Mondragon; a former special assistant to the U.S. Ambassador to Mexico in the 1980s and now president of two Washington-based consulting firms that have received a lot of money from Mexico. In the critical period of October-December 1992, Guerra & Associates received $81,000 from SECOFI to "make contact and meet with United States legislators and other public officials." At the same time, Guerra-Mondragon was a Clinton transition adviser on national security issues. In addition, his other firm, TKC International, has received $388,376 from SECOFI since August 1991 to lobby members of Congress, as mentioned earlier.

At Treasury, Secretary-designate Lloyd Bentsen brought in his former aide Joe O'Neill, head of the consulting firm Public Strategies, which was retained by Mexico, to assist in the transition. O'Neill interviewed prospective political appointees and helped Bentsen establish his Treasury operations.

After the inauguration, Charlene Barshefsky was nominated to be Deputy U.S. Trade Representative. She has been registered as a foreign agent for firms in Japan, Canada and Mexico. According to Justice Department records, she or her firm represented a broad coalition of Mexican companies pushing for NAFTA. When asked if Barshefsky's background posed any problem, a spokesperson for the office of the U.S. Trade Representative told The Wall Street Journal, "I believe it is a distinct advantage [to have] represented both domestic and foreign clients. That kind of well-rounded representation gives you insight." And Clinton nominated Daniel Tarullo, of Shearman & Sterling, as Assistant Secretary of State for Economic and Business Affairs. Tarullo will oversee the department's trade office. He reportedly worked for Mexico in its NAFTA trade negotiations with the United States.

FLY THE FRIENDLY SKIES

For the past two years, Mexican business interests, working in tandem with their government, have waged an elaborate campaign to "educate" U.S. government officials about the benefits of the proposed North American Free Trade Agreement. Between April 1991 and February 1993, the deep-pockets Mexican group COECE took fifty Congressional staffers—including Donsia Strong—on nine trips to Mexico. Although the Constitution prohibits members of Congress and their employees from receiving "any present * * * of any kind" from a foreign government without the consent of Congress, such trips apparently do not violate this provision because COECE is ostensibly a nongovernmental organization. However, it does have close ties to the Mexican government and advised it during the NAFTA negotiations. And its executive director, Guillermo Guemez, was formerly the executive vice president of Banco Nacional de Mexico, which until August 1991 was owned by the Mexican government.

So far the House members, the governor and nearly all of the Congressional staffers who have gone to Mexico have not publicly disclosed these activities. (Either they do not have to, or the deadline for disclosure has not yet passed—and in some cases, won't pass until after Congress has voted on the treaty.) In the Senate, staffers must receive authorization from the Ethics Committee before accepting foreign travel; their names are then published in the Congressional Record. So far, fourteen Senate staff aides have disclosed their participation in the trips.

Queries to roughly 200 Congressional aides reveal that forty-eight staff members went to Mexico on COECE's dime. Two of the most powerful committees in the House of Representatives were targeted by COECE. Bruce Wilson and Mary Latimer of the House Ways and Means Subcommittee on Trade journeyed to Mexico. So did Janet Potts, a staffer for John Dingell's House Energy and Commerce Committee.

To beef up its lobbying efforts in Congress, the Mexican business group enlisted the services of Ruth Kurtz, a well-connected former Senate aide and trade expert. Kurtz, hired for $80,000 a year, was a good catch. From 1970 to 1980, she was an international economist and U.S. trade negotiator at the Commerce Department. From 1980 to 1983 she served as a trade adviser to Paula Stern at the International Trade Commission. Then she joined the staff of Republican Senator William Roth, where she was a major author of the 1988 Omnibus Trade Act. Kurtz quit the Senate in 1989 and subsequently signed on with COECE.

Kurtz, who refused to be interviewed, earns her keep by schmoozing with former fellow trade specialists on Capitol Hill, the men and women advising legislators on NAFTA. From April 1991 through October 1992, according to Justice Department records, Kurtz or her principals discussed NAFTA in meetings with legislators on seventeen different occasions. There were two meetings with Senate minority leader Bob Dole. Others on the hit list include then-Senate Finance Committee chairman Lloyd Bentsen and Representatives Kika de la Garza, Bill Richardson and Robert Torricelli. But the real work on Capitol Hill occurs at the staff level, so the Mexican business group and Kurtz presented the merits of NAFTA to various House and Senate staffers on 220 occasions—in telephone conversations, at office meetings, over lunch. They held ten meetings with governors during this period, including two sessions with California Governor Pete Wilson. And they met with officials of the U.S. Trade Representative's office twenty-one times, including twice with Trade Rep Carla Hills. Kurtz's former employers at the Commerce Department heard her pitch on NAFTA nineteen times, including at one meeting with then-Secretary Robert Mosbacher. Nine conversations were held at the International Trade Commission. And the staff of Senator Roth, ranking minority member of the powerful Finance Committee, which has principal jurisdiction over trade matters such as NAFTA, was visited by alumna Kurtz twenty-two times.

Kurtz wined and dined some staffers at Washington's most popular restaurants: the Ritz Carlton, Sequoia, La Colline, Sam & Harry's, Joe & Mo's, Old Ebbitt Grill, the Monocle. Kurtz and her Mexican clients also played Santa Claus. According to Justice Department documents, they bought a "Christmas Gift for [a] Member of Congress" at Saks Fifth Avenue. Another Christmas gift was purchased for a Congressional staffer from Victoria's Secret, the lingerie chain. The recipients of the gifts were not named. (Congress is now considering a bill that will force lobbyists to disclose the recipients of such gifts.) Kurtz also worked the media, spinning positive stories about Mexico and with NAFTA.

But the centerpiece of Kurtz's campaign to win friends and influence Capitol Hill people was the trips to Mexico. Practically all of the trips were led and organized by Kurtz. Both Democrats and Republicans were invited on these visits. Some of the staffers work for legislators who have already decided their positions on NAFTA, and others work for legislators who are on the fence. One delegation included staffers for lawmakers concerned with Mexico's environmental record. Another brought together staff aides to members who car about Mexico's human rights record. And one tour consisted of staffers from offices that were openly anti-NAFTA.

These trips weren't junkets. Meetings were scheduled back to back. The agenda was loaded, and the visitors were exposed only to the business side of the issue. Very few meetings were held with Mexican anti-NAFTA groups, and these had to be organized independently by the staff members.

Many staffers say the experience made them better understand the importance of NAFTA to Mexico. Some left feeling unsure about NAFTA's environmental and job repercussions in the United States. But several staff aides note that they came home believing that if NAFTA is good for Mexico, it will be good for the United States. Philip Boyle, who was a legislative assistant for former Representative Frank Horton, says that Horton was undecided about NAFTA until Boyle participated in a 1991 COECE trip. Horton was among those who voted for giving President Bush fast-track authority, which allowed Bush to negotiate NAFTA without too much interference from Congress. Some staff people on the Hill report that the trips reinforced their already positive attitudes toward NAFTA. And clearly, the information they brought back made its way to the legislators. For example, Bruce Wilson, staff director of the House Ways and Means Committee's Subcommittee on Trade, says "staff findings" from these trips were shared with Dan Rostenkowski, chairman of the committee, and were made available to other committee members.

After the treaty was signed by Salinas, Bush and Canadian Prime Minister Brian Mulroney in December 1992, COECE shut down its Washington office. According to von Bertrab of Mexico's NAFTA office, the business group's primary purpose was to serve as a liaison between Mexican corporate interests and Mexican government negotiators. After the pact was signed, there was less need for the business-government interaction. But COECE still keeps Kurtz on its payroll—presumably to lobby members for the final ratification of NAFTA. While nations trying to work their way around Washington have occasionally operated through government-connected trade associations, Mexico has taken its persuasion efforts a step further. The trade analysts to the most powerful, relevant members of Congress were systematically led by the nose to Mexico to hear its carefully scripted story.

BIG BUSINESS WEIGHS IN BIG

Corporate Mexico and the Salinas government are not alone in the push for NAFTA. Hundreds of major U.S. companies, eyeing cheap labor, weak regulations and new consumers in Mexico, are crusading for the agreement. Flimsy disclosure laws make it difficult to calculate how much U.S. business interests are spending on pro-NAFTA activities. But the total runs into the millions of dollars.

The most prominent organizations pushing NAFTA are USA*NAFTA, the U.S. Council of the Mexico-U.S. Business Committee, Trade Partnership, the U.S. Chamber of Commerce, the National Foreign Trade Council, the Business Roundtable and the National Association of Manufacturers. USA*NAFTA is the largest. About 80 percent of the coalition members are companies and 20 percent of them are trade associations and what

USA*NAFTA euphemistically calls "consumer" groups, with names like Consumers for World Trade, Citizens for a Sound Economy and San Diegans for Free Trade. More than 2,000 plants operating in Mexico are owned by U.S. companies, and many of their parent companies are members of USA*NAFTA. Formed last October by Kay Whitmore, the chairman and C.E.O. of Eastman Kodak, and James Robinson, then head of American Express, USA*NAFTA claims to have raised $2 million. But according to the group, it has not yet spent much of this money. Gail Harrison of the Wexler Group, a well-connected public affairs consulting unit of Hill and Knowlton, manages an extensive grass-roots effort, which in part involves identifying companies in Congressional districts that are pro-NAFTA and enlisting them to bring local pressure to bear upon the relevant representative. USA*NAFTA also hired Mari Maseng Will of Maseng Communications as a media consultant and Chuck Levy of Wilmer, Cutler and Pickering as counsel.

USA*NAFTA is working with others in a unified network of business leaders and pro-NAFTA associations that its members have dubbed the Alliance. They have been conducting low-profile, behind-the-scenes lobbying. Within the Beltway, the Alliance has made the House of Representatives, where the treaty may be in trouble, its prime target. (NAFTA proponents believe they have a majority in the Senate.)

In this effort to woo the more volatile House, the U.S. Council of the Mexico-U.S. Business Committee, an Alliance member, sponsored a two-day event for new members of Congress, from both parties, at the National Democratic Club in Washington. The council made certain that local pro-NAFTA business leaders were present. At breakfast, lawmakers and their staffers sat surrounded by business people from their home district who praised NAFTA. Congressional NAFTA supporters, including Senator Bill Bradley, the chief Senate supporter of NAFTA, were the keynote speakers at the affair.

USA*NAFTA is building support for NAFTA at the state level. The group uses "state captains" to persuade local officials and business people to rally behind the treaty—and let their elected leaders know where they stand. The state captains are typically officials in companies that are commercially and politically influential within their states: BankAmerica in California; AT&T in Florida; Du Pont in Delaware; General Electric in Massachusetts; General Motors in Michigan; Eastman Kodak in New York; Caterpillar in Illinois.

