, a veteran who served on active duty in the Southwest Asia theater of operations during the Persian Gulf War and has an illness described in paragraph (2) shall be presumed to have been exposed by reason of such service to the agent, hazard, or medicine or vaccine associated with the illness in the regulations prescribed under this section unless there is conclusive evidence to establish that the veteran was not exposed to the agent, hazard, or medicine or vaccine by reason of such service.

''(b)(1)(A) Whenever the Secretary makes a determination described in subparagraph (B), the Secretary shall prescribe regulations providing that a presumption of service connection is warranted for the illness covered by that determination for purposes of this section.

''(B) A determination referred to in subparagraph (A) is a determination based on sound medical and scientific evidence that a positive association exists between—

''(i) the exposure of humans or animals to a biological, chemical, or other toxic agent, environmental or wartime hazard, or preventive medicine or vaccine known or presumed to be associated with service in the Southwest Asia theater of operations during the Persian Gulf War; and

''(ii) the occurrence of a diagnosed or undiagnosed illness in humans or animals.

''(2)(A) In making determinations for purposes of paragraph (1), the Secretary shall take into account—

''(i) the reports submitted to the Secretary by the National Academy of Sciences under section 102 of the Persian Gulf War Veterans Act of 1998; and

''(ii) all other sound medical and scientific information and analyses available to the Secretary.

''(B) In evaluating any report, information, or analysis for purposes of making such determinations, the Secretary shall take into consideration whether the results are statistically significant, are capable of replication, and withstand peer review.

''(3) An association between the occurrence of an illness in humans or animals and exposure to an agent, hazard, or medicine or vaccine shall be considered to be positive for purposes of this subsection if the credible evidence for the association is equal to or outweighs the credible evidence against the association.

''(c)(1) Not later than 60 days after the date on which the Secretary receives a report from the National Academy of Sciences under section 102 of the Persian Gulf War Veterans Act of 1998, the Secretary shall determine whether or not a presumption of service connection is warranted for each illness, if any, covered by the report.

''(2) If the Secretary determines under this subsection that a presumption of service

connection is warranted, the Secretary shall, not later than 60 days after making the determination, issue proposed regulations setting forth the Secretary's determination.

''(3)(A) If the Secretary determines under this subsection that a presumption of service connection is not warranted, the Secretary shall, not later than 60 days after making the determination, publish in the Federal Register a notice of the determination. The notice shall include an explanation of the scientific basis for the determination.

''(B) If an illness already presumed to be service connected under this section is subject to a determination under subparagraph (A), the Secretary shall, not later than 60 days after publication of the notice under that subparagraph, issue proposed regulations removing the presumption of service connection for the illness.

''(4) Not later than 90 days after the date on which the Secretary issues any proposed regulations under this subsection, the Secretary shall issue final regulations. Such regulations shall be effective on the date of issuance.

''(d) Whenever the presumption of service connection for an illness under this section is removed under subsection (c)—

''(1) a veteran who was awarded compensation for the illness on the basis of the presumption before the effective date of the removal of the presumption shall continue to be entitled to receive compensation on that basis; and

''(2) a survivor of a veteran who was awarded dependency and indemnity compensation for the death of a veteran resulting from the illness on the basis of the presumption before that date shall continue to be entitled to receive dependency and indemnity compensation on that basis.

''(e) Subsections (b) through (d) shall cease to be effective 10 years after the first day of the fiscal year in which the National Academy of Sciences submits to the Secretary the first report under section 102 of the Persian Gulf War Veterans Act of 1998.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1117 the following new item:

''1118. Presumptions of service connection for illnesses associated with service in the Persian Gulf during the Persian Gulf War.''.

(b) CONFORMING AMENDMENTS.—Section 1113 of title 38, United States Code, is amended—

(1) by striking out ''or 1117'' each place it appears and inserting in lieu thereof ''1117, or 1118''; and

(2) in subsection (a), by striking out ''or 1116'' and inserting in lieu thereof '', 1116, or 1118''.

(c) COMPENSATION FOR UNDIAGNOSED GULF WAR ILLNESSES.—Section 1117 of title 38, United States Code, is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by inserting after subsection (b) the following new subsection (c):

''(c)(1) Whenever the Secretary determines under section 1118(c) of this title that a presumption of service connection for an undiagnosed illness (or combination of undiagnosed illnesses) previously established under this section is no longer warranted—

''(A) a veteran who was awarded compensation under this section for such illness (or combination of illnesses) on the basis of the presumption shall continue to be entitled to receive compensation under this section on that basis; and

''(B) a survivor of a veteran who was awarded dependency and indemnity compensation for the death of a veteran resulting from the disease on the basis of the presumption before that date shall continue to be entitled to receive dependency and indemnity compensation on that basis.

''(2) This subsection shall cease to be effective 10 years after the first day of the fiscal year in which the National Academy of Sciences submits to the Secretary the first report under section 102 of the Persian Gulf War Veterans Act of 1998.''.

SEC. 102. AGREEMENT WITH NATIONAL ACADEMY OF SCIENCES.

(a) PURPOSE.—The purpose of this section is to provide for the National Academy of Sciences, an independent nonprofit scientific organization with appropriate expertise, to review and evaluate the available scientific evidence regarding associations between illnesses and exposure to toxic agents, environmental or wartime hazards, or preventive medicines or vaccines associated with Gulf War service.

(b) AGREEMENT.—The Secretary of Veterans Affairs shall seek to enter into an agreement with the National Academy of Sciences for the Academy to perform the activities covered by this section and section 103(a)(6). The Secretary shall seek to enter into the agreement not later than two months after the date of enactment of this Act.

(c) IDENTIFICATION OF AGENTS AND ILLNESSES.—(1) Under the agreement under subsection (b), the National Academy of Sciences shall—

(A) identify the biological, chemical, or other toxic agents, environmental or wartime hazards, or preventive medicines or vaccines to which members of the Armed Forces who served in the Southwest Asia theater of operations during the Persian Gulf War may have been exposed by reason of such service; and

(B) identify the illnesses (including diagnosed illnesses and undiagnosed illnesses) that are manifest in such members.

(2) In identifying illnesses under paragraph (1)(B), the Academy shall review and summarize the relevant scientific evidence regarding chronic illnesses among the members described in paragraph (1)(A) and among other appropriate populations of individuals, including mortality, symptoms, and adverse reproductive health outcomes among such members and individuals.

(d) INITIAL CONSIDERATION OF SPECIFIC AGENTS.—(1) In identifying under subsection (c) the agents, hazards, or preventive medicines or vaccines to which members of the Armed Forces may have been exposed for purposes of the first report under subsection (i), the National Academy of Sciences shall consider, within the first six months after the date of enactment of this Act, the following:

(A) The following organophosphorous pesticides:

(i) Chlorpyrifos.

(ii) Diazinon.

(iii) Dichlorvos.

(iv) Malathion.

(B) The following carbamate pesticides:

(i) Proxpur.

(ii) Carbaryl.

(iii) Methomyl.

(C) The carbamate pyridostigmine bromide used as nerve agent prophylaxis.

(D) The following chlorinated dydrocarbon and other pesticides and repellents:

(i) Lindane.

(ii) Pyrethrins.

(iii) Permethrins.

(iv) Rodenticides (bait).

(v) Repellent (DEET).

(E) The following low-level nerve agents and precursor compounds at exposure levels below those which produce immediately apparent incapacitating symptoms:

(i) Sarin.

(ii) Tabun.

(F) The following synthetic chemical compounds:

(i) Mustard agents at levels below those which cause immediate blistering.

(ii) Volatile organic compounds.

(iii) Hydrazine.

(iv) Red fuming nitric acid.

(v) Solvents.

(G) The following sources of radiation:

(i) Depleted uranium.

(ii) Microwave radiation.

(iii) Radio frequency radiation.

(H) The following environmental particulates and pollutants:

(i) Hydrogen sulfide.

(ii) Oil fire byproducts.

(iii) Diesel heater fumes.

(iv) Sand micro-particles.

(I) Diseases endemic to the region (including the following):

(i) Leishmaniasis.

(ii) Sandfly fever.

(iii) Pathogenic escherechia coli.

(iv) Shigellosis.

(J) Time compressed administration of multiple live, ''attenuated'', and toxoid vaccines.

(2) The consideration of agents, hazards, and medicines and vaccines under paragraph (1) shall not preclude the Academy from identifying other agents, hazards, or medicines or vaccines to which members of the Armed Forces may have been exposed for purposes of any report under subsection (i).

(3) Not later than six months after the date of enactment of this Act, the National Academy of Science shall submit to the designated congressional committees a report specifying the agents, hazards, and medicines and vaccines considered under paragraph (1).

(e) DETERMINATIONS OF ASSOCIATIONS BETWEEN AGENTS AND ILLNESSES.—(1) For each agent, hazard, or medicine or vaccine and illness identified under subsection (c), the National Academy of Sciences shall determine, to the extent that available scientific data permit meaningful determinations—

(A) whether a statistical association exists between exposure to the agent, hazard, or medicine or vaccine and the illness, taking into account the strength of the scientific evidence and the appropriateness of the scientific methodology used to detect the association;

(B) the increased risk of the illness among human or animal populations exposed to the agent, hazard, or medicine or vaccine; and

(C) whether a plausible biological mechanism or other evidence of a causal relationship exists between exposure to the agent, hazard, or medicine or vaccine and the illness.

(2) The Academy shall include in its reports under subsection (i) a full discussion of the scientific evidence and reasoning that led to its conclusions under this subsection.

(f) REVIEW OF POTENTIAL TREATMENT MODELS FOR CERTAIN ILLNESSES.—Under the agreement under subsection (b), the National Academy of Sciences shall separately review, for each chronic undiagnosed illness identified under subsection (c)(1)(B) and for any other chronic illness that the Academy determines to warrant such review, the available scientific data in order to identify empirically valid models of treatment for such illnesses which employ successful treatment modalities for populations with similar symptoms.

(g) RECOMMENDATIONS FOR ADDITIONAL SCIENTIFIC STUDIES.—(1) Under the agreement under subsection (b), the National Academy of Sciences shall make any recommendations that it considers appropriate for additional scientific studies (including studies

relating to treatment models) to resolve areas of continuing scientific uncertainty relating to the health consequences of exposure to toxic agents, environmental or wartime hazards, or preventive medicines or vaccines associated with Gulf War service.

(2) In making recommendations for additional studies, the Academy shall consider the available scientific data, the value and relevance of the information that could result from such studies, and the cost and feasibility of carrying out such studies.

(h) SUBSEQUENT REVIEWS.—(1) Under the agreement under subsection (b), the National Academy of Sciences shall conduct on a periodic and ongoing basis additional reviews of the evidence and data relating to its activities under this section.

(2) As part of each review under this subsection, the Academy shall—

(A) conduct as comprehensive a review as is practicable of the evidence referred to in subsection (c) and the data referred to in subsections (e), (f), and (g) that became available since the last review of such evidence and data under this section; and

(B) make determinations under the subsections referred to in subparagraph (A) on the basis of the results of such review and all other reviews previously conducted for purposes of this section.

(i) REPORTS.—(1) Under the agreement under subsection (b), the National Academy of Sciences shall submit to the committees and officials referred to in paragraph (5) periodic written reports regarding the Academy's activities under the agreement.

(2) The first report under paragraph (1) shall be submitted not later than 18 months after the date of enactment of this Act. That report shall include—

(A) the determinations and discussion referred to in subsection (e);

(B) the results of the review of models of treatment under subsection (f); and

(C) any recommendations of the Academy under subsection (g).

(3) Reports shall be submitted under this subsection at least once every two years, as measured from the date of the report under paragraph (2).

(4) In any report under this subsection (other than the report under paragraph (2)), the Academy may specify an absence of meaningful developments in the scientific or medical community with respect to the activities of the Academy under this section during the 2-year period ending on the date of such report.

(5) Reports under this subsection shall be submitted to the following:

(A) The designated congressional committees.

(B) The Secretary of Veterans Affairs.

(C) The Secretary of Defense.

(j) SUNSET.—This section shall cease to be effective 10 years after the last day of the fiscal year in which the National Academy of Sciences submits the first report under subsection (i).

(k) ALTERNATIVE CONTRACT SCIENTIFIC ORGANIZATION.—(1) If the Secretary is unable within the time period set forth in subsection (b) to enter into an agreement with the National Academy of Sciences for the purposes of this section on terms acceptable to the Secretary, the Secretary shall seek to enter into an agreement for purposes of this section with another appropriate scientific organization that is not part of the Government, operates as a not-for-profit entity, and has expertise and objectivity comparable to that of the National Academy of Sciences.

(2) If the Secretary enters into an agreement with another organization under this subsection, any reference in this section, sections 103 and 104, and section 1118 of title 38, United States Code (as added by section 101), to the National Academy of Sciences shall be treated as a reference to such other organization.

SEC. 103. MONITORING OF HEALTH STATUS AND HEALTH CARE OF PERSIAN GULF WAR VETERANS.

(a) INFORMATION DATA BASE.—(1) The Secretary of Veterans Affairs shall, in consultation with the Secretary of Defense, develop a plan for the establishment and operation of a single computerized information data base for the collection, storage, and analysis of information on—

(A) the diagnosed illnesses and undiagnosed illnesses suffered by current and former members of the Armed Forces who served in the Southwest Asia theater of operations during the Persian Gulf War; and

(B) the health care utilization patterns of such members with—

(i) any chronic undiagnosed illnesses; and

(ii) any chronic illnesses for which the National Academy of Sciences has identified a valid model of treatment pursuant to its review under section 102(f).

(2) The plan shall provide for the commencement of the operation of the data base not later than 18 months after the date of enactment of this Act.

(3) The Secretary shall ensure in the plan that the data base provides the capability of monitoring and analyzing information on—

(A) the illnesses covered by paragraph (1)(A);

(B) the health care utilization patterns referred to in paragraph (1)(B); and

(C) the changes in health status of veterans covered by paragraph (1).

(4) In order to meet the requirement under paragraph (3), the plan shall ensure that the data base includes the following:

(A) Information in the Persian Gulf War Veterans Health Registry established under section 702 of the Persian Gulf War Veterans' Health Status Act (title VII of Public Law 102–585; 38 U.S.C. 527 note).

(B) Information in the Comprehensive Clinical Evaluation Program for Veterans established under section 734 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (10 U.S.C. 1074 note).

(C) Information derived from other examinations and treatment provided by Department of Veterans Affairs health care facilities to veterans who served in the Southwest Asia theater of operations during the Persian Gulf War.

(D) Information derived from other examinations and treatment provided by military health care facilities to current members of the Armed Forces (including members of the active components and members of the reserve components) who served in that theater of operations during that war.

(E) Such other information as the Secretary of Veterans Affairs and the Secretary of Defense consider appropriate.

(5) Not later than one year after the date of enactment of this Act, the Secretary shall submit the plan developed under paragraph (1) to the following:

(A) The designated congressional committees.

(B) The Secretary of Veterans Affairs.

(C) The Secretary of Defense.

(D) The National Academy of Sciences.

(6)(A) The agreement under section 102 shall require the evaluation of the plan developed under paragraph (1) by the National Academy of Sciences. The Academy shall complete the evaluation of the plan not later than 90 days after the date of its submittal to the Academy under paragraph (5).

(B) Upon completion of the evaluation, the Academy shall submit a report on the evaluation to the committees and individuals referred to in paragraph (5).

(7) Not later than 90 days after receipt of the report under paragraph (6), the Secretary shall—

(A) modify the plan in light of the evaluation of the Academy in the report; and

(B) commence implementation of the plan as so modified.

(b) ANNUAL REPORT.—Not later than April 1 each year after the year in which operation of the data base under subsection (a) commences, the Secretary of Veterans Affairs and the Secretary of Defense shall jointly submit to the designated congressional committees a report containing—

(1) with respect to the data compiled under this section during the preceding year—

(A) an analysis of the data;

(B) a discussion of the types, incidences, and prevalence of the illnesses identified through such data;

(C) an explanation for the incidence and prevalence of such illnesses; and

(D) other reasonable explanations for the incidence and prevalence of such illnesses; and

(2) with respect to the most current information received under section 102(i) regarding treatment models reviewed under section 102(f)—

(A) an analysis of the information;

(B) the results of any consultation between such Secretaries regarding the implementation of such treatment models in the health care systems of the Department of Veterans Affairs and the Department of Defense; and

(C) in the event either such Secretary determines not to implement such treatment models, an explanation for such determination.

SEC. 104. REPORTS ON RECOMMENDATIONS FOR ADDITIONAL SCIENTIFIC RESEARCH.

(a) REPORTS.—Not later than 90 days after the date on which the Secretary of Veterans Affairs receives any recommendations from the National Academy of Sciences for additional scientific studies under section 102(g), the Secretary of Veterans Affairs, Secretary of Defense, and Secretary of Health and Human Services shall jointly submit to the designated congressional committees a report on such recommendations, including whether or not the Secretaries intend to carry out any recommended studies.

(b) ELEMENTS.—In each report under subsection (a), the Secretaries shall—

(1) set forth a plan for each study, if any, that the Secretaries intend to carry out; or

(2) in case of each study that the Secretaries intend not to carry out, set forth a justification for the intention not to carry out such study.

SEC. 105. OUTREACH.

(a) OUTREACH BY SECRETARY OF VETERANS AFFAIRS.—The Secretary of Veterans Affairs shall, in consultation with the Secretary of Defense and the Secretary of Health and Human Services, carry out an ongoing program to provide veterans who served in the Southwest Asia theater of operations during the Persian Gulf War the information described in subsection (c).

(b) OUTREACH BY SECRETARY OF DEFENSE.—The Secretary of Defense shall, in consultation with the Secretary of Veterans Affairs and the Secretary of Health and Human Services, carry out an ongoing program to provide current members of the Armed Forces (including members of the active components and members of the reserve components) who served in that theater of operations during that war the information described in subsection (c).

(c) COVERED INFORMATION.—Information under this subsection is information relating to—

(1) the health risks, if any, resulting from exposure to toxic agents, environmental or

wartime hazards, or preventive medicines or vaccines associated with Gulf War service; and

(2) any services or benefits available with respect to such health risks.

SEC. 106. DEFINITIONS.

In this title:

(1) The term ''toxic agent, environmental or wartime hazard, or preventive medicine or vaccine associated with Gulf War service'' means a biological, chemical, or other toxic agent, environmental or wartime hazard, or preventive medicine or vaccine that is known or presumed to be associated with service in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War, whether such association arises as a result of single, repeated, or sustained exposure and whether such association arises through exposure singularly or in combination.

(2) The term ''designated congressional committees'' means the following:

(A) The Committees on Veterans' Affairs and Armed Services of the Senate.

(B) The Committees on Veterans' Affairs and National Security of the House of Representatives.

(3) The term ''Persian Gulf War'' has the meaning given that term in section 101(33) of title 38, United States Code.

TITLE II—EXTENSION AND ENHANCEMENT OF PERSIAN GULF WAR HEALTH CARE AUTHORITIES

SEC. 201. EXTENSION OF AUTHORITY TO PROVIDE HEALTH CARE FOR PERSIAN GULF WAR VETERANS.

Section 1710(e)(3)(B) of title 38, United States Code, is amended by striking out ''December 31, 1998'' and inserting in lieu thereof ''December 31, 2001''.

SEC. 202. EXTENSION AND IMPROVEMENT OF EVALUATION OF HEALTH STATUS OF SPOUSES AND CHILDREN OF PERSIAN GULF WAR VETERANS.

(a) EXTENSION.—Subsection (b) of section 107 of the Persian Gulf War Veterans' Benefits Act (title I of Public Law 103–446; 38 U.S.C. 1117 note) is amended by striking out ''ending on December 31, 1998.'' and inserting in lieu thereof ''ending on the earlier of—

''(1) the date of the completion of expenditure of funds available for the program under subsection (c); or

''(2) December 31, 2001.''.

(b) TERMINATION OF CERTAIN TESTING AND EVALUATION REQUIREMENTS.—Subsection (a) of that section is amended by striking out the flush matter following paragraph (3).

(c) OUTREACH.—Subsection (g) of that section is amended—

(1) by inserting ''(1)'' before ''The Secretary'';

(2) by redesignating paragraphs (1) and (2) of paragraph (1), as designated by paragraph (1) of this subsection, as subparagraphs (A) and (B) of that paragraph; and

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

''(2) In addition to the outreach activities under paragraph (1), the Secretary shall also provide outreach with respect to the following:

''(A) The existence of the program under this section.

''(B) The purpose of the program.

''(C) The availability under the program of medical examinations and tests, and not medical treatment.

''(D) The findings of any published, peer-reviewed research with respect to any associations (or lack thereof) between the service of veterans in the Southwest Asia theater of operations and particular illnesses or disorders of their spouses or children.

''(3) Outreach under this subsection shall be provided any veteran who served as a member of the Armed Forces in the Southwest Asia theater of operations and who—

''(A) seeks health care or services at medical facilities of the Department of Veterans Affairs; or

''(B) is or seeks to be listed in the Persian Gulf War Veterans Registry.''.

(d) ENHANCED FLEXIBILITY IN EXAMINATIONS.—That section is further amended—

(1) by redesignating subsections (i) and (j) as subsections (k) and (l), respectively; and

(2) by inserting after subsection (h) the following new subsection (i):

''(i) ENHANCED FLEXIBILITY IN EXAMINATIONS.—In order to increase the number of diagnostic tests and medical examinations under the program under this section, the Secretary may—

''(1) reimburse the primary physicians of spouses and children covered by that subsection for the costs of conducting such tests or examinations, with such rates of reimbursement not to exceed the rates paid contract entities under subsection (d) for conducting tests or examinations under the program;

''(2) conduct such tests or examinations of spouses covered by that subsection in medical facilities of the Department; and

''(3) in the event travel is required in order to facilitate such tests or examinations by contract entities referred to in paragraph (1), reimburse the spouses and children concerned for the costs of such travel and of related lodging.''.

(e) ENHANCED MONITORING OF PROGRAM.—That section is further amended by inserting after subsection (i), as amended by subsection (d) of this section, the following new subsection (j):

''(j) ENHANCED MONITORING OF PROGRAM.—In order to enhance monitoring of the program under this section, the Secretary shall provide for monthly reports to the Central Office of the Department on activities with respect to the program by elements of the Department and contract entities under subsection (d).''.

TITLE III—MISCELLANEOUS

SEC. 301. ASSESSMENT OF ESTABLISHMENT OF INDEPENDENT ENTITY TO EVALUATE POST-CONFLICT ILLNESSES AMONG MEMBERS OF THE ARMED FORCES AND HEALTH CARE PROVIDED BY DOD AND VA BEFORE AND AFTER DEPLOYMENT OF SUCH MEMBERS.

(a) AGREEMENT FOR ASSESSMENT.—The Secretary of Veterans Affairs shall seek to enter into an agreement with the National Academy of Sciences, or other appropriate independent organization, under which agreement the Academy shall carry out the assessment referred to in subsection (b).

(b) ASSESSMENT.—(1) Under the agreement, the Academy shall assess the need for and feasibility of establishing an independent entity to—

(A) evaluate and monitor interagency coordination on issues relating to the post-deployment health concerns of members of the Armed Forces, including coordination relating to outreach and risk communication, recordkeeping, research, utilization of new technologies, international cooperation and research, health surveillance, and other health-related activities;

(B) evaluate the health care (including preventive care and responsive care) provided to members of the Armed Forces both before and after their deployment on military operations;

(C) monitor and direct government efforts to evaluate the health of members of the Armed Forces upon their return from deployment on military operations for purposes of ensuring the rapid identification of any trends in diseases or injuries among such members as a result of such operations;

(D) provide and direct the provision of ongoing training of health care personnel of the Department of Defense and the Department of Veterans Affairs in the evaluation and treatment of post-deployment diseases and health conditions, including nonspecific and unexplained illnesses; and

(E) make recommendations to the Department of Defense and the Department of Veterans Affairs regarding improvements in the provision of health care referred to in subparagraph (B), including improvements in the monitoring and treatment of members referred to in that subparagraph.

(2) The assessment shall cover the health care provided by the Department of Defense and, where applicable, by the Department of Veterans Affairs.

(c) REPORT.—(1) The agreement shall require the Academy to submit to the committees referred to in paragraph (3) a report on the results of the assessment under this section not later than one year after the date of enactment of this Act.

(2) The report shall include the following:

(A) The recommendation of the Academy as to the need for and feasibility of establishing an independent entity as described in subsection (b) and a justification of such recommendation.

(B) If the Academy recommends that an entity be established, the recommendations of the Academy as to—

(i) the organizational placement of the entity;

(ii) the personnel and other resources to be allocated to the entity;

(iii) the scope and nature of the activities and responsibilities of the entity; and

(iv) mechanisms for ensuring that any recommendations of the entity are carried out by the Department of Defense and the Department of Veterans Affairs.

(3) The report shall be submitted to the following:

(A) The Committee on Veterans' Affairs and the Committee on Armed Services of the Senate.

(B) The Committee on Veterans' Affairs and the Committee on National Security of the House of Representatives.

The title was amended so as to read:

A bill to provide for the establishment of a presumption of service-connection for illnesses associated with service in the Persian Gulf War, to extend and enhance certain health care authorities relating to such service, and for other purposes.

NEXT GENERATION INTERNET RESEARCH ACT OF 1998

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 3332, and the Senate then proceeded to its immediate consideration.

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

The clerk will report.

The legislative clerk read as follows:

A bill to amend the High-Performance Computing Act of 1991 to authorize appropriations for fiscal years 1999 and 2000 for the Next Generation Internet program, to require the Advisory Committee on High-Performance Computing and Communications, Information Technology, and the Next Generation Internet to monitor and give advice concerning the development and implementation of the Next Generation Internet program and report to the President and the Congress on its activities, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

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

The bill (H.R. 3332) was read the third time, and passed.

FEDERAL RESEARCH INVESTMENT ACT

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 697, S. 2217.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2217) to provide for continuation of the Federal research investment in a fiscally sustainable way, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Research Investment Act''.

SEC. 2. GENERAL FINDINGS REGARDING FEDERAL INVESTMENT IN RESEARCH.

(a) VALUE OF RESEARCH AND DEVELOPMENT.—The Congress makes the following findings with respect to the value of research and development to the United States:

(1) Federal investment in research has resulted in the development of technology that saved lives in the United States and around the world.

(2) Research and development investment across all Federal agencies has been effective in creating technology that has enhanced the American quality of life.

(3) The Federal investment in research and development conducted or underwritten by both military and civilian agencies has produced benefits that have been felt in both the private and public sector.

(4) Discoveries across the spectrum of scientific inquiry have the potential to raise the standard of living and the quality of life for all Americans.

(5) Science, engineering, and technology play a critical role in shaping the modern world.

(6) Studies show that about half of all United States post-World War II economic growth is a direct result of technical innovation; and science, engineering, and technology contribute to the creation of new goods and services, new jobs and new capital.

(7) Technical innovation is the principal driving force behind the long-term economic growth and increased standards of living of the world's modern industrial societies. Other nations are well aware of the pivotal role of science, engineering, and technology, and they are seeking to exploit it wherever possible to advance their own global competitiveness.

(8) Federal programs for investment in research, which lead to technological innovation and result in economic growth, should be structured to address current funding disparities and develop enhanced capability in States and regions that currently underparticipate in the national science and technology enterprise.

(b) STATUS OF THE FEDERAL INVESTMENT.—The Congress makes the following findings with respect to the status of the Federal Investment in research and development activities:

(1) Federal investment of approximately 13 to 14 percent of the Federal discretionary budget in research and development over the past 11 years has resulted in a doubling of the nominal amount of Federal funding.

(2) Fiscal realities now challenge Congress to steer the Federal government's role in science, engineering, and technology in a manner that ensures a prudent use of limited public resources. There is both a long-term problem—addressing the ever-increasing level of mandatory spending—and a near-term challenge—apportioning a dwindling amount of discretionary funding to an increasing range of targets in science, engineering, and technology. This confluence of increased national dependency on technology, increased targets of opportunity, and decreased fiscal flexibility has created a problem of national urgency. Many indicators show that more funding for science, engineering, and technology is needed but, even with increased funding, priorities must be established among different programs. The United States cannot afford the luxury of fully funding all deserving programs.

(3) Current projections of Federal research funding show a downward trend.

SEC. 3. ADDITIONAL FINDINGS REGARDING THE LINK BETWEEN THE RESEARCH PROCESS AND USEFUL TECHNOLOGY.

The Congress makes the following findings:

(1) FLOW OF SCIENCE, ENGINEERING, AND TECHNOLOGY.—The process of science, engineering, and technology involves many steps. The present Federal science, engineering, and technology structure reinforces the increasingly artificial distinctions between basic and applied activities. The result too often is a set of discrete programs that each support a narrow phase of research or development and are not coordinated with one another. The government should maximize its investment by encouraging the progression of science, engineering, and technology from the earliest stages of research up to a precommercialization stage, through funding agencies and vehicles appropriate for each stage. This creates a flow of technology, subject to merit review at each stage, so that promising technology is not lost in a bureaucratic maze.

(2) EXCELLENCE IN THE AMERICAN RESEARCH INFRASTRUCTURE.—Federal investment in science, engineering, and technology programs must foster a close relationship between research and education. Investment in research at the university level creates more than simply world-class research. It creates world-class researchers as well. The Federal strategy must continue to reflect this commitment to a strong geographically-diverse research infrastructure. Furthermore, the United States must find ways to extend the excellence of its university system to primary and secondary educational institutions and to better utilize the community college system to prepare many students for vocational opportunities in an increasingly technical workplace.

(3) COMMITMENT TO A BROAD RANGE OF RESEARCH INITIATIVES.—An increasingly common theme in many recent technical breakthroughs has been the importance of revolutionary innovations that were sparked by overlapping of research disciplines. The United States must continue to encourage this trend by providing and encouraging opportunities for interdisciplinary projects that foster collaboration among fields of research.

(4) PARTNERSHIPS AMONG INDUSTRY, UNIVERSITIES, AND FEDERAL LABORATORIES.—Each of these contributors to the national science and technology delivery system has special talents and abilities that complement the others. In addition, each has a central mission that must provide their focus and each has limited resources. The nation's investment in science, engineering, and technology can be optimized by seeking opportunities for leveraging the resources and talents of these three major players through partnerships that do not distort the missions of each partner. For that reason, Federal dollars are wisely spent forming such partnerships.

SEC. 4. MAINTENANCE OF FEDERAL RESEARCH EFFORT; GUIDING PRINCIPLES.

(a) MAINTAINING UNITED STATES LEADERSHIP IN SCIENCE, ENGINEERING, AND TECHNOLOGY.—It is imperative for the United States to nurture its superb resources in science, engineering, and technology carefully in order to maintain its own globally competitive position.

(b) GUIDING PRINCIPLES.—Federal research and development programs should be conducted in accordance with the following guiding principles:

(1) GOOD SCIENCE.—Federal science, engineering, and technology programs include both knowledge-driven science together with its applications, and mission-driven, science-based requirements. In general, both types of programs must be focused, peer- and merit-reviewed, and not unnecessarily duplicative, although the details of these attributes must vary with different program objectives.

(2) FISCAL ACCOUNTABILITY.—The Congress must exercise oversight to ensure that programs funded with scarce Federal dollars are well managed. The United States cannot tolerate waste of money through inefficient management techniques, whether by government agencies, by contractors, or by Congress itself. Fiscal resources would be better utilized if program and project funding levels were predictable across several years to enable better project planning; a benefit of such predictability would be that agencies and Congress can better exercise oversight responsibilities through comparisons of a project's and program's progress against carefully planned milestones.

(3) PROGRAM EFFECTIVENESS.—The United States needs to make sure that government programs achieve their goals. As the Congress crafts science, engineering, and technology legislation, it must include a process for gauging program effectiveness, selecting criteria based on sound scientific judgment and avoiding unnecessary bureaucracy. The Congress should also avoid the trap of measuring the effectiveness of a broad science, engineering, and technology program by passing judgment on individual projects. Lastly, the Congress must recognize that a negative result in a well-conceived and executed project or program may still be critically important to the funding agency.

(4) CRITERIA FOR GOVERNMENT FUNDING.—Program selection for Federal funding should continue to reflect the nation's 2 traditional research and development priorities: (A) basic, scientific, and technological research that represents investments in the nation's long-term future scientific and technological capacity, for which government has traditionally served as the principle resource; and (B) mission research investments, that is, investments in research that derive from necessary public functions, such as defense, health, education, environmental protection, and raising the standard of living, which may include pre-commercial, precompetitive engineering research and technology development. Additionally, government funding should not compete with or displace the short-term, market-driven, and typically more specific nature of private-sector funding. Government funding should be restricted to pre-competitive activities, leaving competitive activities solely for the private sector. As a rule, the government

should not invest in commercial technology that is in the product development stage, very close to the broad commercial marketplace, except to meet a specific agency goal. When the government provides funding for any science, engineering, and technology investment program, it must take reasonable steps to ensure that the potential benefits derived from the program will accrue broadly.

SEC. 5. POLICY STATEMENT.

(a) POLICY.—This Act is intended—

(1) to encourage, as an overall goal, the doubling of the annual authorized amount of Federal funding for basic scientific, medical, and pre-competitive engineering research over the 12-year period following the date of enactment of this Act;

(2) to invest in the future of the United States and the people of the United States by expanding the research activities referred to in paragraph (1);

(3) to enhance the quality of life for all people of the United States;

(4) to guarantee the leadership of the United States in science, engineering, medicine, and technology; and

(5) to ensure that the opportunity and the support for undertaking good science is widely available throughout the States by supporting a geographically-diverse research and development enterprise.

(b) AGENCIES COVERED.—The agencies intended to be covered to the extent that they are engaged in science, engineering, and technology activities for basic scientific, medical, or pre-competitive engineering research by this Act are—

(1) the National Institutes of Health, within the Department of Health and Human Services;

(2) the National Science Foundation;

(3) the National Institute for Standards and Technology, within the Department of Commerce;

(4) the National Aeronautics and Space Administration;

(5) the National Oceanic and Atmospheric Administration, within the Department of Commerce;

(6) the Centers for Disease Control, within the Department of Health and Human Services;

(7) the Department of Energy (to the extent that it is not engaged in defense-related activities);

(8) the Department of Agriculture;

(9) the Department of Transportation;

(10) the Department of the Interior;

(11) the Department of Veterans Affairs;

(12) the Smithsonian Institution;

(13) the Department of Education; and

(14) the Environmental Protection Agency.

(c) CURRENT INVESTMENT.—The investment in civilian research and development efforts for fiscal year 1998 is 2.1 percent of the overall Federal budget.

(d) DAMAGE TO RESEARCH INFRASTRUCTURE.—A continued trend of funding appropriations equal to or lower than current budgetary levels will lead to permanent damage to the United States research infrastructure. This could threaten American dominance of high-technology industrial leadership.

(e) INCREASE FUNDING.—In order to maintain and enhance the economic strength of the United States in the world market, funding levels for fundamental, scientific, and pre-competitive engineering research should be increased to equal approximately 2.6 percent of the total annual budget.

(f) FUTURE FISCAL YEAR ALLOCATIONS.—

(1) GOALS.—The long-term strategy for research and development funding under this section would be achieved by a steady 2.5 percent annual increase above the rate of inflation throughout a 12-year period.

(2) INFLATION ASSUMPTION.—The authorizations contained in paragraph (3) assume that the rate of inflation for each year will be 3 percent.

(3) AUTHORIZATION.—There are authorized to be appropriated for civilian research and development in the agencies listed in subsection (b)—

(A) $37,720,000,000 for fiscal year 1999;

(B) $39,790,000,000 for fiscal year 2000;

(C) $41,980,000,000 for fiscal year 2001;

(D) $42,290,000,000 for fiscal year 2002;

(E) $46,720,000,000 for fiscal year 2003;

(F) $49,290,000,000 for fiscal year 2004;

(G) $52,000,000,000 for fiscal year 2005;

(H) $54,870,000,000 for fiscal year 2006;

(I) $57,880,000,000 for fiscal year 2007;

(J) $61,070,000,000 for fiscal year 2008;

(K) $64,420,000,000 for fiscal year 2009; and

(L) $67,970,000,000 for fiscal year 2010.

(g) CONFORMANCE WITH BUDGETARY CAPS.—Notwithstanding any other provision of law, no funds may be made available under this Act in a manner that does not conform with the discretionary spending caps provided in the most recently adopted concurrent resolution on the budget or threatens the economic stability of the annual budget.

(h) BALANCED RESEARCH PORTFOLIO.—Because of the interdependent nature of the scientific and engineering disciplines, the aggregate funding levels authorized by the section assume that the Federal research portfolio will be well-balanced among the various scientific and engineering disciplines, and geographically dispersed throughout the States.

SEC. 6. PRESIDENT'S ANNUAL BUDGET REQUEST.

The President of the United States shall, in coordination with the President's annual budget request, include a report that parallels Congress' commitment to support Federally-funded research and development by providing—

(1) a detailed summary of the total level of funding for research and development programs throughout all civilian agencies;

(2) a focused strategy that reflects the funding projections of this Act for each future fiscal year until 2010, including specific targets for each agency that funds civilian research and development;

(3) an analysis which details funding levels across Federal agencies by methodology of funding, including grant agreements, procurement contracts, and cooperative agreements (within the meaning given those terms in chapter 63 of title 31, United States Code); and

(4) specific proposals for infrastructure development and research and development capacity building in States with less concentrated research and development resources in order to create a nationwide research and development community.

SEC. 7. COMPREHENSIVE ACCOUNTABILITY STUDY FOR FEDERALLY-FUNDED RESEARCH.

(a) STUDY.—The Director of the Office of Science and Technology Policy, in consultation with the Director of the Office of Management and Budget, shall enter into agreement with the National Academy of Sciences for the Academy to conduct a comprehensive study to develop methods for evaluating Federally-funded research and development programs. This study shall—

(1) recommend processes to determine an acceptable level of success for Federally-funded research and development programs by—

(A) describing the research process in the various scientific and engineering disciplines;

(B) describing in the different sciences what measures and what criteria each community uses to evaluate the success or failure of a program, and on what time scales these measures are considered reliable—both for exploratory long-range work and for short-range goals; and

(C) recommending how these measures may be adapted for use by the Federal government to evaluate Federally-funded research and development programs;

(2) assess the extent to which agencies incorporate independent merit-based review into the formulation of the strategic plans of funding agencies and if the quantity or quality of this type of input is unsatisfactory;

(3) recommend mechanisms for identifying Federally-funded research and development programs which are unsuccessful or unproductive;

(4) evaluate the extent to which independent, merit-based evaluation of Federally-funded research and development programs and projects achieves the goal of eliminating unsuccessful or unproductive programs and projects; and

(5) investigate and report on the validity of using quantitative performance goals for aspects of programs which relate to administrative management of the program and for which such goals would be appropriate, including aspects related to—

(A) administrative burden on contractors and recipients of financial assistance awards;

(B) administrative burdens on external participants in independent, merit-based evaluations;

(C) cost and schedule control for construction projects funded by the program;

(D) the ratio of overhead costs of the program relative to the amounts expended through the program for equipment and direct funding of research; and

(E) the timeliness of program responses to requests for funding, participation, or equipment use.

(6) examine the extent to which program selection for Federal funding across all agencies exemplifies our nation's historical research and development priorities—

(A) basic, scientific, and technological research in the long-term future scientific and technological capacity of the nation; and

(B) mission research derived from a high-priority public function.

(b) ALTERNATIVE FORMS FOR PERFORMANCE GOALS.—Not later than 6 months after transmitting the report under subsection (a) to Congress, the Director of the Office of Management and Budget, after public notice, public comment, and approval by the Director of the Office of Science and Technology Policy and in consultation with the National Science and Technology Council shall promulgate one or more alternative forms for performance goals under section 1115(b)(10)(B) of title 31, United States Code, based on the recommendations of the study under subsection (a) of this section. The head of each agency containing a program activity that is a research and development program may apply an alternative form promulgated under this section for a performance goal to such a program activity without further authorization by the Director of the Office of Management and Budget.

(c) STRATEGIC PLANS.—Not later than one year after promulgation of the alternative performance goals in subsection (b) of this section, the head of each agency carrying out research and development activities, upon updating or revising a strategic plan under subsection 306(b) of title 5, United States Code, shall describe the current and future use of methods for determining an acceptable level of success as recommended by the study under subsection (a).