According to USA*NAFTA's legal counsel, Chuck Levy, the U.S. business community organizations keep their activities separate from those of the Mexican government. But the Mexican NAFTA office communicates regularly with the U.S. business groups lobbying for the treaty. As with the Mexican government, U.S. corporations are spending large amounts of money to get NAFTA ratified, and their labors effectively complement Mexico's own extensive lobbying campaign. As von Bertrab says, Mexican officials are "less credible" than U.S. business people when extolling the benefits of NAFTA in the United States. U.S. companies are lobbying for what their officials believe is best for them—and, by extension, for the American people. Their entry into the fray further stacks the deck.

GOVERNMENT BY SPECIAL INTERESTS?

What has all this expensive hyperactivity wrought? The high-powered, moneyed interests have succeeded in making their agenda America's agenda—and even given it an apple pie-sounding name: North American Free Trade Agreement. William Greider has written about a sophisticated form of political manipulation he calls "deep lobbying," the purpose of which is to define public argument and debate. "It is another dimension of mock democracy—a system that has all the trappings of free and open political discourse but is shaped and guided at a very deep level by the resources of the most powerful interests."

For years, the logic, the assumptions and the seeming inevitability of NAFTA have been carefully constructed, and the reasonable concerns of environmental, labor, consumer and other groups have been brushed off as annoying but harmless gnats. Except for some token memberships on a few trade advisory committees, these modestly funded forces have been largely ignored by the trade professionals in the three governments, who have been working closely with the various North American corporations. Issues of greatest import to the great majority of people, such as the potential loss of jobs or lowered environmental standards, were treated as afterthoughts to the process. These concerns were given scant attention in the main body of the pact—hence the need for "side agreements" to NAFTA. The whole process has a cynical, cosmetic quality, with the pretense of responsible discourse included after the fact.

As with so many critical issues, the presence of a high-powered lobbying campaign makes it unlikely that decisions are being made on the merits. And that is perhaps the most damaging consequence of an operation like the selling of NAFTA. It undermines confidence in government.

NAFTA is a perfect issue for lobbyists. It is highly technical. The details are arcane. Trade matters are often disposed of far from public scrutiny. Even some members of Congress would rather not deal with them. How could the NAFTA process have evolved any differently, when so many of the former U.S. trade officials have been retained by Mexico or U.S. corporations with subsidiaries there? In such a setting, the right word from the right lobbyist can make a difference.

NAFTA is too important to leave to the lobbyists. The persuasion campaign conducted on its behalf may lead to passage of a treaty that could prove harmful to a vast number of Americans. This lobbying free-for-all is more evidence that the way Washington does business needs to change. Clinton's executive order banning former government officials from going to work for special interests may prevent future revolving-door shenanigans such as those evident in the NAFTA game. The lobbying disclosure bill now before Congress would shine a brighter light on the day-to-day activities of lobbyists in Washington. And some members of Congress are beginning to eschew all future privately funded travel by themselves and their staff. Such changes are overdue, but they are only a beginning: For as long as the present system remains in place, the public will rightly wonder whether all they are getting is the best legislation special-interest money can buy.

NAFTA'S OPPOSITION

In the past two years, an unusual anti-NAFTA coalition has emerged. People and organizations that formerly would never speak to one another are meeting on a regular basis. The opposition includes businesses, labor unions, environmental and consumer groups, and Ross Perot. Although the anti-NAFTA forces are substantially outspent by the paid lobbyists and consultants of Mexico and corporate America, their ability to mobilize their members makes them somewhat competitive.

Many NAFTA opponents belong to the Citizens Trade Campaign, a broad coalition of more than seventy national organizations. Its annual budget is a mere $200,000, and it employs only three full-time national staff members and fourteen field staffers. Former Democratic Congressman Jim Jontz of Indiana is the executive director.

The coalition has tried to generate opposition to NAFTA in public rallies and meetings across the nation by emphasizing the prospect of substantial loss of jobs and of international trade tribunals overruling U.S. regulations on workplace safety and the environment. Several unions have played an important role in the anti-NAFTA effort. The United Auto Workers, the International Ladies Garment Workers Union, the International Brotherhood of Electrical Workers, and the Machinists, Teamsters and others lobbied lawmakers and staged protests, sponsored petition campaigns and organized traveling anti-NAFTA caravans with displays, speakers and videos about worker exploitation in Mexico. The A.F.L.-C.I.O., like the U.S. business community, has taken out advertisements and worked with other groups—such as the nonprofit Congressional Economic Leadership Institute—in organizing trips to Mexico for legislators. A.F.L.-C.I.O. trade analyst Mark Anderson says the federation's opposition to NAFTA is largely unorganized and "a low-budget operation." If the federation fully mobilized its 14 million members, it could influence the NAFTA debate. Recently, however, the executive council decided to push for appropriate side agreements to the pact rather than launch a national campaign to derail it, as many union leaders have urged.

A few business organizations also oppose the treaty. The American Trade Council and the U.S. Business and Industrial Council view NAFTA as a potential threat to small and middle-sized U.S. companies less able to relocate to Mexico than big corporations. They also fear that the free-trade zone will enable overseas companies to use Mexico as an alternative staging area to circumvent U.S. import laws.

Cooperating with the anti-NAFTA business associations is Public Citizen, a Ralph Nader group. Until recently, Public Citizen has had one full-time person on the NAFTA case: Lori Wallach, who directs the trade program at Public Citizen's lobbying arm, Congress Watch. Wallach glories in being a troublemaker. During the highly secretive NAFTA negotiations in 1991 and 1992, Public Citizen and other opposition forces were locked out and complained that their concerns were not being addressed. No one would provide copies of position papers or other negotiating materials. In February 1992, Public Citizen received a leaked copy of the NAFTA text. It released the document to the public, causing an uproar within the Bush Administration over the breach of security. The office of the U.S. Trade Representative immediately began tagging the NAFTA drafts with a secret code, so any leaked text could be traced back to the culprit. On Capitol Hill, Wallach has lobbied furiously, along with lobbyists from unions and other groups. But the money spent by the anti-NAFTA forces is a mere fraction of Mexican and U.S. corporate lobbying expenditures.

Environmentalists are split on NAFTA. Greenpeace, Friends of the Earth and the Sierra Club are active participants in the Citizens Trade Campaign. Their chief worry is

that NAFTA will make it easier for U.S.-based corporations to move their operations to poorer countries with weaker environmental regulations, thereby sidestepping U.S. laws but also jeopardizing the safety and health of indigenous people in less-developed nations. A warning sign came in 1991 when Mexico challenged a U.S. law banning tuna imports from countries that killed more than 20,000 dolphins annually during tuna catches. The Mexicans argued that the law constituted an unfair trade barrier. An international trade panel ruled in favor of Mexico. Some environmentalists envision more such cases should NAFTA be ratified. But recently six large environmental organizations—the National Audubon Society, the Nature Conservancy, the National Wildlife Federation, the Environmental Defense Fund, the World Wildlife Fund and Defenders of Wildlife—announced they would support the treaty, as long as appropriate auxiliary agreements are negotiated.

The anti-NAFTA coalition has one potential wild card: Ross Perot, who has testified twice before Congress against the treaty. His organization, United States We Stand, America—with an estimated membership of 1-2 million—is campaigning against the treaty. On May 30, Perot will devote a thirty-minute infomercial on prime-time TV to NAFTA.

Recently, Perot joined with other NAFTA opponents for lunch, during which Ralph Nader warned that Mexico and U.S. corporations will "blitz" the network airwaves with TV commercials promoting NAFTA. Perot asked how much the pro-NAFTA forces might spend. Twenty-five million, Nader replied. Perot smiled and said, "I can do that."

THE PLAYERS: FORMER U.S. GOVERNMENT OFFICIALS WORKING FOR NAFTA'S PASSAGE, 1989 TO PRESENT,[1] AS REPORTED TO THE DEPARTMENT OF JUSTICE

Registrant and current firm	Former government position (years served)
Toney Anaya—Independent Lobbyist	Governor of New Mexico, 1983–87; Attorney General of New Mexico, 1975–79; Admin. Asst. to New Mexico Governor Bruce King, 1971–72; Leg. Counsel for Sen. Joseph Montoya, 1966–69; and Exec. Asst. to the Asst. Sec. of State, 1966.
Timothy Bennett—SJS Advanced Strategies	Deputy Asst., U.S. Trade Rep. for Mexico, 1985–88; U.S. Trade Attaché to the E.E.C., U.S. Trade Rep., 1981–85; and Exec. Dir., U.S. Generalized System of Preferences, U.S.T.R., 1980–81.
John Bode—Olsson, Frank, and Weeda	Asst. Sec. for Food and Consumer Services, U.S. Dept. of Agriculture, 1985–89.
William Brock—The Brock Group	Sec. of Labor, 1985–87; U.S. Trade Rep., 1981–85; Chairman, Republican Nat'l Comm., 1977–81; Sen., 1970–76; and Member, U.S. House of Reps., 1962–70.
Doral Cooper—Crowell & Moring International	Asst. U.S. Trade Rep., Office of Bilateral and Multilateral Affairs, 1981–85; Deputy Asst. Special Trade Rep. for Japan and Developing Countries, 1978–81; Economist and Exec. Dir. of the Generalized System of Preferences; Prog. U.S.T.R., 1977–78; and Economist for Int'l Finance and Trade Matters, Council of Econ. Advisers, 1975–77.
Peter Ehrenhaft—Bryan Cave	Deputy Asst. Sec. and Special Counsel (Tariff Affairs), Dept. of the Treasury, 1977–79.
James Free—Walker/Free Associates	Cong. Liaison to the White House (Carter Admin.).
James Frierson—The Brock Group	Coord., U.S. government's policy on the functioning of the GATT system in the Uruguay Round, 1987–89; Chief of Staff, Off. of the U.S. Trade Rep., 1985–89; and Special Asst. to Amb. William Brock, U.S. Trade Rep., 1981–85.
Lee Fuller—Walker/Free Associates	Majority Staff Dir. under Sen. Lloyd Bentsen, Sen. Comm. on Environment and Public Works, 1985–87; Minority Staff Dir., Sen. Comm. on Environ. and Pub. Works, 1978–85.
Peter Glavas—Gold and Liebengood	Special Asst. to Sen. David Boren, 1987–88; Tax Counsel, Sen. Boren, 1984–88; Chief of Staff, Sen. Boren, 1984–86; and Campaign Mgr. and Field Rep., Oklahomans for Boren, 1980–84.
Martin Gold—Gold and Liebengood	Legal Counsel for Sen. Howard Baker, 1981–82; Counsel for Floor Operators to Baker, 1979–80; Min. Staff Dir. and Counsel, Sen. Comm. on Rules & Administration, 1977–79; Staff, Sen. Intell. Comm., 1976; and Legal Asst. to Sen. Mark Hatfield, 1973–76.
Gabriel Guerra-Mondragon—Guerra & Associates, TKC International	Adviser on Nat. Security issues, Clinton transition team, 1992–93; Special Asst. to the U.S. Amb. to Mexico, 1980–83.
Robert Herzstein—Shearman & Sterling	Under Sec. for Int'l Trade, Dept. of Commerce, 1980–81.
Edward Hidalgo—Independent Lobbyist	Sec. of the Navy, 1979–81; Asst. Sec. of the Navy, 1977–79; Gen. Counsel and Cong. Liaison, U.S. Information Agency, 1973–76; Special Asst. to Director of the U.S. Information Agency, 1972; and Special Asst. to the Sec. of the Navy, 1945–46, 1965–66.
William Hildenbrand—Gold and Liebengood	Sec. of the Senate, 1980–84; Sec. for the Min., U.S. Senate, 1974–80; Chief of Staff, Sen. High Scott, 1969–74; Leg. Asst. to Sen. Caleb Boggs, 1961–68; Asst. Cong. Liaison, Dept. of Health, Education & Welfare, 1959–60; and Aide to Rep. H.G. Haskell, 1957–58.
Patricia Jarvis—Gold and Liebengood	Special Asst., Off. of Leg., Dept. of Health and Human Services, 1986–87.
Ruth Kurtz—Independent Lobbyist	Aide to Sen. William Roth, mid-1980s (left in 1989); Trade Adviser, Int'l Trade Comm., 1980–83; and Int'l Economist and U.S. Trade Neg., Dept. of Commerce, 1970–1980.
Stephen Lande—Manchester Trade	Assistant U.S. Trade Rep. for Bilateral Affairs (left 1982); Office of the Special Trade Rep., including Deputy Asst. U.S.T.R., 1973–82; State Dept., Chief of Econ. and Info. Services, U.S. Embassy, Luxembourg, 1970–73; and State Dept., Consular Off., Athens, Greece, 1966–68.
Howard Liebengood—Gold and Liebengood	Sergeant-at-Arms, U.S. Senate, 1981–84; Leg. Counsel to Sen. Min. Leader, 1977–81; Min. Staff Dir., Sen. Select Comm. on Intell., 1976–77; Consultant to Sen. Howard Baker, 1975–76; and Asst. Min. Counsel, Watergate, 1973–74.
George Mannina—O'Connor & Hannan	Chief Min. Counsel, House Merchant Marine and Fisheries Comm., 1983–85; Min. Counsel, House Subcomm. on Fisheries, Wildlife, Conservation and the Environment, 1975–83; Leg. Asst. to Rep. Edwin B. Forsythe, 1972–75; and Admin. Aide to Rep. Gilbert Gude, 1971–72.
Mary Lou McCormick—Formerly of Gold and Liebengood	Press Asst., Deputy Press Sec., and Press Sec. to Sen. Bob Packwood, 1981–87.
Joseph O'Neiff—Public Strategies	Admin. Asst. to Sen. Lloyd Bentsen, 1980–84; Exec. Asst. to Sen. Bentsen's Texas office, 1972–79.
Phil Potter—Walker/Free Associates	Aide to Sen. Peter Dominick, 1969–70; Senior positions, Dept. of Treasury, 1970–71.
William Ratchford—Gold and Liebengood	Member, House of Reps., 1979–85.
Otto Reich—The Brock Group	Amb. to Venezuela, 1985–89; Special Adviser to the Sec. of State, Interagency Office of Pub. Diplomacy for Latin America and the Caribbean, 1983–86; Asst. Admin., U.S. Agency for Int'l Devel. Progs. on Latin America and the Caribbean, 1981–83; and Staff Asst., House of Reps., 1970–71.
Mark Robertson—Gold and Liebengood	Leg. Dir. for Rep. Stan Parris, 1980s.
John Scruggs—Gold and Liebengood	Asst. Sec. for Legislation, Dept. of Health and Human Services, 1983–84; Special Asst. to the Pres. for Leg. Affairs, 1981–82; Floor Asst. to House Republican Whip Trent Lott, 1980–81; and Staff Member of the House Rules Comm., late 1970s.
Peter Slone—Gold and Liebengood	Deputy, Nat'l Campaign Mgr., Mondale for President, 1984; U.S. House Approps. Comm. Assoc. Staff, and Cong. Liaison to the House Educ. and Labor Comm. and Select Comm. on Aging, office of Rep. William Ratchford, 1978–83.
James Smith—Walker/Free Associates	U.S. Compt. of the Currency, 1973–76; Deputy Under Sec., Treasury Dept., and Dir., Off. of Cong. Relations, Treasury Dept., 1969–73; Min. Counsel to the Sen. Subcomm. on Intergovt'l Rel., 1960–62; and Leg. Asst., Sen. Karl Mundt, 1957–60.
Michael Smith—SJS Advanced Strategies	Deputy U.S. Trade Rep., 1980–88; U.S. Amb. to GATT, Geneva, 1979–83; Chief, U.S. Textile Negotiator, 1975–1979; Deputy Chief, then Chief, Fibers and Textile Div., U.S. State Dept., 1973–74; Chief of Pres. Corres., for the White House, 1970–73; and Foreign Service, various positions, including Foreign Service Off., 1958–70.
David Tarullo—Shearman & Sterling	Nominated to be Asst. Sec. for Econ. and Bus. Aff., State Dept., 3/19/93; not confirmed as of press time. Chief Employ. Counsel of the Sen. Comm. on Labor and Human Resources, 1987–89; and Exec. Asst. to the Under Sec., Dept. of Commerce (Int'l Counsel), 1980–81.
Abelardo Valdez—Independent Lobbyist	Amb., Chief of Protocol, State Dept., 1979–81; Asst. Admin. for Latin America & the Caribbean, U.S. Agency for Int'l Devel., 1977–79.
Charls Walker—Walker/Free Associates	Deputy Sec. of the Treasury, 1972–73; Under Sec. of the Treasury, 1969–72; and Asst. to the Sec. of the Treasury, 1959–61.

[1] Chart reflects those who have lobbied or done other pro-NAFTA or trade-related work.

Mr. MOYNIHAN. Mr. President, earlier today the Committee on Finance and other committees to which the NAFTA was referred placed in the RECORD statements regarding S. 1627, the bill to implement the NAFTA. I ask unanimous consent that a statement by the Commerce Committee, now available, be inserted in the RECORD at this point.

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

STATEMENT OF THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

At its executive session on Thursday, November 18, 1993, the Committee on Commerce, Science and Transportation considered the portions of S. 1627, legislation to implement the North American Free Trade Agreement (NAFTA), within the jurisdiction of the Committee, and ordered them reported without recommendation.

SUMMARY OF PROVISIONS WITHIN THE JURISDICTION OF THE COMMERCE COMMITTEE

The provisions of the bill considered by the Committee are briefly described below.

Corporate Average Fuel Economy (CAFE)

The Energy Policy and Conservation Act, as amended, requires that each auto manufacturer selling new cars in the U.S. achieve certain average new car and light truck fleet fuel economy standards. Under the Act, each manufacturer must separately achieve the required CAFE levels on its "domestic" and "import" fleets of cars and light trucks. Under existing law, an automobile is considered domestically manufactured if:

"At least 75 percent of the cost to the manufacturer of such automobile is attributable to value added in the United States or Canada, unless the assembly of such automobile is completed in Canada and such automobile is not imported into the United States prior to the expiration of 30 days following the end of such model year." 15 U.S.C. Section 2003(b)(2)(E).

Under NAFTA, Mexican value added to a vehicle's manufacture would be counted toward its domestic content for CAFE purposes. This change in law would be phased in over ten years. Thus, beginning with model year 2005, all U.S., Canadian or Mexican value added would be credited towards the vehicle's domestic content for CAFE calculation purposes, if such vehicles are sold in the United States. The phase-in period is designed to assist manufacturers who are currently dividing their vehicle production between the United States, Canada or Mexico to meet the CAFE law's requirements.

To implement these provisions of the NAFTA, section 371 of the bill adds Mexico to the United States and Canada in the Corporate Average Fuel Economy definition of "domestically manufactured" (15 U.S.C. 2003(b)(2)(G)). The existing CAFE definition of "automobiles," which includes both passenger automobiles and light trucks, is not

affected by the proposed implementing bill or regulatory changes.

Manufacturers that began production of automobiles in Mexico before model year 1992 may make a one-time election at any time between January 1, 1997, and January 1, 2004, to apply the new definition beginning with the next model year after such election. For those not making such election, the new definition will apply beginning with the next model year after January 1, 2004.

For manufacturers that began or begin production of automobiles in Mexico after model year 1991, the new definition will apply beginning with the next model year after January 1, 1994, or the date that the manufacturing begins production of automobiles in Mexico, whichever is later.

Manufacturers that produce automobiles in Canada or the United States but not in Mexico (and that may procure inputs from Mexico) may make a one-time election at any time between January 1, 1997 and January 1, 2004, to apply to the new definition beginning with the next model year after such election. For those not making such election, the new definition will apply beginning with the next model year after January 1, 2004.

For manufacturers that do not produce automobiles in any NAFTA country (but that may procure inputs from Mexico), the new definition will apply beginning with the next model year after January 1, 1994.

Standards-related measures

Title IV of the Trade Agreements Act of 1979 implementation the obligations of the GATT Agreement on Technical Barriers to Trade, commonly referred to as the Standards Code, in U.S. law. The Standards Code seeks to eliminate national product standardization and testing practices and certification procedures as barriers to trade among the signatory countries and to encourage the use of open procedures in the adoption of standards. At the same time, it does not limit the ability of countries to reasonably protect the health, safety, security, environment, or consumer interests of their citizens. Since U.S. practices were already in conformity with the Standards Code, Title IV did not amend, repeal, or replace any previous law. It simply required all federal agencies to abide by the provisions of the Standards Code.

Chapter Nine includes similar obligations regarding standards-related measures for the three NAFTA countries. Section 351 of the implementing bill amends Title IV of the Trade Agreements Act of 1979 to add a new subtitle concerning standards-related measures under the NAFTA. Chapter 2 of the new subtitle contains provisions to implement NAFTA Chapter Nine.

Federal agencies have been subject to the requirements of Title IV since 1980. These requirements continue to apply to standards activities of Federal agencies, which include many of the standards-related measures under the NAFTA. However, the definitions and coverage of Chapter Nine differ from the definitions and coverage of the Standards Code, so it is necessary to provide separate legislative provisions in the Table Agreements Act of 1979 to implement Chapter Nine of the NAFTA.