(d) DEFINITIONS.—In this section:

(1) DIRECTOR.—The term ''Director'' means the Director of the Office of Science and Technology Policy.

(2) PROGRAM ACTIVITY.— The term ''program activity'' has the meaning given that term by section 1115(f)(6) of title 31, United States Code.

(3) INDEPENDENT MERIT-BASED EVALUATION.—The term ''independent merit-based evaluation'' means review of the scientific or technical quality of research or development, conducted by experts who are chosen for their knowledge of scientific and technical fields relevant to the evaluation and who—

(A) in the case of the review of a program activity, do not derive long-term support from the program activity; or

(B) in the case of the review of a project proposal, are not seeking funds in competition with the proposal.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the study required by subsection (a) $600,000 for the 18-month period beginning October 1, 1998.

SEC. 8. EFFECTIVE PERFORMANCE ASSESSMENT PROGRAM FOR FEDERALLY-FUNDED RESEARCH.

(a) IN GENERAL.—Chapter 11 of title 31, United States Code, is amended by adding at the end thereof the following:

"§ 1120. Accountability for research and development programs

''(a) IDENTIFICATION OF UNSUCCESSFUL PROGRAMS.—Based upon program performance reports for each fiscal year submitted to the President under section 1116, the Director of the Office of Management and Budget shall identify the civilian research and development program activities, or components thereof, which do not meet an acceptable level of success as defined in section 1115(b)(1)(B). Not later than 30 days after the submission of the reports under section 1116, the Director shall furnish a copy of a report listing the program activities or component identified under this subsection to the President and the Congress.

''(b) ACCOUNTABILITY IF NO IMPROVEMENT SHOWN.—For each program activity or component that is identified by the Director under subsection (a) as being below the acceptable level of success for 2 fiscal years in a row, the head of the agency shall no later than 30 days after the Director submits the second report so identifying the program, submit to the appropriate congressional committees of jurisdiction:

''(1) a concise statement of the steps that will be taken—

''(A) to bring such program into compliance with performance goals; or

''(B) to terminate such program should compliance efforts have failed; and

''(2) any legislative changes needed to put the steps contained in such statement into effect.''.

(b) CONFORMING AMENDMENTS.—

(1) The chapter analysis for chapter 11 of title 31, United States Code, is amended by adding at the end thereof the following:

''1120. Accountability for research and development programs''.

(2) Section 1115(f) of title 31, United States Code, is amended by striking ''through 1119,'' and inserting ''through 1120''.

Mr. DOMENICI. Mr. President, I'm pleased to see the Federal Research Investment Act presented for approval to the Senate. This bill, S. 2217, is one that I've supported through-out its history, because it addresses the health of our nation's science and technology base.

Our science and technology base is vital to the nation's future. Any number of studies have confirmed its importance. As one excellent example, the National Innovation Summit, organized by MIT with the Council on Competitiveness, confirmed that the integrity of that base is one of the cornerstones to our future economic prosperity. At that Summit, many of the nation's top CEOs emphasized that the nation's climate for innovation is a major determinant of our ability to maintain and advance our high standard of living and strong economy.

Advanced technologies are responsible for driving half of our economic growth since World War II, and that growth has developed our economy into the envy of the world. We need to continually refresh our stock of new products and processes that enable good jobs for our citizens in the face of increasing global challenges to all our principal industries.

The Federal Research Investment Act continues the goal first expressed in S. 1305, that I co-sponsored with Senators GRAMM, LIEBERMAN, and BINGAMAN, to double the nation's investment in science and technology. Among other improvements, S. 2217 proposes a more realistic time scale for achieving this expanded support.

This doubling must be accomplished within a balanced budget that avoids deficits, thus a longer period is a better choice. That balanced budget is essential, it enables the economic health that is fundamental to our ability to really use advanced technologies.

The new bill continues to emphasizes a broad range of research targets, from fundamental and frontier exploration, through pre-competitive engineering research. This emphasis on a spectrum of research maturity is absolutely critical. The nation is not well served by a focus on so-called ''basic'' research that can open new fields, but then leave those fields wanting for resources to develop these new ideas to a pre-competitive stage applicable to future commercial products and processes.

The new bill addresses a spectrum of research fields with its emphasis on expanding S&T funding in many agencies. We need technical advances in many fields simultaneously. In more and more cases, the best new ideas are not flowing from explorations in a single narrow field, but instead are coming from inter-disciplinary studies that bring experts from diverse fields together for fruitful collaboration. This is especially evident in medical and health fields, where combinations of medical science with many other specialities are critical to the latest health care advances.

This new bill has additional features that weren't part of the earlier one. It proposes to utilize the National Academy of Science in developing approaches to evaluation of program and project performance. This should lead to better understanding of how GPRA goals and scientific programs can be best coordinated. The new role for the National Academy can help define criteria to guide decisions on continued and future funding. The bill also sets up procedures to use these evaluations to terminate federal programs that are not performing at acceptable levels.

The new bill incorporates a set of well-developed principles for federal funding of science and technology. These principles were developed by the Senate Science and Technology Caucus. Those principles, when carefully applied, can lead to better choices among the many opportunities for federal S&T funding. The new bill also incorporates recommendations for independent merit-based review of federal S&T programs, which should further strengthen them.

Many aspects of the Federal Research Investment Act support and compliment key points in the new study released by Representative Vern Ehlers just recently. His study, ''Unlocking our Future,'' will serve as an important focal point for continuing discussions on the critical goal of strengthening our nation's science and technology base. I've certainly appreciated interactions with Representative Ehlers as he developed his study and as S. 2217 was developed.

The new Federal Research Investment Act builds and improves on the goals of the previous bill. With S. 2217, we will build stronger federal Science and Technology programs that will underpin our nation's ability to compete effectively in the global marketplace of the 21st century.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the committee substitute be agreed to, the bill be considered read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed at this point in the RECORD.

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

The committee amendment was agreed to.

The bill (S. 2217), as amended, was considered read the third time, and passed.

MUHAMMAD ALI BOXING REFORM ACT

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar 705, S. 2238.

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

The clerk will report.

A bill (S. 2238) to reform unfair and anticompetitive practices in the professional boxing industry.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Muhammad Ali Boxing Reform Act''.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Professional boxing differs from other major, interstate professional sports industries in the United States in that it operates without any private sector association, league, or centralized industry organization to establish uniform and appropriate business practices and ethical standards. This has led to repeated occurrences of disreputable and coercive business practices in the boxing industry, to the detriment of professional boxers nationwide.

(2) Professional boxers are vulnerable to exploitative business practices engaged in by certain promoters and sanctioning bodies which dominate the sport. Boxers do not have an established representative group to advocate for their interests and rights in the industry.

(3) State officials are the proper regulators of professional boxing events, and must protect the

welfare of professional boxers and serve the public interest by closely supervising boxing activity in their jurisdiction. State boxing commissions do not currently receive adequate information to determine whether boxers competing in their jurisdiction are being subjected to contract terms and business practices which may be violative of State regulations, or are onerous and confiscatory.

(4) Promoters who engage in illegal, coercive, or unethical business practices can take advantage of the lack of equitable business standards in the sport by holding boxing events in states with weaker regulatory oversight.

(5) The sanctioning organizations which have proliferated in the boxing industry have not established credible and objective criteria to rate professional boxers, and operate with virtually no industry or public oversight. Their ratings are susceptible to manipulation, have deprived boxers of fair opportunities for advancement, and have undermined public confidence in the integrity of the sport.

(6) Open competition in the professional boxing industry has been significantly interfered with by restrictive and anti-competitive business practices of certain promoters and sanctioning bodies, to the detriment of the athletes and the ticket-buying public. Common practices of promoters and sanctioning organizations represent restraints of interstate trade in the United States.

(7) It is necessary and appropriate to establish national contracting reforms to protect professional boxers and prevent exploitative business practices, and to require enhanced financial disclosures to State athletic commissions to improve the public oversight of the sport.

(8) Whereas the Congress seeks to improve the integrity and ensure fair practices of the professional boxing industry on a nationwide basis, it deems it appropriate to name this reform in honor of Muhammad Ali, whose career achievements and personal contributions to the sport, and positive impact on our society, are unsurpassed in the history of boxing.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to protect the rights and welfare of professional boxers by preventing certain exploitative, oppressive, and unethical business practices they may be subject to on an interstate basis;

(2) to assist State boxing commissions in their efforts to provide more effective public oversight of the sport; and

(3) to promoting honorable competition in professional boxing and enhance the overall integrity of the industry.

SEC 4. PROTECTING BOXERS FROM EXPLOITATION.

The Professional Boxing Safety Act of 1996 (15 U.S.C. 6301 et seq.) is amended by—

(1) redesignating section 15 as 16; and

(2) inserting after section 14 the following:

"SEC. 15. PROTECTION FROM EXPLOITATION.

''(a) CONTRACT REQUIREMENTS.—

''(1) IN GENERAL.—Any contract between a boxer and a promoter or manager shall—

''(A) include mutual obligations between the parties;

''(B) specify a minimum number of professional boxing matches per year for the boxer; and

''(C) set forth a specific period of time during which the contract will be in effect, including any provision for extension of that period due to the boxer's temporary inability to compete because of an injury or other cause.

''(2) 1-YEAR LIMIT ON COERCIVE PROMOTIONAL RIGHTS.—

''(A) The period of time for which promotional rights to promote a boxer may be granted under a contract between the boxer and a promoter, or between promoters with respect to a boxer, may not be greater than 12 months in length if the boxer is required to grant such rights, or a boxer's promoter is required to grant such rights with respect to a boxer, as a condition precedent to the boxer's participation in a professional boxing match against another boxer who is under contract to the promoter.

''(B) A promoter exercising promotional rights with respect to such boxer during the 12-month period beginning on the day after the last day of the promotional right period described in subparagraph (A) may not secure exclusive promotional rights from the boxer's opponents as a condition of participating in a professional boxing match against the boxer, and any contract to the contrary—

''(i) shall be considered to be in restraint of trade and contrary to public policy; and

''(ii) unenforceable.

''(C) Nothing in this paragraph shall be construed as pre-empting any State law concerning interference with contracts.

''(3) PROMOTIONAL RIGHTS UNDER MANDATORY BOUT CONTRACTS.—Neither a promoter nor a sanctioning organization may require a boxer, in a contract arising from a professional boxing match that is a mandatory bout under the rules of the sanctioning organization, to grant promotional rights to any promoter for a future professional boxing match.

''(b) EMPLOYMENT AS CONDITION OF PROMOTING, ETC.—No person who is a licensee, manager, matchmaker, or promoter may require a boxer to employ, retain, or provide compensation to any individual or business enterprise (whether operating in corporate form or not) recommended or designated by that person as a condition of—

''(1) such person's working with the boxer as a licensee, manager, matchmaker, or promoter;

''(2) such person's arranging for the boxer to participate in a professional boxing match; or

''(3) such boxer's participation in a professional boxing match.

''(c) ENFORCEMENT.—

''(1) PROMOTION AGREEMENT.—A provision in a contract between a promoter and a boxer, or between promoters with respect to a boxer, that violates subsection (a) is contrary to public policy and unenforceable at law.

''(2) EMPLOYMENT AGREEMENT.—In any action brought against a boxer to recover money (whether as damages or as money owed) for acting as a licensee, manager, matchmaker, or promoter for the boxer, the court, arbitrator, or administrative body before which the action is brought may deny recovery in whole or in part under the contract as contrary to public policy if the employment, retention, or compensation that is the subject of the action was obtained in violation of subsection (b).''.

(b) CONFLICTS OF INTEREST.—Section 9 of such Act (15 U.S.C. 6308) is amended by—

(1) striking ''No member'' and inserting ''(a) REGULATORY PERSONNEL.—No member''; and

(2) adding at the end thereof the following:

''(b) FIREWALL BETWEEN PROMOTERS AND MANAGERS.—

''(1) IN GENERAL.—It is unlawful for—

''(A) a promoter to have a direct or indirect financial interest in the management of a boxer; or

''(B) a manager—

''(i) to have a direct or indirect financial interest in the promotion of a boxer; or

''(ii) to be employed by or receive compensation or other benefits from a promoter,

except for amounts received as consideration under the manager's contract with the boxer.

''(2) EXCEPTION FOR SELF-PROMOTION AND MANAGEMENT.—Paragraph (1) does not prohibit a boxer from acting as his own promoter or manager.''.

SEC. 5. SANCTIONING ORGANIZATION INTEGRITY REFORMS.

(a) IN GENERAL.—The Professional Boxing Safety Act of 1996 (15 U.S.C. 6301 et seq.), as amended by section 4 of this Act, is amended by—

(1) redesignating section 16, as redesignated by section 4 of this Act, as section 17; and

(2) by inserting after section 15 the following:

"SEC. 16. SANCTIONING ORGANIZATIONS.

''(a) OBJECTIVE CRITERIA.—A sanctioning organization that sanctions professional boxing matches on an interstate basis shall establish objective and consistent written criteria for the ratings of professional boxers.

''(b) APPEALS PROCESS.—A sanctioning organization shall establish and publish an appeals procedure that affords a boxer rated by that organization a reasonable opportunity, without the payment of any fee, to submit information to contest its rating of the boxer. Under the procedure, the sanctioning organization shall, within 14 days after receiving a request from a boxer questioning that organization's rating of the boxer—

''(1) provide to the boxer a written explanation of the organization's criteria, its rating of the boxer, and the rationale or basis for its rating (including a response to any specific questions submitted by the boxer); and

''(2) submit a copy of its explanation to the President of the Association of Boxing Commissions of the United States and to the boxing commission of the boxer's domiciliary State.

''(c) NOTIFICATION OF CHANGE IN RATING.—If a sanctioning organization changes its rating of a boxer who is included, before the change, in the top 10 boxers rated by that organization, then, within 14 days after changing the boxer's rating, the organization shall—

(1) mail notice of the change and a written explanation of the reasons for its change in that boxer's rating to the boxer at the boxer's last known address;

(2) post a copy, within the 14-day period, of the notice and the explanation on its Internet website or homepage, if any, for a period of not less than 30 days; and

(3) mail a copy of the notice and the explanation to the President of the Association of Boxing Commissions.

''(d) PUBLIC DISCLOSURE.—

''(1) FTC FILING.—Not later than January 31st of each year, a sanctioning organization shall submit to the Federal Trade Commission—

''(A) a complete description of the organization's ratings criteria, policies, and general sanctioning fee schedule;

''(B) the bylaws of the organization;

''(C) the appeals procedure of the organization; and

''(D) a list and business address of the organization's officials who vote on the ratings of boxers.

''(2) FORMAT; UPDATES.—A sanctioning organization shall—

''(A) provide the information required under paragraph (1) in writing, and, for any document greater than 2 pages in length, also in electronic form; and

''(B) promptly notify the Federal Trade Commission of any material change in the information submitted.

''(3) FTC TO MAKE INFORMATION AVAILABLE TO PUBLIC.—The Federal Trade Commission shall make information received under this subsection available to the public. The Commission may assess sanctioning organizations a fee to offset the costs it incurs in processing the information and making it available to the public.

''(4) INTERNET ALTERNATIVE.—In lieu of submitting the information required by paragraph (1) to the Federal Trade Commission, a sanctioning organization may provide the information to the public by maintaining a website on the Internet that—

''(A) is readily accessible by the general public using generally available search engines and does not require a password or payment of a fee for full access to all the information;

''(B) contains all the information required to be submitted to the Federal Trade Commission by paragraph (1) in a easy to search and use format; and

''(C) is updated whenever there is a material change in the information.''.

(b) CONFLICT OF INTEREST.—Section 9 of such Act (15 U.S.C. 6308), as amended by section 4 of this Act, is amended by adding at the end thereof the following:

''(c) SANCTIONING ORGANIZATIONS.—

''(1) PROHIBITION ON RECEIPTS.—Except as provided in paragraph (2), no officer or employee of a sanctioning organization may receive any compensation, gift, or benefit directly or indirectly from a promoter, boxer, or manager.

''(2) EXCEPTIONS.—Paragraph (1) does not apply to—

''(A) the receipt of payment by a promoter, boxer, or manager of a sanctioning organization's published fee for sanctioning a professional boxing match or reasonable expenses in connection therewith if the payment is reported to the responsible boxing commission under section 17; or

''(B) the receipt of a gift or benefit of de minimis value.''.

(c) SANCTIONING ORGANIZATION DEFINED.—Section 2 of the Professional Boxing Safety Act of 1996 (15 U.S.C. 6301) is amended by adding at the end thereof the following:

''(11) SANCTIONING ORGANIZATION.—The term 'sanctioning organization' means an organization that sanctions professional boxing matches in the United States—

''(A) between boxers who are residents of different States; or

''(B) that are advertised, otherwise promoted, or broadcast (including closed circuit television) in interstate commerce.''.

SEC. 6. PUBLIC INTEREST DISCLOSURES TO STATE BOXING COMMISSIONS.

(a) IN GENERAL.—The Professional Boxing Safety Act of 1996 (15 U.S.C. 6301 et seq.), as amended by section 5 of this Act, is amended by—

(1) redesignating section 17, as redesignated by section 5 of this Act, as section 18; and

(2) by inserting after section 16 the following:

''SEC. 17. REQUIRED DISCLOSURES TO STATE BOXING COMMISSIONS.

''(a) SANCTIONING ORGANIZATIONS.—Before sanctioning a professional boxing match in a State, a sanctioning organization shall provide to the boxing commission of, or responsible for sanctioning matches in, that State a written statement of—

''(1) all charges, fees, and costs the organization will assess any boxer participating in that match;

''(2) all payments, benefits, complimentary benefits, and fees the organization will receive for its affiliation with the event, from the promoter, host of the event, and all other sources; and

''(3) such additional information as the commission may require.

''(b) PROMOTERS.—Before a professional boxing match organized, promoted, or produced by a promoter is held in a State, the promoter shall provide a statement in writing to the boxing commission of, or responsible for sanctioning matches in, that State—

''(1) a copy of any agreement in writing to which the promoter is a party with any boxer participating in the match;

''(2) a statement made under penalty of perjury that there are no other agreements, written or oral, between the promoter and the boxer with respect to that match; and

''(3) a statement in writing of—

''(A) all fees, charges, and expenses that will be assessed by or through the promoter on the boxer pertaining to the event, including any portion of the boxer's purse that the promoter will receive, and training expenses; and

''(B) all payments, gifts, or benefits the promoter is providing to any sanctioning organization affiliated with the event.

''(c) INFORMATION TO BE AVAILABLE TO STATE ATTORNEY GENERAL.—A promoter shall make information received under this section available to the chief law enforcement officer of the State in which the match is to be held upon request.

''(d) EXCEPTION.—The requirements of this section do not apply in connection with a professional boxing match scheduled to last less than 10 rounds.''.

SEC. 7. ENFORCEMENT.

Section 10 of the Professional Boxing Safety Act of 1996 (15 U.S.C. 6309) is amended by—

(1) inserting a comma and ''other than section 9(b), 15, 16, or 17,'' after ''this Act'' in subsection (b)(1);

(2) redesignating paragraphs (2) and (3) of subsection (b) as paragraphs (3) and (4), respectively, and inserting after paragraph (1) the following:

''(2) VIOLATION OF ANTI-EXPLOITATION, SANCTIONING ORGANIZATION, OR DISCLOSURE PROVISIONS.—Any person who knowingly violates any provision of section 9(b), 15, 16, or 17 of this Act shall, upon conviction, be imprisoned for not more than 1 year or fined not more than—

''(A) $100,000; and

''(B) if the violations occur in connection with a professional boxing match the gross revenues for which exceed $2,000,000, such additional amount as the court finds appropriate,

or both.''; and

(3) adding at the end thereof the following:

''(c) ACTIONS BY STATES.—Whenever the chief law enforcement officer of any State has reason to believe that a person or organization is engaging in practices which violate any requirement of this Act, the State, as parens patriae, may bring a civil action on behalf of its residents in an appropriate district court of the United States—

''(1) to enjoin the holding of any professional boxing match which the practice involves;

''(2) to enforce compliance with this Act;

''(3) to obtain the fines provided under subsection (b) or appropriate restitution; or

''(4) to obtain such other relief as the court may deem appropriate.

''(d) PRIVATE RIGHT OF ACTION.—Any boxer who suffers economic injury as a result of a violation of any provision of this Act may bring an action in the appropriate Federal or State court and recover the damages suffered, court costs, and reasonable attorneys fees and expenses.''.

SEC. 8. PROFESSIONAL BOXING SAFETY ACT AMENDMENTS.

(a) DEFINITIONS.—Section 2 of the Professional Boxing Safety Act of 1966 (15 U.S.C. 6301), as amended by section 5(c) of this Act, is amended by adding at the end thereof the following:

''(12) SUSPENSION.—The term 'suspension' includes within its meaning the revocation of a boxing license.''.

(b) STATE BOXING COMMISSION PROCEDURES.—Section 7(a)(2) of such Act (15 U.S.C. 6306(a)(2)) is amended—

(1) by striking ''or'' in subparagraph (C);

(2) by striking ''documents.'' at the end of subparagraph (D) and inserting ''documents; or''; and

(3) adding at the end thereof the following:

''(E) unsportsmanlike conduct or other inappropriate behavior inconsistent with generally accepted methods of competition in a professional boxing match.''.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the committee substitute be agreed to, the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the appropriate place in the RECORD.

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

The committee amendment was agreed to.

The bill (S. 2238), as amended, was read the third time, and passed.

EXTENDING THE DATE BY WHICH AN AUTOMATED ENTRY-EXIT CONTROL SYSTEM MUST BE DEVELOPED

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 4658, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4658) to extend the date by which an automated entry-exit control system must be developed.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the bill be considered read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed at this point in the RECORD.

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

The bill (H.R. 4658) was considered read the third time, and passed.

DRUG FREE BORDERS ACT OF 1998

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 681, H.R. 3809.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3809) to authorize appropriations for the United States Customs Service for fiscal years 1999 and 2000, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Finance, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Drug Free Borders Act of 1998''.

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR UNITED STATES CUSTOMS SERVICE FOR ENHANCED INSPECTION, TRADE FACILITATION, AND DRUG INTERDICTION

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

(a) DRUG ENFORCEMENT AND OTHER NONCOMMERCIAL OPERATIONS.—Subparagraphs (A) and (B) of section 301(b)(1) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A) and (B)) are amended to read as follows:

''(A) $997,300,584 for fiscal year 2000.

''(B) $1,100,818,328 for fiscal year 2001.''.

(b) COMMERCIAL OPERATIONS.—Clauses (i) and (ii) of section 301(b)(2)(A) of such Act (19 U.S.C. 2075(b)(2)(A)(i) and (ii)) are amended to read as follows:

''(i) $990,030,000 for fiscal year 2000.

''(ii) $1,009,312,000 for fiscal year 2001.''.

(c) AIR AND MARINE INTERDICTION.—Subparagraphs (A) and (B) of section 301(b)(3) of such Act (19 U.S.C. 2075(b)(3)(A) and (B)) are amended to read as follows:

''(A) $229,001,000 for fiscal year 2000.

''(B) $176,967,000 for fiscal year 2001.''.

(d) SUBMISSION OF OUT-YEAR BUDGET PROJECTIONS.—Section 301(a) of such Act (19 U.S.C. 2075(a)) is amended by adding at the end the following:

''(3) By no later than the date on which the President submits to the Congress the budget of the United States Government for a fiscal year, the Commissioner of Customs shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the projected amount of funds for the succeeding fiscal year that will be necessary for the operations of the Customs Service as provided for in subsection (b).''.

SEC. 102. CARGO INSPECTION AND NARCOTICS DETECTION EQUIPMENT FOR THE UNITED STATES-MEXICO BORDER, UNITED STATES-CANADA BORDER, AND FLORIDA AND GULF COAST SEAPORTS.

(a) FISCAL YEAR 2000.—Of the amounts made available for fiscal year 2000 under section 301(b)(1)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A)), as amended by section 101(a) of this Act, $100,036,000 shall be available until expended for acquisition and other expenses associated with implementation and deployment of narcotics detection equipment along the United States-Mexico border, the United States-Canada border, and Florida and the Gulf Coast seaports, as follows:

(1) UNITED STATES-MEXICO BORDER.—For the United States-Mexico border, the following:

(A) $6,000,000 for 8 Vehicle and Container Inspection Systems (VACIS).

(B) $11,000,000 for 5 mobile truck x-rays with transmission and backscatter imaging.

(C) $12,000,000 for the upgrade of 8 fixed-site truck x-rays from the present energy level of 450,000 electron volts to 1,000,000 electron volts (1–MeV).

(D) $7,200,000 for 8 1–MeV pallet x-rays.

(E) $1,000,000 for 200 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(F) $600,000 for 50 contraband detection kits to be distributed among all southwest border ports based on traffic volume.

(G) $500,000 for 25 ultrasonic container inspection units to be distributed among all ports receiving liquid-filled cargo and to ports with a hazardous material inspection facility.

(H) $2,450,000 for 7 automated targeting systems.

(I) $360,000 for 30 rapid tire deflator systems to be distributed to those ports where port runners are a threat.

(J) $480,000 for 20 portable Treasury Enforcement Communications Systems (TECS) terminals to be moved among ports as needed.

(K) $1,000,000 for 20 remote watch surveillance camera systems at ports where there are suspicious activities at loading docks, vehicle queues, secondary inspection lanes, or areas where visual surveillance or observation is obscured.

(L) $1,254,000 for 57 weigh-in-motion sensors to be distributed among the ports with the greatest volume of outbound traffic.

(M) $180,000 for 36 AM traffic information radio stations, with 1 station to be located at each border crossing.

(N) $1,040,000 for 260 inbound vehicle counters to be installed at every inbound vehicle lane.

(O) $950,000 for 38 spotter camera systems to counter the surveillance of customs inspection activities by persons outside the boundaries of ports where such surveillance activities are occurring.

(P) $390,000 for 60 inbound commercial truck transponders to be distributed to all ports of entry.

(Q) $1,600,000 for 40 narcotics vapor and particle detectors to be distributed to each border crossing.

(R) $400,000 for license plate reader automatic targeting software to be installed at each port to target inbound vehicles.

(S) $1,000,000 for a demonstration site for a high-energy relocatable rail car inspection system with an x-ray source switchable from 2,000,000 electron volts (2–MeV) to 6,000,000 electron volts (6–MeV) at a shared Department of Defense testing facility for a two-month testing period.

(2) UNITED STATES-CANADA BORDER.—For the United States-Canada border, the following:

(A) $3,000,000 for 4 Vehicle and Container Inspection Systems (VACIS).

(B) $8,800,000 for 4 mobile truck x-rays with transmission and backscatter imaging.

(C) $3,600,000 for 4 1–MeV pallet x-rays.

(D) $250,000 for 50 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(E) $300,000 for 25 contraband detection kits to be distributed among ports based on traffic volume.

(F) $240,000 for 10 portable Treasury Enforcement Communications Systems (TECS) terminals to be moved among ports as needed.

(G) $400,000 for 10 narcotics vapor and particle detectors to be distributed to each border crossing based on traffic volume.

(H) $600,000 for 30 fiber optic scopes.

(I) $250,000 for 50 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate;

(J) $3,000,000 for 10 x-ray vans with particle detectors.

(K) $40,000 for 8 AM loop radio systems.

(L) $400,000 for 100 vehicle counters.

(M) $1,200,000 for 12 examination tool trucks.

(N) $2,400,000 for 3 dedicated commuter lanes.

(O) $1,050,000 for 3 automated targeting systems.

(P) $572,000 for 26 weigh-in-motion sensors.

(Q) $480,000 for 20 portable Treasury Enforcement Communication Systems (TECS).

(3) FLORIDA AND GULF COAST SEAPORTS.—For Florida and the Gulf Coast seaports, the following:

(A) $4,500,000 for 6 Vehicle and Container Inspection Systems (VACIS).

(B) $11,800,000 for 5 mobile truck x-rays with transmission and backscatter imaging.

(C) $7,200,000 for 8 1–MeV pallet x-rays.

(D) $250,000 for 50 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(E) $300,000 for 25 contraband detection kits to be distributed among ports based on traffic volume.

(b) FISCAL YEAR 2001.—Of the amounts made available for fiscal year 2001 under section 301(b)(1)(B) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(B)), as amended by section 101(a) of this Act, $9,923,500 shall be for the maintenance and support of the equipment and training of personnel to maintain and support the equipment described in subsection (a).

(c) ACQUISITION OF TECHNOLOGICALLY SUPERIOR EQUIPMENT; TRANSFER OF FUNDS.—

(1) IN GENERAL.—The Commissioner of Customs may use amounts made available for fiscal year 2000 under section 301(b)(1)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A)), as amended by section 101(a) of this Act, for the acquisition of equipment other than the equipment described in subsection (a) if such other equipment—

(A)(i) is technologically superior to the equipment described in subsection (a); and

(ii) will achieve at least the same results at a cost that is the same or less than the equipment described in subsection (a); or

(B) can be obtained at a lower cost than the equipment described in subsection (a).

(2) TRANSFER OF FUNDS.—Notwithstanding any other provision of this section, the Commissioner of Customs may reallocate an amount not to exceed 10 percent of—

(A) the amount specified in any of subparagraphs (A) through (R) of subsection (a)(1) for equipment specified in any other of such subparagraphs (A) through (R);

(B) the amount specified in any of subparagraphs (A) through (Q) of subsection (a)(2) for equipment specified in any other of such subparagraphs (A) through (Q); and

(C) the amount specified in any of subparagraphs (A) through (E) of subsection (a)(3) for equipment specified in any other of such subparagraphs (A) through (E).

SEC. 103. PEAK HOURS AND INVESTIGATIVE RESOURCE ENHANCEMENT FOR THE UNITED STATES-MEXICO AND UNITED STATES-CANADA BORDERS, FLORIDA AND GULF COAST SEAPORTS, AND THE BAHAMAS.

Of the amounts made available for fiscal years 2000 and 2001 under subparagraphs (A) and (B) of section 301(b)(1) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A) and (B)), as amended by section 101(a) of this Act, $159,557,000, including $5,673,600, until expended, for investigative equipment, for fiscal year 2000 and $220,351,000 for fiscal year 2001 shall be available for the following:

(1) A net increase of 535 inspectors, 120 special agents, and 10 intelligence analysts for the United States-Mexico border and 375 inspectors for the United States-Canada border, in order to open all primary lanes on such borders during peak hours and enhance investigative resources.

(2) A net increase of 285 inspectors and canine enforcement officers to be distributed at large cargo facilities as needed to process and screen cargo (including rail cargo) and reduce commercial waiting times on the United States-Mexico border and a net increase of 125 inspectors to be distributed at large cargo facilities as needed to process and screen cargo (including rail cargo) and reduce commercial waiting times on the United States-Canada border.

(3) A net increase of 40 inspectors at sea ports in southeast Florida to process and screen cargo.

(4) A net increase of 70 special agent positions, 23 intelligence analyst positions, 9 support staff, and the necessary equipment to enhance investigation efforts targeted at internal conspiracies at the Nation's seaports.

(5) A net increase of 360 special agents, 30 intelligence analysts, and additional resources to be distributed among offices that have jurisdiction over major metropolitan drug or narcotics distribution and transportation centers for intensification of efforts against drug smuggling and money-laundering organizations.

(6) A net increase of 2 special agent positions to re-establish a Customs Attache office in Nassau.

(7) A net increase of 62 special agent positions and 8 intelligence analyst positions for maritime smuggling investigations and interdiction operations.

(8) A net increase of 50 positions and additional resources to the Office of Internal Affairs to enhance investigative resources for anticorruption efforts.

(9) The costs incurred as a result of the increase in personnel hired pursuant to this section.

SEC. 104. AIR AND MARINE OPERATION AND MAINTENANCE FUNDING.

(a) FISCAL YEAR 2000.—Of the amounts made available for fiscal year 2000 under subparagraphs (A) and (B) of section 301(b)(3) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(3) (A) and (B)) as amended by section 101(c) of this Act, $130,513,000 shall be available until expended for the following:

(1) $96,500,000 for Customs aircraft restoration and replacement initiative.

(2) $15,000,000 for increased air interdiction and investigative support activities.

(3) $19,013,000 for marine vessel replacement and related equipment.

(b) FISCAL YEAR 2001.—Of the amounts made available for fiscal year 2001 under subparagraphs (A) and (B) of section 301(b)(3) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(3) (A) and (B)) as amended by section 101(c) of this Act, $75,524,000 shall be available until expended for the following:

(1) $36,500,000 for Customs Service aircraft restoration and replacement.

(2) $15,000,000 for increased air interdiction and investigative support activities.

(3) $24,024,000 for marine vessel replacement and related equipment.

SEC. 105. COMPLIANCE WITH PERFORMANCE PLAN REQUIREMENTS.

As part of the annual performance plan for each of the fiscal years 2000 and 2001 covering each program activity set forth in the budget of the United States Customs Service, as required under section 1115 of title 31, United States Code, the Commissioner of Customs shall establish performance goals and performance indicators, and comply with all other requirements contained in paragraphs (1) through (6) of subsection (a) of such section with respect to each of the activities to be carried out pursuant to sections 102 and 103 of this Act.

SEC. 106. COMMISSIONER OF CUSTOMS SALARY.

(a) IN GENERAL.—

(1) Section 5315 of title 5, United States Code, is amended by striking the following item:

''Commissioner of Customs, Department of Treasury.''.

(2) Section 5314 of title 5, United States Code, is amended by inserting the following item:

''Commissioner of Customs, Department of Treasury.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to fiscal year 1999 and thereafter.

SEC. 107. PASSENGER PRECLEARANCE SERVICES.

(a) CONTINUATION OF PRECLEARANCE SERVICES.—Notwithstanding section 13031(f) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)) or any other provision of law, the Customs Service shall, without regard to whether a passenger processing fee is collected from a person departing for the United States from Canada and without regard to whether funds are appropriated pursuant to subsection (b), provide the same level of enhanced preclearance customs services for passengers arriving in the United States aboard commercial aircraft originating in Canada as the Customs Service provided for such passengers during fiscal year 1997.

(b) AUTHORIZATION OF APPROPRIATIONS FOR PRECLEARANCE SERVICES.—Notwithstanding section 13031(f) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)) or any other provision of law, there are authorized to be appropriated, from the date of enactment of this Act through September 30, 2001, such sums as may be necessary for the Customs Service to ensure that it will continue to provide the same, and where necessary increased, levels of enhanced preclearance customs services as the Customs Service provided during fiscal year 1997, in connection with the arrival in the United States of passengers aboard commercial aircraft whose flights originated in Canada.

TITLE II—CUSTOMS PERFORMANCE REPORT

SEC. 201. CUSTOMS PERFORMANCE REPORT.

(a) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Commissioner of Customs shall prepare and submit to the appropriate committees the report described in subsection (b).

(b) REPORT DESCRIBED.—The report described in this subsection shall include the following:

(1) IDENTIFICATION OF OBJECTIVES; ESTABLISHMENT OF PRIORITIES.—

(A) An outline of the means the Customs Service intends to use to identify enforcement priorities and trade facilitation objectives.

(B) The reasons for selecting the objectives contained in the most recent plan submitted by the Customs Service pursuant to section 1115 of title 31, United States Code.

(C) The performance standards against which the appropriate committees can assess the efforts of the Customs Service in reaching the goals outlined in the plan described in subparagraph (B).

(2) IMPLEMENTATION OF THE CUSTOMS MODERNIZATION ACT.—

(A) A review of the Customs Service's implementation of title VI of the North American Free Trade Agreement Implementation Act, commonly known as the ''Customs Modernization Act'', and the reasons why elements of that Act, if any, have not been implemented.

(B) A review of the effectiveness of the informed compliance strategy in obtaining higher levels of compliance, particularly compliance by those industries that have been the focus of the most intense efforts by the Customs Service to ensure compliance with the Customs Modernization Act.

(C) A summary of the results of the reviews of the initial industry-wide compliance assessments conducted by the Customs Service as part of the agency's informed compliance initiative.

(3) IMPROVEMENT OF COMMERCIAL OPERATIONS.—

(A) Identification of standards to be used in assessing the performance and efficiency of the commercial operations of the Customs Service, including entry and inspection procedures, classification, valuation, country-of-origin determinations, and duty drawback determinations.

(B) Proposals for—

(i) improving the performance of the commercial operations of the Customs Service, particularly the functions described in subparagraph (A), and

(ii) eliminating lengthy delays in obtaining rulings and other forms of guidance on United States customs law, regulations, procedures, or policies.

(C) Alternative strategies for ensuring that United States importers, exporters, customs brokers, and other members of the trade community have the information necessary to comply with the customs laws of the United States and to conduct their business operations accordingly.

(4) REVIEW OF ENFORCEMENT RESPONSIBILITIES.—

(A) A review of the enforcement responsibilities of the Customs Service.

(B) An assessment of the degree to which the current functions of the Customs Service overlap with the functions of other agencies and an identification of ways in which the Customs Service can avoid duplication of effort.

(C) A description of the methods used to ensure against misuse of personal search authority with respect to persons entering the United States at authorized ports of entry.

(5) STRATEGY FOR COMPREHENSIVE DRUG INTERDICTION.—

(A) A comprehensive strategy for the Customs Service's role in United States drug interdiction efforts.

(B) Identification of the respective roles of cooperating agencies, such as the Drug Enforcement Administration, the Federal Bureau of Investigation, the Coast Guard, and the intelligence community, including—

(i) identification of the functions that can best be performed by the Customs Service and the functions that can best be performed by agencies other than the Customs Service; and

(ii) a description of how the Customs Service plans to allocate the additional drug interdiction resources authorized by the Drug Free Borders Act of 1998.

(6) ENHANCEMENT OF COOPERATION WITH THE TRADE COMMUNITY.—

(A) Identification of ways to expand cooperation with United States importers and customs brokers, United States and foreign carriers, and other members of the international trade and transportation communities to improve the detection of contraband before it leaves a foreign port destined for the United States.

(B) Identification of ways to enhance the flow of information between the Customs Service and industry in order to—

(i) achieve greater awareness of potential compliance threats;

(ii) improve the design and efficiency of the commercial operations of the Customs Service;

(iii) foster account-based management;

(iv) eliminate unnecessary and burdensome regulations; and

(v) establish standards for industry compliance with customs laws.

(7) ALLOCATION OF RESOURCES.—

(A) An outline of the basis for the current allocation of inspection and investigative personnel by the Customs Service.

(B) Identification of the steps to be taken to ensure that the Customs Service can detect any misallocation of the resources described in subparagraph (A) among various ports and a description of what means the Customs Service has for reallocating resources within the agency to meet particular enforcement demands or commercial operations needs.

(8) AUTOMATION AND INFORMATION TECHNOLOGY.—

(A) Identification of the automation needs of the Customs Service and an explanation of the current state of the Automated Commercial System and the status of implementing a replacement for that system.

(B) A comprehensive strategy for reaching the technology goals of the Customs Service, including—

(i) an explanation of the proposed architecture of any replacement for the Automated Commercial System and how the architecture of the proposed replacement system best serves the core functions of the Customs Service;

(ii) identification of public and private sector automation projects that are comparable and that can be used as a benchmark against which to judge the progress of the Customs Service in meeting its technology goals;

(iii) an estimate of the total cost for each automation project currently underway at the Customs Service and a timetable for the implementation of each project; and

(iv) a summary of the options for financing each automation project.

(9) PERSONNEL POLICIES.—

(A) An overview of current personnel practices, including a description of—

(i) performance standards;

(ii) the criteria for promotion and termination;

(iii) the process for investigating complaints of bias and sexual harassment;

(iv) the criteria used for conducting internal investigations;

(v) the protection, if any, that is provided for whistleblowers; and

(vi) the methods used to discover and eliminate corruption within the Customs Service.

(B) Identification of workforce needs for the future and training needed to ensure Customs Service personnel stay abreast of developments in international business operations and international trade that affect the operations of the Customs Service, including identification of any situations in which current personnel policies or practices may impede achievement of the goals of the Customs Service with respect to both enforcement and commercial operations.

(c) APPROPRIATE COMMITTEES.—For purposes of this section, the term ''appropriate committees'' means the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the substitute amendment be agreed to, the bill be read the third time and passed, the motion to reconsider be laid upon the table, the title amendment to be

agreed to, the title, as amended, be agreed to, and that any statements relating to the bill appear in the RECORD.

The committee amendment was agreed to.

The bill (H.R. 3809), as amended, was read the third time, and passed.

The title amendment was agreed to.

The title was amended so as to read: ''An Act to authorize appropriations for the United States Customs Service for fiscal years 2000 and 2001.''

ENERGY CONSERVATION REAUTHORIZATION ACT OF 1998

Mr. JEFFORDS. Mr. President, I ask the Chair lay before the Senate message from the House of Representatives on the bill (S. 417) to extend energy conservation programs under the Energy Policy and Conservation Act through September 30, 2002.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 417) entitled ''An Act to extend energy conservation programs under the Energy Policy and Conservation Act through September 30, 2002'', do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Energy Conservation Reauthorization Act of 1998''.

SEC. 2. ENERGY POLICY AND CONSERVATION ACT AMENDMENTS.

(a) STATE ENERGY CONSERVATION PROGRAM.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(f)) is amended to read as follows:

''(f) For the purpose of carrying out this part, there are authorized to be appropriated for fiscal years 1999 through 2003 such sums as may be necessary.''.

(b) SCHOOLS AND HOSPITALS.—Section 397 the Energy Policy and Conservation Act (42 U.S.C. 6371f) is amended to read as follows:

''AUTHORIZATION OF APPROPRIATIONS

''SEC. 397. For the purpose of carrying out this part, there are authorized to be appropriated for fiscal years 1999 through 2003 such sums as may be necessary.''.

SEC. 3. ENERGY CONSERVATION AND PRODUCTION ACT AMENDMENT.

Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended to read as follows:

''AUTHORIZATION OF APPROPRIATIONS

''SEC. 422. For the purpose of carrying out the weatherization program under this part, there are authorized to be appropriated for fiscal years 1999 through 2003 such sums as may be necessary.''.

SEC. 4. ENERGY SAVINGS PERFORMANCE CONTRACTS.

(a) SUNSET.—Section 801(c) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)) is amended by striking ''five years after'' and all that follows through ''subsection (b)'' and inserting ''on October 1, 2003''.

(b) DEFINITION.—Section 804(1) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(1)) is amended to read as follows:

''(1) The term 'Federal agency' means each authority of the Government of the United States, whether or not it is within or subject to review by another agency.''.

SEC. 5. TECHNICAL AMENDMENTS.

(a) ENERGY POLICY AND CONSERVATION ACT.—The Energy Policy and Conservation Act is amended—

(1) in the table of contents—

(A) by striking ''Sec. 301.'' and all that follows through ''Reports to Congress.'.'';

(B) by striking ''efficiency'' and inserting ''conservation'' in the item relating to section 325;

(C) by striking ''and private labelers'' in the item relating to section 326;

(D) by striking the items relating to part E of title III;

(E) by inserting after the items relating to part I of title III the following:

''PART J—ENCOURAGING THE USE OF ALTERNATIVE FUELS

''Sec. 400AA. Alternative fuel use by light duty Federal vehicles.
''Sec. 400BB. Alternative fuels truck commercial application program.
''Sec. 400CC. Alternative fuels bus program.
''Sec. 400DD. Interagency Commission on Alternative Motor Fuels.
''Sec. 400EE. Studies and reports.'';

(F) by inserting ''Environmental'' after ''Energy Supply and'' in the item relating to section 505; and

(G) by striking the item relating to section 527;

(2) in section 321(1) (42 U.S.C. 6291(1))—

(A) by striking ''section 501(1) of the Motor Vehicle Information and Cost Savings Act'' and inserting ''section 32901(a)(3) of title 49, United States Code''; and

(B) by striking the second period at the end thereof;

(3) in section 322(b)(2)(A) (42 U.S.C. 6292(b)(2)(A)) by inserting close quotation marks after ''type of product'';

(4) in section 324(a)(2)(C)(ii) (42 U.S.C. 6294(a)(2)(C)(ii)) by striking ''section 325(j)'' and inserting ''section 325(i)'';

(5) in section 325 (42 U.S.C. 6295)—

(A) by striking ''paragraphs'' in subsection (e)(4)(A) and inserting ''paragraph''; and

(B) by striking ''BALLASTS;'' in the heading of subsection (g) and inserting ''BALLASTS'';

(6) in section 336(c)(2) (42 U.S.C. 6306(c)(2)) by striking ''section 325(k)'' and inserting ''section 325(n)'';

(7) in section 345(c) (42 U.S.C. 6316(c)) by inserting ''standard'' after ''meets the applicable'';

(8) in section 362 (42 U.S.C. 6322)—

(A) by inserting ''of'' after ''of the implementation'' in subsection (a)(1); and

(B) by striking ''subsection (g)'' and inserting ''subsection (f)(2)'' in subsection (d)(12);

(9) in section 391(2)(B) (42 U.S.C. 6371(2)(B)) by striking the period at the end and inserting a semicolon;

(10) in section 394(a) (42 U.S.C. 6371c(a))—

(A) by striking the commas at the end of paragraphs (1), (3), and (5) and inserting semicolons;

(B) by striking the period at the end of paragraph (2) and inserting a semicolon; and

(C) by striking the colon at the end of paragraph (6) and inserting a semicolon;

(11) in section 400 (42 U.S.C. 6371i) by striking ''(a)'';

(12) in section 400D(a) (42 U.S.C. 6372c(a)) by striking the commas at the end of paragraphs (1), (2), and (3) and inserting semicolons;

(13) in section 400I(b) (42 U.S.C. 6372h(b)) by striking ''Secretary shall,'' and inserting ''Secretary shall'';

(14) in section 400AA (42 U.S.C. 6374) by redesignating subsection (i) as subsection (h);

(15) in section 503 (42 U.S.C. 6383)—

(A) by striking ''with repect to'' and inserting ''with respect to'' in subsection (b); and

(B) by striking ''controlling'' and inserting '', controlling,'' in subsection (c)(1); and

(16) in section 552(d)(5)(A) (42 U.S.C. 6422(d)(5)(A)) by striking ''notion'' and inserting ''motion''.

(b) ENERGY CONSERVATION AND PRODUCTION ACT.—The Energy Conservation and Production Act is amended—

(1) in the table of contents—

(A) by striking ''rules and regulations'' and inserting ''regulations and rulings'' in the item relating to section 106; and

(B) by striking the item relating to section 207 and inserting the following:

''Sec. 207. State utility regulatory assistance.
''Sec. 208. Authorization of appropriations.'';

and

(2) in section 202 (42 U.S.C. 6802) by striking ''(b) DEFINITIONS.—''.

(c) NATIONAL ENERGY CONSERVATION POLICY ACT.—The National Energy Conservation Policy Act is amended—

(1) in the table of contents—

(A) by striking '', installation, and financing'' and inserting ''and installation'' in the item relating to section 216;

(B) by striking ''Ratings'' and inserting ''Rating Guidelines'' in the item relating to part 6 of title II;

(C) by striking the item relating to section 304; and

(D) by striking ''goals'' and inserting ''requirements'' in the item relating to section 543;

(2) in section 216(d)(1)(C) (42 U.S.C. 8217(d)(1)(C)) by striking ''explictly'' and inserting ''explicitly'';

(3) in section 251(b)(1) (42 U.S.C. 8231(b)(1))—

(A) by striking ''National Housing Act to projects'' and inserting ''National Housing Act) to projects''; and

(B) by striking ''accure'' and inserting ''accrue'';

(4) in section 266 (42 U.S.C. 8235e) by striking ''(17 U.S.C.'' and inserting ''(15 U.S.C.''; and

(5) in section 551(8) (42 U.S.C. 8259(8)) by striking ''goethermal'' and inserting ''geothermal''.

SEC. 6. MATERIALS ALLOCATION AUTHORITY EXTENSION.

Section 104(b) of the Energy Policy and Conservation Act is amended by striking ''(1) The authority'' and all that follows through ''(2)''.

SEC. 7. BIODIESEL FUEL USE CREDITS.

(a) AMENDMENT.—Title III of the Energy Policy Act of 1992 (42 U.S.C. 13211–13219) is amended by adding at the end the following new section:

''SEC. 312. BIODIESEL FUEL USE CREDITS.

''(a) ALLOCATION OF CREDITS.—

''(1) IN GENERAL.—The Secretary shall allocate one credit under this section to a fleet or covered person for each qualifying volume of the biodiesel component of fuel containing at least 20 percent biodiesel by volume purchased after the date of the enactment of this section for use by the fleet or covered person in vehicles owned or operated by the fleet or covered person that weigh more than 8,500 pounds gross vehicle weight rating.

''(2) EXCEPTIONS.—No credits shall be allocated under paragraph (1) for a purchase of biodiesel—

''(A) for use in alternative fueled vehicles; or

''(B) that is required by Federal or State law.

''(3) AUTHORITY TO MODIFY PERCENTAGE.—The Secretary may, by rule, lower the 20 percent biodiesel volume requirement in paragraph (1) for reasons related to cold start, safety, or vehicle function considerations.

''(4) DOCUMENTATION.—A fleet or covered person seeking a credit under this section shall provide written documentation to the Secretary supporting the allocation of a credit to such fleet or covered person under paragraph (1).

''(b) USE OF CREDITS.—

''(1) IN GENERAL.—At the request of a fleet or covered person allocated a credit under subsection (a), the Secretary shall, for the year in which the purchase of a qualifying volume is made, treat that purchase as the acquisition of one alternative fueled vehicle the fleet or covered person is required to acquire under this title, title IV, or title V.

''(2) LIMITATION.—Credits allocated under subsection (a) may not be used to satisfy more than 50 percent of the alternative fueled vehicle

requirements of a fleet or covered person under this title, title IV, and title V. This paragraph shall not apply to a fleet or covered person that is a biodiesel alternative fuel provider described in section 501(a)(2)(A).

''(c) CREDIT NOT A SECTION 508 CREDIT.—A credit under this section shall not be considered a credit under section 508.

''(d) ISSUANCE OF RULE.—The Secretary shall, before January 1, 1999, issue a rule establishing procedures for the implementation of this section.

''(e) COLLECTION OF DATA.—The Secretary shall collect such data as are required to make a determination described in subsection (f)(2)(B).

''(f) DEFINITIONS.—For purposes of this section—

''(1) the term 'biodiesel' means a diesel fuel substitute produced from nonpetroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act; and

''(2) the term 'qualifying volume' means—

''(A) 450 gallons; or

''(B) if the Secretary determines by rule that the average annual alternative fuel use in light duty vehicles by fleets and covered persons exceeds 450 gallons or gallon equivalents, the amount of such average annual alternative fuel use.''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy Act of 1992 is amended by adding at the end of the items relating to title III the following new item:

''Sec. 312. Biodiesel fuel use credits.''.

SEC. 8. REPORT CONCERNING COMPLIANCE WITH ALTERNATIVE FUEL VEHICLE PURCHASING REQUIREMENTS.

(a) IN GENERAL.—Section 310 of the Energy Policy Act of 1992 (42 U.S.C. 13218) is amended—

(1) by striking the heading and inserting the following:

"SEC. 310. REPORTS.";

(2) by inserting ''(a) GENERAL SERVICE ADMINISTRATION PROGRAM REPORT.—'' before ''Not later than''; and

(3) by adding at the end the following:

''(b) COMPLIANCE REPORT.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, and annually thereafter for the next 14 years, the head of each Federal agency which is subject to this Act and Executive Order No. 13031 shall prepare, and submit to Congress, a report that—

''(A) summarizes the compliance by such Federal agency with the alternative fuel purchasing requirements for Federal fleets under this Act and Executive Order No. 13031; and

''(B) includes a plan of compliance that contains specific dates for achieving compliance using reasonable means.

''(2) CONTENTS.—

''(A) IN GENERAL.—Each report submitted under paragraph (1) shall include—

''(i) any information on any failure to meet statutory requirements or requirements under Executive Order No. 13031;

''(ii)(I) any plan of compliance that the agency head is required to submit under Executive Order No. 13031; or

''(II) if a plan of compliance referred to in subclause (I) does not contain specific dates by which the Federal agency is to achieve compliance, a revised plan of compliance that contains specific dates for achieving compliance; and

''(iii) any related information the agency head is required to submit to the Director of the Office of Management and Budget under Executive Order No. 13031.

''(B) PENULTIMATE REPORT.—The penultimate report submitted under paragraph (1) shall include an announcement that the report for the next year shall be the final report submitted under paragraph (1).

''(3) PUBLIC DISSEMINATION OF REPORT.—Each report submitted under paragraph (1) shall be made public, including—

''(A) placing such report on a publicly available website on the Internet; and

''(B) publishing the availability of the report, including such website address, in the Federal Register.''.

(b) CLERICAL AMENDMENT.—The table of contents for the Energy Policy Act of 1992 contained in section 1(b) of that Act (106 Stat. 2776 et. seq.) is amended by striking the item relating to section 310 and inserting the following:

''Sec. 310. Reports.''.

Amend the title so as to read: ''An Act to extend certain programs under the Energy Policy and Conservation Act and the Energy Conservation and Production Act, and for other purposes.''.

AMENDMENT NO. 3793

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate concur in the House amendments, with a further amendment which is at the desk.

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

The clerk will report.

The legislative clerk read as follows:.

The Senator from Vermont [Mr. JEFFORDS], for Mr. MURKOWSKI, for himself and Mr. AKAKA, proposed an amendment numbered 3793.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end, insert the following:

SEC. 9. PURCHASES FROM STRATEGIC PETROLEUM RESERVE BY ENTITIES IN INSULAR AREAS OF UNITED STATES AND FREELY ASSOCIATED STATES.

(a) Section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241) is amended by adding at the end the following:

''(j) PURCHASES FROM STRATEGIC PETROLEUM RESERVE BY ENTITIES IN INSULAR AREAS OF UNITED STATES AND FREELY ASSOCIATED STATES.—

''(1) DEFINITIONS.—In this subsection:

''(A) BINDING OFFER.—The term 'binding offer' means a bid submitted by the State of Hawaii for an assured award of a specific quantity of petroleum product, with a price to be calculated pursuant to paragraph (2) of this subsection, that obligates the offeror to take title to the petroleum product without further negotiation or recourse to withdraw the offer.

''(B) CATEGORY OF PETROLEUM PRODUCT.—The term 'category of petroleum product' means a master line item within a notice of sale.

''(C) ELIGIBLE ENTITY.—The term 'eligible entity' means an entity that owns or controls a refinery that is located within the State of Hawaii.

''(D) FULL TANKER LOAD.—The term 'full tanker load' means a tanker of approximately 700,000 barrels of capacity, or such lesser tanker capacity as may be designated by the State of Hawaii.

''(E) INSULAR AREA.—The term 'insular area' means the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, the Freely Associated States of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

''(F) OFFERING.—The term 'offering' means a solicitation for bids for a quantity or quantities of petroleum product from the Strategic Petroleum Reserve as specified in the notice of sale.

''(G) NOTICE OF SALE.—The term 'notice of sale' means the document that announces—

''(i) the sale of Strategic Petroleum Reserve products;

''(ii) the quantity, characteristics, and location of the petroleum product being sold;

''(iii) the delivery period for the sale; and

''(iv) the procedures for submitting offers.

''(2) IN GENERAL.—In the case of an offering of a quantity of petroleum product during a drawdown of the Strategic Petroleum Reserve—

''(A) the State of Hawaii, in addition to having the opportunity to submit a competitive bid, may—

''(i) submit a binding offer, and shall on submission of the offer, be entitled to purchase a category of a petroleum product specified in a notice of sale at a price equal to the volumetrically weighted average of the successful bids made for the remaining quantity of the petroleum product within the category that is the subject of the offering; and

''(ii) submit 1 or more alternative offers, for other categories of the petroleum product, that will be binding if no price competitive contract is awarded for the category of petroleum product on which a binding offer is submitted under clause (i); and

''(B) at the request of the Governor of the State of Hawaii, a petroleum product purchased by the State of Hawaii at a competitive sale or through a binding offer shall have first preference in scheduling for lifting.

''(3) LIMITATION ON QUANTITY.—

''(A) IN GENERAL.—In administering this subsection, in the case of each offering, the Secretary may impose the limitation described in subparagraph (B) or (C) that results in the purchase of the lesser quantity of petroleum product.

''(B) PORTION OF QUANTITY OF PREVIOUS IMPORTS.—The Secretary may limit the quantity of a petroleum product that the State of Hawaii may purchase through a binding offer at any offering to 1/12 of the total quantity of imports of the petroleum product brought into the State during the previous year (or other period determined by the Secretary to be representative).

''(C) PERCENTAGE OF OFFERING.—The Secretary may limit the quantity that may be purchased through binding offers at any offering to 3 percent of the offering.

''(4) ADJUSTMENTS.—

''(A) IN GENERAL.—Notwithstanding any limitation imposed under paragraph (3), in administering this subsection, in the case of each offering, the Secretary shall, at the request of the Governor of the State of Hawaii, or an eligible entity certified under paragraph (7), adjust the quantity to be sold to the State of Hawaii in accordance with this paragraph.

''(B) UPWARD ADJUSTMENT.—The Secretary shall adjust upward to the next whole number increment of a full tanker load if the quantity to be sold is—

''(i) less than 1 full tanker load; or

''(ii) greater than or equal to 50 percent of a full tanker load more than a whole number increment of a full tanker load

''(C) DOWNWARD ADJUSTMENT.—The Secretary shall adjust downward to the next whole number increment of a full tanker load if the quantity to be sold is less than 50 percent of a full tanker load more than a whole number increment of a full tanker load.

''(5) DELIVERY TO OTHER LOCATIONS.—The State of Hawaii may enter into an exchange or a processing agreement that requires delivery to other locations, if a petroleum product of similar value or quantity is delivered to the State of Hawaii.

''(6) STANDARD SALES PROVISIONS.—Except as otherwise provided in this Act, the Secretary may require the State of Hawaii to

comply with the standard sales provisions applicable to purchasers of petroleum product at competitive sales.

''(7) ELIGIBLE ENTITIES.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C) and notwithstanding any other provision of this paragraph, if the Governor of the State of Hawaii certifies to the Secretary that the State has entered into an agreement with an eligible entity to carry out this Act, the eligible entity may act on behalf of the State of Hawaii to carry out this subsection.

''(B) LIMITATION.—The Governor of the State of Hawaii shall not certify more than I eligible entity under this paragraph for each notice of sale.

''(C) BARRED COMPANY.—If the Secretary has notified the Governor of the State of Hawaii that a company has been barred from bidding (either prior to, or at the time that a notice of sale is issued), the Governor shall not certify the company under this paragraph.

''(7) SUPPLIES OF PETROLEUM PRODUCTS.—At the request of the governor of an insular area, the Secretary shall, for a period not to exceed 180 days following a drawdown of the Strategic Petroleum Reserve, assist the insular area or the President of a Freely Associated State in its efforts to maintain adequate supplies of petroleum products from traditional and non-traditional suppliers.''.

(b) REGULATIONS.—

(1) IN GENERAL.—The Secretary of Energy shall issue such regulations as are necessary to carry out the amendment made by subsection (a).

(2) ADMINISTRATIVE PROCEDURE.—Regulations issued to carry out the amendment made by subsection (a) shall not be subject to—

(A) section 523 of the Energy Policy and Conservation Act (42 U.S.C. 6393); or

(B) section 501 of the Department of Energy Organization Act (42 U.S.C. 7191).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on the earlier of—

(1) the date that is 180 days after the date of enactment of this Act; or

(2) the date that final regulations are issued under subsection (a).

SEC. 10. INDIAN ENERGY RESOURCE DEVELOPMENT.

Section 2603 of the Energy Policy Act of 1992 (25 U.S.C. 3503) is amended in subsection (c) by striking ''and 1997'' each place it appears and inserting ''1999, 2000, 2001, 2002 and 2003'' in lieu thereof.

SEC. 11. REMEDIAL ACTION.

(a) Section 1001(b)(2)(C) of the Energy Policy Act of 1992 (42 U.S.C. 2296a) is amended by striking ''$65,000,000'' and inserting ''$140,000,000''.

(b) Section 1003(a) of such Act (42 U.S.C. 2296a–2) is amended by striking ''$415,000,000'' and inserting ''$490,000,000''.

(c) Section 1802(a) of the Atomic Energy Act of 1954 (42 U.S.C. 2297g–1) is amended by striking ''$480,000,000'' and inserting ''$488,333,333''.

VITIATION OF PASSAGE OF H.R. 3903

Mr. JEFFORDS. I ask unanimous consent that passage of H.R. 3903 be vitiated.

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

GLACIER BAY NATIONAL PARK BOUNDARY ADJUSTMENT ACT OF 1998

Mr. JEFFORDS. Mr. President, I now ask unanimous consent that the Senate proceed to the consideration of H.R. 3903.

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

The clerk will report.

A bill (H.R. 3903) to provide for an exchange of lands near Gustavus, Alaska, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3794

(Purpose: To make technical and clarifying changes)

Mr. JEFFORDS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS], for Mr. MURKOWSKI, proposes an amendment numbered 3794.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 2 line 8 strike ''paragraph [4]'' and insert ''paragraph [2]''.

On page 2 line 9 strike ''paragraph [3]'' and insert ''paragraph [4]''.

On page 4 line 1 strike ''838.66'' and insert ''1191.75''.

On page 11 line 19 strike ''units'' and insert ''units resulting from this Act''.

On page 11 line 20 strike ''considered in applying'' and insert ''charged against''.

On page 12 line 1 strike ''units'' and insert ''units resulting from this Act''.

On page 12 beginning on line 1 strike ''be considered in applying'' and insert ''be charged against''.

Mr. JEFFORDS. Mr. President, I ask that the amendment be agreed to, the bill be read the third time and passed, and the motion to reconsider laid upon the table.

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

The amendment (No. 3794) was agreed to.

The bill (H.R. 3903) was read the third time, and passed.

MAHATMA GANDHI MEMORIAL

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Energy Committee be discharged from further consideration of H.R. 4284, and that the Senate then proceed to its immediate consideration.

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

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4284) to authorize the government of India to establish a memorial to honor Mahatma Gandhi in the District of Columbia.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MACK. Mr. President, last year I joined the distinguished senior Senator from New York, Mr. MOYNIHAN, in introducing a bill to authorize the placement of a memorial to Mohandas K.—Mahatma—Gandhi, on Federal land in the District of Columbia in the vicinity of the Indian Embassy. A similar bill was introduced in the House of Representatives.

I am pleased to report that the House unanimously passed their version of this bill on September 15 and it now rests here in the Senate awaiting our action. It is my hope that the Senate will pass this bill and it is for this reason that I rise today.

The proposed memorial will comply with the Commemorative Works Act and will be placed at no cost to the U.S. government; the Indian government will be responsible for the construction and maintenance of the memorial. In addition, the National Capital Memorial Commission and the National Park Service have designated and approved the site.

At midnight on August 15, 1947, 400 million people received their independence and an institution in world history came to an end. This is the date that India became a free nation, and the mighty British empire, in effect, ceased to exist. One man more than any other is credited with bringing this profound change to the world. Dressed in white homespun cloth, with only a handful of worldly possessions, Mohandas Gandhi—known as Mahatma, or ''Great Soul''—showed the world that dedication to principles, and belief in reconciliation, can prevail over otherwise insurmountable odds. Best known for his civil disobedience characterized by nonviolence and passive resistance, Mahatma Gandhi is revered by millions throughout the world for his dedication to personal freedom, justice, and human rights.

Gandhi is not only the father of modern India, but a leader whose impact changed the world forever. Gandhi influenced great champions of freedom throughout the world including Lech Walesa of Poland, the Dalai Lama of Tibet and Aung San Suu Kyi of Burma. Albert Einstein said of Gandhi, ''Generations to come will scarcely believe that such a one as this walked the earth in flesh and blood.'' Dr. Martin Luther King, Jr., said of Gandhi's importance to the world, ''We may ignore Gandhi at our own risk.'' And Gandhi himself had strong ties to the United States. He acknowledged being influenced in his own thinking by Henry David Thoreau, as well as by the U.S. Constitution.

Mr. President, the story of India's recent history is the story of people struggling for freedom—and this struggle is universal. Gandhi has made us all richer in our freedom through his life's work and sacrifice. The right thing for this body to do is to support the Indian government's efforts to erect this memorial; it will be a gift to the American people symbolic of the greater gift

we received more than fifty years ago from Mahatma Gandhi.

Mr. MOYNIHAN. Mr. President, today the United States Congress acts to authorize the placement of a statute of Mohandas Karamchand Gandhi—Mahatma Gandi—on Federal land across the street from the Indian embassy in Washington D.C. Such a tribute to Mahatma Gandhi, often called the father of the Indian nation, would serve as a fitting tribute to Indian democracy which has survived—in fact, thrived—despite enormous challenges. It will stand as a symbol of the growing strength of the bonds between our two countries.

The Government of India has offered a statute of Gandhi as a gift to the United States. In order to place it on Federal land, an act of Congress is required. This bill will fulfill just that purpose, and I thank the Senator from Florida, Mr. MACK and the Senator from Maryland, Mr. SARBANES for joining me in this endeavor.

It is particularly appropriate that a statute of Mahatma Gandhi be selected as a symbol of our ties. The effects of Gandhi's non-violent actions and the philosophy that guided him, were not limited to his country, or his time. Perhaps less known is that Gandhi drew inspiration from an American. While in South Africa, Gandhi read Thoreau's essay ''Civil Disobedience,'' which confirmed his view that an honest man is duty-bound to violate unjust laws. He took this view home with him, and in the end the British raj gave way to an independent Republic of India. Then Dr. Martin Luther King, Jr. repatriated the idea, and so began the great American civil rights movement of this century.

Dr. Martin Luther King, Jr. has written of the singular influence Gandhi's message of non-violent resistance had on him when he first learned of it while studying at Crozier Theological seminary in Philadelphia. He would later describe Gandhi's influence on him in, ''Stride Toward Freedom'':

As I read I became deeply fascinated by [Gandhi's] philosphy of non-violent resistance . . . as I delved deeper into the philosophy of Gandhi, my skepticism concerning the power of love gradually diminished, and I came to see its potency in the area of social reform . . . prior to reading Gandhi, I had concluded that the love ethics of Jesus were only effective in individual relationships . . . but after reading Gandhi, I saw how utterly mistaken I was.

. . . It was in this Gandhian emphasis on love and non-violence that I discovered the method for social reform that I had been seeking for so many months . . . I came to feel that this was the only morally and practically sound method open to oppressed people in their struggle for freedom . . . this principle became the guiding light of our movement. Christ furnished the spirit and motivation and Gandhi furnished the method.

Dr. Martin Luther King, Jr. believed that Gandhi's philosophy of non-violent resistance was the ''guiding light'' of the American civil rights movement. As Dr. King explained, ''Gandhi furnished the message.'' A statue of Gandhi, given as a gift from the Government of India, on a small plot of Federal land along Massachusetts Avenue in front of the Indian embassy, will stand not only as a tribute to the shared values of the two largest democracies in the world, but will also pay tribute to the lasting influence of Gandhian thought on the United States.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed at this point in the RECORD.

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

The bill (H.R. 4284) was read the third time, and passed.

PATRIOTIC AND NATIONAL OBSERVANCES, CEREMONIES, AND ORGANIZATIONS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 680, S. 2524.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2524) to codify without substantive change laws related to Patriotic and National Observances, Ceremonies, and Organizations and to improve the United States Code.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. JEFFORDS. I ask unanimous consent that the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear in the RECORD.

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

The bill (S. 2524) was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 2524

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

SECTION 1. TITLE 36, UNITED STATES CODE.

Title 36, United States Code, is amended as follows:

(1) In section 902, strike subsections (b) and (c) and substitute the following:

''(b) REQUIRED DISPLAY.—The POW/MIA flag shall be displayed at the locations specified in subsection (d) of this section on POW/MIA flag display days. The display serves—

''(1) as the symbol of the Nation's concern and commitment to achieving the fullest possible accounting of Americans who, having been prisoners of war or missing in action, still remain unaccounted for; and

''(2) as the symbol of the Nation's commitment to achieving the fullest possible accounting for Americans who in the future may become prisoners of war, missing in action, or otherwise unaccounted for as a result of hostile action.

''(c) DAYS FOR FLAG DISPLAY.—(1) For purposes of this section, POW/MIA flag display days are the following:

''(A) Armed Forces Day, the third Saturday in May.

''(B) Memorial Day, the last Monday in May.

''(C) Flag Day, June 14.

''(D) Independence Day, July 4.

''(E) National POW/MIA Recognition Day.

''(F) Veterans Day, November 11.

''(2) In addition to the days specified in paragraph (1) of this subsection, POW/MIA flag display days include—

''(A) in the case of display at medical centers of the Department of Veterans Affairs (required by subsection (d)(7) of this section), any day on which the flag of the United States is displayed; and

''(B) in the case of display at United States Postal Service post offices (required by subsection (d)(8) of this section), the last business day before a day specified in paragraph (1) that in any year is not itself a business day.

''(d) LOCATIONS FOR FLAG DISPLAY.—The locations for the display of the POW/MIA flag under subsection (b) of this section are the following:

''(1) The Capitol.

''(2) The White House.

''(3) The Korean War Veterans Memorial and the Vietnam Veterans Memorial.

''(4) Each national cemetery.

''(5) The buildings containing the official office of—

''(A) the Secretary of State;

''(B) the Secretary of Defense;

''(C) the Secretary of Veterans Affairs; and

''(D) the Director of the Selective Service System.

''(6) Each major military installation, as designated by the Secretary of Defense.

''(7) Each medical center of the Department of Veterans Affairs.

''(8) Each United States Postal Service post office.

''(e) COORDINATION WITH OTHER DISPLAY REQUIREMENT.—Display of the POW/MIA flag at the Capitol pursuant to subsection (d)(1) of this section is in addition to the display of that flag in the Rotunda of the Capitol pursuant to Senate Concurrent Resolution 5 of the 101st Congress, agreed to on February 22, 1989 (103 Stat. 2533).

''(f) DISPLAY TO BE IN A MANNER VISIBLE TO THE PUBLIC.—Display of the POW/MIA flag pursuant to this section shall be in a manner designed to ensure visibility to the public.

''(g) LIMITATION.—This section may not be construed or applied so as to require any employee to report to work solely for the purpose of providing for the display of the POW/MIA flag.''.

(2) In section 2102(b), strike ''designated personnel'' and substitute ''personnel made available to the Commission''.

(3) In section 2501(2), insert ''solicit,'' before ''accept,''.

(4)(A) Insert after chapter 201 the following:

''CHAPTER 202—AIR FORCE SERGEANTS ASSOCIATION

''Sec.
''20201. Definition.
''20202. Organization.
''20203. Purposes.
''20204. Membership.
''20205. Governing body.
''20206. Powers.
''20207. Restrictions.
''20208. Duty to maintain corporate and tax-exempt status.
''20209. Records and inspection.
''20210. Service of process.
''20211. Liability for acts of officers and agents.
''20212. Annual report.

''§ 20201. Definition

''For purposes of this chapter, 'State' includes the District of Columbia and the territories and possessions of the United States.

"§ 20202. Organization

''(a) FEDERAL CHARTER.—Air Force Sergeants Association (in this chapter, the 'corporation'), a nonprofit corporation incorporated in the District of Columbia, is a federally chartered corporation.

''(b) EXPIRATION OF CHARTER.—If the corporation does not comply with any provision of this chapter, the charter granted by this chapter expires.

"§ 20203. Purposes

''(a) GENERAL.—The purposes of the corporation are as provided in its bylaws and articles of incorporation and include—

''(1) helping to maintain a highly dedicated and professional corps of enlisted personnel within the United States Air Force, including the United States Air Force Reserve, and the Air National Guard;

''(2) supporting fair and equitable legislation and Department of the Air Force policies and influencing by lawful means departmental plans, programs, policies, and legislative proposals that affect enlisted personnel of the Regular Air Force, the Air Force Reserve, and the Air National Guard, its retirees, and other veterans of enlisted services in the Air Force;

''(3) actively publicizing the roles of enlisted personnel in the United States Air Force;

''(4) participating in civil and military activities, youth programs, and fundraising campaigns that benefit the United States Air Force;

''(5) providing for the mutual welfare of members of the corporation and their families;

''(6) assisting in recruiting for the United States Air Force;

''(7) assembling together for social activities;

''(8) maintaining an adequate Air Force for our beloved country;

''(9) fostering among the members of the corporation a devotion to fellow airmen; and

''(10) serving the United States and the United States Air Force loyally, and doing all else necessary to uphold and defend the Constitution of the United States.

''(b) CORPORATE FUNCTION.—The corporation shall function as an educational, patriotic, civic, historical, and research organization under the laws of the District of Columbia.

"§ 20204. Membership

''(a) ELIGIBILITY.—Except as provided in this chapter, eligibility for membership in the corporation and the rights and privileges of members are as provided in the bylaws and articles of incorporation.

''(b) NONDISCRIMINATION.—The terms of membership may not discriminate on the basis of race, color, religion, sex, disability, age, or national origin.

"§ 20205. Governing body

''(a) BOARD OF DIRECTORS.—The board of directors and the responsibilities of the board are as provided in the bylaws and articles of incorporation.

''(b) OFFICERS.—The officers and the election of officers are as provided in the bylaws and articles of incorporation.

''(c) NONDISCRIMINATION.—The requirements for servicing as a director or officer may not discriminate on the basis of race, color, religion, sex, disability, age, or national origin.

"§ 20206. Powers

''The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

"§ 20207. Restrictions

''(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

''(b) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to he benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or employee or reimbursement for actual necessary expenses in amounts approved by the board of directors.

''(c) LOANS.—The corporation may not make a loan to a director, officer, employee, or member.

''(d) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORITY.—The corporation may not claim congressional approval or the authority of the United States Government for any of its activities.

"§ 20208. Duty to maintain corporate and tax-exempt status

''(a) CORPORATE STATUS.—The corporation shall maintain its status as a corporation incorporated under the laws of the District of Columbia.

''(b) TAX EXEMPT STATUS.—The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

"§ 20209. Records and inspection

''(a) RECORDS.—The corporation shall keep—

''(1) correct and complete records of account;

''(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

''(3) at its principal office, a record of the names and addresses of its members entitled to vote.

''(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

"§ 20210. Service of process

''The corporation shall comply with the law on service of process of each State in which it is incorporated and each State in which it carries on activities.

"§ 20211. Liability for acts of officers and agents

''The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

"§ 20212. Annual report

''The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.''.

(B) In the table of chapters at the beginning of subtitle II, insert after the item related to chapter 201:

''202. AIR FORCE SERGEANTS ASSOCIATION ..... 20201''.

(5)(A) Insert after chapter 209 the following:

"CHAPTER 210—AMERICAN GI FORUM OF THE UNITED STATES

''Sec.
''21001. Definition.
''21002. Organization.
''21003. Purposes.
''21004. Membership.
''21005. Governing body.
''21006. Powers.
''21007. Restrictions.
''21008. Duty to maintain corporate and tax-exempt status.
''21009. Records and inspection.
''21010. Service of process.
''21011. Liability for acts of officers and agents.
''21012. Annual report.

"§ 21001. Definition

''For purposes of this chapter, 'State' includes the District of Columbia and the territories and possessions of the United States.

"§ 21002. Organization

''(a) FEDERAL CHARTER.—American GI Forum of the United States (in this chapter, the 'corporation'), a nonprofit corporation incorporated in Texas, is a federally chartered corporation.

''(b) EXPIRATION OF CHARTER.—If the corporation does not comply with any provision of this chapter, the charter granted by this chapter expires.

"§ 21003. Purposes

''(a) GENERAL.—The purposes of the corporation are as provided in its bylaws and articles of incorporation and include—

''(1) securing the blessing of American democracy at every level of local, State, and national life for all United States citizens;

''(2) upholding and defending the Constitution and the United States flag;

''(3) fostering and perpetuating the principles of American democracy based on religious and political freedom for the individual and equal opportunity for all;

''(4) fostering and enlarging equal educational opportunities, equal economic opportunities, equal justice under the law, and equal political opportunities for all United States citizens, regardless of race, color, religion, sex, or national origin;

''(5) encouraging greater participation of the ethnic minority represented by the corporation in the policy-making and administrative activities of all departments, agencies, and other government units of local and State governments and the United States Government;

''(6) combating all practices of a prejudicial or discriminatory nature in local, State, or national life which curtail, hinder, or deny to any United States citizen an equal opportunity to develop full potential as an individual; and

''(7) fostering and promoting the broader knowledge and appreciation by all United States citizens of their cultural heritage and language.

''(b) CORPORATE FUNCTION.—The corporation shall function as an educational, patriotic, civic, historical, and research organization under the laws of Texas.

"§ 21004. Membership

''(a) ELIGIBILITY.—Except as provided in this chapter, eligibility for membership in the corporation and the rights and privileges of members are as provided in the bylaws and articles of incorporation.

''(b) NONDISCRIMINATION.—The terms of membership may not discriminate on the basis of race, color, religion, sex, disability, age, or national origin.

"§ 21005. Governing body

''(a) BOARD OF DIRECTORS.—The board of directors and the responsibilities of the board are as provided in the bylaws and articles of incorporation.

''(b) OFFICERS.—The officers and the election of officers are as provided in the bylaws and articles of incorporation.

''(c) NONDISCRIMINATION.—The requirements for serving as a director or officer may not discriminate on the basis of race, color, religion, sex, disability, age, or national origin.

"§ 21006. Powers

''The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

"§ 21007. Restrictions

''(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

''(b) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or employee or reimbursement for actual necessary expenses in amounts approved by the board of directors.

''(c) LOANS.—The corporation may not make a loan to a director, officer, employee, or member.

''(d) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORITY.—The corporation may not claim congressional approval or the authority of the United States Government for any of its activities.

"§ 21008. Duty to maintain corporate and tax-exempt status

''(a) CORPORATE STATUS.—The corporation shall maintain its status as a corporation incorporated under the laws of Texas.

''(b) TAX-EXEMPT STATUS.—The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

"§ 21009. Records and inspection

''(a) RECORDS.—The corporation shall keep—

''(1) correct and complete records of account;

''(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

''(3) at its principal office, a record of the names and addresses of its members entitled to vote.

''(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

"§ 21010. Service of process

''The corporation shall comply with the law on service of process of each State in which it is incorporated and each State in which it carries on activities.

"§ 21011. Liability for acts of officers and agents

''The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

"§ 21012. Annual report

''The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.''.

(B) In the table of chapters at the beginning of subtitle II, insert after the item related to chapter 209:

''210. AMERICAN GI FORUM OF THE UNITED STATES ..... 21001''.

(6) In section 21703(1)(A)(iv), strike ''December 22, 1961'' and substitute ''February 28, 1961''.

(7) In section 70103(b), strike ''the State of''.

(8) In section 151303, subsections (f) and (g) are amended to read as follows:

''(f) STATUS.—Appointment to the board does not constitute appointment as an officer or employee of the United States Government for the purpose of any law of the United States.

''(g) COMPENSATION.—Members of the board serve without compensation.

''(h) LIABILITY.—Members of the board are not personally liable, except for gross negligence.''.

(9) In section 151305(b), strike ''the State of''.

(10) In section 152903(8), strike ''Corporation'' and substitute ''corporation''.

SEC. 2. TECHNICAL AMENDMENTS TO OTHER LAWS.

(a) The provisos in the paragraph under the heading ''AMERICAN BATTLE MONUMENTS COMMISSION'' in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998 (Public Law 105–65, Oct. 27, 1997, 111 Stat. 1368, 36 App. U.S.C. 121b, 122, and 122a) are repealed.

(b) Paragraph (3) of section 198(s) of the National and Community Service Act of 1990 (42 U.S.C. 12653(s)(3)) is repealed.

(c) Effective August 12, 1998, Public Law 105–225 (Aug. 12, 1998, 112 Stat. 1253) is amended as follows:

(1) Section 4(b) is amended by striking ''2320(d)'' and substituting ''2320(e)''.

(2) Section 7(a), and the amendment made by section 7(a), are repealed.

SEC. 3. EFFECTIVE DATE.

The amendment made by section 1(8) of this Act shall take effect as if included in the provisions of Public Law 105–225, as of the date of enactment of Public Law 105–225.

SEC. 4. LEGISLATIVE PURPOSE AND CONSTRUCTION.