Section 471 of the new subtitle contains general provisions. Section 472 of the new subtitle assigns to the standards information center established under Section 414 of the Trade Agreements Act of 1979 the additional duties prescribed under Chapter Nine. The National Institute of Standards and Technology (NIST) under the Department of Commerce currently serves as the standards information center.

Section 473 of the new subtitle provides definitions of the terms used in Chapter 2 of the new subtitle. These definitions are drawn directly from the definitions in the NAFTA. The definitions of "standard" and "technical regulation" are taken from the notes to Article 915 agreed to by the NAFTA countries.

Committee on Standards-Related Measures

Article 913 of the NAFTA establishes a trinational Committee on Standards-Related Measures, whose functions include facilitating the process by which the three NAFTA countries make compatible their standards-related measures and enhancing cooperation on the development, application and enforcement of standards-related measures. Subcommittees will be created to address specific issues, including land transportation, telecommunications, automotive standards and textile and apparel goods.

Section 352 of the bill provides that any regulations issued by the Secretary of Transportation implementing a recommendation of the Land Transportation Standards Subcommittee may not take effect before 90 days after issuance.

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MORNING BUSINESS

Mr. BAUCUS. Mr. President, I ask unanimous consent to proceed as if in morning business and that the time not be charged against the North American free-trade agreement bill.

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

The Senator may proceed.

THE DOMESTIC CHEMICAL DIVERSION CONTROL ACT OF 1993—S. 1663

Mr. RIEGLE. Mr. President, I rise today as a joint cosponsor of S. 1663, the Domestic Chemical Diversion Control Act of 1993 with Senator LEVIN.

In towns and communities across the upper peninsula of Michigan, we've witnessed a frightening rise in the abuse of methcathinone [cat]—law enforcement officers are overwhelmed with investigating these cases, prosecutors see no end in sight. Methcathinone has already become a regional epidemic, and is well on its way to becoming a national nightmare. As with its chemical analog methamphetamine, the production of methcathinone requires use of one critical component—the over-the-counter drug ephedrine. Our bill will allow the continued legal use of ephedrine as a bronchodilator, while giving the Drug Enforcement Agency the ability to attack illegal drug production.

Many Senators may never have heard of methcathinone, also called cat. Cat is a white power which is ingested by sniffing, like cocaine, or by dissolving it in water and shooting it intravenously. Intravenous use brings with it the added risk of transmission of the AIDS virus. This drug devastates its victims. Cat is a highly addictive drug, much more so than cocaine. The high lasts longer than cocaine and also causes a severe fall for the user. It is common for cat users to continuously get high for several days at a time, without sleeping or eating. According to prosecutors, the drug can cause severe disorientation and temporary paranoid schizophrenia; they indicate that many of the people arrested are starved, barely clothed, and can take 3-4 weeks to detoxify—much longer than with most other illicit drugs. Some former users have admitted that they would have continued doing the drug until they died—police arrest literally saved their lives.

By mixing ephedrine with other, easily obtained legal substances, traffickers product cat and methamphetamine in small laboratories. This abuse of ephedrine is so dire that some States have already passed legislation prohibiting over-the-counter sales—unfortunately, the ephedrine is still getting in. Our bill attacks this problem by putting an end to largely unregulated access to ephedrine—it will still be marketed as one of several active ingredients in asthma medicines, but the Drug Enforcement Agency will now have the necessary authority to supervise and regulate ephedrine distribution to prevent diversion and illegal use.

When I first learned of this epidemic this past summer, I listened to the opinions of the law enforcement officers and prosecutors who are battling this tragedy. They all agreed on one thing—that the Food and Drug Administration needed to elevate ephedrine from an over-the-counter [OTC] substance to a prescription drug. I immediately contacted both the Food and Drug Administration Commissioner, Dr. David Kessler, and Health and Human Services Secretary Shalala, outlining the issue and requesting that the FDA report back with a strategy to control access to ephedrine. While I understand that there is limited precedent for the FDA in this area, I feel strongly that the FDA must be responsive to issues of misuse and abuse of substances within their control. It is critical that the FDA reassess drug status final rulings when overwhelming evidence of drug misuse and abuse is presented, and I hope that Commissioner Kessler will work toward that goal.

Before I conclude, I would like to recognize the efforts of community groups like the Upper Peninsula Children's Coalition, police organizations, and the prosecutors who have worked so hard to combat the CAT epidemic. I am particularly pleased to recognize our Assistant United States Attorney Glenda Gordon, for her tireless efforts in prosecuting methcathinone cases. Ontonagon County Sheriff Jerry Kitzman, Marquette County Sheriff Joe Maino, and dozens of law enforcement officers have done outstanding work in investigating these drug cases and protecting our citizens in the

Upper Peninsula. I wholeheartedly support their efforts, and hope that our bill will assist them in eradicating the CAT drug epidemic.

TRIBUTE TO B'NAI B'RITH

Mrs. MURRAY. Mr. President, this year marks the 150th anniversary of B'nai B'rith. I would like to join in saluting this organization for its years of service to the international community. The oldest organization of its kind in the United States, B'nai B'rith transcends economic spheres, national borders, and religious diversities in its commitment to helping others.

Originally established in 1843 to address the needs of the Jewish people, B'nai B'rith has expanded its agenda to include education, social service, and countless other projects which benefit the community at large. Through the Senior Citizens Housing Program, B'nai B'rith has helped provide affordable housing and social services for the elderly and their families. Through their efforts, more than 3,000 apartments have been established across this country.

While never losing sight of its original purpose, B'nai B'rith has played and continues to play a pivotal role in fighting religious persecution, intolerance and discrimination. Since its establishment, B'nai B'rith has always held an open door to the disadvantaged and downtrodden. In response to the floods of new immigrants to this country in the late 19th century, B'nai B'rith opened the first free employment bureau, as well as manual and technical schools. After World War I, B'nai B'rith fed, clothed, and educated 600 orphaned European children until they were able to support themselves.

Through a century and a half of service, B'nai B'rith has repeatedly shown its ability to respond to the needs of the community—both in the United States and abroad. In 1868, B'nai B'rith successfully organized the first disaster relief campaign in the United States for victims of a Baltimore flood. More recently, B'nai B'rith provided relief for victims of Hurricane Andrew and those caught in the cross-fire in the former Yugoslavia.

As a pioneer in the field of youth services, B'nai B'rith addresses the needs of our world's teenagers and college students. The B'nai B'rith Youth Organization offers teens throughout the world opportunities to cultivate leadership skills, a positive Jewish identity, and a solid commitment to community service. The B'nai B'rith Hillel Foundation has chapters in over 400 universities around the world. Hillel focuses much of its energy on addressing social ills, promoting Holocaust awareness, and expanding interfaith dialogue.

B'nai B'rith has raised awareness and pride in the Jewish heritage, while making a real difference in the lives of countless numbers of people—Jews and non-Jews alike. I congratulate them on their accomplishments.

JUSTICE IN CHILE

Mr. KENNEDY. Mr. President, in September 1976, Orlando Letelier, the former Chilean Ambassador to the United States, and Ronni Moffitt, his American assistant, were brutally assassinated in the heart of our Nation's Capital by agents of the Chilean secret police. Since that day, I have pressed every administration in Washington and Santiago to ensure that the individuals responsible for this cold-blooded act of terrorism are brought to justice.

Last week, justice was served when Manuel Contreras, the former head of Chile's secret police, and Pedro Espinoza, his chief of operations, were sentenced to prison for ordering the Letelier-Moffitt murder.

At the time of the assassination, Chile was under the brutal military dictatorship of Gen. Agosto Pinochet, who had overthrown the democratically elected government of President Salvadore Allende through a bloody military coup. Orlando Letelier had served as Chile's Foreign Minister and as Ambassador to the United States under the Allende administration, and he had courageously challenged the Pinochet regime. At the time of his death he was working with many of us in Congress to promote democracy and respect for human rights in Chile. His patriotism and courageous leadership cost him his life.

Evidence from the crime in Washington clearly linked Chile's secret police with the assassination. Shortly after the murder, a Federal grand jury indicted Contreras, Espinoza, and a number of Pinochet's other henchmen for conspiring to murder Letelier. The Pinochet regime, however, refused to allow them to be extradited to the United States.

In response to the regime's intransigence, I sponsored legislation to prohibit United States assistance to Chile until progress had been made on this case and respect for democratic principles and human rights was reestablished in Chile. Tragically, throughout the next 14 years of the Pinochet dictatorship, the government in Santiago continued to shelter Contreras and Espinoza and to repress the forces of justice and democracy in Chile.

In 1990, Chile returned to the community of democratic nations following the election of President Patricio Aylwin. Sanctions against Chile were lifted as a vote of confidence by the United States in the Aylwin government and its commitment to democracy and human rights.

The Aylwin administration lived up to this commitment. In recognition of the Chilean Government's responsibility for the Letelier-Moffitt murders, it provided compensation to the families of Orlando Letelier and Ronni Moffitt and began criminal proceedings against Contreras and Espinoza. Last week, a federal judge sentenced Contreras to 7 years, and Espinoza to 6 years, in prison for their role in that atrocity.

I commend the bravery of the Aylwin administration and the integrity of the Chilean judiciary for ensuring that justice was finally achieved for the Letelier and Moffitt families and for doing so much to restore respect for democracy and human rights in Chile.

SENATE CONCURRENT RESOLUTION 31: EMANCIPATION OF THE IRANIAN BAHA'I COMMUNITY

Mr. LIEBERMAN. Mr. President, on a number of occasions over the past several years, many of my colleagues and I have condemned the Government of Iran for its repressive policies and actions toward its Baha'i community. The resolution we are acting on today is, in fact, the sixth such resolution this body has passed calling on Iran to change its repressive anti-Baha'i policies and to protect the rights of all its people including minorities such as the Baha'is.

Since the Senate passed it first resolution on the Baha'is in 1982, we have seen some improvement in the situation. Persecution of individual Baha'is seems to be less severe than in past years. Expressions of international outrage and the application of diplomatic pressure has had some effect—even on the isolated and close-minded regime in Iran. But the progress that has been seen is still not enough. It is not enough to say that the Government is not persecuting these people as much as they used to. It is not enough to say that only one Baha'i has been executed in the last 5 years for his religious beliefs when compared to many more executions before this. It is not enough to say that the Government of Iran is now willing, in the words of the recently disclosed 1991 policy document of the Government of Iran, to "permit them a modest livelihood." It is not enough that the Government of Iran is willing to allow Baha'is to be enrolled in schools. It is not enough when all of these rights are dependent on citizens not identifying themselves as Baha'is.