(a) NO SUBSTANTIVE CHANGE.—(1) Section 1 of this Act restates, without substantive change, laws enacted before September 5, 1998, that were replaced by section 1. Section 1 may not be construed as making a substantive change in the laws replaced.

(2) Laws enacted after September 4, 1998, that are inconsistent with this Act supersede this Act to the extent of the inconsistency.

(b) REFERENCES.—A reference to a law replaced by this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

(c) CONTINUING EFFECT.—An order, rule, or regulation in effect under a law replaced by this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

(d) ACTIONS AND OFFENSES UNDER PRIOR LAW.—An action taken or an offense committed under a law replaced by this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

(e) INFERENCES.—An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of a heading of the provision.

(f) SEVERABILITY.—If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision enacted by this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications.

SEC. 5. REPEALS.

(a) INFERENCES OF REPEAL.—The repeal of a law by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal.

(b) REPEALER SCHEDULE.—The laws specified in the following schedule are repealed, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before the date of enactment of this Act:

Schedule of Laws Repealed

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S.C. Code	
			Volume	Page	Title	Section
1997						
Nov. 18	105–85	1082, 1501–1516	111	1917, 1963	36 App.	189a, 1101, 5801–5815
Nov. 20	105–110		111	2270	36 App.	45
1998						
Aug. 7	105–220	413	112	1241	36 App.	155b
Aug. 13	105–231	1–16	112	1530	36 App.	1101, 5901–5915

COMMERCIAL SPACE ACT OF 1998

Mr. JEFFORDS. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (H.R. 1702) to encourage the development of commercial space industry in the United States, and for other purpsoes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 1702) entitled ''An Act to encourage the development of a commercial space industry in the United States, and for other purposes'', with the following amendment:

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Commercial Space Act of 1998''.

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—PROMOTION OF COMMERCIAL SPACE OPPORTUNITIES

Sec. 101. Commercialization of Space Station.
Sec. 102. Commercial space launch amendments.
Sec. 103. Launch voucher demonstration program.
Sec. 104. Promotion of United States Global Positioning System standards.
Sec. 105. Acquisition of space science data.
Sec. 106. Administration of Commercial Space Centers.
Sec. 107. Sources of Earth science data.

TITLE II—FEDERAL ACQUISITION OF SPACE TRANSPORTATION SERVICES

Sec. 201. Requirement to procure commercial space transportation services.
Sec. 202. Acquisition of commercial space transportation services.
Sec. 203. Launch Services Purchase Act of 1990 amendments.
Sec. 204. Shuttle privatization.
Sec. 205. Use of excess intercontinental ballistic missiles.
Sec. 206. National launch capability study.

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) the term ''Administrator'' means the Administrator of the National Aeronautics and Space Administration;

(2) the term ''commercial provider'' means any person providing space transportation services or other space-related activities, primary control of which is held by persons other than Federal, State, local, and foreign governments;

(3) the term ''payload'' means anything that a person undertakes to transport to, from, or within outer space, or in suborbital trajectory, by means of a space transportation vehicle, but does not include the space transportation vehicle itself except for its components which are specifically designed or adapted for that payload;

(4) the term ''space-related activities'' includes research and development, manufacturing, processing, service, and other associated and support activities;

(5) the term ''space transportation services'' means the preparation of a space transportation vehicle and its payloads for transportation to, from, or within outer space, or in suborbital trajectory, and the conduct of transporting a payload to, from, or within outer space, or in suborbital trajectory;

(6) the term ''space transportation vehicle'' means any vehicle constructed for the purpose of operating in, or transporting a payload to, from, or within, outer space, or in suborbital trajectory, and includes any component of such vehicle not specifically designed or adapted for a payload;

(7) the term ''State'' means each of the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States; and

(8) the term ''United States commercial provider'' means a commercial provider, organized under the laws of the United States or of a State, which is—

(A) more than 50 percent owned by United States nationals; or

(B) a subsidiary of a foreign company and the Secretary of Transportation finds that—

(i) such subsidiary has in the past evidenced a substantial commitment to the United States market through—

(I) investments in the United States in long-term research, development, and manufacturing (including the manufacture of major components and subassemblies); and

(II) significant contributions to employment in the United States; and

(ii) the country or countries in which such foreign company is incorporated or organized, and, if appropriate, in which it principally conducts its business, affords reciprocal treatment to companies described in subparagraph (A) comparable to that afforded to such foreign company's subsidiary in the United States, as evidenced by—

(I) providing comparable opportunities for companies described in subparagraph (A) to participate in Government sponsored research and development similar to that authorized under this Act;

(II) providing no barriers, to companies described in subparagraph (A) with respect to local investment opportunities, that are not provided to foreign companies in the United States; and

(III) providing adequate and effective protection for the intellectual property rights of companies described in subparagraph (A).

TITLE I—PROMOTION OF COMMERCIAL SPACE OPPORTUNITIES

SEC. 101. COMMERCIALIZATION OF SPACE STATION.

(a) POLICY.—The Congress declares that a priority goal of constructing the International Space Station is the economic development of Earth orbital space. The Congress further declares that free and competitive markets create the most efficient conditions for promoting economic development, and should therefore govern the economic development of Earth orbital space. The Congress further declares that the use of free market principles in operating, servicing, allocating the use of, and adding capabilities to the Space Station, and the resulting fullest possible engagement of commercial providers and participation of commercial users, will reduce Space Station operational costs for all partners and the Federal Government's share of the United States burden to fund operations.

(b) REPORTS.—(1) The Administrator shall deliver to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, within 90 days after the date of the enactment of this Act, a study that identifies and examines—

(A) the opportunities for commercial providers to play a role in International Space Station activities, including operation, use, servicing, and augmentation;

(B) the potential cost savings to be derived from commercial providers playing a role in each of these activities;

(C) which of the opportunities described in subparagraph (A) the Administrator plans to make available to commercial providers in fiscal years 1999 and 2000;

(D) the specific policies and initiatives the Administrator is advancing to encourage and facilitate these commercial opportunities; and

(E) the revenues and cost reimbursements to the Federal Government from commercial users of the Space Station.

(2) The Administrator shall deliver to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, within 180 days after the date of the enactment of this Act, an independently-conducted market study that examines and evaluates potential industry interest in providing commercial goods and services for the operation, servicing, and augmentation of the International Space Station, and in the commercial use of the International Space Station. This study shall also include updates to the cost savings and revenue estimates made in the study described in paragraph (1) based on the external market assessment.

(3) The Administrator shall deliver to the Congress, no later than the submission of the President's annual budget request for fiscal year 2000, a report detailing how many proposals (whether solicited or not) the National Aeronautics and Space Administration received during calendar years 1997 and 1998 regarding commercial operation, servicing, utilization, or augmentation of the International Space Station, broken down by each of these four categories, and specifying how many agreements the National Aeronautics and Space Administration has entered into in response to these proposals, also broken down by these four categories.

(4) Each of the studies and reports required by paragraphs (1), (2), and (3) shall include consideration of the potential role of State governments as brokers in promoting commercial participation in the International Space Station program.

SEC. 102. COMMERCIAL SPACE LAUNCH AMENDMENTS.

(a) AMENDMENTS.—Chapter 701 of title 49, United States Code, is amended—

(1) in the table of sections—

(A) by amending the item relating to section 70104 to read as follows:

''70104. Restrictions on launches, operations, and reentries.'';

(B) by amending the item relating to section 70108 to read as follows:

''70108. Prohibition, suspension, and end of launches, operation of launch sites and reentry sites, and reentries.'';

(C) by amending the item relating to section 70109 to read as follows:

''70109. Preemption of scheduled launches or reentries.'';

and

(D) by adding at the end the following new items:

''70120. Regulations.
''70121. Report to Congress.''.

(2) in section 70101—

(A) by inserting ''microgravity research,'' after ''information services,'' in subsection (a)(3);

(B) by inserting '', reentry,'' after ''launching'' both places it appears in subsection (a)(4);

(C) by inserting '', reentry vehicles,'' after ''launch vehicles'' in subsection (a)(5);

(D) by inserting ''and reentry services'' after ''launch services'' in subsection (a)(6);

(E) by inserting '', reentries,'' after ''launches'' both places it appears in subsection (a)(7);

(F) by inserting '', reentry sites,'' after ''launch sites'' in subsection (a)(8);

(G) by inserting ''and reentry services'' after ''launch services'' in subsection (a)(8);

(H) by inserting ''reentry sites,'' after ''launch sites,'' in subsection (a)(9);

(I) by inserting ''and reentry site'' after ''launch site'' in subsection (a)(9);

(J) by inserting '', reentry vehicles,'' after ''launch vehicles'' in subsection (b)(2);

(K) by striking ''launch'' in subsection (b)(2)(A);

(L) by inserting ''and reentry'' after ''conduct of commercial launch'' in subsection (b)(3);

(M) by striking ''launch'' after ''and transfer commercial'' in subsection (b)(3); and

(N) by inserting ''and development of reentry sites,'' after ''launch-site support facilities,'' in subsection (b)(4);

(3) in section 70102—

(A) in paragraph (3)—

(i) by striking ''and any payload'' and inserting in lieu thereof ''or reentry vehicle and any payload from Earth'';

(ii) by striking the period at the end of subparagraph (C) and inserting in lieu thereof a comma; and

(iii) by adding after subparagraph (C) the following:

''including activities involved in the preparation of a launch vehicle or payload for launch, when those activities take place at a launch site in the United States.'';

(B) by inserting ''or reentry vehicle'' after ''means of a launch vehicle'' in paragraph (8);

(C) by redesignating paragraphs (10), (11), and (12) as paragraphs (14), (15), and (16), respectively;

(D) by inserting after paragraph (9) the following new paragraphs:

''(10) 'reenter' and 'reentry' mean to return or attempt to return, purposefully, a reentry vehicle and its payload, if any, from Earth orbit or from outer space to Earth.

''(11) 'reentry services' means—

''(A) activities involved in the preparation of a reentry vehicle and its payload, if any, for reentry; and

''(B) the conduct of a reentry.

''(12) 'reentry site' means the location on Earth to which a reentry vehicle is intended to return (as defined in a license the Secretary issues or transfers under this chapter).

''(13) 'reentry vehicle' means a vehicle designed to return from Earth orbit or outer space to Earth, or a reusable launch vehicle designed to return from Earth orbit or outer space to Earth, substantially intact.''; and

(E) by inserting ''or reentry services'' after ''launch services'' each place it appears in paragraph (15), as so redesignated by subparagraph (C) of this paragraph;

(4) in section 70103(b)—

(A) by inserting ''AND REENTRIES'' after ''LAUNCHES'' in the subsection heading;

(B) by inserting ''and reentries'' after ''commercial space launches'' in paragraph (1); and

(C) by inserting ''and reentry'' after ''space launch'' in paragraph (2);

(5) in section 70104—

(A) by amending the section designation and heading to read as follows:

''§ 70104. Restrictions on launches, operations, and reentries'';

(B) by inserting ''or reentry site, or to reenter a reentry vehicle,'' after ''operate a launch site'' each place it appears in subsection (a);

(C) by inserting ''or reentry'' after ''launch or operation'' in subsection (a)(3) and (4);

(D) in subsection (b)—

(i) by striking ''launch license'' and inserting in lieu thereof ''license'';

(ii) by inserting ''or reenter'' after ''may launch''; and

(iii) by inserting ''or reentering'' after ''related to launching''; and

(E) in subsection (c)—

(i) by amending the subsection heading to read as follows: ''PREVENTING LAUNCHES AND REENTRIES.—'';

(ii) by inserting ''or reentry'' after ''prevent the launch''; and

(iii) by inserting ''or reentry'' after ''decides the launch'';

(6) in section 70105—

(A) by inserting ''(1)'' before ''A person may apply'' in subsection (a);

(B) by striking ''receiving an application'' both places it appears in subsection (a) and inserting in lieu thereof ''accepting an application in accordance with criteria established pursuant to subsection (b)(2)(D)'';

(C) by adding at the end of subsection (a) the following: ''The Secretary shall transmit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a written notice not later than 30 days after any occurrence when a license is not issued within the deadline established by this subsection.

''(2) In carrying out paragraph (1), the Secretary may establish procedures for safety approvals of launch vehicles, reentry vehicles, safety systems, processes, services, or personnel that may be used in conducting licensed commercial space launch or reentry activities.'';

(D) by inserting ''or a reentry site, or the reentry of a reentry vehicle,'' after ''operation of a launch site'' in subsection (b)(1);

(E) by striking ''or operation'' and inserting in lieu thereof '', operation, or reentry'' in subsection (b)(2)(A);

(F) by striking ''and'' at the end of subsection (b)(2)(B);

(G) by striking the period at the end of subsection (b)(2)(C) and inserting in lieu thereof ''; and'';

(H) by adding at the end of subsection (b)(2) the following new subparagraph:

''(D) regulations establishing criteria for accepting or rejecting an application for a license under this chapter within 60 days after receipt of such application.''; and

(I) by inserting '', including the requirement to obtain a license,'' after ''waive a requirement'' in subsection (b)(3);

(7) in section 70106(a)—

(A) by inserting ''or reentry site'' after ''observer at a launch site'';

(B) by inserting ''or reentry vehicle'' after ''assemble a launch vehicle''; and

(C) by inserting ''or reentry vehicle'' after ''with a launch vehicle'';

(8) in section 70108—

(A) by amending the section designation and heading to read as follows:

''§ 70108. Prohibition, suspension, and end of launches, operation of launch sites and reentry sites, and reentries'';

and

(B) in subsection (a)—

(i) by inserting ''or reentry site, or reentry of a reentry vehicle,'' after ''operation of a launch site''; and

(ii) by inserting ''or reentry'' after ''launch or operation'';

(9) in section 70109—

(A) by amending the section designation and heading to read as follows:

''§ 70109. Preemption of scheduled launches or reentries'';

(B) in subsection (a)—

(i) by inserting ''or reentry'' after ''ensure that a launch'';

(ii) by inserting '', reentry site,'' after ''United States Government launch site'';

(iii) by inserting ''or reentry date commitment'' after ''launch date commitment'';

(iv) by inserting ''or reentry'' after ''obtained for a launch'';

(v) by inserting '', reentry site,'' after ''access to a launch site'';

(vi) by inserting '', or services related to a reentry,'' after ''amount for launch services''; and

(vii) by inserting ''or reentry'' after ''the scheduled launch''; and

(C) in subsection (c), by inserting ''or reentry'' after ''prompt launching'';

(10) in section 70110—

(A) by inserting ''or reentry'' after ''prevent the launch'' in subsection (a)(2); and

(B) by inserting ''or reentry site, or reentry of a reentry vehicle,'' after ''operation of a launch site'' in subsection (a)(3)(B);

(11) in section 70111—

(A) by inserting ''or reentry'' after ''launch'' in subsection (a)(1)(A);

(B) by inserting ''and reentry services'' after ''launch services'' in subsection (a)(1)(B);

(C) by inserting ''or reentry services'' after ''or launch services'' in subsection (a)(2);

(D) by striking ''source.'' in subsection (a)(2) and inserting ''source, whether such source is located on or off a Federal range.'';

(E) by inserting ''or reentry'' after ''commercial launch'' both places it appears in subsection (b)(1);

(F) by inserting ''or reentry services'' after ''launch services'' in subsection (b)(2)(C);

(G) by inserting after subsection (b)(2) the following new paragraph:

''(3) The Secretary shall ensure the establishment of uniform guidelines for, and consistent implementation of, this section by all Federal agencies.'';

(H) by striking ''or its payload for launch'' in subsection (d) and inserting in lieu thereof ''or reentry vehicle, or the payload of either, for launch or reentry''; and

(I) by inserting '', reentry vehicle,'' after ''manufacturer of the launch vehicle'' in subsection (d);

(12) in section 70112—

(A) in subsection (a)(1), by inserting ''launch or reentry'' after ''(1) When a'';

(B) by inserting ''or reentry'' after ''one launch'' in subsection (a)(3);

(C) by inserting ''or reentry services'' after ''launch services'' in subsection (a)(4);

(D) in subsection (b)(1), by inserting ''launch or reentry'' after ''(1) A'';

(E) by inserting ''or reentry services'' after ''launch services'' each place it appears in subsection (b);

(F) by inserting ''applicable'' after ''carried out under the'' in paragraphs (1) and (2) of subsection (b);

(G) by inserting ''OR REENTRIES'' after ''LAUNCHES'' in the heading for subsection (e);

(H) by inserting ''or reentry site or a reentry'' after ''launch site'' in subsection (e); and

(I) in subsection (f), by inserting ''launch or reentry'' after ''carried out under a'';

(13) in section 70113(a)(1) and (d)(1) and (2), by inserting ''or reentry'' after ''one launch'' each place it appears;

(14) in section 70115(b)(1)(D)(i)—

(A) by inserting ''reentry site,'' after ''launch site,''; and

(B) by inserting ''or reentry vehicle'' after ''launch vehicle'' both places it appears;

(15) in section 70117—

(A) by inserting ''or reentry site, or to reenter a reentry vehicle'' after ''operate a launch site'' in subsection (a);

(B) by inserting ''or reentry'' after ''approval of a space launch'' in subsection (d);

(C) by amending subsection (f) to read as follows:

''(f) LAUNCH NOT AN EXPORT; REENTRY NOT AN IMPORT.—A launch vehicle, reentry vehicle, or payload that is launched or reentered is not, because of the launch or reentry, an export or import, respectively, for purposes of a law controlling exports or imports, except that payloads launched pursuant to foreign trade zone procedures as provided for under the Foreign Trade Zones Act (19 U.S.C. 81a–81u) shall be considered exports with regard to customs entry.''; and

(D) in subsection (g)—

(i) by striking ''operation of a launch vehicle or launch site,'' in paragraph (1) and inserting in lieu thereof ''reentry, operation of a launch vehicle or reentry vehicle, operation of a launch site or reentry site,''; and

(ii) by inserting ''reentry,'' after ''launch,'' in paragraph (2); and

(16) by adding at the end the following new sections:

''§ 70120. Regulations

''(a) IN GENERAL.—The Secretary of Transportation, within 9 months after the date of the enactment of this section, shall issue regulations to carry out this chapter that include—

''(1) guidelines for industry and State governments to obtain sufficient insurance coverage for potential damages to third parties;

''(2) procedures for requesting and obtaining licenses to launch a commercial launch vehicle;

''(3) procedures for requesting and obtaining operator licenses for launch;

''(4) procedures for requesting and obtaining launch site operator licenses; and

''(5) procedures for the application of government indemnification.

''(b) REENTRY.—The Secretary of Transportation, within 6 months after the date of the enactment of this section, shall issue a notice of proposed rulemaking to carry out this chapter that includes—

''(1) procedures for requesting and obtaining licenses to reenter a reentry vehicle;

''(2) procedures for requesting and obtaining operator licenses for reentry; and

''(3) procedures for requesting and obtaining reentry site operator licenses.

''§ 70121. Report to Congress

''The Secretary of Transportation shall submit to Congress an annual report to accompany the President's budget request that—

''(1) describes all activities undertaken under this chapter, including a description of the process for the application for and approval of licenses under this chapter and recommendations

for legislation that may further commercial launches and reentries; and

''(2) reviews the performance of the regulatory activities and the effectiveness of the Office of Commercial Space Transportation.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 70119 of title 49, United States Code, is amended to read as follows:

''§ 70119. Authorization of appropriations

''There are authorized to be appropriated to the Secretary of Transportation for the activities of the Office of the Associate Administrator for Commercial Space Transportation—

''(1) $6,275,000 for the fiscal year ending September 30, 1999; and

''(2) $6,600,000 for the fiscal year ending September 30, 2000.''.

(c) EFFECTIVE DATE.—The amendments made by subsection (a)(6)(B) shall take effect upon the effective date of final regulations issued pursuant to section 70105(b)(2)(D) of title 49, United States Code, as added by subsection (a)(6)(H).

SEC. 103. LAUNCH VOUCHER DEMONSTRATION PROGRAM.

Section 504 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1993 (15 U.S.C. 5803) is amended—

(1) in subsection (a)—

(A) by striking ''the Office of Commercial Programs within''; and

(B) by striking ''Such program shall not be effective after September 30, 1995.'';

(2) by striking subsection (c); and

(3) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

SEC. 104. PROMOTION OF UNITED STATES GLOBAL POSITIONING SYSTEM STANDARDS.

(a) FINDING.—The Congress finds that the Global Positioning System, including satellites, signal equipment, ground stations, data links, and associated command and control facilities, has become an essential element in civil, scientific, and military space development because of the emergence of a United States commercial industry which provides Global Positioning System equipment and related services.

(b) INTERNATIONAL COOPERATION.—In order to support and sustain the Global Positioning System in a manner that will most effectively contribute to the national security, public safety, scientific, and economic interests of the United States, the Congress encourages the President to—

(1) ensure the operation of the Global Positioning System on a continuous worldwide basis free of direct user fees;

(2) enter into international agreements that promote cooperation with foreign governments and international organizations to—

(A) establish the Global Positioning System and its augmentations as an acceptable international standard; and

(B) eliminate any foreign barriers to applications of the Global Positioning System worldwide; and

(3) provide clear direction and adequate resources to the Assistant Secretary of Commerce for Communications and Information so that on an international basis the Assistant Secretary can—

(A) achieve and sustain efficient management of the electromagnetic spectrum used by the Global Positioning System; and

(B) protect that spectrum from disruption and interference.

SEC. 105. ACQUISITION OF SPACE SCIENCE DATA.

(a) ACQUISITION FROM COMMERCIAL PROVIDERS.—The Administrator shall, to the extent possible and while satisfying the scientific or educational requirements of the National Aeronautics and Space Administration, and where appropriate, of other Federal agencies and scientific researchers, acquire, where cost effective, space science data from a commercial provider.

(b) TREATMENT OF SPACE SCIENCE DATA AS COMMERCIAL ITEM UNDER ACQUISITION LAWS.—Acquisitions of space science data by the Administrator shall be carried out in accordance with applicable acquisition laws and regulations (including chapters 137 and 140 of title 10, United States Code). For purposes of such law and regulations, space science data shall be considered to be a commercial item. Nothing in this subsection shall be construed to preclude the United States from acquiring, through contracts with commercial providers, sufficient rights in data to meet the needs of the scientific and educational community or the needs of other government activities.

(c) DEFINITION.—For purposes of this section, the term ''space science data'' includes scientific data concerning—

(1) the elemental and mineralogical resources of the moon, asteroids, planets and their moons, and comets;

(2) microgravity acceleration; and

(3) solar storm monitoring.

(d) SAFETY STANDARDS.—Nothing in this section shall be construed to prohibit the Federal Government from requiring compliance with applicable safety standards.

(e) LIMITATION.—This section does not authorize the National Aeronautics and Space Administration to provide financial assistance for the development of commercial systems for the collection of space science data.

SEC. 106. ADMINISTRATION OF COMMERCIAL SPACE CENTERS.

The Administrator shall administer the Commercial Space Center program in a coordinated manner from National Aeronautics and Space Administration headquarters in Washington, D.C.

SEC. 107. SOURCES OF EARTH SCIENCE DATA.

(a) ACQUISITION.—The Administrator shall, to the extent possible and while satisfying the scientific or educational requirements of the National Aeronautics and Space Administration, and where appropriate, of other Federal agencies and scientific researchers, acquire, where cost-effective, space-based and airborne Earth remote sensing data, services, distribution, and applications from a commercial provider.

(b) TREATMENT AS COMMERCIAL ITEM UNDER ACQUISITION LAWS.—Acquisitions by the Administrator of the data, services, distribution, and applications referred to in subsection (a) shall be carried out in accordance with applicable acquisition laws and regulations (including chapters 137 and 140 of title 10, United States Code). For purposes of such law and regulations, such data, services, distribution, and applications shall be considered to be a commercial item. Nothing in this subsection shall be construed to preclude the United States from acquiring, through contracts with commercial providers, sufficient rights in data to meet the needs of the scientific and educational community or the needs of other government activities.

(c) STUDY.—(1) The Administrator shall conduct a study to determine the extent to which the baseline scientific requirements of Earth Science can be met by commercial providers, and how the National Aeronautics and Space Administration will meet such requirements which cannot be met by commercial providers.

(2) The study conducted under this subsection shall—

(A) make recommendations to promote the availability of information from the National Aeronautics and Space Administration to commercial providers to enable commercial providers to better meet the baseline scientific requirements of Earth Science;

(B) make recommendations to promote the dissemination to commercial providers of information on advanced technology research and development performed by or for the National Aeronautics and Space Administration; and

(C) identify policy, regulatory, and legislative barriers to the implementation of the recommendations made under this subsection.

(3) The results of the study conducted under this subsection shall be transmitted to the Congress within 6 months after the date of the enactment of this Act.

(d) SAFETY STANDARDS.—Nothing in this section shall be construed to prohibit the Federal Government from requiring compliance with applicable safety standards.

(e) ADMINISTRATION AND EXECUTION.—This section shall be carried out as part of the Commercial Remote Sensing Program at the Stennis Space Center.

(f) REMOTE SENSING.—

(1) APPLICATION CONTENTS.—Section 201(b) of the Land Remote Sensing Policy Act of 1992 (15 U.S.C. 5621(b)) is amended—

(A) by inserting ''(1)'' after ''NATIONAL SECURITY.—''; and

(B) by adding at the end the following new paragraph:

''(2) The Secretary, within 6 months after the date of the enactment of the Commercial Space Act of 1998, shall publish in the Federal Register a complete and specific list of all information required to comprise a complete application for a license under this title. An application shall be considered complete when the applicant has provided all information required by the list most recently published in the Federal Register before the date the application was first submitted. Unless the Secretary has, within 30 days after receipt of an application, notified the applicant of information necessary to complete an application, the Secretary may not deny the application on the basis of the absence of any such information.''.

(2) NOTIFICATION OF AGREEMENTS.—Section 202(b)(6) of the Land Remote Sensing Policy Act of 1992 (15 U.S.C. 5622(b)(6)) is amended by inserting ''significant or substantial'' after ''Secretary of any''.

TITLE II—FEDERAL ACQUISITION OF SPACE TRANSPORTATION SERVICES

SEC. 201. REQUIREMENT TO PROCURE COMMERCIAL SPACE TRANSPORTATION SERVICES.

(a) IN GENERAL.—Except as otherwise provided in this section, the Federal Government shall acquire space transportation services from United States commercial providers whenever such services are required in the course of its activities. To the maximum extent practicable, the Federal Government shall plan missions to accommodate the space transportation services capabilities of United States commercial providers.

(b) EXCEPTIONS.—The Federal Government shall not be required to acquire space transportation services under subsection (a) if, on a case-by-case basis, the Administrator or, in the case of a national security issue, the Secretary of the Air Force, determines that—

(1) a payload requires the unique capabilities of the Space Shuttle;

(2) cost effective space transportation services that meet specific mission requirements would not be reasonably available from United States commercial providers when required;

(3) the use of space transportation services from United States commercial providers poses an unacceptable risk of loss of a unique scientific opportunity;

(4) the use of space transportation services from United States commercial providers is inconsistent with national security objectives;

(5) the use of space transportation services from United States commercial providers is inconsistent with international agreements for international collaborative efforts relating to science and technology;

(6) it is more cost effective to transport a payload in conjunction with a test or demonstration of a space transportation vehicle owned by the Federal Government; or

(7) a payload can make use of the available cargo space on a Space Shuttle mission as a secondary payload, and such payload is consistent with the requirements of research, development, demonstration, scientific, commercial, and educational programs authorized by the Administrator.

Nothing in this section shall prevent the Administrator from planning or negotiating agreements with foreign entities for the launch of Federal Government payloads for international collaborative efforts relating to science and technology.

(c) DELAYED EFFECT.—Subsection (a) shall not apply to space transportation services and space transportation vehicles acquired or owned by the Federal Government before the date of the enactment of this Act, or with respect to which a contract for such acquisition or ownership has been entered into before such date.

(d) HISTORICAL PURPOSES.—This section shall not be construed to prohibit the Federal Government from acquiring, owning, or maintaining space transportation vehicles solely for historical display purposes.

SEC. 202. ACQUISITION OF COMMERCIAL SPACE TRANSPORTATION SERVICES.

(a) TREATMENT OF COMMERCIAL SPACE TRANSPORTATION SERVICES AS COMMERCIAL ITEM UNDER ACQUISITION LAWS.—Acquisitions of space transportation services by the Federal Government shall be carried out in accordance with applicable acquisition laws and regulations (including chapters 137 and 140 of title 10, United States Code). For purposes of such law and regulations, space transportation services shall be considered to be a commercial item.

(b) SAFETY STANDARDS.—Nothing in this section shall be construed to prohibit the Federal Government from requiring compliance with applicable safety standards.

SEC. 203. LAUNCH SERVICES PURCHASE ACT OF 1990 AMENDMENTS.

The Launch Services Purchase Act of 1990 (42 U.S.C. 2465b et seq.) is amended—

(1) by striking section 202;

(2) in section 203—

(A) by striking paragraphs (1) and (2); and

(B) by redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively;

(3) by striking sections 204 and 205; and

(4) in section 206—

(A) by striking ''(a) COMMERCIAL PAYLOADS ON THE SPACE SHUTTLE.—''; and

(B) by striking subsection (b).

SEC. 204. SHUTTLE PRIVATIZATION.

(a) POLICY AND PREPARATION.—The Administrator shall prepare for an orderly transition from the Federal operation, or Federal management of contracted operation, of space transportation systems to the Federal purchase of commercial space transportation services for all nonemergency space transportation requirements for transportation to and from Earth orbit, including human, cargo, and mixed payloads. In those preparations, the Administrator shall take into account the need for short-term economies, as well as the goal of restoring the National Aeronautics and Space Administration's research focus and its mandate to promote the fullest possible commercial use of space. As part of those preparations, the Administrator shall plan for the potential privatization of the Space Shuttle program. Such plan shall keep safety and cost effectiveness as high priorities. Nothing in this section shall prohibit the National Aeronautics and Space Administration from studying, designing, developing, or funding upgrades or modifications essential to the safe and economical operation of the Space Shuttle fleet.

(b) FEASIBILITY STUDY.—The Administrator shall conduct a study of the feasibility of implementing the recommendation of the Independent Shuttle Management Review Team that the National Aeronautics and Space Administration transition toward the privatization of the Space Shuttle. The study shall identify, discuss, and, where possible, present options for resolving, the major policy and legal issues that must be addressed before the Space Shuttle is privatized, including—

(1) whether the Federal Government or the Space Shuttle contractor should own the Space Shuttle orbiters and ground facilities;

(2) whether the Federal Government should indemnify the contractor for any third party liability arising from Space Shuttle operations, and, if so, under what terms and conditions;

(3) whether payloads other than National Aeronautics and Space Administration payloads should be allowed to be launched on the Space Shuttle, how missions will be prioritized, and who will decide which mission flies and when;

(4) whether commercial payloads should be allowed to be launched on the Space Shuttle and whether any classes of payloads should be made ineligible for launch consideration;

(5) whether National Aeronautics and Space Administration and other Federal Government payloads should have priority over non-Federal payloads in the Space Shuttle launch assignments, and what policies should be developed to prioritize among payloads generally;

(6) whether the public interest requires that certain Space Shuttle functions continue to be performed by the Federal Government; and

(7) how much cost savings, if any, will be generated by privatization of the Space Shuttle.

(c) REPORT TO CONGRESS.—Within 60 days after the date of the enactment of this Act, the National Aeronautics and Space Administration shall complete the study required under subsection (b) and shall submit a report on the study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives.

SEC. 205. USE OF EXCESS INTERCONTINENTAL BALLISTIC MISSILES.

(a) IN GENERAL.—The Federal Government shall not—

(1) convert any missile described in subsection (c) to a space transportation vehicle configuration; or

(2) transfer ownership of any such missile to another person, except as provided in subsection (b).

(b) AUTHORIZED FEDERAL USES.—(1) A missile described in subsection (c) may be converted for use as a space transportation vehicle by the Federal Government if, except as provided in paragraph (2) and at least 30 days before such conversion, the agency seeking to use the missile as a space transportation vehicle transmits to the Committee on National Security and the Committee on Science of the House of Representatives, and to the Committee on Armed Services and the Committee on Commerce, Science, and Transportation of the Senate, a certification that the use of such missile—

(A) would result in cost savings to the Federal Government when compared to the cost of acquiring space transportation services from United States commercial providers;

(B) meets all mission requirements of the agency, including performance, schedule, and risk requirements;

(C) is consistent with international obligations of the United States; and

(D) is approved by the Secretary of Defense or his designee.

(2) The requirement under paragraph (1) that the certification described in that paragraph must be transmitted at least 30 days before conversion of the missile shall not apply if the Secretary of Defense determines that compliance with that requirement would be inconsistent with meeting immediate national security requirements.

(c) MISSILES REFERRED TO.— The missiles referred to in this section are missiles owned by the United States that—

(1) were formerly used by the Department of Defense for national defense purposes as intercontinental ballistic missiles; and

(2) have been declared excess to United States national defense needs and are in compliance with international obligations of the United States.

SEC. 206. NATIONAL LAUNCH CAPABILITY STUDY.

(a) FINDINGS.—Congress finds that a robust satellite and launch industry in the United States serves the interest of the United States by—

(1) contributing to the economy of the United States;

(2) strengthening employment, technological, and scientific interests of the United States; and

(3) serving the foreign policy and national security interests of the United States.

(b) DEFINITIONS.—In this section:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of Defense.

(2) TOTAL POTENTIAL NATIONAL MISSION MODEL.—The term ''total potential national mission model'' means a model that—

(A) is determined by the Secretary, in consultation with the Administrator, to assess the total potential space missions to be conducted in the United States during a specified period of time; and

(B) includes all launches in the United States (including launches conducted on or off a Federal range).

(c) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall, in consultation with the Administrator and appropriate representatives of the satellite and launch industry and the governments of States and political subdivisions thereof—

(A) prepare a report that meets the requirements of this subsection; and

(B) submit that report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives.

(2) REQUIREMENTS FOR REPORT.—The report prepared under this subsection shall—

(A) identify the total potential national mission model for the period beginning on the date of the report and ending on December 31, 2007;

(B) identify the resources that are necessary or available to carry out the total potential national mission model described in subparagraph (A), including—

(i) launch property and services of the Department of Defense, the National Aeronautics and Space Administration, and non-Federal facilities; and

(ii) the ability to support commercial launch-on-demand on short notification, taking into account Federal requirements, at launch sites or test ranges in the United States;

(C) identify each deficiency in the resources referred to in subparagraph (B); and

(D) with respect to the deficiencies identified under subparagraph (C), include estimates of the level of funding necessary to address those deficiencies for the period described in subparagraph (A).

(d) RECOMMENDATIONS.—Based on the reports under subsection (c), the Secretary, after consultation with the Secretary of Transportation, the Secretary of Commerce, and representatives from interested private sector entities, States, and local governments, shall—

(1) identify opportunities for investment by non-Federal entities (including States and political subdivisions thereof and private sector entities) to assist the Federal Government in providing launch capabilities for the commercial space industry in the United States;

(2) identify one or more methods by which, if sufficient resources referred to in subsection (c)(2)(D) are not available to the Department of Defense and the National Aeronautics and Space Administration, the control of the launch property and launch services of the Department of Defense and the National Aeronautics and Space Administration may be transferred from the Department of Defense and the National Aeronautics and Space Administration to—

(A) one or more other Federal agencies;

(B) one or more States (or subdivisions thereof);

(C) one or more private sector entities; or

(D) any combination of the entities described in subparagraphs (A) through (C); and

(3) identify the technical, structural, and legal impediments associated with making

launch sites or test ranges in the United States viable and competitive.

Mr. JEFFORDS. I ask unanimous consent that the Senate agree to the House amendment to the Senate amendment.

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

CHARTER SCHOOLS AMENDMENTS ACT OF 1997

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Labor Committee be discharged from further consideration of H.R. 2616, and the Senate then proceed to its immediate consideration.

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

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2616) to amend titles 6 and 10 of the Elementary and Secondary Education Act of 1965 to improve and expand chartered schools.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3795

(Purpose: To provide a manager's amendment)

Mr. JEFFORDS. Senator COATS has a substitute amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont (Mr. JEFFORDS), for Mr. COATS, Mr. LIEBERMAN, Mr. D'AMATO, Mr. KERREY, Ms. LANDRIEU and Mr. MCCAIN, proposes an amendment numbered 3795.

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

Mr. KENNEDY. Mr. President, I strongly support the Charter School Expansion Act, and I commend Senator COATS for his leadership in bringing it before the Senate. The legislation builds on the current Charter School Program to ensure that these schools are given the greater flexibility that they have been promised, and to reaffirm that they must be accountable to the same high standards that we expect of all public schools.

In recent years, in response to the widespread movement to improve the quality of education in the nation's public schools, the innovative idea of charter schools began to develop broad bi-partisan support. Educators and community leaders took active parts in designing new schools that would receive public funds, like traditional public schools, but that would be free of many local regulations, and would also be held accountable for achieving the goals of their charter.

States have the primary role in defining the role of charter schools—34 states have now passed enabling legislation, and they vary widely in their applications of this innovative idea. The Charter School Expansion Act continues to use Federal start-up grants as an incentive for local communities to design charter schools that provide significant options for parents within the public school system. The Act encourages the sharing of ideas and practices between charter schools and other public schools, so that schools benefit from the best lessons of each.

The pending legislation strengthens the accountability provisions for charter schools by giving funding preferences to states that review and evaluate the performance of their charter schools at least once every five years. Charter schools must continue to be open to all students. President Clinton has set a goal of having 3,000 charter schools in operation nationwide by the year 2002.

The Department of Education is conducting an ongoing study of charter school and the degree to which they are successful in improving student achievement. The results of that study will be very important in guiding the future of these schools.

The Charter School Expansion Act is an essential part of our overall effort to improve public schools, and I urge the Senate to approve it. We must continue to do all we can to ensure that all public schools get the support they need to provide every child a good education.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the amendment be agreed to, the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear in the RECORD.

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

The amendment (No. 3795) was agreed to.

The bill (H.R. 2616), as amended, was passed.

NEOTROPICAL MIGRATORY BIRD CONSERVATION ACT

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 521, S. 1970.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1970) to require the Secretary of the Interior to establish a program to provide assistance in the conservation of neotropical migratory birds.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Environment and Public Works, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 1970

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 ''Neotropical Migratory Bird Conservation Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1)(A) birds constitute one of the most widely recognized and appreciated components of North American wildlife;

(B) approximately 25,000,000 Americans travel to observe birds; and

(C) more than 60,000,000 adult Americans watch and feed birds at home;

(2) birds—

(A) are key indicators of environmental health;

(B) play important roles in plant pollination and seed dispersal;

(C) serve as critical links in the food web; and

(D) maintain the health of the environment.

(3)(A) healthy bird populations provide important economic benefits, such as control of noxious insects on agricultural crops, thereby preventing hundreds of millions of dollars in economic losses each year to farming and timber interests; and

(B) more than $20,000,000,000 is spent in the United States each year on watching and feeding birds;

(4)(A) despite their irreplaceable value, many North American bird species, once considered common, are in decline;

(B) 90 North American bird species are listed as endangered or threatened in the United States;

(C) another 124 North American bird species are of high conservation concern; and

(D) Mexico's Secretariat of Environment, Natural Resources and Fisheries lists approximately 390 bird species as being endangered, threatened, vulnerable, or rare;

(5)(A) of the nearly 800 bird species known to occur in the United States, approximately 500 migrate among nations;

(B) the large majority of those species, the neotropical migrants, winter in Latin America and the Caribbean; and

(C) neotropical migrants in particular have received much attention because of their population declines;

(6)(A) the primary reason for the declines is habitat loss and degradation (including pollution and contamination);

(B) because neotropical migrants range across numerous international borders each year, their conservation requires that safeguards be established at both ends of the migration routes, as well as at critical stopover areas along the way; and

(C) establishing such safeguards necessitates the joint commitment and effort of all nations that support those species, as well as all levels of society; **[**and**]**

(7)(A)numerous initiatives exist to conserve migratory birds, including Partners in Flight, the Western Hemisphere Shorebird Reserve Network, the North American Waterfowl Management Plan, and monitoring action plans and conservation plans for water birds, marsh birds, and raptors; and

(B) those initiatives can be significantly strengthened and enhanced by coordination of their efforts to protect habitat shared by migratory birds; and

[(7)**]** *(8)* this Act constitutes an effort on the part of the United States to adopt appropriate measures for the protection of migratory birds in collaboration with—

(A) neighboring nations that are parties to the Convention Respecting Nature Protection and Wildlife Preservation in the Western Hemisphere, done at the Pan American Union, Washington, October 12, 1940 (56 Stat. 1354); **[**and**]**

(B) States, conservation organizations, corporations and business interests, and other private entities**[**.**]***; and*

(C) other initiatives to conserve migratory birds throughout the Americas, by serving as a link among those initiatives.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to assist in the conservation of neotropical migratory birds by supporting neotropical migratory bird conservation programs in [Latin America and the Caribbean] *Latin America, the Caribbean, and the United States* with a focus on reversing habitat loss and degradation;

(2) to promote partnerships between Federal, State, and nongovernmental entities in the United States in the conservation of neotropical migratory birds;

(3) to foster active governmental and nongovernmental participation in neotropical migratory bird conservation by cooperating countries throughout Latin America and the Caribbean;

(4) to promote circumstances under which the conservation of neotropical migratory birds in Latin America and the Caribbean may be carried out [entirely] by local entities;

(5) to provide financial resources for projects that support neotropical migratory bird conservation; and

(6) to promote the effective conservation of neotropical migratory birds in the Western Hemisphere through collaboration at all levels of society.