The real thrust of Iranian policy is seen in the provisions that say Baha'is "must be expelled from universities * * * once it becomes known that they are Baha'is" or that the Government will "deny them employment if they identify themselves as Baha'is." A policy which calls for a plan to "be devised to confront and destroy their cultural roots outside the country" and to "deny them any position of influence, such as in the educational sector, et cetera" is a policy of repression and denial of fundamental human rights.

Such a policy violates the obligations of sovereign states to uphold the Universal Declaration of Human Rights and other international agreements guaranteeing the civil and political rights of citizens. Such a policy must change if Iran is ever to rejoin the community of nations.

Our action today in passing this resolution is consistent with the actions of the U.S. Government and responsible international bodies for many years. The Reagan and Bush administrations worked to gain international support for the Baha'i community. In his speech dedicating the Holocaust Museum in Washington in April of this year, President Clinton cited "the abusive treatment of the Baha'i in Iran" as a critical human rights concern. The State Department has worked diligently to secure passage of U.N. resolutions condemning Iran for its persecution of the Baha'is and to raise the issue at all relevant international forums. The U.N. General Assembly has adopted five resolutions since 1985 condemning Iran's human rights abuses with specific reference to the Baha'is. The German Bundestag and the European Parliament have also adopted resolutions condemning Iran's treatment of its Baha'i community.

And so we come before the Senate once again with a resolution which will keep this critical issue in the public eye and will maintain international pressure on Iran to change its ways. The American people understand very well that if the rights of all members of a society are not protected, then the rights of no one in the society are secure. We do not expect Iran to become a Jeffersonian democracy. But we and the entire world community have a right to expect and to demand that it not persecute any of its peoples solely for their religious preferences. How can a society consider itself to be just and based on the law of God when it persecutes in a broad and systematic fashion 300,000 of its citizens who constitute the largest religious minority in Iran? Iran must end its bypocrisy and extend to the Baha'i community the rights guaranteed by the Universal Declaration of Human Rights and international covenants on human rights.

I urge my colleagues to support this resolution and our continuing effort to bring about change in Iran.

CAPITOL BICENTENNIAL CELEBRATION

Mr. BYRD. Mr. President, on September 18, 1793, President George Washington officiated at the laying of our Capitol building's first cornerstone. Two hundred years later, on the evening of September 17, 1993, the United States Capitol Historical Society hosted a bicentennial dinner in Statuary Hall to celebrate that historic event. The dinner followed an afternoon program during which Society President, former Representative Clarence J. Brown, presented a significant addition to the Capitol's art collection: a mural, located on the first floor of the House wing, entitled "Westward Expansion."

Mr. Brown invited former Senate Majority Leader Howard Baker and me, in after-dinner remarks, to offer our impressions, based on personal observation, of the development of Congress and the Capitol over the past 40 years. I found former Senator Baker's observations to be characteristically insightful and entertaining, and I would like to share them, along with my own, with the widest possible audience. Accordingly, I ask unanimous consent that the transcript of those remarks, along with those made earlier that day by Senate Historian Richard Baker, be printed in the RECORD.

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

CAPITOL CORNERSTONE DINNER, U.S. CAPITOL HISTORICAL SOCIETY, WASHINGTON, DC, SEPTEMBER 17, 1993

Former Senator Howard Baker. Brian Lamb, thank you so very much—and ladies and gentlemen, what a pleasure to be here—and Brian what a marvelous way to say that you did not like my picture. Congressman Brown, Senator Byrd, distinguished ladies and gentlemen, Members of Congress, and good friends:

It is an awesome thing to be here tonight and have this opportunity to speak to you on the occasion of the 200th anniversary of the laying of the cornerstone of the Capitol. But it is equally awesome to do so in the presence of George White, the Architect of the Capitol, and Bob Byrd who is the absolute master not only of the history of the Senate but of this institution, the Congress, and no doubt of this building, as well. But, my friends, I will do my very best.

When I first arrived in Washington as a Member of the United States Senate in January of 1967 and as a very junior Senator from Tennessee, and when anybody paid attention to me, as Brian said, usually did so as Ev Dirksen's son-in-law, rather than as a Senator, I remember distinctly traveling from what is now the Russell Building to the Capitol through the subway, up the elevators, and approached the Senate Chamber, and was promptly stopped by a Doorkeeper who thought I had no right to enter. Well, two things come to mind. First, I was then a young man, a condition from which I have now recovered. And second, to recall vividly that I said to the Doorkeeper: "Son, if you had any idea how hard I worked to get here, you'd have no notion that you could stop me now."

So, I took my place, received the Oath of Office from the Vice President of the United States, and began eighteen years of service in the United States Senate. I will always treasure that experience. It was, indeed, the high point of my public career. As Brian pointed out in his little vignette of my life, I have also had the opportunity to do other things, including being Chief of Staff to the President of the United States. But, my friends, nothing—nothing ever comes close to the opportunity to serve in the Congress of the United States. It is the highest estate that a public servant can attain and the greatest service that a private citizen can give to this republic. And I am awed with the opportunity to stand here and help you celebrate not only that tradition, but this building which has housed so much history and which is the home of that tradition, as well.

I remember, if you will let me wander for a few minutes, and then I will get on to the few remarks about the history of the Capitol—I remember once when I was Majority Leader of the United States Senate and my good friend Bob Byrd was then Minority Leader, that he and I agreed that I would keep (?skipped something) but the sun was setting gently behind this majestic scene, and I looked out the window with Reagan by my side and I said: "Mr. President, this is the best view in Washington." He said, "No, Howard, this is the second best view in Washington."

But you see, my friends, Ronald Reagan was wrong. This is the seat of the republic. This is the people's branch. And this is the locale of the strength and the wisdom of self-governance in this nation—this building which houses the people's branch. And what a magnificent opportunity for all of us to celebrate the beginnings of this structure—not the beginnings of the republic, and certainly not the beginnings of the concept of representative government—but this place where the American brand was put on that. Where we demonstrated our unique talent as Americans for self-government. Where we created an image that is now the envy of the entire world in terms of the elaboration and extension of individual rights. Where we created a nation from this place that is without peer in the annals of all the history of civilization. Where we suffered the divisive issues. Where we withstood the challenges of war. Where we extended the blessings of liberty and opportunity to the downtrodden. Where we provided for the freedom of every individual. Where we breathed life into the charter documents of the republic. That is what this place is. It is the home of America. It is the center of the nation. it is the height of the ambition of humanity, thus far in the history of civilization.

My friends, I stand here in the presence of these secular saints, and others who line the corridors to the Senate Chamber and to the Chamber of the House of Representatives, and luxuriate in the contributions that they made to this evolutionary dream, and acknowledge fully and freely that we are the fortunate legatees of their wisdom and of their dedication and sacrifice. That, too, is what this building is all about.

So, when I had an opportunity to visit with George White, the distinguished Architect of the Capitol, and ask him, as I did a little while ago, "George, have you really found the cornerstone of the Capitol?" and he gave me a long answer, as you would expect a thoroughly professional and distinguished architect to do—which I will not now repeat, except to say I declare that we found the cornerstone of the Capitol. And it may not be a piece of sandstone, therein partially buried under the earth. The cornerstone of this building, my friends, is the institution that it houses. And that truly is what we celebrate now on this 200th anniversary occasion.

Now let me tell you a few other reminiscences about this place as I knew it. First of all, forgive the immodesty, if it is immodest that I exhibit in saying that I feel a personal kinship to this place not only because of my service here, but because my father before me served in this place, in the

House of Representatives, as did my mother. My wife's father served here for many years and became before me the Republican Leader of the Senate. So, in many ways, I am a product of this place, and from earliest childhood I was imbued with the spirit of the Congress, the spirit of the republic, and the importance of this place.

So, it was a special, a very special time in my life, when I had the opportunity to serve, and a very special time when I was elected Minority Leader of the United States Senate and first occupied S. 230 in the Senate Wing of the Capitol. Some of you know perhaps, and I am fond of saying, and it is true that S. 230 served many purposes. It is, I believe, the first space that was occupied when this building was under construction, when the Congress came down from Philadelphia. It was then briefly the Library of Congress. By the way, there were only three-thousand volumes in the Library of Congress, and the bookcases were designed by Latrobe, and the original water color drawings still exist of those bookcases. S. 230 is the room to which the British repaired in August of 1814 to set fire to this structure. They took those books off the wall and made a bonfire and destroyed the building. Bob Byrd will be sympathetic when I say that when I was Leader, there were occasions when I was tempted to do the same.

I also like to tell the story, which is not true, in my moments of frustration (that this one is not true, the other one was true, but that's not bad on average for a politician)—but I like to tell the story in moments of frustration that when I was cleaning out my little private corner of the office—S. 230 that historic place—behind a baseboard, I found a letter from Thomas Jefferson to one of his brothers. And it said: "Dear George, I've stood about all this democracy stuff that I can handle." And I'll bet he felt that way sometimes because you see, my friends, this is the place where we thrash out the controversy, where we attenuate the gross instincts of humanity. This is the place where we formulate the public policy of the greatest nation on earth. But it is not easy. And don't let anybody ever tell you that people here are a people of privilege. Don't let anybody tell you that Congressmen and women are not hard working. They are the hardest working people I ever knew in my life. Don't anybody ever let'em tell you that Members of Congress are without honor. They are, by and large, the greatest, finest people I ever knew.

Will Rogers is represented, if not in this room, someplace in this building; and as you remember, he was a great philosopher from Oklahoma and also a reporter for the Claremore paper. And they tell the story on Will, that after he'd been there awhile, he went back to Ardmore, Oklahoma, and he was walking down the street, and somebody said: "Will, I want to know, is it true, since you've been there awhile, is Congress really made up of thieves and rascals?" Said Will, "Of course, it's true, but it's a good cross section of its constituency."

But, my friends, it is not true. The Congress of the United States is the essence of this nation. The Congress of the United States is, indeed, the people's branch. The Congress of the United States is the place from which the grandeur of this nation has emanated for more than 200 years. So, it's altogether fitting and appropriate, my friends, that we acknowledge this place as the symbolic center of the union. We acknowledge those who have gone before us; we celebrate the grandeur of this building; we revel and delight in 200 years of our history so far; and we look forward with calm assurance to a time of even greater accomplishment and achievement for this nation in the centuries ahead.

Thank you very much.

Senator ROBERT BYRD. Thank you, Brian. And I thank C-SPAN for what C-SPAN is doing to bring current history to the people of this nation. I thank Clarence Brown, President of the United States Senate Capitol Historical Society. I thank the man who has already performed the most important part of this program: the Reverend Mr. Ford, Chaplain of the House of Representatives. And I thank my friend Howard Baker for being here tonight, and for being a statesman upon a good many occasions when I worked with him as Majority Leader and as Minority Leader.