SEC. 4. CONSERVATION ASSISTANCE.

(a) IN GENERAL.—The Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service (referred to in this Act as the ''Secretary''), shall establish a program to provide financial assistance for projects to promote the conservation of neotropical migratory birds.

(b) PROJECT APPLICANTS.—An entity that is eligible to receive financial assistance for a project under this Act is an entity that—

(1) is—

(A) a Federal, State, or local governmental entity of the United States;

(B) a United States nongovernmental organization, corporation or business interest, or other private entity;

(C) a governmental or nongovernmental organization, corporation or business interest, or other private entity in Latin America or the Caribbean; or

(D) an international organization that is dedicated to achieving the purposes of this Act; and

(2) submits a project proposal to the Secretary.

(c) PROJECT PROPOSALS.—Each project proposal shall—

(1) demonstrate that the project will enhance the conservation of neotropical migratory birds in [Latin America or the Caribbean] *Latin America, the Caribbean, or the United States* by focusing on reversing habitat loss and degradation;

(2) include mechanisms to ensure adequate local public participation in project development and implementation;

(3) contain assurances that the project will be implemented in consultation with appropriate local and other government officials with jurisdiction over the resources addressed by the project;

(4) demonstrate sensitivity to local historic and cultural resources and comply with applicable laws; and

(5) provide any other information that the Secretary considers to be necessary for evaluating the proposal.

(d) PROJECT SUSTAINABILITY.—To the maximum extent practicable, each project shall aim to support or establish such structures as are necessary to ensure achievement of conservation objectives specified in this Act, including the long-term operation and maintenance of the project by local entities in the country in which the project is carried out.

(e) COST SHARING.—

(1) FEDERAL SHARE.—The Federal share of the cost of each project shall be not greater than 33 percent.

(2) NON-FEDERAL SHARE.—

(A) PAYMENT BY UNITED STATES AND INTERNATIONAL ENTITIES.—Not less than 50 percent of the non-Federal share required to be paid for each project shall be paid, in cash, by—

(i) United States nongovernmental organizations;

(ii) international nongovernmental organizations;

(iii) States of the United States and other United States non-Federal entities; and

(iv) corporations, business interests, and other private entities.

[(B) PAYMENT BY LOCAL ENTITIES.—In addition to funds paid under subparagraph (A), the entity submitting the proposal for a project to be assisted under this Act shall seek matching funds, in the form of cash or in-kind contributions, from local entities in the country in which the project is carried out, including corporations and business interests.]

(B) PAYMENT BY LOCAL ENTITIES IN FOREIGN COUNTRIES.—A local entity in a foreign country in which a project is carried out may provide the non-Federal share required under this subsection in cash or in-kind contributions from local sources in the country.

SEC. 5. NEOTROPICAL MIGRATORY BIRD ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established a Neotropical Migratory Bird Advisory Committee (referred to in this Act as the ''Committee'') to assist in carrying out this Act.

(b) MEMBERSHIP.—

(1) PERMANENT MEMBERS.—The [4] *9* permanent members of the Committee shall be—

(A) [2 representatives] *1 representative* of the United States Fish and Wildlife Service, [1 of whom] *who* shall chair the Committee;

(B) 1 representative appointed by the International Association of Fish and Wildlife Agencies, who shall not be required to be an officer or employee of the Association; [and]

(C) 1 representative appointed by the National Fish and Wildlife Foundation established by the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3701 et seq.), who shall not be required to be an officer or employee of the Foundation*;*

(D) 1 representative of the Department of State;

(E) 1 representative of the United States Agency for International Development; and

(F) 4 individuals, appointed by the Secretary of the Interior, each of whom—

(i) shall represent an entity (other than an entity specified in any of subparagraphs (A) through (E)) that has strong interest and involvement in neotropical bird conservation; and

(ii) shall serve for a 2-year term.

(2) NONVOTING [MEMBER] *MEMBERS*.—

(A) IN GENERAL.—The Committee shall include [1 nonvoting member who] *3 nonvoting members, each of whom—*

(i) is a native and resident of Latin America or the Caribbean; and

(ii) is actively involved in local conservation efforts in Latin America or the Caribbean.

(B) CONDITIONS OF SERVICE AS MEMBER.—[The] *Each* member described in subparagraph (A) shall serve in an advisory capacity and for a 2-year term.

(c) DUTIES.—The Committee shall—

(1) assist in the development of guidelines for the solicitation of proposals for projects eligible for financial assistance under section 4;

(2) promote participation in the program established under section 4 by public and private non-Federal entities; [and]

(3) review and recommend to the Secretary proposals for financial assistance that meet the requirements specified in section [4 and any other criteria established by the Committee.] *4; and*

(4) coordinate and facilitate grant processes among entities involved in neotropical bird conservation.

(d) MEETINGS.—The Committee shall hold such meetings as are necessary to carry out the duties of the Committee.

(e) COMPENSATION.—

(1) IN GENERAL.—Subject to paragraph (2), a member of the Committee shall not receive any compensation for the service of the member on the Committee.

(2) TRAVEL EXPENSES.—A member of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of services for the Committee.

(f) ELIGIBILITY FOR FINANCIAL ASSISTANCE.—An entity represented by a member of the Committee shall not be eligible to receive financial assistance under this Act.

SEC. 6. DUTIES OF SECRETARY.

(a) ASSISTANCE TO COMMITTEE.—The Secretary shall facilitate consideration of projects described in section 4(a) by the Committee and otherwise assist the Committee in carrying out its duties under this Act.

(b) OTHER DUTIES.—In carrying out this Act, the Secretary shall—

(1) select proposals for financial assistance;

[(1)] *(2)* develop and oversee agreements to provide financial assistance under section 4;

[(2)] *(3)* seek cooperators described in section 7;

[(3)] *(4)* translate documents into Spanish as necessary; and

[(4)] *(5)* generally manage implementation of this Act.

(c) FUNDING.—The Secretary may use funds described in section 9(b) to carry out this section.

SEC. 7. COOPERATION.

In carrying out this Act, the Secretary shall cooperate with appropriate entities, including—

(1) appropriate officials in countries where projects authorized by this Act are proposed to be carried out or are being carried out;

(2) the heads of other Federal agencies; and

(3) entities carrying out, as of the date of enactment of this Act, initiatives that support bird conservation in Latin America and the Caribbean, such as Partners in Flight, the North American Waterfowl Management Plan, the Western Hemisphere Shorebird Reserve Network, Winged Ambassadors, the Latin America small grants program of the American Bird Conservancy, and Wings of the Americas.

SEC. 8. REPORT TO CONGRESS.

Not later than December 31, 2002, the Secretary shall submit to Congress a report on the results and effectiveness of the program carried out under this Act, including recommendations concerning how the Act might be improved and whether the program should be continued.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

[(a) IN GENERAL.—There is authorized to be appropriated to carry out this Act $4,000,000 for each of fiscal years 1999 through 2001, to remain available until expended.]

(a) IN GENERAL.—There is authorized to be appropriated to the Secretary of the Interior to carry out this Act $8,000,000 for each of fiscal years 1999 through 2001, to remain available until expended, of which not less than 50 percent and not more than 70 percent of the amounts made available for each fiscal year

shall be expended for projects carried out outside the United States.

(b) ADMINISTRATIVE EXPENSES.—For each fiscal year, of the amounts made available to carry out this Act under subsection (a), the Secretary may use not more than [10] *6* percent to pay administrative expenses incurred in carrying out this Act.

AMENDMENT NO. 3796

(Purpose: To provide a complete substitute)

Mr. JEFFORDS. I ask unanimous consent the committee amendments be withdrawn. Senator CHAFEE has a substitute at the desk, and I ask for its consideration.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont (Mr. JEFFORDS), for Mr. CHAFEE, proposes an amendment numbered 3796.

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

Mr. CHAFEE. Mr. President, I am pleased that the Senate is considering S. 1970, the Neotropical Migratory Bird Conservation Act of 1998, introduced by Senator ABRAHAM. I am also pleased to be a cosponsor of this legislation. The bill would establish a program to provide financial assistance for projects to promote the conservation of neotropical migratory birds in the United States, Latin America and the Caribbean.

Each autumn, some 5 billion birds from 500 species migrate between their breeding grounds in North America and tropical habitats in the Caribbean, Central and South America. These neotropical migrants—or New World tropical migrants—are birds that migrate between the biogeographic region stretching across Mexico, Central America, much of the Caribbean, and the northern part of South America.

The natural challenges facing these migratory birds are profound. These challenges have been exacerbated by human-induced impacts, particularly the continuing loss of habitat in the Caribbean and Latin America. As a result, populations of migratory birds have declined generally in recent years.

While there are numerous efforts underway to protect these species and their habitat, they generally focus on specific groups of migratory birds or specific regions in the Americas. There is a need for a more comprehensive program to address the varied and significant threats facing the numerous species of migratory birds across their range.

Frequently there is little, if any, coordination among the existing programs, nor is there any one program that serves as a link among them. A broader, more holistic approach would bolster existing conservation efforts and programs, fill the gaps between these programs, and promote new initiatives.

S. 1970 encompasses this new approach. Today, I am offering an amendment in the nature of a substitute to the bill. This amendment makes numerous changes to the bill as approved by the EPW Committee. These changes have been incorporated based on very constructive, bipartisan negotiations with the sponsors of the bill, the House Resources Committee, the Administration, and the EPW Committee.

One major change between this amendment and the reported bill relates to the advisory group. Formation of the group is now discretionary on the part of the Secretary. I urge, however, that the Secretary convene a group to assist in implementing the legislation. The success of this initiative will depend on close collaboration with public and private organizations involved in the conservation of migratory birds.

Another significant change applies to the funding levels. While the Federal share remains no more than 33 percent, the non-Federal share has been changed so that for projects in the U.S., the non-Federal share must be paid in cash, while in projects outside the U.S., the non-Federal share may be entirely in-kind contributions. This change is intended to create an incentive, and provide flexibility, for undertaking projects outside the United States. To complement this change, the substitute amendment eliminates the limitation that no more than 70 percent of appropriated funds may be used for projects outside the United States.

Other changes include a clarification of the purposes section, inclusion of a definitions section, and changes to the section enumerating duties of the Secretary, given the elimination of the advisory committee. In addition, several changes were made to reflect a desire that projects be developed with the support of the relevant wildlife management authorities of the country. This change recognizes the need to collaborate conservation efforts among both public and private sectors, and at local and national levels.

I believe that this amendment greatly improves the bill, and I am very pleased with the legislation. I urge my colleagues to support, and urge its speedy enactment.

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

Mr. ABRAHAM. Mr. President, the Senate today will pass compromise legislation worked out between the House and Senate, and between Congress and the President, regarding migratory birds.

I thank Senator DASCHLE, who is an original cosponsor of this legislation, along with Senator CHAFEE, for their support and assistance in formulating legislation which I have been told the President will sign.

Mr. President, the ''Neotropical Migratory Bird Conservation Act of 1998'' is designed to protect over 90 endangered species of bird spending certain seasons in the United States and the rest of the year in other nations of the Western Hemisphere. In doing so, it will protect the environmental, economic, recreational, and aesthetic benefits these birds provide to the United States and to the Western Hemisphere as a whole.

Every year approximately 25 million Americans travel to observe birds, and 60 million American adults watch and feed birds at home.

Bird-watching is a source of great pleasure to many Americans, as well as a source of important revenue to states, like my own state of Michigan, which attract tourists to their scenes of natural beauty. Bird-watching and feeding generates fully $20 billion every year in revenue across America.

Healthy bird populations also prevent hundreds of millions of dollars in economic losses each year to farming and timber interests. They help control insect populations, thereby preventing crop failures and infestations.

Despite the enormous benefits we derive from our bird populations, many of them are struggling to survive. Ninety species are listed as endangered or threatened in the United States. Another 124 species are of high conservation concern. The primary reason for these declines is the degradation and loss of bird habitat.

What makes this all the more troubling is that efforts in the United States to protect these birds' habitats can be of only limited utility.

Among bird watchers' favorites, many neotropical birds are endangered or of high conservation concern.

And several of the most popular neotropical species, including bluebirds, robins, goldfinches, and orioles, migrate to and from the Caribbean and Latin America.

Because neotropical migratory birds range across a number of international borders every year, we must work to establish safeguards at both ends of their migration routes, as well as at critical stopover areas along their way. Only in this way can conservation efforts prove successful.

Mr. President, this is the motivation behind the ''Neotropical Migratory Bird Conservation Act.'' This legislation will protect bird habitats across international boundaries by establishing partnerships between the business community, nongovernmental organizations and foreign nations.

By teaming businesses with international organizations concerned to protect the environment we can combine capital with know-how. By partnering these entities with local organizations in countries where bird habitat is endangered we can see to it that local people receive the training they need to preserve this habitat and maintain this critical natural resource.

This act establishes an account with $8 million appropriated from the treasury, to be supplemented by donations from private or public sources, to help establish programs in the U.S. Latin America and the Caribbean.

These programs will manage and conserve neotropical migratory bird populations.

Those eligible to participate will include national and international governmental and nongovernmental organizations and business interests, as well as U.S. government entities.

This act was formulated with the understanding that the key to environmental success is cooperation among nongovernmental organizations. Thus the federal share of each project's cost will never exceed 33 percent. In order to foster support in communities here and abroad, the nonfederal share for projects may be in cash or inkind contributions.

The approach taken by this legislation is different from all-too many existing programs. It is proactive, and it avoids a crisis management approach. I am convinced that it will prove significantly more cost effective than current programs.

In addition, Mr. President, this legislation will bring needed attention and expertise to areas now receiving relatively little attention in the area of environmental degradation.

By establishing partnerships between business, government and nongovernmental organizations both here and abroad we can greatly enhance the protection of migratory bird habitat throughout our hemisphere.

Mr. President, this bill is a major step forward for us, and I think it will be seen as one of the key environmental measures passed by this Congress. I thank my colleagues for the support of this legislation that I have received.

Mr. JEFFORDS. I ask unanimous consent that the amendment be agreed to, the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear in the RECORD.

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

The amendment (No. 3796) was agreed to.

The bill (S. 1970), as amended, was agreed to.

S. 1970

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 ''Neotropical Migratory Bird Conservation Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) of the nearly 800 bird species known to occur in the United States, approximately 500 migrate among countries, and the large majority of those species, the neotropical migrants, winter in Latin America and the Caribbean;

(2) neotropical migratory bird species provide invaluable environmental, economic, recreational, and aesthetic benefits to the United States, as well as to the Western Hemisphere;

(3)(A) many neotropical migratory bird populations, once considered common, are in decline, and some have declined to the point that their long-term survival in the wild is in jeopardy; and

(B) the primary reason for the decline in the populations of those species is habitat loss and degradation (including pollution and contamination) across the species' range; and

(4)(A) because neotropical migratory birds range across numerous international borders each year, their conservation requires the commitment and effort of all countries along their migration routes; and

(B) although numerous initiatives exist to conserve migratory birds and their habitat, those initiatives can be significantly strengthened and enhanced by increased coordination.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to perpetuate healthy populations of neotropical migratory birds;

(2) to assist in the conservation of neotropical migratory birds by supporting conservation initiatives in the United States, Latin America, and the Caribbean; and

(3) to provide financial resources and to foster international cooperation for those initiatives.

SEC. 4. DEFINITIONS.

In this Act:

(1) ACCOUNT.—The term ''Account'' means the Neotropical Migratory Bird Conservation Account established by section 9(a).

(2) CONSERVATION.—The term ''conservation'' means the use of methods and procedures necessary to bring a species of neotropical migratory bird to the point at which there are sufficient populations in the wild to ensure the long-term viability of the species, including—

(A) protection and management of neotropical migratory bird populations;

(B) maintenance, management, protection, and restoration of neotropical migratory bird habitat;

(C) research and monitoring;

(D) law enforcement; and

(E) community outreach and education.

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

SEC. 5. FINANCIAL ASSISTANCE.

(a) IN GENERAL.—The Secretary shall establish a program to provide financial assistance for projects to promote the conservation of neotropical migratory birds.

(b) PROJECT APPLICANTS.—A project proposal may be submitted by—

(1) an individual, corporation, partnership, trust, association, or other private entity;

(2) an officer, employee, agent, department, or instrumentality of the Federal Government, of any State, municipality, or political subdivision of a State, or of any foreign government;

(3) a State, municipality, or political subdivision of a State;

(4) any other entity subject to the jurisdiction of the United States or of any foreign country; and

(5) an international organization (as defined in section 1 of the International Organizations Immunities Act (22 U.S.C. 288)).

(c) PROJECT PROPOSALS.—To be considered for financial assistance for a project under this Act, an applicant shall submit a project proposal that—

(1) includes—

(A) the name of the individual responsible for the project;

(B) a succinct statement of the purposes of the project;

(C) a description of the qualifications of individuals conducting the project; and

(D) an estimate of the funds and time necessary to complete the project, including sources and amounts of matching funds;

(2) demonstrates that the project will enhance the conservation of neotropical migratory bird species in Latin America, the Caribbean, or the United States;

(3) includes mechanisms to ensure adequate local public participation in project development and implementation;

(4) contains assurances that the project will be implemented in consultation with relevant wildlife management authorities and other appropriate government officials with jurisdiction over the resources addressed by the project;

(5) demonstrates sensitivity to local historic and cultural resources and complies with applicable laws;

(6) describes how the project will promote sustainable, effective, long-term programs to conserve neotropical migratory birds; and

(7) provides any other information that the Secretary considers to be necessary for evaluating the proposal.

(d) PROJECT REPORTING.—Each recipient of assistance for a project under this Act shall submit to the Secretary such periodic reports as the Secretary considers to be necessary. Each report shall include all information required by the Secretary for evaluating the progress and outcome of the project.

(e) COST SHARING.—

(1) FEDERAL SHARE.—The Federal share of the cost of each project shall be not greater than 33 percent.

(2) NON-FEDERAL SHARE.—

(A) SOURCE.—The non-Federal share required to be paid for a project shall not be derived from any Federal grant program.

(B) FORM OF PAYMENT.—

(i) PROJECTS IN THE UNITED STATES.—The non-Federal share required to be paid for a project carried out in the United States shall be paid in cash.

(ii) PROJECTS IN FOREIGN COUNTRIES.—The non-Federal share required to be paid for a project carried out in a foreign country may be paid in cash or in kind.

SEC. 6. DUTIES OF THE SECRETARY.

In carrying out this Act, the Secretary shall—

(1) develop guidelines for the solicitation of proposals for projects eligible for financial assistance under section 5;

(2) encourage submission of proposals for projects eligible for financial assistance under section 5, particularly proposals from relevant wildlife management authorities;

(3) select proposals for financial assistance that satisfy the requirements of section 5, giving preference to proposals that address conservation needs not adequately addressed by existing efforts and that are supported by relevant wildlife management authorities; and

(4) generally implement this Act in accordance with its purposes.

SEC. 7. COOPERATION.

(a) IN GENERAL.—In carrying out this Act, the Secretary shall—

(1) support and coordinate existing efforts to conserve neotropical migratory bird species, through—

(A) facilitating meetings among persons involved in such efforts;

(B) promoting the exchange of information among such persons;

(C) developing and entering into agreements with other Federal agencies, foreign, State, and local governmental agencies, and nongovernmental organizations; and

(D) conducting such other activities as the Secretary considers to be appropriate; and

(2) coordinate activities and projects under this Act with existing efforts in order to enhance conservation of neotropical migratory bird species.

(b) ADVISORY GROUP.—

(1) IN GENERAL.—To assist in carrying out this Act, the Secretary may convene an advisory group consisting of individuals representing public and private organizations actively involved in the conservation of neotropical migratory birds.

(2) PUBLIC PARTICIPATION.—

(A) MEETINGS.—The advisory group shall—

(i) ensure that each meeting of the advisory group is open to the public; and

(ii) provide, at each meeting, an opportunity for interested persons to present oral or written statements concerning items on the agenda.

(B) NOTICE.—The Secretary shall provide to the public timely notice of each meeting of the advisory group.

(C) MINUTES.—Minutes of each meeting of the advisory group shall be kept by the Secretary and shall be made available to the public.

(3) EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory group.

SEC. 8. REPORT TO CONGRESS.

Not later than October 1, 2002, the Secretary shall submit to Congress a report on the results and effectiveness of the program carried out under this Act, including recommendations concerning how the Act might be improved and whether the program should be continued.

SEC. 9. NEOTROPICAL MIGRATORY BIRD CONSERVATION ACCOUNT.

(a) ESTABLISHMENT.—There is established in the Multinational Species Conservation Fund of the Treasury a separate account to be known as the ''Neotropical Migratory Bird Conservation Account'', which shall consist of amounts deposited into the Account by the Secretary of the Treasury under subsection (b).

(b) DEPOSITS INTO THE ACCOUNT.—The Secretary of the Treasury shall deposit into the Account—

(1) all amounts received by the Secretary in the form of donations under subsection (d); and

(2) other amounts appropriated to the Account.

(c) USE.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may use amounts in the Account, without further Act of appropriation, to carry out this Act.

(2) ADMINISTRATIVE EXPENSES.—Of amounts in the Account available for each fiscal year, the Secretary may expend not more than 6 percent to pay the administrative expenses necessary to carry out this Act.

(d) ACCEPTANCE AND USE OF DONATIONS.—The Secretary may accept and use donations to carry out this Act. Amounts received by the Secretary in the form of donations shall be transferred to the Secretary of the Treasury for deposit into the Account.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Account to carry out this Act $8,000,000 for each of fiscal years 1999 through 2002, to remain available until expended, of which not less than 50 percent of the amounts made available for each fiscal year shall be expended for projects carried out outside the United States.

AMENDING THE OMNIBUS PARKS AND PUBLIC LANDS MANAGEMENT ACT OF 1996

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Energy Committee be discharged from further consideration of S. 2427, and the Senate then proceed to its immediate consideration.

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

The clerk will report.

The legislative clerk read as follows:

A bill (S. 2427) to amend the Omnibus Parks and Public Lands Management Act of 1996 to extend legislative authority for the Black Patriots Foundation to establish a commemorative work.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear in the RECORD.

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

S. 2427

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

SECTION 1. BLACK REVOLUTIONARY WAR PATRIOTS MEMORIAL.

Section 506 of the Omnibus Parks and Public Lands Management Act of 1996 (40 U.S.C. 1003 note; 110 Stat. 4155) is amended by striking ''1998'' and inserting ''2000''.

REFERRAL OF THE NOMINATION OF DAVID C. WILLIAMS

Mr. JEFFORDS. I ask unanimous consent that when the Finance Committee favorably reports the nomination of David C. Williams to be Inspector General at the Department of the Treasury on October 9, 1998, the nomination will be immediately referred to the Committee on Governmental Affairs for a period not to exceed 20 days.

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

WATER RESOURCES DEVELOPMENT ACT 1998

Mr. JEFFORDS. I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 523, S. 2131.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2131) to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Environment and Public Works, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Water Resources Development Act of 1998''.

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

Sec. 1. Short title; table of contents.

TITLE I—WATER RESOURCES DEVELOPMENT

Sec. 101. Definitions.
Sec. 102. Project authorizations.
Sec. 103. Project modifications.
Sec. 104. Project deauthorizations.
Sec. 105. Studies.
Sec. 106. Flood hazard mitigation and riverine ecosystem restoration program.
Sec. 107. Shore protection.
Sec. 108. Small flood control projects.
Sec. 109. Use of non-Federal funds for compiling and disseminating information on floods and flood damages.
Sec. 110. Everglades and south Florida ecosystem restoration.
Sec. 111. Aquatic ecosystem restoration.
Sec. 112. Beneficial uses of dredged material.
Sec. 113. Voluntary contributions by States and political subdivisions.
Sec. 114. Recreation user fees.
Sec. 115. Water resources development studies for the Pacific region.
Sec. 116. Missouri and Middle Mississippi Rivers enhancement project.
Sec. 117. Outer Continental Shelf.
Sec. 118. Environmental dredging.
Sec. 119. Benefit of primary flood damages avoided included in benefit cost analysis.
Sec. 120. Control of aquatic plant growth.
Sec. 121. Environmental infrastructure.
Sec. 122. Watershed management, restoration, and development.
Sec. 123. Lakes program.
Sec. 124. Dredging of salt ponds in the State of Rhode Island.
Sec. 125. Upper Susquehanna River basin, Pennsylvania and New York.
Sec. 126. Repaupo Creek and Delaware River, Gloucester County, New Jersey.
Sec. 127. Small navigation projects.
Sec. 128. Streambank protection projects.
Sec. 129. Aquatic ecosystem restoration, Springfield, Oregon.
Sec. 130. Guilford and New Haven, Connecticut.
Sec. 131. Francis Bland, Arkansas Floodway Ditch No. 5.
Sec. 132. Point Judith breakwater.
Sec. 133. Caloosahatchee River basin, Florida.
Sec. 134. Cumberland, Maryland, flood project mitigation.
Sec. 135. Sediments decontamination policy.
Sec. 136. City of Miami Beach, Florida.
Sec. 137. Small storm damage reduction projects.
Sec. 138. Sardis Reservoir, Oklahoma.
Sec. 139. Upper Mississippi River and Illinois waterway system navigation modernization.
Sec. 140. Disposal of dredged material on beaches.
Sec. 141. Fish and wildlife mitigation.
Sec. 142. Upper Mississippi River management.
Sec. 143. Reimbursement of non-Federal interest.
Sec. 144. Research and development program for Columbia and Snake Rivers salmon survival.

TITLE II—CHEYENNE RIVER SIOUX TRIBE, LOWER BRULE SIOUX TRIBE, AND STATE OF SOUTH DAKOTA TERRESTRIAL WILDLIFE HABITAT RESTORATION

Sec. 201. Definitions.
Sec. 202. Terrestrial wildlife habitat restoration.
Sec. 203. South Dakota Terrestrial Wildlife Habitat Restoration Trust Fund.
Sec. 204. Cheyenne River Sioux Tribe and Lower Brule Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Funds.
Sec. 205. Transfer of Federal land to State of South Dakota.
Sec. 206. Transfer of Corps of Engineers land for Indian Tribes.
Sec. 207. Administration.
Sec. 208. Authorization of appropriations.

TITLE I—WATER RESOURCES DEVELOPMENT

SEC. 101. DEFINITIONS.

In this title, the term ''Secretary'' means the Secretary of the Army.

SEC. 102. PROJECT AUTHORIZATIONS.

(a) PROJECTS WITH REPORTS.—The following projects for water resources development and

conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans, and subject to the conditions, described in the respective reports designated in this section:

(1) AMERICAN RIVER WATERSHED, CALIFORNIA.—

(A) IN GENERAL.—The project for flood damage reduction described as the Folsom Stepped Release Plan in the United States Army Corps of Engineers Supplemental Information Report for the American River Watershed Project, California, dated March 1996, at a total cost of $464,600,000, with an estimated Federal cost of $302,000,000 and an estimated non-Federal cost of $162,600,000.

(B) IMPLEMENTATION.—

(i) IN GENERAL.—Implementation of the measures by the Secretary pursuant to subparagraph (A) of this subsection shall be undertaken after completion of the levee stabilization and strengthening and flood warning features authorized in section 101(a)(1) of the Water Resources Development Act of 1996 (110 Stat. 3662).

(ii) FOLSOM DAM AND RESERVOIR.—The Secretary may undertake measures at the Folsom Dam and Reservoir authorized under subparagraph (A) only after reviewing the design of such measures to determine if modifications are necessary to account for changed hydrologic conditions and any other changed conditions in the project area, including operational and construction impacts that have occurred since completion of the report referred to in subparagraph (A). The Secretary shall conduct the review and develop such modifications to the Folsom Dam and Reservoir with the full participation of the Secretary of the Interior.

(iii) REMAINING DOWNSTREAM ELEMENTS.—Implementation of the remaining downstream elements authorized pursuant to subparagraph (A) may be undertaken only after the Secretary, in consultation with affected Federal, State, regional, and local entities, has reviewed the elements to determine if modifications are necessary to address changes in the hydrologic conditions, any other changed conditions in the project area that have occurred since completion of the report referred to in subparagraph (A) and any design modifications for the Folsom Dam and Reservoir made by the Secretary in implementing the measures referred to in subparagraph (B)(ii), and has issued a report on the review. The review shall be prepared in accordance with the economic and environmental principles and guidelines for water and related land resources implementation studies, and no construction may be initiated unless the Secretary determines that the remaining downstream elements are technically sound, environmentally acceptable, and economically justified.

(2) LLAGAS CREEK, CALIFORNIA.—The Secretary may complete the remaining reaches of the National Resources Conservation Services flood control project at Llagas Creek, California, undertaken pursuant to section 5 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1005) substantially in accordance with the requirements of local cooperation as specified in section 4 of that Act (16 U.S.C. 1004) at a total cost of $34,300,000, with an estimated Federal cost of $16,600,000 and an estimated non-Federal share of $17,700,000.

(3) HILLSBORO AND OKEECHOBEE AQUIFER STORAGE AND RECOVERY PROJECT, FLORIDA.—The project for aquifer storage and recovery described in the United States Army Corps of Engineers Central and Southern Florida Water Supply Study, Florida, dated April 1989, and in House Document 369, dated July 30, 1968, at a total cost of $27,000,000, with an estimated Federal cost of $13,500,000 and an estimated non-Federal cost of $13,500,000.

(4) BALTIMORE HARBOR ANCHORAGES AND CHANNELS, MARYLAND AND VIRGINIA.—The project for navigation Baltimore Harbor Anchorages and Channels, Maryland and Virginia: Report of the Chief of Engineers, dated June 8, 1998, at a total cost of $27,692,000, with an estimated Federal cost of $19,126,000 and an estimated non-Federal cost of $8,566,000.

(5) RED LAKE RIVER AT CROOKSTON, MINNESOTA.—The project for flood damage reduction, Red Lake River at Crookston, Minnesota: Report of the Chief of Engineers, dated April 20, 1998, at a total cost of $8,720,000, with an estimated Federal cost of $5,567,000 and an estimated non-Federal cost of $3,153,000.

(6) PARK RIVER, NORTH DAKOTA.—

(A) IN GENERAL.—Subject to the condition stated in subparagraph (B), the project for flood control, Park River, Grafton, North Dakota, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4121) and deauthorized under section 1001(a) of the Water Resources Development Act of 1986 (33 U.S.C. 579a), is authorized to be carried out by the Secretary at a total cost of $27,300,000, with an estimated Federal cost of $17,745,000 and an estimated non-Federal cost of $9,555,000.

(B) CONDITION.—No construction may be initiated unless the Secretary determines through a general reevaluation report using current data, that the project is technically sound, environmentally acceptable, and economically justified.

(b) PROJECTS SUBJECT TO A FINAL REPORT.—The following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans, and subject to the conditions recommended in a final report of the Chief of Engineers as approved by the Secretary, if the report of the Chief is completed not later than December 31, 1998.

(1) HAMILTON AIRFIELD WETLAND RESTORATION, CALIFORNIA.—The project for environmental restoration at Hamilton Airfield, California, at a total cost of $39,000,000, with an estimated Federal cost of $29,000,000 and an estimated non-Federal cost of $10,000,000.

(2) OAKLAND, CALIFORNIA.—

(A) IN GENERAL.—The project for navigation and environmental restoration, Oakland, California, at a total cost of $202,000,000, with an estimated Federal cost of $120,000,000 and an estimated non-Federal cost of $82,000,000.

(B) BERTHING AREAS AND OTHER LOCAL SERVICE FACILITIES.—The non-Federal interests shall provide berthing areas and other local service facilities necessary for the project at an estimated cost of $43,000,000.

(3) SOUTH SACRAMENTO COUNTY STREAMS, CALIFORNIA.—The project for flood damage reduction, environmental restoration and recreation, South Sacramento County Streams, California at a total cost of $64,770,000, with an estimated Federal cost of $38,840,000 and an estimated non-Federal cost of $25,930,000.

(4) UPPER GUADALUPE RIVER, CALIFORNIA.—The Secretary may construct the locally preferred plan for flood damage reduction and recreation, Upper Guadalupe River, California, described as the Bypass Channel Plan of the Chief of Engineers, at a total cost of $132,836,000, with an estimated Federal cost of $42,869,000 and an estimated non-Federal cost of $89,967,000.

(5) YUBA RIVER BASIN, CALIFORNIA.—The project for flood damage reduction, Yuba River Basin, California at a total cost of $25,850,000 with an estimated Federal cost of $16,775,000 and an estimated non-Federal cost of $9,075,000.

(6) DELAWARE BAY COASTLINE: DELAWARE AND NEW JERSEY-BROADKILL BEACH, DELAWARE.—

(A) IN GENERAL.—The shore protection project for hurricane and storm damage reduction, Delaware Bay Coastline: Delaware and New Jersey-Broadkill Beach, Delaware at a total cost of $8,871,000, with an estimated Federal cost of $5,593,000 and an estimated non-Federal cost of $3,278,000.

(B) PERIODIC NOURISHMENT.—Periodic nourishment is authorized for a 50-year period at an estimated average annual cost of $651,000, with an estimated annual Federal cost of $410,000 and an estimated annual non-Federal cost of $241,000.

(7) DELAWARE BAY COASTLINE: DELAWARE AND NEW JERSEY-PORT MAHON, DELAWARE.—

(A) IN GENERAL.—The shore protection project for ecosystem restoration, Delaware Bay Coastline: Delaware and New Jersey-Port Mahon, Delaware at a total cost of $7,563,000, with an estimated Federal cost of $4,916,000 and an estimated non-Federal cost of $2,647,000.

(B) PERIODIC NOURISHMENT.—Periodic nourishment is authorized for a 50-year period at an estimated average annual cost of $238,000, with an estimated annual Federal cost of $155,000 and an estimated annual non-Federal cost of $83,000.

(8) DELAWARE BAY COASTLINE: DELAWARE AND NEW JERSEY-ROOSEVELT INLET-LEWES BEACH, DELAWARE.—

(A) IN GENERAL.—The shore protection project for navigation mitigation and hurricane and storm damage reduction, Delaware Bay Coastline: Delaware and New Jersey-Roosevelt Inlet-Lewes Beach, Delaware at a total cost of $3,326,000, with an estimated Federal cost of $2,569,000 and an estimated non-Federal cost of $2,647,000.

(B) PERIODIC NOURISHMENT.—Periodic nourishment is authorized for a 50-year period at an estimated average annual cost of $207,000, with an estimated annual Federal cost of $159,000 and an estimated annual non-Federal cost of $47,600.

(9) DELAWARE COAST FROM CAPE HENELOPEN TO FENWICK ISLAND, BETHANY BEACH/SOUTH BETHANY BEACH, DELAWARE.—

(A) IN GENERAL.—The shore protection project for hurricane storm damage reduction, Delaware Coast from Cape Henelopen to Fenwick Island, Bethany Beach/South Bethany Beach, Delaware at a total cost of $22,094,000, with an estimated Federal cost of $14,361,000 and an estimated non-Federal cost of $7,773,000.

(B) PERIODIC NOURISHMENT.—Periodic nourishment is authorized for a 50-year period at an estimated average annual cost of $1,573,000, with an estimated annual Federal cost of $1,022,000 and an estimated annual non-Federal cost of $551,000.

(10) JACKSONVILLE HARBOR, FLORIDA.—The project for navigation, Jacksonville Harbor, Florida at a total cost of $27,758,000, with an estimated Federal cost of $9,632,000 and an estimated non-Federal cost of $18,126,000.

(11) LITTLE TALBOT ISLAND, DUVAL COUNTY, FLORIDA.—The shore protection project for hurricane and storm damage prevention, Little Talbot Island, Duval County, Florida at a total cost of $5,802,000, with an estimated Federal cost of $3,771,000 and an estimated non-Federal cost of $2,031,000.

(12) PONCE DE LEON INLET, VOLUSIA COUNTY, FLORIDA.—The project for navigation and recreation, Ponce de Leon Inlet, Volusia County, Florida at a total cost of $5,533,000, with an estimated Federal cost of $3,408,000 and an estimated non-Federal cost of $2,125,000.

(13) TAMPA HARBOR-BIG BEND CHANNEL, FLORIDA.—The project for navigation, Tampa Harbor-Big Bend Channel, Florida at a total cost of $11,348,000, with an estimated Federal cost of $5,747,000 and an estimated non-Federal cost of $5,601,000.

(14) BRUNSWICK HARBOR DEEPENING, GEORGIA.—The project for navigation, Brunswick Harbor Deepening, Georgia at a total cost of $49,433,000, with an estimated Federal cost of $32,083,000 and an estimated non-Federal cost of $17,350,000.

(15) SAVANNAH HARBOR EXPANSION, GEORGIA.—The project for navigation, Savannah Harbor Expansion, Georgia at a total cost of $195,302,000, with an estimated Federal cost of $84,423,000 and an estimated non-Federal cost of $110,879,000.

(16) GRAND FORKS, NORTH DAKOTA, AND EAST GRAND FORKS, MINNESOTA.—The project for flood damage reduction and recreation, Grand Forks, North Dakota and East Grand Forks, Minnesota at a total cost of $281,754,000, with an estimated

Federal cost of $140,877,000 and an estimated non-Federal cost of $140,877,000.

(17) BAYOU CASSOTTE EXTENSION, PASCAGOULA HARBOR, PASCAGOULA, MISSISSIPPI.—The project for navigation, Bayou Cassotte Extension, Pascagoula Harbor, Pascagoula, Mississippi at a total cost of $5,700,000, with an estimated Federal cost of $4,300,000 and an estimated non-Federal cost of $1,400,000.

(18) TURKEY CREEK BASIN, KANSAS CITY, MISSOURI AND KANSAS CITY, KANSAS.—The project for flood damage reduction, Turkey Creek Basin, Kansas City, Missouri and Kansas City, Kansas at a total cost of $38,594,000 with an estimated Federal cost of $22,912,000 and an estimated non-Federal cost of $15,682,000.

(19) LOWER CAPE MAY MEADOWS, CAPE MAY POINT, NEW JERSEY.—

(A) IN GENERAL.—The shore protection project for navigation mitigation, ecosystem restoration and hurricane and storm damage reduction, Lower Cape May Meadows, Cape May Point, New Jersey at a total cost of $14,885,000, with an estimated Federal cost of $11,390,000 and an estimated non-Federal cost of $3,495,000.

(B) PERIODIC NOURISHMENT.—Periodic nourishment is authorized for a 50-year period at an estimated average annual cost of $4,565,000, with an estimated annual Federal cost of $3,674,000 and an estimated annual non-Federal cost of $891,000.

(20) NEW JERSEY SHORE PROTECTION, BRIGANTINE INLET TO GREAT EGG HARBOR, BRIGANTINE ISLAND, NEW JERSEY.—

(A) IN GENERAL.—The shore protection project for hurricane and storm damage reduction, New Jersey Shore Protection, Brigantine Inlet to Great Egg Harbor, Brigantine Island, New Jersey at a total cost of $4,861,000, with an estimated Federal cost of $3,160,000 and an estimated non-Federal cost of $1,701,000.

(B) PERIODIC NOURISHMENT.—Periodic nourishment is authorized for a 50-year period at an estimated average annual cost of $2,600,000, with an estimated annual Federal cost of $1,700,000 and an estimated annual non-Federal cost of $900,000.

(21) NEW JERSEY SHORE PROTECTION, TOWNSENDS INLET TO CAPE MAY INLET, NEW JERSEY.—

(A) IN GENERAL.—The shore protection project for hurricane and storm damage reduction and ecosystem restoration, New Jersey Shore Protection, Townsends Inlet to Cape May Inlet, New Jersey at a total cost of $55,203,000, with an estimated Federal cost of $35,882,000 and an estimated non-Federal cost of $19,321,000.

(B) PERIODIC NOURISHMENT.—Periodic nourishment is authorized for a 50-year period at an estimated average annual cost of $6,319,000, with an estimated annual Federal cost of $4,107,000 and an estimated annual non-Federal cost of $2,212,000.

SEC. 103. PROJECT MODIFICATIONS.

(a) PROJECTS WITH REPORTS.—

(1) GLENN-COLUSA, CALIFORNIA.—The project for flood control, Sacramento River California, authorized by section 2 of the Act entitled ''An Act to provide for the control of floods of the Mississippi River and of the Sacramento River, and for other purposes'', approved March 1, 1917 (39 Stat. 949), and modified by section 102 of the Energy and Water Development Appropriations Act, 1990 (103 Stat. 649), and further modified by section 301(b)(3) of the Water Resources Development Act of 1996 (110 Stat. 3709) is further modified to authorize the Secretary to carry out the portion of the project in Glenn-Colusa, California in accordance with the Corps of Engineers report dated May 22, 1998, at a total cost of $20,700,000, with an estimated Federal cost of $15,570,000 and an estimated non-Federal cost of $5,130,000.

(2) SAN LORENZO RIVER, CALIFORNIA.—The project for flood control, San Lorenzo River, California, authorized by section 101(a)(5) of Public Law 104–303 (110 Stat. 3663), is modified to authorize the Secretary to include as a part of the project streambank erosion control measures to be undertaken substantially in accordance with the report entitled ''Bank Stabilization Concept, Laurel Street Extension'', dated April 23, 1998, at a total cost of $4,000,000, with an estimated Federal cost of $2,600,000 and an estimated non-Federal cost of $1,400,000.

(3) WOOD RIVER, GRAND ISLAND, NEBRASKA.—The project for flood control, Wood River, Grand Island, Nebraska, authorized by section 101(a)(19) of the Water Resources Development Act of 1996 (110 Stat. 3665) is modified to authorize the Secretary to construct the project in accordance with the Corps of Engineers report dated June 29, 1998, at a total cost of $16,632,000, with an estimated Federal cost of $9,508,000 and an estimated non-Federal cost of $7,124,000.

(4) ABSECON ISLAND, NEW JERSEY.—The project for Absecon Island, New Jersey, authorized by section 101(h)(13) of the Water Resources Development Act of 1996 (110 Stat. 3668) is amended to authorize the Secretary to reimburse the non-Federal sponsor for all work performed, consistent with the authorized project.

(5) WAURIKA LAKE, OKLAHOMA, WATER CONVEYANCE FACILITIES.—The requirement for the Waurika Project Master Conservancy District to repay the $2,900,000 in costs (including interest) resulting from the October 1991 settlement of the claim of the Travelers Insurance Company before the United States Claims Court related to construction of the water conveyance facilities authorized by Public Law 88–253 (77 Stat. 841) is waived.

(b) PROJECTS SUBJECT TO REPORTS.—The following projects are modified as follows, except that no funds may be obligated to carry out work under such modifications until completion of a final report by the Chief of Engineers, as approved by the Secretary, finding that such work is technically sound, environmentally acceptable, and economically justified, as applicable:

(1) SACRAMENTO METRO AREA, CALIFORNIA.—The project for flood control, Sacramento Metro Area, California authorized by section 101(4) of the Water Resources Development Act of 1992 (106 Stat. 4801) is modified to authorize the Secretary to construct the project at a total cost of $32,900,000, with an estimated Federal cost of $24,700,000 and an estimated non-Federal cost of $8,200,000.

(2) NEW YORK HARBOR AND ADJACENT CHANNELS, PORT JERSEY, NEW JERSEY.—The project for navigation, New York Harbor and Adjacent Channels, Port Jersey, New Jersey, authorized by section 202(b) of the Water Resources Development Act of 1986 (100 Stat. 4098) is modified to authorize the Secretary to construct the project at a total cost of $100,689,000, with an estimated Federal cost of $74,998,000 and an estimated non-Federal cost of $25,701,000.

(3) ARTHUR KILL, NEW YORK AND NEW JERSEY.—The project for navigation, Arthur Kill, New York and New Jersey, authorized by section 202(b) of the Water Resources Development Act of 1986 (100 Stat. 4098) and modified by section 301(b)(11) of the Water Resources Development Act of 1996 (110 Stat. 3711) is further modified to authorize the Secretary to construct the project at a total cost of $260,899,000, with an estimated Federal cost of $195,705,000 and an estimated non-Federal cost of $65,194,000.

(c) BEAVER LAKE, ARKANSAS, WATER SUPPLY STORAGE REALLOCATION.—The Secretary shall reallocate approximately 31,000 additional acre-feet at Beaver Lake, Arkansas, to water supply storage at no cost to the Beaver Water District or the Carroll-Boone Water District, except that at no time shall the bottom of the conservation pool be at an elevation that is less than 1,076 feet, NGVD.

(d) TOLCHESTER CHANNEL S-TURN, BALTIMORE, MARYLAND.—The project for navigation, Baltimore Harbor and Channels, Maryland, authorized by section 101 of the River and Harbor Act of 1958 (72 Stat. 297), is modified to direct the Secretary to straighten the Tolchester Channel S-turn as part of project maintenance.

(e) TROPICANA WASH AND FLAMINGO WASH, NEVADA.—Any Federal costs associated with the Tropicana and Flamingo Washes, Nevada, authorized by section 101(13) of the Water Resources Development Act of 1992 (106 Stat. 4803), incurred by the non-Federal interest to accelerate or modify construction of the project, in cooperation with the Corps of Engineers, shall be considered to be eligible for reimbursement by the Secretary.

(f) FLOOD MITIGATION NEAR PIERRE, SOUTH DAKOTA.—

(1) IN GENERAL.—

(A) LAND ACQUISITION.—To provide full operational capability to carry out the authorized purposes of the Missouri River Main Stem dams that are part of the Pick-Sloan Missouri River Basin Program authorized by section 9 of the Act entitled ''An Act authorizing the construction of certain public works on rivers and harbors for flood control, and other purposes'' approved December 22, 1944, the Secretary may acquire from willing sellers such land and property in the vicinity of Pierre, South Dakota, or floodproof or relocate such property within the project area, as the Secretary determines is adversely affected by the full wintertime Oahe Powerplant releases.

(B) OWNERSHIP AND USE.—Any land that is acquired under this authority shall be kept in public ownership and will be dedicated and maintained in perpetuity for a use that is compatible with any remaining flood threat.

(C) REPORT.—

(i) IN GENERAL.—The Secretary shall not obligate funds to implement this paragraph until the Secretary has completed a report addressing the criteria for selecting which properties are to be acquired, relocated or floodproofed, and a plan for implementing such measures and has made a determination that the measures are economically justified.

(ii) DEADLINE.—The report shall be completed not later than 180 days after funding is made available.

(D) COORDINATION AND COOPERATION.—The report and implementation plan—

(i) shall be coordinated with the Federal Emergency Management Agency; and

(ii) shall be prepared in consultation with other Federal agencies, and State and local officials, and residents.

(E) CONSIDERATIONS.—Such report should take into account information from prior and ongoing studies.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $35,000,000.

(g) BEACH EROSION CONTROL AND HURRICANE PROTECTION, VIRGINIA BEACH, VIRGINIA.—

(1) ACCEPTANCE OF FUNDS.—In any fiscal year that the Corps of Engineers does not receive appropriations sufficient to meet expected project expenditures for that year, the Secretary shall accept from the city of Virginia Beach, Virginia, for purposes of the project for beach erosion control and hurricane protection, Virginia Beach, Virginia, authorized by section 501(a) of the Water Resources Development Act of 1986 (100 Stat. 4136), such funds as the city may advance for the project.

(2) REPAYMENT.—Subject to the availability of appropriations, the Secretary shall repay, without interest, the amount of any advance made under paragraph (1), from appropriations that may be provided by Congress for river and harbor, flood control, shore protection, and related projects.

(h) ELIZABETH RIVER, CHESAPEAKE, VIRGINIA.—Notwithstanding any other provision of law, after the date of enactment of this Act, the city of Chesapeake, Virginia, shall not be obligated to make the annual cash contribution required under paragraph 1(9) of the Local Cooperation Agreement dated December 12, 1978, between the Government and the city for the project for navigation, southern branch of Elizabeth River, Chesapeake, Virginia.

(i) PAYMENT OPTION, MOOREFIELD, WEST VIRGINIA.—The Secretary may permit the non-Federal sponsor for the project for flood control, Moorefield, West Virginia, to pay without interest the remaining non-Federal cost over a period not to exceed 30 years, to be determined by the Secretary.

SEC. 104. PROJECT DEAUTHORIZATIONS.

(a) BRIDGEPORT HARBOR, CONNECTICUT.—The portion of the project for navigation, Bridgeport Harbor, Connecticut authorized by section 101 of the River and Harbor Act of 1958 (72 Stat. 297), consisting of a 2.4-acre anchorage area 9 feet deep and an adjacent 0.60-acre anchorage 6 feet deep, located on the west side of Johnsons River, Connecticut, is not authorized after the date of enactment of this Act.

(b) BASS HARBOR, MAINE.—

(1) DEAUTHORIZATION.—The portions of the project for navigation, Bass Harbor, Maine, authorized on May 7, 1962, under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577) described in paragraph (2) are not authorized after the date of enactment of this Act.

(2) DESCRIPTION.—The portions of the project referred to in paragraph (1) are described as follows:

(A) Beginning at a bend in the project, N149040.00, E538505.00, thence running easterly about 50.00 feet along the northern limit of the project to a point N149061.55, E538550.11, thence running southerly about 642.08 feet to a point, N148477.64, E538817.18, thence running southwesterly about 156.27 feet to a point on the westerly limit of the project, N148348.50, E538737.02, thence running northerly about 149.00 feet along the westerly limit of the project to a bend in the project, N148489.22, E538768.09, thence running northwesterly about 610.39 feet along the westerly limit of the project to the point of origin.

(B) Beginning at a point on the westerly limit of the project, N148118.55, E538689.05, thence running southeasterly about 91.92 feet to a point, N148041.43, E538739.07, thence running southerly about 65.00 feet to a point, N147977.86, E538725.51, thence running southwesterly about 91.92 feet to a point on the westerly limit of the project, N147927.84, E538648.39, thence running northerly about 195.00 feet along the westerly limit of the project to the point of origin.

(c) EAST BOOTHBAY HARBOR, MAINE.—Section 364 of the Water Resources Development Act of 1996 (110 Stat. 3731) is amended by striking paragraph (9) and inserting the following:

''(9) EAST BOOTHBAY HARBOR, MAINE.—The project for navigation, East Boothbay Harbor, Maine, authorized by the first section of the Act entitled ''An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes'', approved June 25, 1910 (36 Stat. 657).''.

SEC. 105. STUDIES.

(a) BALDWIN COUNTY, ALABAMA, WATERSHEDS.—The Secretary of the Army shall review the report of the Chief of Engineers on the Alabama Coast published as House Document 108, 90th Congress, 1st Session, and other pertinent reports with a view to determining whether modifications of the recommendations contained in the House Document are advisable at this time in the interest of flood damage reduction, environmental restoration and protection, water quality, and other purposes, with a special emphasis on determining the advisability of developing a comprehensive coordinated watershed management plan for the development, conservation, and utilization of water and related land resources in the watersheds in Baldwin County, Alabama.

(b) ESCAMBIA RIVER, ALABAMA AND FLORIDA.—

(1) IN GENERAL.—The Secretary shall review the report of the Chief of Engineers on the Escambia River, Alabama and Florida, published as House Document 350, 71st Congress, 2d Session, and other pertinent reports, to determine whether modifications of any of the recommendations contained in the House Document are advisable at this time with particular reference to Burnt Corn Creek and Murder Creek in the vicinity of Brewton, and East Brewton, Alabama, and the need for flood control, floodplain evacuation, flood warning and preparedness, environmental restoration and protection, and bank stabilization in those areas.

(2) COORDINATION.—The review shall be coordinated with plans of other local and Federal agencies.

(c) STRAWBERRY CREEK, BERKELEY, CALIFORNIA.—The Secretary shall conduct a study to determine the feasibility of restoring Strawberry Creek, Berkeley, California, to determine the Federal interest in environmental restoration, conservation of fish and wildlife resources, recreation, and water quality.

(d) WEST SIDE STORM WATER RETENTION FACILITY, CITY OF LANCASTER, CALIFORNIA.—The Secretary shall conduct a study to determine the feasibility of undertaking measures to construct the West Side Storm Water Retention Facility in the city of Lancaster, California.

(e) APALACHICOLA RIVER, FLORIDA.—The Secretary shall conduct a study for the purpose of identifying—

(1) alternatives for the management of material dredged in connection with operation and maintenance of the Apalachicola River Navigation Project; and

(2) alternatives which reduce the requirements for such dredging.

(f) BROWARD COUNTY, SAND BYPASSING AT PORT EVERGLADES, FLORIDA.—The Secretary shall conduct a study to determine the feasibility of constructing a sand bypassing project at the Port Everglades Inlet, Florida.

(g) CITY OF DESTIN-NORIEGA POINT BREAKWATER, FLORIDA.—The Secretary shall conduct a study to determine the feasibility of—

(1) restoring Noriega Point, Florida, to serve as a breakwater for Destin Harbor; and

(2) including Noriega Point as part of the East Pass, Florida navigation project.

(h) GATEWAY TRIANGLE REDEVELOPMENT AREA, FLORIDA.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of undertaking measures to reduce the flooding problems in the vicinity of Gateway Triangle Redevelopment Area, Florida.

(2) STUDIES AND REPORTS.—The study shall include a review and consideration of studies and reports completed by the non-Federal sponsor.

(i) HILLSBOROUGH RIVER, WITHLACOOCHEE RIVER BASINS, FLORIDA.—The Secretary shall conduct a study to identify appropriate measures that can be undertaken in the Green Swamp, Withlacoochee River, and the Hillsborough River, the Water Triangle of west central Florida to address comprehensive watershed planning for water conservation, water supply, restoration and protection of environmental resources, and other water resource-related problems in the area.

(j) CITY OF PLANT CITY, FLORIDA.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of a flood control project in the city of Plant City, Florida.

(2) STUDIES AND REPORTS.—In conducting the study, the Secretary shall review and consider studies and reports completed by the non-Federal sponsor.

(k) ST. LUCIE COUNTY, FLORIDA, SHORE PROTECTION.—The Secretary shall conduct a study to determine the feasibility of a shore protection and hurricane and storm damage reduction project to the shoreline areas in St. Lucie County from the current project for Fort Pierce Beach, Florida southward to the Martin County line.

(l) ACADIANA NAVIGATION CHANNEL, LOUISIANA.—The Secretary shall conduct a study to determine the feasibility of assuming operations and maintenance for the Acadiana Navigational Channel located in Iberia and Vermillion Parishes, Louisiana.

(m) CONTRABAND BAYOU NAVIGATION CHANNEL, LOUISIANA.—The Secretary shall conduct a study to determine the feasibility of assuming the maintenance at Contraband Bayou, Calcasieu River Ship Canal, Louisiana.

(n) GOLDEN MEADOW LOCK, LOUISIANA.—The Secretary shall conduct a study to determine the feasibility of converting the Golden Meadow floodgate into a navigation lock to be included in the Larose to Golden Meadow Hurricane Protection project.

(o) GULF INTRACOASTAL WATERWAY ECOSYSTEM PROTECTION, CHEF MENTEUR TO SABINE RIVER, LOUISIANA.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of undertaking ecosystem restoration and protection measures along the Gulf Intracoastal Waterway from Chef Menteur to Sabine River, Louisiana.

(2) MATTERS TO BE ADDRESSED.—The study shall address saltwater intrusion, tidal scour, erosion, and other water resources related problems in this area.

(p) LAKE PONTCHARTRAIN, LOUISIANA, AND VICINITY, ST. CHARLES PARISH PUMPS.—The Secretary shall conduct a study to determine the feasibility of modifying the Lake Pontchartrain Hurricane Protection project to include the St. Charles Parish Pumps and the modification of the seawall fronting protection along Lake Pontchartrain in Orleans, Parish, from New Basin Canal on the west to the Inner Harbor Navigation Canal on the east.

(q) LAKE PONTCHARTRAIN AND VICINITY SEAWALL RESTORATION, LOUISIANA.—The Secretary shall conduct a study to determine the feasibility of undertaking structural modifications of that portion of the seawall fronting protection along the south shore of Lake Pontchartrain in Orleans Parish, Louisiana, extending approximately 5 miles from the new basin Canal on the west to the Inner Harbor Navigation Canal on the east as a part of the Lake Pontchartrain and Vicinity Hurricane Protection Project, authorized by section 204 of the Flood Control Act of 1965 (79 Stat. 1077).

(r) LOUISIANA STATE PENITENTIARY LEVEE.—The Secretary shall conduct a study of the impacts of crediting the non-Federal sponsor for work performed in the project area of the Louisiana State Penitentiary Levee.

(s) TUNICA LAKE WEIR, MISSISSIPPI.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of constructing an outlet weir at Tunica Lake, Tunica County, Mississippi, and Lee County, Arkansas, for the purpose of stabilizing water levels in the Lake.

(2) ECONOMIC ANALYSIS.—In carrying out the study, the Secretary shall include as a part of the economic analysis the benefits derived from recreation uses at the Lake and economic benefits associated with restoration of fish and wildlife habitat.

(t) PROTECTIVE FACILITIES FOR THE ST. LOUIS, MISSOURI, RIVERFRONT AREA.—

(1) STUDY.—The Secretary shall conduct a study to determine the optimal plan to protect facilities that are located on the Mississippi River riverfront within the boundaries of St. Louis, Missouri.

(2) REQUIREMENTS.—In conducting the study, the Secretary—

(A) shall evaluate alternatives to offer safety and security to facilities; and

(B) use state-of-the-art techniques to best evaluate the current situation, probable solutions, and estimated costs.

(3) REPORT.—Not later than April 15, 1999, the Secretary shall submit to Congress a report on the results of the study.

(u) YELLOWSTONE RIVER, MONTANA.—

(1) STUDY.—The Secretary shall conduct a comprehensive study of the Yellowstone River

from Gardiner, Montana to the confluence of the Missouri River to determine the hydrologic, biological, and socioeconomic cumulative impacts on the river.

(2) CONSULTATION AND COORDINATION.—The Secretary shall conduct the study in consultation with the United States Fish and Wildlife Service, the United States Geological Survey, and the Natural Resource Conservation Service and with the full participation of the State of Montana, tribal and local entities, and provide for public participation.

(3) REPORT.—Not later than 5 years after the date of enactment of this Act, the Secretary shall submit a report to Congress on the results of the study.

(v) LAS VEGAS VALLEY, NEVADA.—

(1) IN GENERAL.—The Secretary shall conduct a comprehensive study of water resources located in the Las Vegas Valley, Nevada.

(2) OBJECTIVES.—The study shall identify problems and opportunities related to ecosystem restoration, water quality, particularly the quality of surface runoff, water supply, and flood control.

(w) CAMDEN AND GLOUCESTER COUNTIES, NEW JERSEY, STREAMS AND WATERSHEDS.—The Secretary shall conduct a study to determine the feasibility of undertaking ecosystem restoration, floodplain management, flood control, water quality control, comprehensive watershed management, and other allied purposes along tributaries of the Delaware River, Camden County and Gloucester County, New Jersey.

(x) OSWEGO RIVER BASIN, NEW YORK.—The Secretary shall conduct a study to determine the feasibility of establishing a flood forecasting system within the Oswego River basin, New York.

(y) PORT OF NEW YORK-NEW JERSEY NAVIGATION STUDY AND ENVIRONMENTAL RESTORATION STUDY.—

(1) NAVIGATION STUDY.—The Secretary shall conduct a comprehensive study of navigation needs at the Port of New York-New Jersey (including the South Brooklyn Marine and Red Hook Container Terminals, Staten Island, and adjacent areas) to address improvements, including deepening of existing channels to depths of 50 feet or greater, that are required to provide economically efficient and environmentally sound navigation to meet current and future requirements.

(2) ENVIRONMENTAL REMEDIATION STUDY.—The Secretary, acting through the Chief of Engineers, shall review the reports of the Chief of Engineers on the New York Harbor, printed in the House Management Plan of the Harbor Estuary Program, and other pertinent reports concerning the New York Harbor Region and the Port of New York-New Jersey, to determine Federal interest in advancing harbor environmental restoration.

(3) REPORT.—Both studies shall be completed by December, 1999, to identify opportunities to link navigation improvements with possible environmental restoration projects.

(z) NIOBRARA RIVER AND MISSOURI RIVER SEDIMENTATION STUDY, SOUTH DAKOTA.—The Secretary shall conduct a study of the Niobrara River watershed and the operations of Fort Randall Dam and Gavins Point Dam on the Missouri River to determine the feasibility of alleviating the bank erosion, sedimentation, and related problems in the lower Niobrara River and the Missouri River below Fort Randall Dam.

(aa) CITY OF OCEAN SHORES SHORE PROTECTION PROJECT, WASHINGTON.—The Secretary shall conduct a study to determine the feasibility of undertaking the project for beach erosion and flood control, including relocation of a primary dune and periodic nourishment, at Ocean Shores, Washington.

(bb) ALTERNATIVE WATER SOURCES STUDY.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency shall conduct a study of the water supply needs of States that are not currently eligible for assistance under title XVI of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. 390h et seq.).

(2) REQUIREMENTS.—The study shall—

(A) identify the water supply needs (including potable, commercial, industrial, recreational and agricultural needs) of each State described in paragraph (1) through the year 2020, making use of such State, regional, and local plans, studies, and reports as may be available;

(B) evaluate the feasibility of various alternative water source technologies such as reuse and reclamation of wastewater and stormwater (including indirect potable reuse), aquifer storage and recovery, and desalination to meet the anticipated water supply needs of the States; and

(C) assess how alternative water sources technologies can be utilized to meet the identified needs.

(3) REPORT.—The Administrator shall report to Congress on the results of the study not more than 180 days after the date of enactment of this Act.

SEC. 106. FLOOD HAZARD MITIGATION AND RIVERINE ECOSYSTEM RESTORATION PROGRAM.

(a) IN GENERAL.—

(1) AUTHORIZATION.—The Secretary may undertake a program to reduce flood hazards and restore the natural functions and values of riverine ecosystems throughout the United States.

(2) STUDIES.—In carrying out the program, the Secretary shall conduct studies to identify appropriate flood damage reduction, conservation, and restoration measures and may design and implement watershed management and restoration projects.

(3) PARTICIPATION.—The studies and projects carried out under this authority shall be conducted, to the extent practicable, with the full participation of the appropriate Federal agencies, including the Department of Agriculture, the Federal Emergency Management Agency, the Department of the Interior, the Environmental Protection Agency, and the Department of Commerce.

(4) NONSTRUCTURAL APPROACHES.—The studies and projects shall, to the extent practicable, emphasize nonstructural approaches to preventing or reducing flood damages.

(b) COST-SHARING REQUIREMENTS.—

(1) IN GENERAL.—The cost of studies conducted under subsection (a) shall be shared in accordance with section 105 of the Water Resources Development Act of 1986 (100 Stat. 4088; 110 Stat. 3677).

(2) PAYMENT PERCENTAGE.—The non-Federal interests shall pay 35 percent of the cost of any project carried out under this section.

(3) IN-KIND CONTRIBUTIONS.—The non-Federal interests shall provide all land, easements, rights-of-way, dredged material disposal areas, and relocations necessary for the projects, and the value of the land, easements, rights-of-way, dredged material disposal areas, and relocations shall be credited toward the payment required under this subsection.

(4) RESPONSIBILITIES OF THE NON-FEDERAL INTERESTS.—The non-Federal interests shall be responsible for all costs associated with operating, maintaining, replacing, repairing, and rehabilitating all projects carried out under this authority.

(c) PROJECT JUSTIFICATION.—

(1) IN GENERAL.—The Secretary may implement a project under this section if the Secretary determines that the project—

(A) will significantly reduce potential flood damages;

(B) will improve the quality of the environment; and

(C) is justified considering all costs and beneficial outputs of the project.

(2) SELECTION CRITERIA; POLICIES AND PROCEDURES.—Not later than 180 days after the date of enactment of this Act, the Secretary shall—

(A) develop criteria for selecting and rating the projects to be carried out as a part of the program authorized by this section; and

(B) establish policies and procedures for carrying out the studies and projects undertaken under this section.

(d) REPORTING REQUIREMENT.—The Secretary may not implement a project under this section until—

(1) the Secretary provides to the Committee on the Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a written notification describing the project and the determinations made under subsection (c); and

(2) a period of 21 calendar days has expired following the date on which the notification was received by the Committees.

(e) PRIORITY AREAS.—In carrying out this section, the Secretary shall examine the potential for flood damage reductions at appropriate locations, including—

(1) Saint Genevieve, Missouri;

(2) upper Delaware River basin, New York;

(3) Tillamook County, Oregon;

(4) Providence County, Rhode Island; and

(5) Willamette River basin, Oregon.

(f) PER-PROJECT LIMITATION.—Not more than $25,000,000 in Army Civil Works appropriations may be expended on any single project undertaken under this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $75,000,000 for the period of fiscal years 2000 and 2001.

(2) PROGRAM FUNDING LEVELS.—All studies and projects undertaken under this authority from Army Civil Works appropriations shall be fully funded within the program funding levels provided in this subsection.

SEC. 107. SHORE PROTECTION.

Section 103(d) of the Water Resources Development Act of 1986 (100 Stat. 4085) is amended—

(1) by striking ''Costs of construction'' and inserting the following:

''(1) CONSTRUCTION.—Costs of construction''; and

(2) by adding at the end the following:

''(2) PERIODIC NOURISHMENT.—In the case of a project authorized for construction after December 31, 1998, or for which a feasibility study is completed after that date, the non-Federal cost of the periodic nourishment of projects or measures for shore protection or beach erosion control shall be 50 percent, except that—

''(A) all costs assigned to benefits to privately owned shores (where use of such shores is limited to private interests) or to prevention of losses of private land shall be borne by non-Federal interests; and

''(B) all costs assigned to the protection of federally owned shores shall be borne by the United States.''.

SEC. 108. SMALL FLOOD CONTROL PROJECTS.

Section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s) is amended—

(1) in the first sentence, by striking ''construction of small projects'' and inserting ''implementation of small structural and nonstructural projects''; and

(2) in the third sentence, by striking ''$5,000,000'' and inserting ''$7,000,000''.

SEC. 109. USE OF NON-FEDERAL FUNDS FOR COMPILING AND DISSEMINATING INFORMATION ON FLOODS AND FLOOD DAMAGES.

The third sentence of section 206(b) of the Flood Control Act of 1960 (33 U.S.C. 709a(b)) is amended by inserting before the period at the end the following: '', but the Secretary of the Army may accept funds voluntarily contributed by such entities for the purpose of expanding the scope of the services requested by the entities''.

SEC. 110. EVERGLADES AND SOUTH FLORIDA ECOSYSTEM RESTORATION.

Subparagraphs (B) and (C)(i) of section 528(b)(3) of the Water Resources Development

Act of 1996 (110 Stat. 3769) are amended by striking ''1999'' and inserting ''2000''.

SEC. 111. AQUATIC ECOSYSTEM RESTORATION.

Section 206(c) of the Water Resources Development Act of 1996 (110 Stat. 3679) is amended—

(1) by striking ''Construction'' and inserting the following:

''(1) IN GENERAL.—Construction''; and

(2) by adding at the end the following:

''(2) NONPROFIT ENTITIES.—Notwithstanding section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(b)), for any project undertaken under this section, a non-Federal interest may include a nonprofit entity with the consent of the affected local government.''.

SEC. 112. BENEFICIAL USES OF DREDGED MATERIAL.

Section 204 of the Water Resources Development Act of 1992 (106 Stat. 4826; 110 Stat. 3680) is amended by adding at the end the following:

''(g) NONPROFIT ENTITIES.—Notwithstanding section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(b)), for any project carried out under this section, a non-Federal interest may include a nonprofit entity, with the consent of the affected local government.''.

SEC. 113. VOLUNTARY CONTRIBUTIONS BY STATES AND POLITICAL SUBDIVISIONS.

Section 5 of the Flood Control Act of 1936 (33 U.S.C. 701h) is amended by inserting ''or environmental restoration'' after ''flood control''.

SEC. 114. RECREATION USER FEES.

(a) WITHHOLDING OF AMOUNTS.—

(1) IN GENERAL.—During fiscal years 1999 through 2002, the Secretary may withhold from the special account established under section 4(i)(1)(A) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(i)(1)(A)) 100 percent of the amount of receipts above a baseline of $34,000,000 per each fiscal year received from fees imposed at recreation sites under the administrative jurisdiction of the Department of the Army under section 4(b) of that Act (16 U.S.C. 460l–6a(b)).

(2) USE.—The amounts withheld shall be retained by the Secretary and shall be available, without further Act of appropriation, for expenditure by the Secretary in accordance with subsection (b).

(3) AVAILABILITY.—The amounts withheld shall remain available until September 30, 2005.

(b) USE OF AMOUNTS WITHHELD.—In order to increase the quality of the visitor experience at public recreational areas and to enhance the protection of resources, the amounts withheld under subsection (a) may be used only for—

(1) repair and maintenance projects (including projects relating to health and safety);

(2) interpretation;

(3) signage;

(4) habitat or facility enhancement;

(5) resource preservation;

(6) annual operation (including fee collection);

(7) maintenance; and

(8) law enforcement related to public use.

(c) AVAILABILITY.—Each amount withheld by the Secretary shall be available for expenditure, without further Act of appropriation, at the specific project from which the amount, above baseline, is collected.

SEC. 115. WATER RESOURCES DEVELOPMENT STUDIES FOR THE PACIFIC REGION.

Section 444 of the Water Resources Development Act of 1996 (110 Stat. 3747) is amended by striking ''interest of navigation'' and inserting ''interests of water resources development (including navigation, flood damage reduction, and environmental restoration)''.

SEC. 116. MISSOURI AND MIDDLE MISSISSIPPI RIVERS ENHANCEMENT PROJECT.

(a) DEFINITIONS.—In this section:

(1) MIDDLE MISSISSIPPI RIVER.—The term ''middle Mississippi River'' means the reach of the Mississippi River from the mouth of the Ohio River (river mile 0, upper Mississippi River) to the mouth of the Missouri River (river mile 195).

(2) MISSOURI RIVER.—The term ''Missouri River'' means the main stem and floodplain of the Missouri River (including reservoirs) from its confluence with the Mississippi River at St. Louis, Missouri, to its headwaters near Three Forks, Montana.

(3) PROJECT.—The term ''project'' means the project authorized by this section.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Army.

(b) PROTECTION AND ENHANCEMENT ACTIVITIES.—

(1) PLAN.—

(A) DEVELOPMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall develop a plan for a project to protect and enhance fish and wildlife habitat of the Missouri River and the middle Mississippi River.

(B) ACTIVITIES.—

(i) IN GENERAL.—The plan shall provide for such activities as are necessary to protect and enhance fish and wildlife habitat without adversely affecting—

(I) the water-related needs of the region surrounding the Missouri River and the middle Mississippi River, including flood control, navigation, recreation, and enhancement of water supply; and

(II) private property rights.

(ii) REQUIRED ACTIVITIES.—The plan shall include—

(I) modification and improvement of navigation training structures to protect and enhance fish and wildlife habitat;

(II) modification and creation of side channels to protect and enhance fish and wildlife habitat;

(III) restoration and creation of island fish and wildlife habitat;

(IV) creation of riverine fish and wildlife habitat;

(V) establishment of criteria for prioritizing the type and sequencing of activities based on cost-effectiveness and likelihood of success; and

(VI) physical and biological monitoring for evaluating the success of the project, to be performed by the River Studies Center of the United States Geological Survey in Columbia, Missouri.

(2) IMPLEMENTATION OF ACTIVITIES.—

(A) IN GENERAL.—Using funds made available to carry out this section, the Secretary shall carry out the activities described in the plan.

(B) USE OF EXISTING AUTHORITY FOR UNCONSTRUCTED FEATURES OF THE PROJECT.—Using funds made available to the Secretary under other law, the Secretary shall design and construct any feature of the project that may be carried out using the authority of the Secretary to modify an authorized project, if the Secretary determines that the design and construction will—

(i) accelerate the completion of activities to protect and enhance fish and wildlife habitat of the Missouri River or the middle Mississippi River; and

(ii) be compatible with the project purposes described in this section.

(c) INTEGRATION OF OTHER ACTIVITIES.—

(1) IN GENERAL.—In carrying out the activities described in subsection (b), the Secretary shall integrate the activities with other Federal, State, and tribal activities.

(2) NEW AUTHORITY.—Nothing in this section confers any new regulatory authority on any Federal or non-Federal entity that carries out any activity authorized by this section.

(d) PUBLIC PARTICIPATION.—In developing and carrying out the plan under subsection (b) and the activities described in subsection (c), the Secretary shall provide for public review and comment in accordance with applicable Federal law, including—

(1) providing advance notice of meetings;

(2) providing adequate opportunity for public input and comment;

(3) maintaining appropriate records; and

(4) compiling a record of the proceedings of meetings.

(e) COMPLIANCE WITH APPLICABLE LAW.—In carrying out the activities described in subsections (b) and (c), the Secretary shall comply with any applicable Federal law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(f) COST SHARING.—

(1) NON-FEDERAL SHARE.—The non-Federal share of the cost of the project shall be 35 percent.

(2) FEDERAL SHARE.—The Federal share of the cost of any 1 activity described in subsection (b) shall not exceed $5,000,000.

(3) OPERATION AND MAINTENANCE.—The operation and maintenance of the project shall be a non-Federal responsibility.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to pay the Federal share of the cost of carrying out activities under this section $30,000,000 for the period of fiscal years 2000 and 2001.

SEC. 117. OUTER CONTINENTAL SHELF.

(a) SAND, GRAVEL, AND SHELL.—Section 8(k)(2)(B) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(k)(2)(B)) is amended by inserting before the period at the end the following: ''or any other non-Federal interest subject to an agreement entered into under section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b)''.

(b) REIMBURSEMENT FOR LOCAL SPONSOR AT SANDBRIDGE BEACH, VIRGINIA BEACH, VIRGINIA.—Any amounts paid by the non-Federal sponsor for beach erosion control and hurricane protection, Sandbridge Beach, Virginia Beach, Virginia, as a result of an assessment under section 8(k) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(k)) shall be fully reimbursed.

SEC. 118. ENVIRONMENTAL DREDGING.

Section 312(f) of the Water Resources Development Act of 1990 (33 U.S.C. 1272(f)) is amended by adding at the end the following:

''(6) Snake Creek, Bixby, Oklahoma.''.

SEC. 119. BENEFIT OF PRIMARY FLOOD DAMAGES AVOIDED INCLUDED IN BENEFIT COST ANALYSIS.

Section 308 of the Water Resources Development Act of 1990 (33 U.S.C. 2318) is amended—

(1) in the heading of subsection (a), by striking ''BENEFIT-COST ANALYSIS'' and inserting ''ELEMENTS EXCLUDED FROM COST-BENEFIT ANALYSIS'';

(2) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively; and

(3) by inserting after subsection (a) the following:

''(b) ELEMENTS INCLUDED IN COST-BENEFIT ANALYSIS.—The Secretary shall include primary flood damages avoided in the benefit base for justifying Federal nonstructural flood damage reduction projects.''.

SEC. 120. CONTROL OF AQUATIC PLANT GROWTH.

Section 104(a) of the River and Harbor Act of 1958 (33 U.S.C. 610(a)) is amended—

(1) by inserting ''Arundo dona,'' after ''water-hyacinth,''; and

(2) by inserting ''tarmarix'' after ''melaleuca''.

SEC. 121. ENVIRONMENTAL INFRASTRUCTURE.

Section 219(c) of the Water Resources Development Act of 1992 (106 Stat. 4835) is amended—

(1) by redesignating paragraphs (1) through (19) as paragraphs (3) through (23), respectively; and

(2) by inserting after ''as follows:'' the following:

''(1) LAKE TAHOE, CALIFORNIA AND NEVADA.—Regional water system for Lake Tahoe, California and Nevada.

''(2) LANCASTER, CALIFORNIA.—Fox Field Industrial Corridor water facilities, Lancaster, California.

''(3) SAN RAMON, CALIFORNIA.—San Ramon Valley recycled water project, San Ramon, California.

SEC. 122. WATERSHED MANAGEMENT, RESTORATION, AND DEVELOPMENT.

Section 503(d) of the Water Resources Development Act of 1996 (110 Stat. 3756) is amended by adding at the end the following:

''(14) Clear Lake watershed, California.

''(15) Fresno Slough watershed, California.

''(16) Hayward Marsh, Southern San Francisco Bay watershed, California.

''(17) Kaweah River watershed, California.

''(18) Lake Tahoe watershed, California and Nevada.

''(19) Malibu Creek watershed, California.

''(20) Truckee River basin, Nevada.

''(21) Walker River basin, Nevada.''.

SEC. 123. LAKES PROGRAM.

Section 602(a) of the Water Resources Act of 1986 (100 Stat. 4148) is amended—

(1) by striking ''and'' at the end of paragraph (15);

(2) by striking the period at the end of paragraph (16) and inserting a semicolon; and

(3) by adding at the end the following:

''(17) Clear Lake, Lake County, California, removal of silt and aquatic growth and development of a sustainable weed and algae management program.

''(18) Osgood Pond, Milford, New Hampshire, removal of excessive aquatic vegetation.''.

SEC. 124. DREDGING OF SALT PONDS IN THE STATE OF RHODE ISLAND.

The Secretary may acquire for the State of Rhode Island a dredge and associated equipment with the capacity to dredge approximately 100 cubic yards per hour for use by the State in dredging salt ponds in the State.

SEC. 125. UPPER SUSQUEHANNA RIVER BASIN, PENNSYLVANIA AND NEW YORK.

Section 567(a) of the Water Resources Development Act of 1996 (110 Stat. 3787) is amended by adding at the end the following:

''(3) The Chemung River watershed, New York, at an estimated cost of $5,000,000.''.

SEC. 126. REPAUPO CREEK AND DELAWARE RIVER, GLOUCESTER COUNTY, NEW JERSEY.

Section 102 of the Water Resources Development Act of 1996 (110 Stat. 3668) is amended—

(1) by redesignating paragraphs (15) through (22) as paragraphs (17) through (24), respectively; and

(2) by inserting after paragraph (14) the following:

''(15) REPAUPO CREEK AND DELAWARE RIVER, GLOUCESTER COUNTY, NEW JERSEY.—Project for tidegate and levee improvements for Repaupo Creek and the Delaware River, Gloucester County, New Jersey.

''(16) TIOGA COUNTY, PENNSYLVANIA.—Project for flood control, Tioga River and Cowanesque River and their tributaries, Tioga County, Pennsylvania.''.

SEC. 127. SMALL NAVIGATION PROJECTS.

Section 104 of the Water Resources Development Act of 1996 (110 Stat. 3669) is amended—

(1) by redesignating paragraphs (9) through (12) as paragraphs (10) through (13), respectively; and

(2) by inserting after paragraph (8) the following:

''(9) FORTESCUE INLET, DELAWARE BAY, NEW JERSEY.—Project for navigation for Fortesque Inlet, Delaware Bay, New Jersey.''.

SEC. 128. STREAMBANK PROTECTION PROJECTS.

The streambank protection project at Coulson Park, along the Yellowstone River, Billings, Montana, shall be eligible for assistance under section 14 of the Flood Control Act of 1946 (60 Stat. 653).

SEC. 129. AQUATIC ECOSYSTEM RESTORATION, SPRINGFIELD, OREGON.