I served with Howard Baker, and I served with his father, and I served with his father-in-law. I was a new Member of the House and didn't know much about things there, and I can't recall much about my service with his father. But I recall my service with his father-in-law. And they were both leaders. They were leaders of their party in the Senate. And they were the kind of leaders that make one proud. I saw in those two leaders, two men who chose statesmanship on many occasions over partisanship. And I have to tell you, that kind of statesmanship has become pretty rare around here. Fame is a vapor, popularity an accident. Riches take wings. Those who cheer today may curse tomorrow. Only one thing endures: character. And Howard Baker has it.

Ladies and gentleman, the ancient Romans invented and developed the dome. In the second century A.D., Roman architects placed one of the largest and earliest domes in the world on the Pantheon, a structure still standing above the Tiber River in the Eternal City.

In that same spirit, throughout western history, people have placed domes on buildings in which vital and valued functions have taken place.

Thus, a great dome was placed on Hagia Sophia, Justinian's fabled church in Constantinople. That was followed more than one-thousand years later by the dome of St. Peter's in Rome, and even later by Christopher Wren's dome of St. Paul's in seventeenth-century London.

Our Founding Fathers were students of Roman history. And I wish that we had many more students of Roman history in this Congress today, and in this country. Montesquieu was a student of Roman history. As a matter of fact, Montesquieu wrote a history of the Roman people. For that reason, in part, we meet here tonight atop the rise that the Founding Fathers christened "Capitol Hill"—formerly called "Jenkins Hill," but renamed in honor of Rome's Capitoline Hill.

When architect Pierre L'Enfant first visited these grounds on which we assemble tonight, he described Capitol Hill as "a pedestal waiting for a monument." Here, the Capitol building was constructed, with its magnificent vistas down the mall toward the Potomac River.

Again, reflecting ancient Rome's influences, at the base of Capitol Hill, a little stream called Goose Creek separated Capitol Hill from the rest of the city. And with Rome on their minds, the city's planners retitled Goose Creek imperiously "Tiber Creek," although it has long since disappeared from view. Tiber Creek still flows under this city, channeled under the mall and around the foundations of our massive government buildings.

Not surprisingly, then, from the outset, America's Founding Fathers conspired and planned together for the domed "People's Palace" in which we have the good fortune to be gathered tonight.

That dome above us proclaims to all ages—past, present, and future—that the institution housed here is of paramount import to the system of government embodied in this capital city.

Tonight, we meet to commemorate the 200th anniversary of the launching of this mighty domed structure—the United States Capitol building.

This building was not constructed in a sweeping effort.

The first structure that was erected here—small and dwarfed by our current Capitol—was burned and largely destroyed by the British in the War of 1812.

Subsequently rebuilt, and expanded, less than a half century later, in the 1850's, new wings were constructed to house the much-enlarged Senate and House of Representatives—part of this construction being carried out under the auspices of then Secretary of War Jefferson Davis.

But, as if in dramatic defiance of the circumstances of the era, during the early 1860's, as the War Between the States was being fought, at times within earshot of the Capitol building itself, the familiar Capitol dome that today rises above us was being completed.

In the 1950's, after nearly a century of use and erosion, the deteriorating condition of the old sandstone East Front decreed its replacement with more durable materials. In the face of considerable controversy, the new East Front was also moved forward, to the consternation of traditionalists and preservationists.

During the 1960's, similar concerns were raised about the West Front, where again the sandstone was crumbling. In emergency response, the architect erected great wooden beams, ostensibly to keep the West Front pillars from collapsing in the event of a sonic boom. But this time, the preservationists won the struggle, and the West Front was restored, not replaced, leaving that front largely unchanged in appearance.

I know that you all join me in the sense of gratitude that we harbor toward all of those who have conjoined their talents, their influence, and their dedication to preserving and restoring this beloved structure. Certainly, the efforts of our generation to protect this sacred place against the ravages of time and the elements will ensure the Capitol's continued beauty and usefulness for many decades to come.

But from the beginning, the U.S. Capitol building has been both a practical facility and, to borrow a note from Howard Baker, the symbol of the living institution that physically resides here—the United States Congress—the Senate and the House of Representatives. There have been two great senates in the history of the world: the Roman Senate and the American Senate—the "people's branch," as my former colleague Howard Baker stated it—under our Constitution.

Democracy is a living form of government that must constantly adjust to the demands placed upon it by a changing society, and I have supported a number of reforms since I first entered the House of Representatives in 1953.

But as a student of history, I also know that the pages of history are replete with accounts of the collapse and fall of other great

nations and civilizations. The mighty Roman Empire was for centuries the marvel of the world. And it is still the marvel of the world for those who are students of ancient history. But, as Edward Gibbon warns us, the decline of the Roman Empire began when public virtue and patriotism gave way to immorality and sedition, and when Roman citizens demanded free bread and circuses. The Roman Senate lost its dignity, its honor, its nerve; the Roman Senate likewise delivered its responsibilities and prerogatives into the hands of a line of Caesars and emperors, despots whose crimes, usurpations, and venalities have forever after become synonymous with tyranny and perversion. In the wake of that abdication of responsibility and leadership by the Roman Senate, Roman corruption and venality were enthroned in high places; laziness and indolence were rewarded; emperors were assassinated; citizens were massacred; civil wars were fought to benefit tyrants who were ambitious to secure the throne and to feel against their own flesh the intoxicating caress of the royal purple.

Some of the early symptoms that heralded Rome's decline can be seen in our own nation today. I have watched these come about now over a lifetime of more than seventy-five years, and I fear for my country. I believe it is our duty—as Senators, as Members of the House of Representatives, and as citizens who care, and into whose hands the stewardship for the future has been entrusted—to do all that we can to reverse, or at least arrest, the national decline in our moral and religious values, and in our educational and professional standards, and to reclaim and renurture the basic virtues that made America "the land of heart's desire." (applause)

In particular, I sometimes shudder at the misdirected attacks—perhaps, misinformed attacks—often, attacks from within—aimed at the integrity of Congress itself—attacks that too often advocate the weakening of Congress to the favor of the Executive Branch, most particularly.

How ironic, I sometimes muse, that some Americans—and particularly even those who are elected to serve in Congress—can wax so eloquent about their love for this building and rally to save it and restore it, while at the same time denigrating and slandering the democratic institution whose home this structure is—the Congress, the locus of our national will and the repository of real democracy under our system of checks and balances and separation of powers.

Another way of expressing these same thoughts is to recall that the Capitol building, *per se*, is not the jewel in America's crown. That jewel is the institution that here lives, and breathes, and struggles, and debates, and decides, and chooses, in order that the dreams that first gave inspiration to this great and mighty structure will not succumb to futility and tyranny as they have so often in the course of human history. The preeminent jewel in America's crown is the Congress of the United States—the much maligned Congress of the United States of America—(applause)—that institution that is coronated guardian of the highest aspirations of the American people by the Constitution itself, and the institution designated by none other than the Founding Fathers themselves as executors of the American heritage.

I can think of no words more eloquent by which to communicate my yearning to be understood on this crucial concern than some words from a speech delivered in 1832 by one of the mightiest figures ever to walk these corridors, Daniel Webster.

In his speech on the Centennial Anniversary of George Washington's birthday in 1832, Webster declared:

"Other misfortunes may be borne or their effects overcome. If disastrous war should sweep our commerce from the ocean, another generation may renew it.

"If it exhaust our Treasury, future industry may replenish it.

"If it desolate and lay waste our fields, still, under a new cultivation, they will grow green again and ripen to future harvests.

"It were but a trifle even if the walls of yonder Capitol were to crumble, if its lofty pillars should fall, and its gorgeous decorations be all covered by the dust of the valley. All these might be rebuilt.

"But who shall reconstruct the fabric of demolished government? Who shall rear again the well-proportioned columns of constitutional liberty? Who shall frame together the skilful architecture which unites national sovereignty with State rights, individual security, and public prosperity? No. If these columns fall, they will be raised not again. Like the Colosseum and the Parthenon, they will be destined to a mournful, a melancholy immortality.

"Bitterer tears, however, will flow over them than were ever shed over the monuments of Roman or Grecian art. For they will be the remnants of a more glorious edifice than Greece or Rome ever saw: the edifice of constitutional American liberty."

The Proverb admonishes us to "Remove not the ancient landmark, which thy fathers have set." We meet tonight to celebrate the endurance of one such ancient landmark, the United States Capitol building. Let us continue to revere and practice that system of self-governance bequeathed to us by the Founding Fathers—that system of government to whose practice this building and the institution resident herein are foremostly dedicated.

HISTORICAL SNAPSHOTS: CONGRESS AND THE CAPITOL, 1793–1993

(By Richard A. Baker, Senate Historian)

A snapshot is a photograph taken quickly and informally. This afternoon I wish to offer several historical snapshots of Congress and the Capitol. I have chosen to create these word-pictures in 50-year intervals, beginning with September 1793, the month that witnessed the placement of the Capitol's original cornerstone. We will then turn the pages of our history album, stopping at 1843, 1893, 1943, and concluding with a brief glance at images from our own era.

In September 1793 the nation consisted of 15 states, with a population of 4 million. The national government was still in what can only be described as its experimental stage, held together by the personal magnetism of George Washington. Major constitutional crises lurked not far ahead, waiting to confront the successors to the founding generation.

For the past two-and-a-half years—since 1790—Congress had been quartered in Philadelphia, the nation's temporary seat of government. On Sept. 18, 1793, a Yellow Fever epidemic gripped Philadelphia. Silence enveloped Congress Hall. The House and Senate had adjourned in March and, as the Constitution then specified, would not reconvene until the first Monday in December. Members of Congress generally enjoyed their spacious quarters in the recently constructed Philadelphia Court House—the second capitol under the new constitution. The 106 members of the House of Representatives met in a large first-floor court room, furnished with mahogany desks, black leather arm chairs, and a spectators' gallery that could accommodate 400 visitors. The Senate, traditionally known as the "upper house," occupied a smaller court room on the second floor. More elegantly appointed than the House chamber, the Senate's quarters—with desks for 32 senators and a staff of 6—lacked a gallery. All of its proceedings were to be conducted in secret. In those early days, the Senate was indeed the forgotten body. A Philadelphia newspaper described the setting in the chamber during a "debate" as one of "the most delightful silence, the most beautiful order, gravity and personal dignity of manner." Senators appeared "every morning full-powdered and dressed, as age or fancy might suggest, in the richest material. The very atmosphere of the place," the reporter continued, "seemed to inspire wisdom, mildness, and condescension." Many of the Constitution's framers had expected the Senate merely to serve as a council of revision, making minor adjustments in legislation hammered out in full public view in the noisy and turbulent House chamber one floor below.

Earlier in 1793, the Senate chamber had been the setting for George Washington's second inaugural address. It was certainly the shortest and most curious inaugural address ever delivered. The president, in less than two minutes, simply reminded members that they could deal with any perceived wrongdoing on his part through "constitutional punishment" as well as by the "upbraidings of all who are now witness to this solemn ceremony."

Six months later, on September 18, the president participated in a ceremony that would have far greater significance than the one launching his second administration. Joined by members of the Alexandria Volunteer Artillery and local Masonic lodges, President Washington, himself a 40-year Mason, moved in a grand procession up to the barren promontory known locally as Jenkins Hill where he placed a large engraved silver plate and lowered onto it a plain, cut cornerstone to mark the southeastern corner of the new national capitol building. Then, according to a local press account, "the whole congregation joined in reverential prayer, which was succeeded by Masonic chanting honors and volley from the artillery." Following the ceremonies, the entire crowd retired to feast on a barbecued 500-pound ox and then departed "with joyful hopes of the production of their labor."

On September 18, 1843 the nation consisted of 26 states—twice the original number, with a population of 18 million. Congress had expanded to 223 House members and 52 senators, with a permanent staff of approximately 20.

The Capitol of 1843 reflected the country it served—an orderly, self-contained, seemingly completed structure—but one that stood on the verge of great expansion. (On May 22, 1843, 1,000 easterners had departed from Independence, Missouri to settle the Oregon territory, marking the start of a epochal western migration—a migration that is romantically depicted in Emanuel Leutze's grand House wing mural "Westward the Course of Empire Takes Its Way.")

The Capitol's Senate wing had been largely completed in November 1800 when the government, reluctantly saying good-bye to its more comfortable quarters in Philadelphia, took up residence in the ragged Potomac River wilderness on the outskirts of Georgetown. A House wing opened in 1803 and both structures subsequently underwent major revision, particularly as a consequence of the

1814 conflagration at the hands of invading British troops. By 1826, the east portico and central rotunda, topped with Charles Bulfinch's wooden, copper-sheathed dome, stood ready to receive members and the public alike.

In September 1843, although Congress was not in session, the political climate of that era can only be characterized as tumultuous. The Whig party, less than a decade old and a coalition of anti-Andrew Jackson forces with a predominant representation among the nation's business and commercial classes, had for the first time taken control of the Senate, the House, and the presidency, but all was not well for that party. The nation's first Whig president, William Henry Harrison, had died in April 1841 after only a month in office and his successor, John Tyler, pleased neither Whigs nor Democrats in Congress.

The Senate in March 1843 dramatically expressed its displeasure by decisively rejecting President Tyler's nominee for Secretary of the Treasury—only the second of nine such cabinet rejections in American history. When Tyler showed his own irritation by resubmitting the same nomination within hours of its initial rejection, the Senate said "no" again, by an even larger margin. Enraged, the stubborn Tyler tried a third time. In the Senate even the nominee's most dedicated earlier supporters showed their disgust at the President's arrogant disregard of their constitutional prerogatives by joining the opposition to administer a final crushing defeat.

The Senate of 1843 was a vastly different body than its predecessor of a half-century past. Its chamber had been opened to the public years earlier and had become a grand theater for transfixing oratory and momentous debates about the very nature of our national union. In those years of its so-called "Golden Age," the Senate had emerged to eclipse the House and the presidency as the major forum for shaping solutions to crucial economic and sectional issues.

This was the era of the Senate's "Great Triumvirate"—Webster, Clay, and Calhoun—although in late 1843 all three were temporarily missing from the Senate chamber: Webster was serving as secretary of state, and Clay and Calhoun had just retired from the Senate to organize their respective 1844 presidential campaigns.

On the House side former President John Quincy Adams had become that chamber's loudest voice against the perpetuation of slavery. In 1836, despite his best efforts, a majority in the House had imposed a "gag rule" to suppress debate over anti-slavery petitions, either out of a desire to sustain the nation's precarious political equilibrium or a belief that Congress had no right to deal with the matter. By late 1843, Adams neared success in his campaign to lift the gag rule by arguing that regardless of how one felt about abolishing slavery, catering to the South's sensitivities on the subject eroded basic constitutional protections, such as the right to petition.

Within a year, Samuel Morse would demonstrate his newly developed telegraph on the ground floor of the Senate wing. This invention, together with new processes for printing newspapers, and the perfection of a shorthand reporting system that allowed reporters to capture the verbatim debate of House and Senate members, would provide speedy and accurate coverage of congressional action to citizens throughout the nation.

September 18, 1843 passed without any special celebration on behalf of the Capitol cornerstone's 50th anniversary. As Congress was not in session, members had dispersed around the country, and in the District of Columbia, a natural disaster preoccupied the citizenry. A week of heavy rains and high winds had produced severe flooding on the Potomac, soggy basements, and hundreds of uprooted trees. A real celebration would have to wait another half century.

As those of us over the age of 50 do not need to be reminded, a half-century brings enormous changes. The 50 years between 1843 and 1893 produced virtually a new nation—an industrialized giant that sprawled across the vast land mass from the Atlantic to the Pacific. Eighteen new states joined the 26 in place as of 1843. Infused by a swirling immigrant tide, the nation's population more than tripled, rising from 18 million to 63 million. A tragic civil war claimed 600,000 lives and irrevocably imprinted itself on the face of several generations. For all time, that conflict settled the issue of supremacy between the national and state governments, and it established the Republican party as the principal governing party for most of the half-century to come.

The Capitol reflected this profound change, with the addition of massive new wings, a commanding new dome, and landscaping appropriate to its new-found magnificence. Wars and treaties in the late 1840s brought new territories, which as states would soon send many new members to the already-crowded chambers of the House and Senate.

On July 4, 1851 another significant cornerstone was placed to mark the start of construction of new legislative chambers. On that occasion, an aging Daniel Webster recognizing slavery's grave threats to the nation's survival, proclaimed with shaky optimism,

"* * * that on this day the Union of the United States of America stands firm, that their Constitution still exists unimpaired, and with all its original usefulness and glory; growing every day stronger and stronger in the affections of the great body of the American people, and attracting more and more the admiration of the world. And all here * * * unite in sincere and fervent prayers that this deposit, and the walls and arches, the domes and towers, the columns and entablatures, now to be erected over it, may endure for ever!"

Twelve years later—in December 1863, as the grip of civil war began to ease from the capital city, sculptor Thomas Crawford's majestic 19-and-one-half-foot, seven-ton bronze statue of "Armed Freedom Triumphant in War and Peace" took its place atop Thomas Walter's newly completed cast-iron dome. And in 1874, Congress retained the services of noted landscape architect Frederick Law Olmsted to redesign the Capitol's grounds.

Inside the Capitol, for the quarter century following 1855, the Italian artist Constantino Brumidi along with other talented immigrant artisans decorated the building's walls and ceilings in fresco and oil, wisely ignoring the Washington Art Society's angry criticism of their work as "decorative trash that would not be tolerated in a large bar saloon."

By 1893, however, members complained that the enlarged and recently electrified Capitol offered insufficient space. These complaints came despite the addition, the year before, of Frederick Olmsted's west-front marble terrace honeycombed with new offices. Congress had added those offices to accommodate the burgeoning new House and Senate committees established particularly to justify office space and a combined total of 100 staff for their chairmen.

In September 1893, the nation—facing economic catastrophe—needed cheering up. The previous November the Democratic party had captured the presidency, and both houses of Congress for the first time in a third of a century. No sooner had the new administration of Grover Cleveland taken office, however, than a financial panic struck. Businesses collapsed. Banks called in their loans. Credit dried up. As one writer noted, by late 1893, "ruin and disaster ran riot over the land." President Cleveland called Congress into extraordinary session in August and that Congress was meeting on September 18—a day for optimism to banish despair.

Of all the major anniversaries commemorating the cornerstone placement, that of September 18, 1893 was surely the grandest up to our time. Very early in that sun-drenched morning, a crowd in a cheerful holiday mood began to seek out choice viewing space in the Capitol's east front plaza. The Capitol, like countless others among the city's public and private buildings, stood swathed in red, white, and blue bunting, with American flags resplendently displayed between the grand columns of the east portico.

At 1 p.m., the festivities officially got underway with the pealing of 13 "centennial" bells, mounted across the plaza on the west wall of the partially completed Library of Congress building. At that moment thousands of marchers, organized into four major divisions of a grand parade, picked up the cadence of massed bands and began the festive journey from the White House along Pennsylvania Avenue to Capitol Hill. Among the marchers were President Grover Cleveland, his cabinet, representatives of Congress, the judiciary, state and local governments, and countless civic groups. Cheering onlookers repeatedly mobbed Lawrence Gardner, a portly man of distinguished bearing, who served as general chairman of the day's celebration. These well-intentioned greeters simply mistook Gardner for President Cleveland, at a time before news photographs were available to implant the presidential image in the minds of most Americans.

Despite a traffic jam of carriages backed up on the Capitol's circular drives, the marchers made their way to the East plaza in time for the speeches that begin promptly at 2 p.m. The Senate and House had settled into their places on a large grandstand as Chairman Gardner opened the festivities with this proclamation: "A study of the history of legislative bodies in all lands and times will disclose none the superior of the American Congress, whether in intelligence, patriotism, or in purity of purpose." The fact that this accolade triggered vigorous applause, rather than derisive laughter, tells us a great deal about popular regard for Congress 100 years ago.

President Cleveland pleased the crowd by speaking informally for only five-minutes. The audience was less pleased, however, with the day's principal oration by a long-winded historian. William Wirt Henry, grandson of Revolutionary hero, Patrick Henry spoke for nearly an hour. One press account charitably described Henry's remarks as "lengthy, learned, and ornate." Military bands and a 1,500-member centennial chorus entertained the crowd for the remainder of this memorable day. To ensure that future generations would not forget the centennial, the arrangements committee placed a seven-foot bronze plaque on the cornerstone's presumed site, with the simple inscription, "On the 100th anniversary in the year 1893, in the presence of the Congress, the Executive, and the Judiciary, a vast concourse of the grateful people

of the District of Columbia commemorated this event."

Fifty years later, on September 18, 1943, the country had grown to 48 states, with a population of 133 million. There were 435 representatives—a number permanently fixed in 1911—and 96 senators, with a combined congressional staff of about 1,800.