(a) IN GENERAL.—Under section 1135 of the Water Resources Development Act of 1990 (100 Stat. 4251) or other applicable authority, the Secretary shall conduct measures to address water quality, flows and fish habitat restoration in the historic Springfield, Oregon, millrace through the reconfiguration of the existing millpond, if the Secretary determines that harmful impacts have occurred as the result of a previously constructed flood control project by the Army Corps of Engineers.

(b) NON-FEDERAL SHARE.—The non-Federal share, excluding lands, easements, rights-of-way, dredged material disposal areas and relocations, shall be 25 percent.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,500,000.

SEC. 130. GUILFORD AND NEW HAVEN, CONNECTICUT.

The Secretary shall expeditiously complete the activities authorized under section 346 of the Water Resources Development Act of 1992 (106 Stat. 4858), including activities associated with Sluice Creek in Guilford, Connecticut, and Lighthouse Point Park in New Haven, Connecticut.

SEC. 131. FRANCIS BLAND, ARKANSAS FLOODWAY DITCH NO. 5.

(a) REDESIGNATION.—The project for flood control, Eight Mile Creek, Paragould, Arkansas authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4112) and known as ''Eight Mile Creek, Paragould, Arkansas'', shall be known and designated as the ''Francis Bland, Arkansas Floodway Ditch No. 5''.

(b) LEGAL PREFERENCES.—Any reference in any law, map, regulation, document, paper, or other record of the United States to the project and creek referred to in subsection (a) shall be deemed to be a reference to the Francis Bland, Arkansas Floodway Ditch No. 5.

SEC. 132. POINT JUDITH BREAKWATER.

(a) IN GENERAL.—The Secretary shall restore the integrity of the breakwater located at Point Judith, Rhode Island, authorized by the first section of the Act of March 2, 1907 (commonly known as the ''River and Harbor Appropriations Act of 1907'') (34 Stat. 1075, chapter 2509) and the first section of the Act of June 25, 1910 (commonly known as the ''River and Harbor Appropriations Act of 1910'') (36 Stat. 632, chapter 382), at a total cost of $10,000,000 with an estimated Federal cost of $6,500,000 and an estimated non-Federal cost of $3,500,000.

(b) NON-FEDERAL RESPONSIBILITY.—Operation, maintenance, repair, replacement, and rehabilitation of the restored breakwater shall be a non-Federal responsibility.

SEC. 133. CALOOSAHATCHEE RIVER BASIN, FLORIDA.

Section 528(e)(4) of the Water Resources Development Act of 1996 (110 Stat. 3770) is amended in the first sentence by inserting before the period at the end the following: '', including potential land acquisition in the Caloosahatchee River basin or other areas''.

SEC. 134. CUMBERLAND, MARYLAND, FLOOD PROJECT MITIGATION.

(a) IN GENERAL.—The project for flood control and other purposes, Cumberland, Maryland, authorized by section 5 of the Act of June 22, 1936 (commonly known as the ''Flood Control Act of 1936'') (49 Stat. 1574, chapter 688), is modified to authorize the Secretary to undertake, as a separate part of the project, restoration of the historic Chesapeake and Ohio Canal substantially in accordance with the Chesapeake and Ohio Canal National Historic Park, Cumberland, Maryland, Rewatering Design Analysis, dated February 1998, at a total cost of $15,000,000, with an estimated Federal cost of $9,750,000 and an estimated non-Federal cost of $5,250,000.

(b) IN-KIND SERVICES.—The non-Federal interest for the restoration project under subsection (a) may provide all or a portion of the non-Federal share of project costs in the form of in-kind services and shall receive credit toward the non-Federal share of project costs for design and construction work performed by the non-Federal interest before execution of a project cooperation agreement and for land, easements, and rights-of-way required for the restoration and acquired by the non-Federal interest before execution of such an agreement.

(c) OPERATION AND MAINTENANCE.—The operation and maintenance of the restoration project under subsection (a) shall be the full responsibility of the National Park Service.

SEC. 135. SEDIMENTS DECONTAMINATION POLICY.

(a) PROJECT PURPOSE.—Section 405 of the Water Resources Development Act of 1992 (33 U.S.C. 2239 note; Public Law 102–580) is amended—

(1) in subsection (a), by adding at the end the following:

''(4) PRACTICAL END-USE PRODUCTS.—Technologies selected for demonstration at the pilot scale shall result in practical end-use products.

''(5) ASSISTANCE BY THE SECRETARY.—The Secretary shall assist the project to ensure expeditious completion by providing sufficient quantities of contaminated dredged material to conduct the full-scale demonstrations to stated capacity.''; and

(2) in subsection (c), by striking the first sentence and inserting the following: ''There is authorized to be appropriated to carry out this section a total of $22,000,000 to complete technology testing, technology commercialization, and the development of full scale processing facilities within the New York-New Jersey Harbor.''.

SEC. 136. CITY OF MIAMI BEACH, FLORIDA.

Section 5(b)(3)(C)(i) of the Act of August 13, 1946 (33 U.S.C. 426h), is amended by inserting before the semicolon the following; '', including the city of Miami Beach, Florida''.

SEC. 137. SMALL STORM DAMAGE REDUCTION PROJECTS.

Section 3 of the Act of August 13, 1946 (33 U.S.C. 426g), is amended by striking ''$2,000,000'' and inserting ''$3,000,000''.

SEC. 138. SARDIS RESERVOIR, OKLAHOMA.

(a) IN GENERAL.—The Secretary shall accept from the State of Oklahoma or an agent of the State an amount, as determined under subsection (b), as prepayment of 100 percent of the water supply cost obligation of the State under Contract No. DACW56–74–JC–0314 for water supply storage at Sardis Reservoir, Oklahoma.

(b) DETERMINATION OF AMOUNT.—The amount to be paid by the State of Oklahoma under subsection (aa) shall be subject to adjustment in accordance with accepted discount purchase methods for Government properties as determined by an independent accounting firm designated by the Director of the Office of Management and Budget.

(c) EFFECT.—Nothing in this section shall otherwise affect any of the rights or obligations of the parties to the contract referred to in subsection (a).

SEC. 139. UPPER MISSISSIPPI RIVER AND ILLINOIS WATERWAY SYSTEM NAVIGATION MODERNIZATION.

(a) FINDINGS.—Congress finds that—

(1) exports are necessary to ensure job creation and an improved standard of living for the people of the United States;

(2) the ability of producers of goods in the United States to compete in the international marketplace depends on a modern and efficient transportation network;

(3) a modern and efficient waterway system is a transportation option necessary to provide United States shippers a safe, reliable, and competitive means to win foreign markets in an increasingly competitive international marketplace;

(4) the need to modernize is heightened because the United States is at risk of losing its competitive edge as a result of the priority that foreign competitors are placing on modernizing their own waterway systems;

(5) growing export demand projected over the coming decades will force greater demands on waterway systems of the United States and increase the cost to the economy if the system

proves inadequate to satisfy growing export opportunities;

(6) the locks and dams on the upper Mississippi River and Illinois River waterway system were built in the 1930s and have some of the highest average delays to commercial tows in the country;

(7) inland barges carry freight at the lowest unit cost while offering an alternative to truck and rail transportation that is environmentally sound, is energy efficient, is safe, causes little congestion, produces little air or noise pollution, and has minimal social impact; and

(8) it should be the policy of the Corps of Engineers to pursue aggressively modernization of the waterway system authorized by Congress to promote the relative competitive position of the United States in the international marketplace.

(b) PRECONSTRUCTION ENGINEERING AND DESIGN.—In accordance with the Upper Mississippi River-Illinois Waterway System Navigation Study, the Secretary shall proceed immediately to prepare engineering design, plans, and specifications for extension of locks 20, 21, 22, 24, 25 on the Mississippi River and the LaGrange and Peoria Locks on the Illinois River, to provide lock chambers 110 feet in width and 1,200 feet in length, so that construction can proceed immediately upon completion of studies and authorization of projects by Congress.

SEC. 140. DISPOSAL OF DREDGED MATERIAL ON BEACHES.

Section 145 of the Water Resources Development Act of 1976 (33 U.S.C. 426j) is amended in the first sentence by striking ''50'' and inserting ''35''.

SEC. 141. FISH AND WILDLIFE MITIGATION.

Section 906(e) of the Water Resources Development Act of 1986 (33 U.S.C. 2283(e)) is amended by inserting after the second sentence the following: ''Not more than 80 percent of the non-Federal share of such first costs may be in kind, including a facility, supply, or service that is necessary to carry out the enhancement project.''.

SEC. 142. UPPER MISSISSIPPI RIVER MANAGEMENT.

Section 1103 of the Water Resources Development Act of 1986 (33 U.S.C. 652) is amended—

(1) in subsection (e)—

(A) by striking ''(e)'' and all that follows through the end of paragraph (2) and inserting the following:

''(e) UNDERTAKINGS.—

''(1) IN GENERAL.—

''(A) AUTHORITY.—The Secretary, in consultation with the Secretary of the Interior and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, may undertake, as identified in the master plan—

''(i) a program for the planning, construction, and evaluation of measures for fish and wildlife habitat rehabilitation and enhancement;

''(ii) implementation of a long-term resource monitoring, computerized data inventory and analysis, and applied research program; and

''(iii) for each pool and the open reach, a natural resource blueprint to guide habitat rehabilitation and long-term resource monitoring.

''(B) REQUIREMENTS FOR PROJECTS.—Each project carried out under subparagraph (A) shall—

''(i) to the maximum extent practicable, simulate natural river processes; and

''(ii) include an outreach and education component.

''(C) REVIEW COMMITTEE.—In carrying out subparagraph (A), the Secretary shall create an independent technical review committee to review projects, monitoring plans, and blueprints.

''(D) CRITERIA FOR HABITAT REHABILITATION.—In carrying out subparagraph (A), the Secretary shall revise criteria for habitat rehabilitation for projects to promote the simulation of natural river processes, to the maximum extent practicable.

''(E) BLUEPRINTS.—

''(i) DATA.—The natural resource blueprint shall, to the maximum extent practicable, use data in existence on the date of enactment of this subparagraph.

''(ii) TIMING.—The Secretary shall complete a natural resource blueprint for each pool not later than 6 years after the date of enactment of this subparagraph.

''(F) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $350,000 for each of fiscal years 1999 through 2009.

''(2) REPORTS.—On December 31, 2004, in consultation with the Secretary of the Interior and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, the Secretary shall prepare and submit to Congress a report that—

''(A) contains an evaluation of the programs described in paragraph (1);

''(B) describes the accomplishments of each program;

''(C) provide updates of a systemic habitat needs assessment; and

''(D) identifies any needed adjustments in the authorization under paragraph (1) or the authorized appropriations under paragraphs (3) and (4).'';

(B) in paragraph (3)—

(i) by striking ''paragraph (1)(A)'' and inserting ''paragraph (1)(A)(i); and

(ii) by striking ''Secretary not to exceed'' and all that follows and inserting ''Secretary not to exceed $22,750,000 for each of fiscal years 1999 through 2009.'';

(C) in paragraph (4)—

(i) by striking ''paragraph (1)(B)'' and inserting ''paragraph (1)(A)(ii); and

(ii) by striking ''$7,680,000'' and all that follows and inserting ''$10,420,000 for each of fiscal years 1999 through 2009.'';

(D) by striking paragraphs (5) and (6) and inserting the following:

''(5) TRANSFER OF AMOUNTS.—For each fiscal year beginning after September 30, 1992, the Secretary, in consultation with the Secretary of the Interior and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, may transfer appropriated amounts between the programs under subparagraphs (A) and (B) of paragraph (1).'';

(E) by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively; and

(F) in paragraph (6) (as redesignated by subparagraph (E))—

(i) in subparagraph (A), by inserting before the period the following: ''and, in the case of any project carried out on non-Federal land, the non-Federal share of the cost of the project shall be 35 percent and the non-Federal share of the cost of operation and maintenance of the project shall be 100 percent''; and

(ii) in subparagraph (B), by striking ''paragraphs (1)(B) and (1)(C) of this subsection'' and inserting ''paragraph (1)(B)''; and

(2) by adding at the end the following:

''(k) ST. LOUIS AREA URBAN WILDLIFE HABITAT.—The Secretary shall investigate and, if appropriate, carry out restoration of urban wildlife habitat, with a special emphasis on the establishment of greenways in St. Louis, Missouri, area and surrounding communities.''.

SEC. 143. REIMBURSEMENT OF NON-FEDERAL INTEREST.

Section 211(e)(2)(A) of the Water Resources Development Act of 1996 (110 Stat. 3684) is amended by striking ''subject to amounts being made available in advance in appropriations Acts'' and inserting ''subject to the availability of appropriations''.

SEC. 144. RESEARCH AND DEVELOPMENT PROGRAM FOR COLUMBIA AND SNAKE RIVERS SALMON SURVIVAL.

Section 511 of the Water Resources Development Act of 1996 (16 U.S.C. 3301 note) is amended by striking subsection (a) and all that follows and inserting the following:

''(a) SALMON SURVIVAL ACTIVITIES.—

''(1) IN GENERAL.—In conjunction with the Secretary of Commerce and Secretary of the Interior, the Secretary shall accelerate ongoing research and development activities, and may carry out or participate in additional research and development activities, for the purpose of developing innovative methods and technologies for improving the survival of salmon, especially salmon in the Columbia/Snake River Basin.

''(2) ACCELERATED ACTIVITIES.—Accelerated research and development activities referred to in paragraph (1) may include research and development related to—

''(A) impacts from water resources projects and other impacts on salmon life cycles;

''(B) juvenile and adult salmon passage;

''(C) light and sound guidance systems;

''(D) surface-oriented collector systems;

''(E) transportation mechanisms; and

''(F) dissolved gas monitoring and abatement.

''(3) ADDITIONAL ACTIVITIES.—Additional research and development activities referred to in paragraph (1) may include research and development related to—

''(A) studies of juvenile salmon survival in spawning and rearing areas;

''(B) estuary and near-ocean juvenile and adult salmon survival;

''(C) impacts on salmon life cycles from sources other than water resources projects;

''(D) cryopreservation of fish gametes and formation of a germ plasm repository for threatened and endangered populations of native fish; and

''(E) other innovative technologies and actions intended to improve fish survival, including the survival of resident fish.

''(4) COORDINATION.—The Secretary shall coordinate any activities carried out under this subsection with appropriate Federal, State, and local agencies, affected Indian tribes, and the Northwest Power Planning Council.

''(5) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the research and development activities carried out under this subsection, including any recommendations of the Secretary concerning the research and development activities.

''(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $10,000,000 to carry out research and development activities under paragraph (3).

''(b) ADVANCED TURBINE DEVELOPMENT.—

''(1) IN GENERAL.—In conjunction with the Secretary of Energy, the Secretary shall accelerate efforts toward developing and installing in Corps of Engineers operated dams innovative, efficient, and environmentally safe hydropower turbines, including design of ''fish-friendly'' turbines, for use on the Columbia/Snake River hydrosystem.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $35,000,000 to carry out this subsection.

''(c) MANAGEMENT OF PREDATION ON COLUMBIA/SNAKE RIVER SYSTEM NATIVE FISHES.—

''(1) NESTING AVIAN PREDATORS.—In conjunction with the Secretary of Commerce and Secretary of the Interior, and consistent with a management plan to be developed by the United States Fish and Wildlife Service, the Secretary shall carry out methods to reduce nesting populations of avian predators on dredge spoil islands in the Columbia River under the jurisdiction of the Secretary.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 to carry out research and development activities under this subsection.

''(d) IMPLEMENTATION.—Nothing in this section affects the authority of the Secretary to implement the results of the research and development carried out under this section or any other law.''.

TITLE II—CHEYENNE RIVER SIOUX TRIBE, LOWER BRULE SIOUX TRIBE, AND STATE OF SOUTH DAKOTA TERRESTRIAL WILDLIFE HABITAT RESTORATION

SEC. 201. DEFINITIONS.

In this title:

(1) RESTORATION.—The term ''restoration'' means mitigation of the habitat of wildlife.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Army, acting through the Assistant Secretary for Civil Works.

(3) TERRESTRIAL WILDLIFE HABITAT.—The term ''terrestrial wildlife habitat'' means a habitat for a wildlife species (including game and nongame species) that existed or exists on an upland habitat (including a prairie grassland, woodland, bottom land forest, scrub, or shrub) or an emergent wetland habitat.

(4) WILDLIFE.—The term ''wildlife'' has the meaning given the term in section 8 of the Fish and Wildlife Coordination Act (16 U.S.C. 666b).

SEC. 202. TERRESTRIAL WILDLIFE HABITAT RESTORATION.

(a) TERRESTRIAL WILDLIFE HABITAT RESTORATION PLANS.—

(1) IN GENERAL.—In accordance with this subsection and in consultation with the Secretary and the Secretary of the Interior, the State of South Dakota, the Cheyenne River Sioux Tribe, and the Lower Brule Sioux Tribe shall, as a condition of the receipt of funds under this title, each develop a plan for the restoration of terrestrial wildlife habitat loss that occurred as a result of flooding related to the Big Bend and Oahe projects carried out as part of the Pick-Sloan Missouri River Basin program.

(2) SUBMISSION OF PLAN TO SECRETARY.—On completion of a plan for terrestrial wildlife habitat restoration, the State of South Dakota, the Cheyenne River Sioux Tribe, and the Lower Brule Sioux Tribe shall submit the plan to the Secretary.

(3) REVIEW BY SECRETARY AND SUBMISSION TO COMMITTEES.—The Secretary shall review the plan and submit the plan, with any comments, to—

(A) the Committee on Environment and Public Works of the Senate; and

(B) the Committee on Resources of the House of Representatives.

(4) FUNDING FOR CARRYING OUT PLANS.—

(A) STATE OF SOUTH DAKOTA.—

(i) NOTIFICATION.—On receipt of the plan for terrestrial wildlife habitat restoration submitted by the State of South Dakota, each of the Committees referred to in paragraph (2) shall notify the Secretary of the Treasury of the receipt of the plan.

(ii) AVAILABILITY OF FUNDS.—On notification in accordance with clause (i), the Secretary of the Treasury shall make available to the State of South Dakota funds from the South Dakota Terrestrial Wildlife Habitat Restoration Trust Fund established under section 203, to be used to carry out the plan for terrestrial wildlife habitat restoration submitted by the State.

(B) CHEYENNE RIVER SIOUX TRIBE AND LOWER BRULE SIOUX TRIBE.—

(i) NOTIFICATION.—On receipt of the plan for terrestrial wildlife habitat restoration submitted by the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe, each of the Committees referred to in paragraph (2) shall notify the Secretary of the Treasury of the receipt of each of the plans.

(ii) AVAILABILITY OF FUNDS.—On notification in accordance with clause (i), the Secretary of the Treasury shall make available to the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe funds from the Cheyenne River Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Fund and the Lower Brule Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Fund, respectively, established under section 204, to be used to carry out the plan for terrestrial wildlife habitat restoration submitted by the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe, respectively.

(C) TRANSITION PERIOD.—

(i) IN GENERAL.—During the period described in clause (ii), the Secretary shall—

(I) fund the terrestrial wildlife habitat restoration programs being carried out on the date of enactment of this Act on Oahe and Big Bend project land and the plans established under this section at a level that does not exceed the highest amount of funding that was provided for the programs during a previous fiscal year; and

(II) implement the programs.

(ii) PERIOD.—Clause (i) shall apply during the period—

(I) beginning on the date of enactment of this Act; and

(II) ending on the earlier of—

(aa) the date on which funds are made available for use from the South Dakota Terrestrial Wildlife Habitat Restoration Trust Fund under section 203(d)(3)(A)(i) and the Cheyenne River Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Fund and the Lower Brule Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Fund under section 204(d)(3)(A)(i); or

(bb) the date that is 4 years after the date of enactment of this Act.

(b) PROGRAMS FOR THE PURCHASE OF WILDLIFE HABITAT LEASES.—

(1) IN GENERAL.—The State of South Dakota may use funds made available under section 203(d)(3)(A)(iii) to develop a program for the purchase of wildlife habitat leases that meets the requirements of this subsection.

(2) DEVELOPMENT OF A PLAN.—

(A) IN GENERAL.—If the State of South Dakota, the Cheyenne River Sioux Tribe, or the Lower Brule Sioux Tribe elects to conduct a program under this subsection, the State of South Dakota, the Cheyenne River Sioux Tribe, or the Lower Brule Sioux Tribe (in consultation with the United States Fish and Wildlife Service and the Secretary and with an opportunity for public comment) shall develop a plan to lease land for the protection and development of wildlife habitat, including habitat for threatened and endangered species, associated with the Missouri River ecosystem.

(B) USE FOR PROGRAM.—The plan shall be used by the State of South Dakota, the Cheyenne River Sioux Tribe, or the Lower Brule Sioux Tribe in carrying out the program carried out under paragraph (1).

(3) CONDITIONS OF LEASES.—Each lease covered under a program carried out under paragraph (1) shall specify that the owner of the property that is subject to the lease shall provide—

(A) public access for sportsmen during hunting season; and

(B) public access for other outdoor uses covered under the lease, as negotiated by the landowner and the State of South Dakota, the Cheyenne River Sioux Tribe, or the Lower Brule Sioux Tribe.

(4) USE OF ASSISTANCE.—

(A) STATE OF SOUTH DAKOTA.—If the State of South Dakota conducts a program under this subsection, the State may use funds made available under section 203(d)(3)(A)(iii) to—

(i) acquire easements, rights-of-way, or leases for management and protection of wildlife habitat, including habitat for threatened and endangered species, and public access to wildlife on private property in the State of South Dakota;

(ii) create public access to Federal or State land through the purchase of easements or rights-of-way that traverse such private property; or

(iii) lease land for the creation or restoration of a wetland on such private property.

(B) CHEYENNE RIVER SIOUX TRIBE AND LOWER BRULE SIOUX TRIBE.—If the Cheyenne River Sioux Tribe or the Lower Brule Sioux Tribe conducts a program under this subsection, the Tribe may use funds made available under section 204(d)(3)(A)(iii) for the purposes described in subparagraph (A).

(c) FEDERAL OBLIGATION FOR TERRESTRIAL WILDLIFE HABITAT MITIGATION FOR THE BIG BEND AND OAHE PROJECTS IN SOUTH DAKOTA.—The establishment of the trust funds under sections 203 and 204 and the development and implementation of plans for terrestrial wildlife habitat restoration developed by the State of South Dakota, the Cheyenne River Sioux Tribe, and the Lower Brule Sioux Tribe in accordance with this section shall be considered to satisfy the Federal obligation under the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) for terrestrial wildlife habitat mitigation for the State of South Dakota, the Cheyenne River Sioux Tribe, and the Lower Brule Sioux Tribe for the Big Bend and Oahe projects carried out as part of the Pick-Sloan Missouri River Basin program.

SEC. 203. SOUTH DAKOTA TERRESTRIAL WILDLIFE HABITAT RESTORATION TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the ''South Dakota Terrestrial Wildlife Habitat Restoration Trust Fund'' (referred to in this section as the ''Fund'').

(b) FUNDING.—For the fiscal year during which this Act is enacted and each fiscal year thereafter until the aggregate amount deposited in the Fund under this subsection is equal to at least $108,000,000, the Secretary of the Treasury shall deposit in the Fund an amount equal to 15 percent of the receipts from the deposits in the Treasury of the United States for the preceding fiscal year from the power program of the Pick-Sloan Missouri River Basin program, administered by the Western Area Power Administration.

(c) INVESTMENTS.—The Secretary of the Treasury shall invest the amounts deposited under subsection (b) only in interest-bearing obligations of the United States or in obligations guaranteed by the United States as to both principal and interest.

(d) PAYMENTS.—

(1) IN GENERAL.—All amounts credited as interest under subsection (c) shall be available, without fiscal year limitation, to the State of South Dakota for use in accordance with paragraph (3).

(2) WITHDRAWAL AND TRANSFER OF FUNDS.—Subject to section 202(a)(4)(A), the Secretary of the Treasury shall withdraw amounts credited as interest under paragraph (1) and transfer the amounts to the State of South Dakota for use as State funds in accordance with paragraph (3).

(3) USE OF TRANSFERRED FUNDS.—

(A) IN GENERAL.—Subject to subparagraph (B), the State of South Dakota shall use the amounts transferred under paragraph (2) only to—

(i) fully fund the annually scheduled work described in the terrestrial wildlife habitat restoration plan of the State developed under section 202(a); and

(ii) with any remaining funds—

(I) protect archaeological, historical, and cultural sites located along the Missouri River on land transferred to the State;

(II) fund all costs associated with the ownership, management, operation, administration, maintenance, and development of recreation areas and other lands that are transferred to the State of South Dakota by the Secretary;

(III) purchase and administer wildlife habitat leases under section 202(b);

(IV) carry out other activities described in section 202; and

(V) develop and maintain public access to, and protect, wildlife habitat and recreation areas along the Missouri River.

(B) PROHIBITION.—The amounts transferred under paragraph (2) shall not be used for the purchase of land in fee title.

(e) TRANSFERS AND WITHDRAWALS.—Except as provided in subsection (d), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

(f) ADMINISTRATIVE EXPENSES.—There are authorized to be appropriated to the Secretary of the Treasury such sums as are necessary to pay the administrative expenses of the Fund.

SEC. 204. CHEYENNE RIVER SIOUX TRIBE AND LOWER BRULE SIOUX TRIBE TERRESTRIAL WILDLIFE HABITAT RESTORATION TRUST FUNDS.

(a) ESTABLISHMENT.—There are established in the Treasury of the United States 2 funds to be known as the ''Cheyenne River Sioux Tribe Terrestrial Wildlife Restoration Trust Fund'' and the ''Lower Brule Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Fund'' (each of which is referred to in this section as a ''Fund'').

(b) FUNDING.—

(1) IN GENERAL.—Subject to paragraph (2), for the fiscal year during which this Act is enacted and each fiscal year thereafter until the aggregate amount deposited in the Funds under this subsection is equal to at least $57,400,000, the Secretary of the Treasury shall deposit in the Funds an amount equal to 10 percent of the receipts from the deposits in the Treasury of the United States for the preceding fiscal year from the power program of the Pick-Sloan Missouri River Basin program, administered by the Western Area Power Administration.

(2) ALLOCATION.—Of the total amount of funds deposited into the Funds for a fiscal year, the Secretary of the Treasury shall deposit—

(A) 74 percent of the funds into the Cheyenne River Sioux Tribe Terrestrial Wildlife Restoration Trust Fund; and

(B) 26 percent of the funds into the Lower Brule Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Fund.

(c) INVESTMENTS.—The Secretary of the Treasury shall invest the amounts deposited under subsection (b) only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

(d) PAYMENTS.—

(1) IN GENERAL.—All amounts credited as interest under subsection (c) shall be available, without fiscal year limitation, to the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe for their use in accordance with paragraph (3).

(2) WITHDRAWAL AND TRANSFER OF FUNDS.—Subject to section 202(a)(4)(B), the Secretary of the Treasury shall withdraw amounts credited as interest under paragraph (1) and transfer the amounts to the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe for use in accordance with paragraph (3).

(3) USE OF TRANSFERRED FUNDS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe shall use the amounts transferred under paragraph (2) only to—

(i) fully fund the annually scheduled work described in the terrestrial wildlife habitat restoration plan of the respective Tribe developed under section 202(a); and

(ii) with any remaining funds—

(I) protect archaeological, historical, and cultural States located along the Missouri River on land transferred to the respective Tribe;

(II) fund all costs associated with the ownership, management, operation, administration, maintenance, and development of recreation areas and other lands that are transferred to the respective Tribe by the Secretary;

(III) purchase and administer wildlife habitat leases under section 202(b);

(IV) carry out other activities described in section 202;

(V) develop and maintain public access to, and protect, wildlife habitat and recreation areas along the Missouri River.

(B) PROHIBITION.—The amounts transferred under paragraph (2) shall not be used for the purchase of land in fee title.

(e) TRANSFERS AND WITHDRAWALS.—Except as provided in subsection (d), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

(f) ADMINISTRATIVE EXPENSES.—There are authorized to be appropriated to the Secretary of the Treasury such sums as are necessary to pay the administrative expenses of the Fund.

SEC. 205. TRANSFER OF FEDERAL LAND TO STATE OF SOUTH DAKOTA.

(a) IN GENERAL.—

(1) TRANSFER.—The Secretary of the Army shall transfer to the Department of Game, Fish and Parks of the State of South Dakota (referred to in this section as the ''Department'') the land and recreation areas described in subsections (b) and (c) for fish and wildlife purposes, or public recreation uses, in perpetuity.

(2) USES.—The Department shall maintain and develop the land and recreation areas for fish and wildlife purposes in accordance with—

(A) fish and wildlife purposes in effect on the date of enactment of this Act; or

(B) a plan developed under section 202.

(3) CORPS OF ENGINEERS.—The transfer shall not interfere with the Corps of Engineers operation of a project under this section for an authorized purpose of the project under the Act of December 22, 1944 (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et seq.) or other applicable law.

(4) SECRETARY OF THE ARMY.—The Secretary of the Army shall retain the right to inundate with water the land transferred to the Department under this section or draw down a project reservoir, as necessary to carry out an authorized purpose of a project.

(b) LAND TRANSFERRED.—The land described in this subsection is land that—

(1) is located above the top of the exclusive flood pool of the Oahe Big Bend, Fort Randall, and Garvin's Point projects of the Pick-Sloan Missouri River Basin program;

(2) was acquired by the Secretary of the Army for the implementation of the Pick-Sloan Missouri River Basin program;

(3) is located outside the external boundaries of a reservation of an Indian Tribe; and

(4) is located within the State of South Dakota.

(c) RECREATION AREAS TRANSFERRED.—A recreation area described in this section includes the land and waters within a recreation area that—

(1) the Secretary of the Army determines, at the time of the transfer, is a recreation area classified for recreation use by the Corps of Engineers on the date of enactment of this Act;

(2) is located outside the external boundaries of a reservation of an Indian Tribe; and

(3) is located within the State of South Dakota.

(d) MAP.—

(1) IN GENERAL.—The Secretary of the Army, in consultation with the Department, shall prepare a map of the land and recreation areas transferred under this section.

(2) LAND.—The map shall identify—

(A) land reasonably expected to be required for project purposes during the 20-year period beginning on the date of enactment of this Act; and

(B) dams and related structures;

which shall be retained by the Secretary.

(3) AVAILABILITY.—The map shall be on file in the appropriate offices of the Secretary of the Army.

(e) SCHEDULE FOR TRANSFER.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Army and the Secretary of the South Dakota Game, Fish, and Parks Department shall jointly develop a schedule for transferring the land and recreation areas under this section.

(2) TRANSFER DEADLINE.—All land and recreation areas shall be transferred not later than 1 year after the full capitalization of the respective Trust Fund described in section 204.

(f) TRANSFER CONDITIONS.—The land and recreation areas described in subsections (b) and (c) shall be transferred in fee title to the Department on the following conditions:

(1) RESPONSIBILITY FOR DAMAGE.—The Secretary of the Army shall not be responsible for any damage to the land caused by flooding, sloughing, erosion, or other changes to the land caused by the operation of any project of the Pick-Sloan Missouri River Basin program (except as otherwise provided by Federal law).

(2) EASEMENTS, RIGHTS-OF-WAY, LEASES, AND COST-SHARING AGREEMENTS.—The Department shall maintain all easements, rights-of-way, leases, and cost-sharing agreements that are in effect as of the date of the transfer.

(g) HUNTING AND FISHING.—Nothing in this title affects jurisdiction over hunting and fishing on the waters of the Missouri River. The State of South Dakota, the Lower Brule Sioux Tribe, and the Cheyenne River Sioux Tribe shall continue to exercise the jurisdiction the State and Tribes possess on the date of enactment of this Act.

SEC. 206. TRANSFER OF CORPS OF ENGINEERS LAND FOR INDIAN TRIBES.

(a) IN GENERAL.—

(1) TRANSFER.—The Secretary of the Army shall transfer to the Secretary of the Interior the land and recreation areas described in subsections (b) and (c).

(2) CORPS OF ENGINEERS.—The transfer shall not interfere with the Corps of Engineers operation of a project under this section for an authorized purpose of the project under the Act of December 22, 1944 (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et seq.) or other applicable law.

(3) SECRETARY OF THE ARMY.—The Secretary of the Army shall retain the right to inundate with water the land transferred to the Tribes under this section or draw down a project reservoir, as necessary to carry out an authorized purpose of a project.

(4) TRUST.—The Secretary of the Interior shall hold in trust for the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe the land transferred under this section that is located within the external boundaries of the reservation of the Indian Tribes.

(b) LAND TRANSFERRED.—The land described in this subsection is land that—

(1) is located above the top of the exclusive flood pool of the Big Bend and Oahe projects of the Pick-Sloan Missouri River Basin program;

(2) was acquired by the Secretary of the Army for the implementation of the Pick-Sloan Missouri River Basin program; and

(3) is located within the external boundaries of the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe.

(c) RECREATION AREAS TRANSFERRED.—A recreation area described in this section includes the land and waters within a recreation area that—

(1) the Secretary of the Army determines, at the time of the transfer, is a recreation area classified for recreation use by the Corps of Engineers on the date of enactment of this Act;

(2) is located within the external boundaries of a reservation of an Indian Tribe; and

(3) is located within the State of South Dakota.

(d) MAP.—

(1) IN GENERAL.—The Secretary of the Army, in consultation with the governing bodies of the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe, shall prepare a map of the land transferred under this section.

(2) LAND.—The map shall identify—

(A) land reasonably expected to be required for project purposes during the 20-year period beginning on the date of enactment of this Act; and

(B) dams and related structures;

which shall be retained by the Secretary.

(3) AVAILABILITY.—The map shall be on file in the appropriate offices of the Secretary of the Army.

(e) SCHEDULE FOR TRANSFER.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Army and the Chairmen of the Cheyenne River Sioux Tribe and the Lower Brule Sioux

Tribe shall jointly develop a schedule for transferring the land and recreation areas under this section.

(2) TRANSFER DEADLINE.—All land and recreation areas shall be transferred not later than 1 year after the full capitalization of the respective Trust Fund described in section 204.

(f) TRANSFER CONDITIONS.—The land and recreation areas described in subsections (b) and (c) shall be transferred to, and held in trust by, the Secretary of the Interior on the following conditions:

(1) RESPONSIBILITY FOR DAMAGE.—The Secretary of the Army shall not be responsible for any damage to the land caused by flooding, sloughing, erosion, or other changes to the land caused by the operation of any project of the Pick-Sloan Missouri River Basin program (except as otherwise provided by Federal law).

(2) JURISDICTION.—Nothing in this title affects jurisdiction over the land and waters below the exclusive flood pool and within the external boundaries of the Cheyenne River Sioux Tribe and Lower Brule Sioux Tribe reservations. Jurisdiction over the land and waters shall continue in accordance with the Flood Control Act of 1944 (33 U.S.C. 701–1 et seq.). Jurisdiction over the land transferred under this section shall be the same as other land held in trust by the Secretary of the Interior on the Cheyenne River Sioux Tribe reservation and the Lower Brule Sioux Tribe reservation.

(3) EASEMENTS, RIGHTS-OF-WAY, LEASES, AND COST-SHARING AGREEMENTS.—

(A) MAINTENANCE.—The Secretary of the Interior shall maintain all easements, rights-of-way, leases, and cost-sharing agreements that are in effect as of the date of the transfer.

(B) PAYMENTS TO COUNTY.—The Secretary of the Interior shall pay any affected county 100 percent of the receipts from the easements, rights-of-way, leases, and cost-sharing agreements described in subparagraph (A).

SEC. 207. ADMINISTRATION.

(a) IN GENERAL.—Nothing in this title diminishes or affects—

(1) any water right of an Indian Tribe;

(2) any other right of an Indian Tribe, except as specifically provided in another provision of this title;

(3) any valid, existing treaty right that is in effect on the date of enactment of this Act;

(4) any external boundary of an Indian reservation of an Indian Tribe;

(5) any authority of the State of South Dakota that relates to the protection, regulation, or management of fish, terrestrial wildlife, and cultural and archaeological resources, except as specifically provided in this title; or

(6) any authority of the Secretary, the Secretary of the Interior, or the head of any other Federal agency under a law in effect on the date of enactment of this Act, including—

(A) the National Historic Preservation Act (16 U.S.C. 470 et seq.);

(B) the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.);

(C) the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.);

(D) the Act entitled ''An Act for the protection of the bald eagle'', approved June 8, 1940 (16 U.S.C. 668 et seq.);

(E) the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.);

(F) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(G) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

(H) the Federal Water Pollution Control Act (commonly known as the ''Clean Water Act'') (33 U.S.C. 1251 et seq.);

(I) the Safe Drinking Water Act (42 U.S.C. 300f et seq.); and

(J) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) POWER RATES.—No payment made under this title shall affect any power rate under the Pick-Sloan Missouri River Basin program.

(c) FEDERAL LIABILITY FOR DAMAGE.—Nothing in this Act shall relieve the Federal Government of liability for damage to private land caused by the operation of the Pick-Sloan Missouri River Basin program.

(d) FLOOD CONTROL.—Notwithstanding any provision of this title, the Secretary shall retain the authority to operate the Pick-Sloan Missouri River Basin program for purposes of meeting the requirements of the Flood Control Act of 1944 (33 U.S.C. 701–1 et seq.).

SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

(a) SECRETARY.—There are authorized to be appropriated to the Secretary such sums as are necessary—

(1) to pay the administrative expenses incurred by the Secretary in carrying out this title; and

(2) to fund the implementation of terrestrial wildlife habitat restoration plans under section 202(a).

(b) SECRETARY OF THE INTERIOR.—There are authorized to be appropriated to the Secretary of the Interior such sums as are necessary to pay the administrative expenses incurred by the Secretary of the Interior in carrying out this title.

AMENDMENTS NOS. 3798 AND 3799, EN BLOC

Mr. JEFFORDS. Senator CHAFEE has two amendments at the desk and I ask for their consideration en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS], for Mr. CHAFEE, proposes amendments numbered 3798 and 3799, en bloc.

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

Mr. CHAFEE. Mr. President, today the Senate will consider S. 2131, the Water Resources Development Act of 1998. This measure, similar to water resources legislation enacted in 1986, 1988, 19990, 1992, and 1996, is comprised of water resources project and study authorizations and policy modifications for the U.S. Army Corps of Engineers Civil Works program.

S. 2131 was introduced on June 4 of this year and was reported by the Environment and Public Works Committee to the full Senate on August 25, 1998.

Since that time, additional project and policy requests have been presented to the Committee. Some have come from our Senate colleagues—others have come from the administration. We have carefully reviewed each such request and include those that are consistent with the Committee's criteria in the manager's amendment being considered along with S. 2131 today. Mr. President, let me take a few moments here to discuss these criteria—that is—the criteria used by the Committee to judge project authorization requests.

On November 17, 1986, President Reagan signed into law the Water Resources Development Act of 1986. Importantly, the 1986 Act marked an end to the 16-year deadlock between Congress and the Executive branch regarding authorization of the Army Corps Civil Works program.

In addition to authorizing numerous projects, the 1986 Act resolved long-standing disputes relating to cost-sharing between the Army Corps and non-federal sponsors, waterway user fees, environmental requirements and, importantly, the types of projects in which federal involvement is appropriate and warranted.

The criteria used to develop the legislation before us are consistent with the reforms and procedures established in the landmark Water Resources Development Act of 1986.

Is a project for flood control, navigation or some other purpose cost-shared in a manner consistent with the 1986 Act?

Have all of the requisite reports and studies on economic, engineering and environmental feasibility been completed for a project?

Is a project consistent with the traditional and appropriate mission of the Army Corps?

Should the Federal Government be involved?

These, Mr. President, are the fundamental questions that we have applied to each and every project included here for authorization.

This legislation authorizes the Secretary of the Army to construct some 36 projects for flood control, navigation, and environmental restoration. The bill also modifies 43 existing Army Corps projects and authorizes 29 project studies. In total, this bill and the manager's amendment authorizes an estimated Federal cost of $2.3 billion.

Mr. President, this legislation includes other project-specific and general provisions related to Army Corps operations, as I mentioned at the outset. Among them are two provisions sought by Senator BOND and others to enhance the environment along the Missouri and Mississippi Rivers. We have also included a modified version of the administration's so-called Challenge 21 initiative to encourage more non-structural flood control and environmental projects. In addition, we are recommending that the cost-sharing formula be changed for maintenance of future shoreline protection projects.

Mr. President, this legislation is vitally important for countless states and communities across the country. For economic and life-safety reasons, we must maintain our harbors, ports and inland waterways, our flood control levees and shorelines, and the environment. I strongly urge adoption of the underlying bill and manager's amendment.

Mr. BAUCUS. Mr. President, I rise today to support the adoption of S. 2131, the Water Resources Development Act of 1998. This legislation is our usual biennial authorization for the U.S. Army Corps of Engineers. It includes authority to construct projects for navigation, flood control, hurricane and storm damage reduction, emergency streambank and shore protection, water supply storage, recreation and ecosystem restoration and protection. These projects range from harbor

improvements in Nome, Alaska, to shore protection at Little Duval Island in Florida.

Since this historic Water Resources Development Act of 1986, when project cost-sharing was established, the Corps of Engineers has established a successful working relationship with the local sponsors of these projects. This partnership has proven to be beneficial for all involved, and we have continued it in this bill. This important principle, combined with technical soundness, environmental acceptability and economic justification guided the selection of projects in this legislation.

The legislation also contains several changes to the Corps' program. It established new continuing authorities program that would allow the Corps of Engineers to undertake nonstructural flood control projects. It changes the periodic beach renourishment cost-share from the current 65 percent Federal, 35 percent non-Federal, to 50 percent Federal, 50 percent non-Federal. And it allows the Corps to use recreation fees collected above the current baseline to remain at the park where they were collected to be used for maintenance.

The legislation contains 2 provisions that are very important to my State of Montana. One provision would allow the Corps of Engineers to provided needed emergency streambank stabilization in Billings, Montana. Another provision directs the Secretary of the Army, in cooperation with the U.S. Fish and Wildlife Service, the U.S. Geological Survey, the Natural Resource Conservation Service, the State of Montana and all local interests to conduct a comprehensive study of the cumulative impacts of activities on the Yellowstone River. This study will give us a better understanding of how the natural flow and the man-made structures can best protect the river and its habitat.

I thank Senators CHAFEE and WARNER and all members who worked with us.

I urge the passage of this bill and swift consideration by the House in order to enact this legislation in the Congress.

Mr. LEVIN. Mr. President, I am pleased that the distinguished managers of the Water Resources Development Act (WRDA) of 1998 have agreed to incorporate into the managers' package several provisions which I have proposed. These cover Michigan projects, Great Lakes Basin matters, and contaminated sediments. I am hopeful that the House will expedite passage of this important matter before concluding legislative business this session.

There are several specific items in the managers' package that will benefit Michigan. They include an Army Corps of Engineers' feasibility study of improvements to the Detroit River waterfront between the Belle Isle Bridge and the Ambassador Bridge, as part of the ongoing revitalization of that area. The Corps will also prepare studies for flood control projects in St. Clair Shores and along the Saginaw River in Bay City to see what types of structures will be necessary to protect shorelines and property. Similarly, the Corps will consider reconstruction of the Hamilton Dam flood control project. And, lastly, the Corps will review its denial of the city of Charlevoix's request for reimbursement of construction costs that it incurred in building a new revetment connection to the Federal navigation project at Charlevoix Harbor.

Mr. President, I would like to bring my colleagues' attention to my proposal, now in the amended bill, that the Great Lakes Basin program be named the ''John Glenn Great Lakes Basin program.'' This is a small tribute to our colleague for the hard work that he has done to promote and protect the Great Lakes Basin region. As Democratic Co-Chairman of the Senate Great Lakes Task Force and as a former Chairman and now Ranking Member of the Senate Governmental Affairs Committee, he has long advocated common sense and efficiency in government. He has sought to coordinate Federal research, regulatory, and conservation activities in the Great Lakes region for many years in areas as diverse as shipping and wildlife restoration. The provisions in the ''John Glenn Great Lakes Basin program'' are intended to echo his fine work and enhance coordination in Corps' programs in the region and in Federal activities relating to diversion and consumption of Great Lakes Basin waters. The specifics of the program, including a special study on the western Lake Erie watershed, are as follows:

Strategic Plans. The Army Corps of Engineers is directed to develop a framework for their activities in the Great Lakes basin to be updated biennially. Many Army Corps of Engineers divisions have developed and use such strategic plans. Development of such a strategic plan for the Great Lakes Basin has never been more important than at present, given the potential implications of the restructuring plans for the Great Lakes and Ohio River Division.

Great Lakes Biohydrological Information. The Army Corps of Engineers is directed to inventory existing information relevant to the Great Lakes biohydrological system and sustainable water use management. The Corps is then to report the results of this inventory, including recommendations on ways to improve the information base, to Congress, the International Joint Commission and the eight Great Lakes states. The report will consider and update Congress on the status of the issues and the recommendations described in two IJC reports regarding diversion and consumptive uses of Great Lakes waters and Lake levels. This information will be crucial in ongoing debate regarding the continued attempts to export or divert Great Lakes surface and ground water out of the Basin.

Great Lakes Recreational Boating. The amendment directs the Army Corps of Engineers to submit to Congress a report based on existing information detailing the economic benefits of recreational boating in the Great Lakes Basin. As many of my colleagues may know, despite Congress' repeated objections, consecutive Administrations have unwisely sought to limit the Corps' role in dredging so-called recreational harbors. Clearly, these harbors' value should and can be recognized in the cost-benefit analysis conducted in making dredging decisions.

Water Use Activities and Policies. The amendment would allow the Secretary to provide technical assistance to the Great Lakes States to develop interstate guidelines to improve the consistency and efficiency of State-level water use activities and policies in the Great Lakes Basin.

Sea Lamprey Control Barriers. The amendment clarifies that the Army Corps of Engineers may use Section 1135 funds to construct sea lamprey barriers at any site in the Great Lakes. As my colleagues may know, the invasive sea lamprey species was introduced into the Great Lakes through construction of the Welland Canal, making control of the lamprey clearly a Federal responsibility. Sea lamprey barriers are among the most cost-effective methods available for the control of lamprey in the Great Lakes and use of Corps expertise, especially in conjunction with existing projects, helps to make this management tool as effective and efficient as possible.

Study on Western Lake Erie watershed. This regional study for the western basin of Lake Erie is a pilot project for efforts in the region to understand the synergistic relationships within a natural watershed and the interplay of human economic, agricultural and commercial development with environmental quality objectives.

Mr. President, once again, I'd like to recognize Senator GLENN for his dedication and devotion to the Great Lakes region, even when it might have caused him some political difficulties at home. He was a staunch supporter of the Great Lakes Water Quality Initiative, which came under great attack from various places around the Lakes. Senator GLENN happened to have some of the most vociferous opponents in his state, but that never stopped him from advocating for uniform water quality criteria across the Basin. All of us in the Great Lakes will always be indebted to him for his support on that measure. By the way, my colleagues might be interested to know that implementation of the Great Lakes Initiative is proceeding nicely in all eight Great Lakes States.

Mr. President, the managers have incorporated another very important matter which I have been pressing them and Federal agencies on for some

time. The subject is aquatic contaminated sediments and they are a potential threat to public and environmental health across the country. EPA has begun to document this problem in the National Inventory of Contaminated Sediments released earlier this year. That inventory identifies 96 areas of probable concern which Congress and the public should be concerned about and which require appropriate remedial actions.

The provisions which I requested will require the Army Corps of Engineers and the Environmental Protection Agency to finally activate the National Contaminated Sediment Task Force that was mandated by the Water Resources Development Act of 1992. I am hopeful that convening this Task Force will encourage the Federal agencies to work together to combat this problem and create greater public awareness of the need to address contaminated sediments. And, the Task Force will be required to report to Congress on Federal actions to clean up contaminated sediments around the country. The Assistant Secretary of the Army for Civil Works has assured me by letter that the Army will support the convening of the Task Force.

As the managers may know, WRDA 92 required the creation of a Task Force to advise EPA and the Corps in implementation of the National Contaminated Sediment Assessment and Management Act, to review and comment on specific issues, including the extent and seriousness of the problem and research and development priorities, and to make recommendations on prevention and source control. WRDA 92 required the Task Force to report to Congress with findings and recommendations within two years of enactment of that Act. Though some time has elapsed, the Task Force's responsibility to comply with that reporting requirement and other statutory responsibilities has not. I fully expect to see that the Task Force complies with its statutory requirements under WRDA 92 and this Act and will be working to make that happen. I will be doing whatever I can to help the Task Force provide Congress with useful advice on contaminated sediment management in advance of reauthorization of Superfund, the Clean Water Act, RCRA and other pertinent laws.

Mr. President, contaminated sediments can pose a serious and demonstrable risk to human health and the environment. Persistent, bioaccumulative toxic substances in contaminated sediment can poison the food chain, making fish and shellfish unsafe for humans and wildlife to eat. Potential costs to society include long term health effects such as cancer and children's neurological and IQ impairment. Contamination of sediments can also interfere with recreational uses and increase the costs of and time needed for navigational dredging and subsequent disposal of dredged material.

Since enactment of the Great Lakes Critical Program Act of 1990, and the National Contaminated Sediment Assessment and Management Act of 1992, the Nation has gained considerable experience and understanding about sediment contamination. As I have mentioned, the report on the Incidence and Severity of Sediment Contamination in Surface Waters of the United States, required under section 503 of the National Contaminated Sediment Assessment and Management Act of 1992, identified 96 areas of probable concern where contaminated sediments pose potential risks to fish and wildlife, and to people who eat fish from them

The Assessment and Remediation of Contaminated Sediments (ARCS) program under the Clean Water Act, and subsequent studies, have demonstrated that there are some effective tools for determining the extent and magnitude of sediment contamination, for assessing risk and modeling the changes that would result from remedial action, and for involving the public in solutions. Prompt response after discovery of sediment contamination can prevent subsequent spread through storm events and minimize environmental impacts and response costs.

Unfortunately, the resources of the Federal Government have not been brought to bear on these problems in a well coordinated fashion. That is the principle reason for pursuing the convening of the Task Force. But, we also need a better understanding of the quantities and sources of sediment contamination, to prevent subsequent recontamination and minimize the recurrence of these costs and impacts, and to get a handle on the extent of the public health threat. To that end, my provision requires the Task Force to document in a report the status of remedial action on contaminated sediments around the country, including a description of the authorities used in cleanup, the nature and sources of sediment contamination, the methods for determining the need for cleanup, the fate of dredged materials, and barriers to swift remediation.

The response to releases of contaminated sediments should reflect the risk associated with the contamination, and remedies should reflect the beneficial reuse of contaminants. To respond to the serious environmental risks that can be posed by contaminated sediment sites, the Federal Government should use funding and enforcement authorities of existing programs to help remediate these sites.

Last year, the National Research Council's Committee on Contaminated Marine Sediment published a report on Contaminated Sediments in Ports and Waterways: Cleanup Strategies and Technologies. That report highlights the problems with the existing regulatory framework for addressing sediment contamination. While the EPA has put out a ''Contaminated Sediment Management Strategy'', the regulatory issues raised by the NAS clearly go beyond the scope of the authority of any single agency.

It is likely that the Clean Water Act, Superfund, and the next biennial Water Resources Development Act will all be under consideration in the next Congress. Prompt development of an interagency strategy that addresses the problems identified by the survey and the regulatory and technological issues raised by NAS could make a substantial contribution to helping inform decisionmakers on appropriate legislative changes. It is important that the agencies and the Task Force pay close attention to the analysis and recommendations in the 1997 NAS report.

The NAS report clearly sets out the problems posed by the existing statutory and regulatory framework. It is also clear on the stakes involved, observing that: ''The presence of contaminated sediments poses a barrier to essential waterway maintenance and construction in many ports, which support approximately 95 percent of U.S. foreign trade.''

NAS identifies the ''complex and sometimes inconsistent regulatory framework'' as one of the key challenges in managing contaminated sediment, observing that ''at least six comprehensive acts of Congress, with responsibilities spread over seven Federal agencies, govern sediment remediation or dredging operations in settings that range from the open ocean to the freshwater reaches of estuaries and wetlands.'' Many of the applicable authorities were not originally designed to address contaminated sediments, and questions of risk and costs are not considered in a consistent way across the statutes.

The NAS also observes that

> . . . current laws and regulations affecting contaminated sediments can impede efforts to implement the best management practices and achieve efficient, risk-based, and cost-effective solutions. This is a shortcoming of the governing statutes, not a criticism of regulatory agencies charged with implementing them. The timeliness of decision making is also an issue, given that it typically takes years to implement solutions to contaminated sediments problems. In the committee's case histories, the delay between the discovery of a problem and the implementation of a solution ranged from approximately 3 to 15 years.
>
> However, there are no risk-based cleanup standards for underwater sediments. Insufficient attention to risks, costs, and benefits impedes efforts to reach technically sound decisions and mange sediments cost-effectively. Similar inattention to risk is evident in the permitting processes for sediment disposal.

NAS concludes that

> In the committee's view, cost-effective management of contaminated marine sediments will require a multifaceted campaign as well as a willingness to innovate.

The Task Force is set up to involve different agencies and levels of government, including States that have pioneered innovative approaches for intergovernmental collaboration.

The NAS report did not actually make specific recommendations for statutory language changes. That would be the function of the Task

Force and would require the participation and input of the affected Federal agencies on the Task Force and the representatives on the Task Force from the States, public interest groups with a demonstrated interest in the matter, and from the ports, agriculture or manufacturing sectors. Also, the existence and advice of the Task Force should help eliminate Congress' perennial need to deal with contaminated sediments in minute detail for individual watersheds.

Mr. President, I want to be clear that convening the Task Force should not provide an excuse for delay or more inaction. The NAS has already spoken against delay. The report observes that: . . . there is no reason to delay urgent projects in anticipation of new technological solutions; decision makers should continue to try to make incremental improvements in the overall management process,. . .'' and that, ''The need to meet these challenges [posed by contaminated sediment management] is urgent.''

I appreciate my colleagues assistance in incorporating this and the other matters I have discussed into the managers' amendment to S. 2131. I look forward to working with them to get these important provisions signed into law.

Mr. SARBANES. Mr. President, I rise in support of S. 2131, the Water Resources Development Act of 1998, and the Committee amendment, which provide for the development and improvement of our Nation's water resources infrastructure. This legislation authorizes water resource projects of vital importance to our nation's and our states' economy and maritime industry as well as our environment.

I am particularly pleased that the measure includes a number of provisions for which I have fought to ensure the future health of the Port of Baltimore and of Maryland's environment.

First the bill authorizes nearly $28 million for needed improvements to Baltimore Harbor Anchorages and Channels. Many of the existing anchorages and branch channels within Baltimore Harbor were built in the first half of this century and are no longer deep enough, wide enough or long enough to accommodate the vessels now calling on the Port of Baltimore. Many of the larger ships must now anchor some 25 miles south of Baltimore in naturally deep water, resulting in delays and increased costs to the shipping industry. Also, the narrow widths of some of the branch channels result in additional time for the pilots to maneuver safely to and from their docking berths. In June 1998 the Chief of Engineers approved a report which recommended a number of improvements including: 1) widening and deepening Federal anchorages 3 and 4; 2) widening and providing flared corners for state-owned East Dundalk, Seagirt, Connecting and West Dundalk branch Channels; 3) dredging a new branch channel at South Locust Point; and 4) dredging a turning basin at the head of the Fort McHenry Channel. The report identified the project as ''technically sound, economically justified and environmentally and socially acceptable.'' This project has been a top priority of mine, of the Maryland Port Administration and of the shipping community for many years and I am delighted that this legislation will enable us to move forward with this important project.

Second, the legislation directs the Corps of Engineers to make critically needed safety improvements to the Tolchester Channel in the Chesapeake Bay. The Tolchester Channel is a vital link in the Baltimore Port system. It was authorized in the River and Harbor Act of 1958 and aligned to take advantage of the naturally deep water in the Chesapeake Bay, along Maryland's Eastern Shore. This alignment, which is shaped like an ''S,'' has posed a serious navigation problem and safety risks for vessels. Ships must change course five times within three miles, often beginning a new turn, sometimes in the opposite direction, before completing a first turn. With vessels nearly 1,000 feet in length, it is difficult to safely navigate the channel, particularly in poor weather conditions. The U.S. Coast Guard and the Maryland Pilots Association have expressed serious concerns over the safety of the area and have long recommended straightening of the channel due to the grounding and ''near misses'' which have occurred in the area. The cost for straightening the Tolchester ''S-turn'' is estimated at $12.6 million with $1.3 million coming from non-federal sources. This authorization enables the Corps to proceed expeditiously with these improvements and address the serious concerns of those who must navigate the treacherous channel.

Mr. President, the Port of Baltimore is one of the great ports of the world and one of Maryland's most important economic assets. The Port generates $2 billion in annual economic activity, provides for an estimated 62,000 jobs, and over $500 million a year in State and local tax revenues and customs receipts. These two projects will help assure the continued vitality of the Port of Baltimore into the 21st Century.

In addition to port development and improvement projects, the measure contains a provision which will help significantly to enhance Maryland's environment and quality of life and help achieve the goals and vision of the Potomac American Heritage River designation.

It authorizes $15 million for the U.S. Army Corps of Engineers to modify the existing flood protection project at Cumberland, Maryland to restore features of the historic Chesapeake and Ohio Canal adversely affected by construction and operation of the project. Mr. President, the C&O Canal is widely regarded as the Nation's finest relic of America's canal building era. It was begun in 1828 as a transportation route between commercial centers in the East and frontier resources of the West. It reached Cumberland in 1850 and continued operating until 1924 when it succumbed to floods and financial failure. In the early 1950's, a section of the Canal and turning basin at its Cumberland terminus was filled in by the Corps of Engineers during construction of a local flood protection project. Portions of the Canal were proclaimed a national monument in 1961 and it was officially established as a national historical park in 1971. Justice Douglas described the park ''. . . not yet marred by the roar of wheels and the sound of horns . . . The stretch of 185 miles of country from Washington to Cumberland, Maryland, is one of the most fascinating and picturesque in the Nation.''

The National Park Service, as part of its General Management Plan for the Park, has long sought to rebuild and re-water the Canal at its Cumberland terminus. The NPS entered into a Memorandum of Agreement (MOA) with the Corps to undertake a study of the feasibility of reconstructing the last 2200 feet of the canal to the terminus, through and adjacent to the Corps' flood protection project. The Corps completed this study in July 1995 and determined that ''it is feasible to re-water the canal successfully; the canal and flood protection levee can co-exist on the site without compromising the flood protection for the City of Cumberland; re-construction and partial operation of the locks is feasible; and, based on the as-built information available, underground utility impacts can be mitigated at reasonable cost to allow construction of the canal and turning basin in basically the same alignment and configuration as the original canal.'' A subsequent Rewatering Design Analysis estimated the total project cost at $15 million. This authorization will enable the Corps to proceed with restoring a 1.1 mile stretch of the C&O Canal and revitalize the area as a major hub for tourism and economic development.

I want to compliment the distinguished Chairmen of the Committee and the Subcommittee, Senators CHAFEE and WARNER, and the ranking member, Senator BAUCUS, for their leadership in crafting this legislation and I urge my colleagues to join me in supporting this measure.

SAVANNAH HARBOR DEEPENING PROJECT

Mr. COVERDELL. Mr. President, I rise to request that the Chairman of the Senate Environment and Public Works Committee help me to clarify the intent of the Savannah Harbor Expansion Project authorization that appears in Section 102 of the 1998 Water Resources Development Authorization Act. It is my understanding that this legislation authorizes a project to deepen the Savannah River channel to a depth of up to 48 feet subject to a favorable report by the Chief of Engineers and a favorable recommendation of the Secretary by December 31, 1998.

Mr. CHAFFEE. The senior Senator from Georgia is correct.

Mr. COVERDELL. Mr. President, it is my understanding as well, that both the Chief of Engineer's Tier I Environmental Impact Statement and Feasibility Report provide for the establishment of a stakeholders' evaluation group which will have early and consistent involvement in the project, and as part of the process, the EIS requires the development of a mitigation plan to fully and adequately address predicted and potential adverse impacts on, among other things, the Savannah National Wildlife Refuge; striped base population; short-nose sturgeon; salt water and fresh water wetlands; chloride levels; dissolved oxygen levels; erosion; and historical resources. Is that correct?

Mr. CHAFFEE. That is correct.

Mr. COVERDELL. Mr. President, it is my further understanding that before this project is carried out, the Secretary, in consultation with affected Federal and non-Federal entities, must develop a mitigation plan addressing adverse project impacts and that the plan must be implemented in advance of or concurrent with project construction and must ensure that the project cost estimates are sufficient to address all potential mitigation alternatives. Is that correct?

Mr. CHAFFEE. That is correct.

Mr. COVERDELL. I thank the Chairman for his assistance and look forward to working with him on this important matter.

Mr. CLELAND. Would the Chairman yield for two additional questions on this project?

Mr. CHAFFEE. I would be happy to answer any questions the Senator may have.

Mr. CLELAND. It is my understanding that the authorization language provides that neither the Secretary nor the Georgia Ports Authority will proceed with the design or construction of the project until the respective department heads concur on an appropriate implementation plan and mitigation plan. Is that correct?

Mr. CHAFFEE. That is correct.

Mr. CLELAND. Any funds to be appropriated by Congress for the project must be allocated in a manner that ensures that project impacts are fully and adequately mitigated and are otherwise consistent with the mitigation plan developed by the Secretary and the stakeholder evaluation group. Is that correct?

Mr. CHAFFEE. That is correct.

Mr. CLELAND. I thank the Chairman for the opportunity to clarify these understandings.

Mr. JEFFORDS. I ask unanimous consent that the amendments be agreed to en bloc, the committee substitute be agreed to, the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The amendments (Nos. 3798 and 3799) were agreed to.

The committee substitute, as amended, was agreed to.

The bill (S. 2131), as amended, was passed.

[The bill was not available for printing. It will appear in a future issue of the RECORD.]

RHINOCEROS AND TIGER CONSERVATION ACT OF 1998

Mr. JEFFORDS. I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 519, S. 361.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 361) to amend the Endangered Species Act of 1994 to prohibit the sale, import and export of products labeled as containing endangered species, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Rhinoceros and Tiger Conservation Act of 1998''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the populations of all but 1 species of rhinoceros, and the tiger, have significantly declined in recent years and continue to decline;

(2) these species of rhinoceros and tiger are listed as endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and listed on Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, signed on March 3, 1973 (27 UST 1087; TIAS 8249) (referred to in this Act as ''CITES'');

(3) the Parties to CITES have adopted several resolutions—

(A) relating to the conservation of tigers (Conf. 9.13 (Rev.)) and rhinoceroses (Conf. 9.14), urging Parties to CITES to implement legislation to reduce illegal trade in parts and products of the species; and

(B) relating to trade in readily recognizable parts and products of the species (Conf. 9.6), and trade in traditional medicines (Conf. 10.19), recommending that Parties ensure that their legislation controls trade in those parts and derivatives, and in medicines purporting to contain them;

(4) a primary cause of the decline in the populations of tiger and most rhinoceros species is the poaching of the species for use of their parts and products in traditional medicines;

(5) there are insufficient legal mechanisms enabling the United States Fish and Wildlife Service to interdict products that are labeled as containing substances derived from rhinoceros or tiger species and prosecute the merchandisers for sale or display of those products; and

(6) legislation is required to ensure that—

(A) products containing rhinoceros parts or tiger parts are prohibited from importation into, or exportation from, the United States; and

(B) efforts are made to educate persons regarding alternatives for traditional medicine products, the illegality of products containing rhinoceros parts and tiger parts, and the need to conserve rhinoceros and tiger species generally.

SEC. 3. PURPOSES OF THE RHINOCEROS AND TIGER CONSERVATION ACT OF 1994.

Section 3 of the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5302) is amended by adding at the end the following:

''(3) To prohibit the sale, importation, and exportation of products intended for human consumption or application containing, or labeled or advertised as containing, any substance derived from any species of rhinoceros or tiger.''.

SEC. 4. DEFINITION OF PERSON.

Section 4 of the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5303) is amended—

(1) in paragraph (4), by striking ''and'' at the end;

(2) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(6) 'person' means—

''(A) an individual, corporation, partnership, trust, association, or other private entity;

''(B) an officer, employee, agent, department, or instrumentality of—

''(i) the Federal Government;

''(ii) any State, municipality, or political subdivision of a State; or

''(iii) any foreign government;

''(C) a State, municipality, or political subdivision of a State; or

''(D) any other entity subject to the jurisdiction of the United States.''.

SEC. 5. PROHIBITION ON SALE, IMPORTATION, OR EXPORTATION OF PRODUCTS LABELED AS RHINOCEROS OR TIGER PRODUCTS.

The Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5301 et seq.) is amended—

(1) by redesignating section 7 as section 9; and

(2) by inserting after section 6 the following:

''SEC. 7. PROHIBITION ON SALE, IMPORTATION, OR EXPORTATION OF PRODUCTS LABELED AS RHINOCEROS OR TIGER PRODUCTS.

''(a) PROHIBITION.—A person shall not sell, import, or export, or attempt to sell, import, or export, any product, item, or substance intended for human consumption or application containing, or labeled or advertised as containing, any substance derived from any species of rhinoceros or tiger.

''(b) PENALTIES.—

''(1) CRIMINAL PENALTY.—A person engaged in business as an importer, exporter, or distributor that knowingly violates subsection (a) shall be fined under title 18, United States Code, imprisoned not more than 6 months, or both.

''(2) CIVIL PENALTIES.—

''(A) IN GENERAL.—A person that knowingly violates subsection (a), and a person engaged in business as an importer, exporter, or distributor that violates subsection (a), may be assessed a civil penalty by the Secretary of not more than $12,000 for each violation.

''(B) MANNER OF ASSESSMENT AND COLLECTION.—A civil penalty under this paragraph shall be assessed, and may be collected, in the manner in which a civil penalty under the Endangered Species Act of 1973 may be assessed and collected under section 11(a) of that Act (16 U.S.C. 1540(a)).

''(c) PRODUCTS, ITEMS, AND SUBSTANCES.—Any product, item, or substance sold, imported, or exported, or attempted to be sold, imported, or exported, in violation of this section or any regulation issued under this section shall be subject to seizure and forfeiture to the United States.

''(d) REGULATIONS.—After consultation with the Secretary of the Treasury, the Secretary of Health and Human Services, and the United States Trade Representative, the Secretary shall issue such regulations as are appropriate to carry out this section.

''(e) ENFORCEMENT.—The Secretary, the Secretary of the Treasury, and the Secretary of the department in which the Coast Guard is operating shall enforce this section in the manner in which the Secretaries carry out enforcement activities under section 11(e) of the Endangered Species Act of 1973 (16 U.S.C. 1540(e)).

''(f) USE OF PENALTY AMOUNTS.—Amounts received as penalties, fines, or forfeiture of property under this section shall be used in accordance with section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d)).''.

SEC. 6. EDUCATIONAL OUTREACH PROGRAM.

The Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5301 et seq.) (as amended by section 5) is amended by inserting after section 7 the following:

''SEC. 8. EDUCATIONAL OUTREACH PROGRAM.

''(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary shall develop and implement an educational outreach program in the United States for the conservation of rhinoceros and tiger species.

''(b) GUIDELINES.—The Secretary shall publish in the Federal Register guidelines for the program.

''(c) CONTENTS.—Under the program, the Secretary shall publish and disseminate information regarding—

''(1) laws protecting rhinoceros and tiger species, in particular laws prohibiting trade in products containing, or labeled as containing, their parts;

''(2) use of traditional medicines that contain parts or products of rhinoceros and tiger species, health risks associated with their use, and available alternatives to the medicines; and

''(3) the status of rhinoceros and tiger species and the reasons for protecting the species.''.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

Section 9 of the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5306) (as redesignated by section 5(1)) is amended by striking ''1996, 1997, 1998, 1999, and 2000'' and inserting ''1996 through 2002''.

Amend the title so as to read: ''A bill to amend the Rhinoceros and Tiger Conservation Act of 1994 to prohibit the sale, importation, and exportation of products intended for human consumption or application containing, or labeled or advertised as containing, any substance derived from any species of rhinoceros or tiger, and to reauthorize the Rhinoceros and Tiger Conservation Act of 1994, and for other purposes.''.

AMENDMENT NO. 3797

Mr. JEFFORDS. Senator CHAFEE has a technical amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS], for Mr. CHAFEE, proposes an amendment numbered 3797.

The amendment is as follows:

On page 5, line 23, insert ''or advertised'' after ''labeled''.

On page 6, line 4, insert '', or labeled or advertised as containing,'' after ''containing''.

On page 6, line 9, insert '', or labeled or advertised as containing,'' after ''containing''.

On page 7, line 20, insert ''**OR ADVERTISED**'' after ''**LABELED**''.

On page 8, line 2, insert ''**OR ADVERTISED**'' after ''**LABELED**''.

On page 10, line 17, insert ''or advertised'' after ''labeled''.

Mr. CHAFEE. Mr. President, I am pleased that the Senate is considering S. 361, sponsored by Senator JEFFORDS and approved by the Committee on Environment and Public Works on July 22, 1998. Rhinos and tigers are some of the most critically endangered species on the planet. Fewer than 7,500 tigers survive in the world today, and of the eight subspecies that have been identified, three are extinct. Another subspecies in South China is on the brink of extinction, with a population of about 20 animals.

Rhinos number between 11,000 and 13,500, with two species in Africa and three in Asia. Two of the Asian species themselves are on the verge of extinction, with the Javan rhino having less than 100 individuals, and the Sumatran rhino having less than 500.

The reason for the recent decline of rhinos and tigers, and the primary immediate threat to their survival is the same—poaching. The reason for the poaching itself is also the same—parts of both rhinos and tigers are used in traditional Asian medicines.

In 1994, Congress passed the Rhinoceros and Tiger Conservation Act to help conserve rhinos and tigers. The Act established the ''Rhinoceros and Tiger Conservation Fund'' to receive funds appropriated by Congress, as well as donations, to fund conservation projects. Since its enactment, Congress has appropriated $1 million for the program, funding 40 projects in 10 range countries in Africa and Asia.

Despite this program and recent efforts by the Parties to CITES, trade of traditional Asian medicine containing rhino and tiger parts continues to be high, particularly in Asia and the United States. Neither the ESA not CITES allow for the interdiction of products that are labeled or advertised as containing substances derived from rhinos or tigers, without evidence that the products in fact contain these substances. Such evidence, at best, would be extremely difficult, expensive, and time-consuming to acquire, and at worst, would be impossible to acquire.

The bill amends the Rhinoceros and Tiger Conservation Act to address this problem. It prohibits products that contain, or are labeled or advertised as containing, rhino and tiger parts, in an effort to reduce the supply and demand of those products in the United States. It requires a public outreach program in the United States to complement the prohibitions. Lastly, it reauthorizes the Rhinoceros and Tiger Conservation Act through 2002.

As a related matter, I would like to note that even as Congress reaffirms and strengthens the laws for the conservation of rhinos and tigers, funding for implementation of these laws is woefully inadequate. This year—the Year of the Tiger—the Administration requested only $400,000 for implementing the Rhinoceros and Tiger Conservation Act. The Act is authorized to be appropriated up to $10 million annually. I strongly urge the Administration, for FY 2000, to request funding commensurate with the dire situation facing rhinos, and particularly tigers, in the wild. I also would like to note that the Act allows for donations to be made to the Rhinoceros and Tiger Conservation Fund, and I urge both corporations and individuals to make donations to this Fund.

I wish to thank my colleagues for considering this bill, and I urge the House to approve it expeditiously, so that it can then be signed by the President. I thank the Chair. I yield the floor.

Mr. JEFFORDS. I ask unanimous consent the amendment be agreed to, the committee substitute be agreed to, the bill be considered read a third time and passed, the amendment to the title be agreed to, and the title, as amended, be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 3797) was agreed to.

The committee substitute, as amended, was agreed to.

The bill (S. 361), as amended, was passed, as follows:

S. 361

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 ''Rhinoceros and Tiger Conservation Act of 1998''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the populations of all but 1 species of rhinoceros, and the tiger, have significantly declined in recent years and continue to decline;

(2) these species of rhinoceros and tiger are listed as endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and listed on Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, signed on March 3, 1973 (27 UST 1087; TIAS 8249) (referred to in this Act as ''CITES'');

(3) the Parties to CITES have adopted several resolutions—

(A) relating to the conservation of tigers (Conf. 9.13 (Rev.)) and rhinoceroses (Conf. 9.14), urging Parties to CITES to implement legislation to reduce illegal trade in parts and products of the species; and

(B) relating to trade in readily recognizable parts and products of the species (Conf. 9.6), and trade in traditional medicines (Conf. 10.19), recommending that Parties ensure that their legislation controls trade in those parts and derivatives, and in medicines purporting to contain them;

(4) a primary cause of the decline in the populations of tiger and most rhinoceros species is the poaching of the species for use of their parts and products in traditional medicines;

(5) there are insufficient legal mechanisms enabling the United States Fish and Wildlife Service to interdict products that are labeled or advertised as containing substances derived from rhinoceros or tiger species and prosecute the merchandisers for sale or display of those products; and

(6) legislation is required to ensure that—

(A) products containing, or labeled or advertised as containing, rhinoceros parts or tiger parts are prohibited from importation into, or exportation from, the United States; and

(B) efforts are made to educate persons regarding alternatives for traditional medicine products, the illegality of products containing, or labeled or advertised as containing, rhinoceros parts and tiger parts, and the need to conserve rhinoceros and tiger species generally.

SEC. 3. PURPOSES OF THE RHINOCEROS AND TIGER CONSERVATION ACT OF 1994.

Section 3 of the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5302) is amended by adding at the end the following:

''(3) To prohibit the sale, importation, and exportation of products intended for human consumption or application containing, or

labeled or advertised as containing, any substance derived from any species of rhinoceros or tiger.''.

SEC. 4. DEFINITION OF PERSON.

Section 4 of the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5303) is amended—

(1) in paragraph (4), by striking ''and'' at the end;

(2) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(6) 'person' means—

''(A) an individual, corporation, partnership, trust, association, or other private entity;

''(B) an officer, employee, agent, department, or instrumentality of—

''(i) the Federal Government;

''(ii) any State, municipality, or political subdivision of a State; or

''(iii) any foreign government;

''(C) a State, municipality, or political subdivision of a State; or

''(D) any other entity subject to the jurisdiction of the United States.''.

SEC. 5. PROHIBITION ON SALE, IMPORTATION, OR EXPORTATION OF PRODUCTS LABELED OR ADVERTISED AS RHINOCEROS OR TIGER PRODUCTS.

The Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5301 et seq.) is amended—

(1) by redesignating section 7 as section 9; and

(2) by inserting after section 6 the following:

''SEC. 7. PROHIBITION ON SALE, IMPORTATION, OR EXPORTATION OF PRODUCTS LABELED OR ADVERTISED AS RHINOCEROS OR TIGER PRODUCTS.

''(a) PROHIBITION.—A person shall not sell, import, or export, or attempt to sell, import, or export, any product, item, or substance intended for human consumption or application containing, or labeled or advertised as containing, any substance derived from any species of rhinoceros or tiger.

''(b) PENALTIES.—

''(1) CRIMINAL PENALTY.—A person engaged in business as an importer, exporter, or distributor that knowingly violates subsection (a) shall be fined under title 18, United States Code, imprisoned not more than 6 months, or both.

''(2) CIVIL PENALTIES.—

''(A) IN GENERAL.—A person that knowingly violates subsection (a), and a person engaged in business as an importer, exporter, or distributor that violates subsection (a), may be assessed a civil penalty by the Secretary of not more than $12,000 for each violation.

''(B) MANNER OF ASSESSMENT AND COLLECTION.—A civil penalty under this paragraph shall be assessed, and may be collected, in the manner in which a civil penalty under the Endangered Species Act of 1973 may be assessed and collected under section 11(a) of that Act (16 U.S.C. 1540(a)).

''(c) PRODUCTS, ITEMS, AND SUBSTANCES.—Any product, item, or substance sold, imported, or exported, or attempted to be sold, imported, or exported, in violation of this section or any regulation issued under this section shall be subject to seizure and forfeiture to the United States.

''(d) REGULATIONS.—After consultation with the Secretary of the Treasury, the Secretary of Health and Human Services, and the United States Trade Representative, the Secretary shall issue such regulations as are appropriate to carry out this section.

''(e) ENFORCEMENT.—The Secretary, the Secretary of the Treasury, and the Secretary of the department in which the Coast Guard is operating shall enforce this section in the manner in which the Secretaries carry out enforcement activities under section 11(e) of the Endangered Species Act of 1973 (16 U.S.C. 1540(e)).

''(f) USE OF PENALTY AMOUNTS.—Amounts received as penalties, fines, or forfeiture of property under this section shall be used in accordance with section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d)).''.

SEC. 6. EDUCATIONAL OUTREACH PROGRAM.

The Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5301 et seq.) (as amended by section 5) is amended by inserting after section 7 the following:

''SEC. 8. EDUCATIONAL OUTREACH PROGRAM.

''(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary shall develop and implement an educational outreach program in the United States for the conservation of rhinoceros and tiger species.

''(b) GUIDELINES.—The Secretary shall publish in the Federal Register guidelines for the program.

''(c) CONTENTS.—Under the program, the Secretary shall publish and disseminate information regarding—

''(1) laws protecting rhinoceros and tiger species, in particular laws prohibiting trade in products containing, or labeled or advertised as containing, their parts;

''(2) use of traditional medicines that contain parts or products of rhinoceros and tiger species, health risks associated with their use, and available alternatives to the medicines; and

''(3) the status of rhinoceros and tiger species and the reasons for protecting the species.''.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

Section 9 of the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5306) (as redesignated by section 5(1)) is amended by striking ''1996, 1997, 1998, 1999, and 2000'' and inserting ''1996 through 2002''.

The title was amended so as to read:

A bill to amend the Rhinoceros and Tiger Conservation Act of 1994 to prohibit the sale, importation, and exportation of products intended for human consumption or application containing, or labeled or advertised as containing, any substance derived from any species of rhinoceros or tiger, and to reauthorize the Rhinoceros and Tiger Conservation Act of 1994, and for other purposes.

ASSISTING THE IRISH PEACE PROCESS

Mr. JEFFORDS. I ask unanimous consent the Senate now proceed to the immediate consideration of H.R. 4293 which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4293) to establish a cultural training program for disadvantaged individuals to assist the Irish peace process.

The Senate proceeded to consider the bill.

Mr. D'AMATO. Mr. President, on May 22, 1998, the people of Northern Ireland and the Republic of Ireland courageously voted to make a break with the tragic violence of their past by expressing their support for the April 10 Peace Accords.

The time is right for the U.S. to step in and show support for the changes in Ireland. We have a unique opportunity to participate in the building of an everlasting peace with the Northern Ireland Visa for Peace and Reconciliation Act.

Northern Ireland will undergo massive changes as it progresses beyond its violent past to a calm, more peaceful future. These changes require economic opportunities and a workforce that can rebuild a beautiful country.

The U.S. can offer training and job skills. More importantly, when they return home, they will be prepared to provide the crucial skill-base needed to attract private investment to their local economies.

This past July, Senator TORRICELLI and I introduced S. 2269 set up for the same purpose. After much negotiation, we now have before us a bipartisan effort to show support for peace—the Irish Peace Process Cultural and Training Program Act of 1998.

This bill will provide 4,000 visas a year for three years allowing young people from Ireland to live in the United States for up to 36 months—gaining experience working and living in a peaceful, multicultural society.

The bill establishes a program that will expose individuals from disadvantaged areas of Ireland to business and social life of other communities and train individuals for job skills for which there are opportunities in Ireland. That translates into a low-cost, low-risk, high return investment in peace in Northern Ireland.

This bill will provide opportunities for residents of Ireland to have an experience that they can bring home with them to cultivate their economy and culture as the region enters into a new and promising era. That is why it is called the Northern Ireland Visa for Peace and Reconciliation Act. And I hope we call it law very soon. I believe some call it INNISFAILE, Island of Destiny.

I want to congratulate Congressman Walsh and so many others for their vision and persistence in getting this bill passed and I urge its adoption.

Mr. JEFFORDS. I ask unanimous consent that the bill be considered read a third time and passed, the motion to reconsider be laid on the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 4293) was passed.