A visitor to the Capitol's eastern plaza on this cornerstone anniversary date would find no bunting, no specially erected platforms, no bands, and few people. During the darkest days of World War II, as the nation's attention focused on reports of imminent Allied landings on hostile Italian beaches, a Washington correspondent reported that there would be no ceremonies at the Capitol as long as "the very freedom it represents is under attack." Another observed that "Today the Capitol stands as a symbol of freedom to an agonized world." Architect of the Capitol David Lynn promised that as soon as the war emergency passed he would implement plans to excavate the area surrounding the 1793 cornerstone. Then all Americans could make a pilgrimage to this national shrine and see for themselves this venerable relic.

This somber and unheralded anniversary found Congress again meeting in emergency session deliberating on methods for stabilizing the wartime economy and the postwar world. Illinois Representative Everett Dirksen sounded an early call for congressional reform. The 10-year House veteran explained that the public held Congress in low esteem because the national legislature's "fear of doing something for itself as an institution." He continued, "It is a very natural apprehension, for when we do, we are often at the receiving end of a lot of spicy, derogatory comment that has a great deal of reader interest." Dirksen concluded that the only thing wrong with Congress was that it had "failed to equip itself to cope with growing executive power and the bureaucracy." Dirksen's concern would lead to the passage of the Legislative Reorganization Act of 1946, the single most important piece of institutional reform legislation in the history of Congress. This legislation, for the first time, authorized members and committees of Congress to hire staff experts at a level comparable to those available to the executive branch. It provided the structural foundation of the modern Congress that substantiates this recent assessment of a knowledgeable political scientist: "The U.S. Congress is the most independent, powerful, and professionalized legislature in the world."

In the half century since 1943, the nation's population has nearly doubled—from 133 million to more than 250 million. Although the number of senators and representatives has remained virtually constant, Congress as an institution has changed in ways that members of that wartime era could scarcely have imagined. These changes include regular year-round sessions thanks to air conditioning and a vastly expanded federal role in the daily lives of Americans. Also, among the innovations are televised floor proceedings; jet travel that permits and obligates members to return home in mid-session on a weekly basis, while spending less time with congressional colleagues; large, professional staffs numbering up to 20,000; and election campaigns that require candidates to raise astronomical sums. Congress continues to evolve while maintaining features recognizable to the Constitution's framers (who completed their work 206 years ago today).

So, too, has the Capitol continued to evolve. A survey in 1938 revealed that the ceiling supports in the House and Senate chambers had become badly corroded, threatening to drop tons of ceiling and debris onto the heads of hapless legislators. World War II interrupted reconstruction plans, so members convened during the 1940s under supporting steel beams that were likened to "barn rafters." After the war, Congress decided to expand the roof reconstruction project to encompass a major renovation of both chambers.

Completion of Thomas Walter's massive cast iron dome in 1863 opened a 90-year-long debate on extending the east and west fronts to put them in proper proportion to the new dome. Following renovation of the House and Senate chambers in the early 1950s, planning began for a 32-foot extension of the East Front—a project that was completed by 1962. For the West Front, Congress ultimately decided to restore rather than extend the original facade and that project was completed in 1987. Earlier this year the Olmsted terraces were restored, and terrace courtyards were converted to interior meeting space.

Today, on the occasion of its bicentennial, the Capitol stands completed. Or does it? Americans of 1843 and 1893 and 1943 certainly thought the building of their era was fixed for the ages. Yet, as the passage of a few years would demonstrate, great expansion and challenge lay ahead both for the nation and the Capitol that has become its abiding symbol. In 1901, architectural historian Glenn Brown wrote: "Repairs and alterations to the Capitol have been continuously made, and will be so as long as the nation lives and grows. When such alterations cease, the nation will be on the decline." Fred and Suzy Maroon, in their elegant new book entitled *The United States Capitol* offer a more familiar forecast. "It is safe to predict," they write, "that there will be no significant changes to the outward appearance of the Capitol in the future. It has evolved into a magnificent building, satisfying to both the eye and the hearts of its owners, the American people."

As to what the coming half-century holds in store for Congress and the Capitol, only the celebrants of the year 2043 will know for sure.

A PERSPECTIVE ON EXPANDING NATO

Mr. HEFLIN. Mr. President, the world today differs dramatically from what it was only 3 or 4 years ago, when our system of international security was based on the maintenance of a balance of forces between the North Atlantic Alliance and the Warsaw Pact countries. The mutual nuclear deterrence fostered by that balance of power has now been replaced by a process for establishing a new security framework in Europe and around the globe. Nowhere is this embryonic process more in evidence today than in the current dialog among leaders of the North Atlantic Treaty Organization nations.

During the recent annual session of the North Atlantic Assembly in Copenhagen, Denmark, one issue at the top of the crowded agenda was that of expanding the membership of NATO. After the breakup of the Warsaw Pact and the collapse of the Soviet Union, young independent States striving to pursue a policy of nonconfrontation have sprung up on the new political map. Naturally, many of these young nations are seeking to become members of NATO. The question of their admission to NATO was a major focus of the assembly's defense and security committee, and will likely remain at the top of the agenda during the NATO heads-of-state summit in January.

For many of us who lived through World War II, or who may have been born during this period, NATO has always symbolized European security and stability. The collapse of Soviet communism was a modern miracle, but that miraculous event does not mean that heavenly peace has replaced the threat that communism posed for 45 years. With the smashing of the Berlin Wall—a truly breathtaking event whose dimensions few of us have fully grasped—it seems that a Pandora's Box was unintentionally opened up, allowing nationalistic, religious, and ethnic conflicts to bloody the landscape and mar our hopes for a lasting peace, at least in the short term. These conflicts have taught us that peace is more than a matter of simply knocking down a concrete wall, as important symbolically as that was.

As the militarily neutral Swedish Defense Minister said during the assembly, the collapse of the Soviet empire showed that Europe could not remain half free and half unfree. Today, it is just as clear that Europe cannot be only 50 percent peaceful, stable, and affluent. If we cannot ensure stability in an easterly direction, instability will spread westward. The end of the cold war is a turning point for Europe and the world. It is also a turning point for NATO and for the possibilities of its having to take military action.

It is only natural for the question of expanding NATO to be on the minds of leaders as we struggle to make sense of the post-cold-war world and contemplate what NATO's role will be in that world. I must say at the outset, however, that I do not share many of my European counterparts enthusiasm for embracing new NATO members: On the contrary, I am very reluctant to endorse the idea of expanding NATO membership at this time.

What is vital to remember as we consider NATO's role and membership is that it is first and foremost a military alliance. It is not just an American-European United Nations. The signatories to the North Atlantic Treaty are bound militarily to defend one another should a member be attacked by a nonsignatory. There are many possible scenarios which should make us pause long and hard when we think about admitting new members to NATO, but the situation in the former Yugoslavia is probably the most vivid. For example, should the same kind of ethnic and religious battles erupt in the Czech Republic after it became a NATO member, serious security dilemmas would

be posed not only for the alliance, but for the rest of the world.

I believe that before we rush to create new NATO members, we must be more clear about NATO's purpose and agenda in the post-cold-war era. NATO has made some important strides in adapting to the new security environment, but before we start speaking of inviting more nations to join the alliance, we must answer questions like, "Why does NATO exist in the absence of the Soviet Union?" and "What are the new threats to European security?"

In Copenhagen, one of the Russian Parliamentarians present as an observer offered the Defense and Security Committee a Russian perspective on NATO expansion. He suggested that instead of talking about expanding NATO—an alliance specifically created to counter the Soviet military threat—member nations should focus on creating, over time, an inclusive European security structure.

We should indeed be sensitive to the concerns of not only Russia but to the other New Independent States in Eastern Europe and the former Soviet Union who would not be considered ready for NATO membership at this time. Events over the last month are a powerful reminder of how delicate the situation remains in Moscow. We should not rush into any actions which could provoke the Russians and play into the hands of hardliners who still espouse the principle of containing and, where necessary, challenging NATO.

At the same time, we cannot ignore the great interest that a number of our Eastern European friends have in NATO membership. The North Atlantic Cooperation Council provides a forum for NATO to consult with its friends in Poland, Hungary, the Czech Republic, and other countries on security issues. All of our friends in the Council should be assured that NATO will work to strengthen those ties.

On October 20, the United States proposed that the NATO Alliance offer limited military partnerships to virtually any interested European nation, including Russia and the other former Warsaw Pact nations. Under the proposal presented to the allies by Secretary of Defense Les Aspin, partner nations would not be entitled to the automatic security provisions of the NATO treaty. However, NATO would consult with a partner country in the event its territorial integrity is threatened, and the alliance could conceivably take military action to protect that nation.

This proposal appears to be a wise and balanced effort to address concerns over long-term peace and security in post-cold war Europe and those concerns of the Eastern European countries seeking NATO membership. I view this arrangement as a cautious but positive step for both NATO and the new democracies as they seek to define their role in a new and rapidly changing world.

Any true expansion of NATO, however, should contribute to—and must be seen as contributing to—the overall stability and security of the new democracies to NATO's east, while also preserving the security and stability of NATO's current members. I am convinced that at this point in time, an expansion would not meet these minimum requirements.

HERB WHITE RETIRES FROM AUBURN UNIVERSITY

Mr. HEFLIN. Mr. President, I rise today to pay tribute to a man who has been around Auburn University as long as the university itself.

The executive director of Auburn University relations, J. Herbert White, is retiring after 33 years of service to Alabama's largest land-grant university. He has seen it develop from a college of some 9,000 students when he started working there in 1960—the same year its name changed from Alabama Polytechnic Institute to Auburn University—to more than 20,000 today.

During this time Herb White has played a significant role in not only the growth of Auburn's enrollment, but in its recognition as a great comprehensive university as well.

Since his senior year when he was editor of the Plainsman, Auburn's student newspaper, Herb White has held many positions at the university.

After graduating from Auburn in 1955, Herb returned to his beloved alma mater 5 years later when he was hired by the Auburn Alumni Association as a field secretary and was instrumental in the university's first capital gifts campaign.

In 1965, Dr. Harry Philpott, then the president of Auburn, named Herb White the director of university relations and AU's chief government relations representative at the Alabama State Legislature in Montgomery.

During his career with university relations, Auburn's annual appropriation from the State grew more than tenfold—to over $153 million.

Herb White and others are credited with forming the very successful grassroots lobbying program known as the County Auburn Committees. These groups of Auburn alumni in each of Alabama's 67 counties study the university's legislative program and then lobby their State legislators to support it.

University relations too has increased in size and productivity with Herb White at the helm. The office has received numerous awards, including the Silver Anvil Award from the Public Relations Society of America for its role in working with the alumni and passing a 1-cent sales tax for education in Alabama.

If you were to ask Herb White what is Auburn University's recipe for success, I am sure he would say "leadership." In a recent edition of the AU Report, a newspaper for the faculty and staff of Auburn University, Herb White said the university has been fortunate in selecting its leaders. And he should know, for during his tenure at Auburn he has served in the administrations of six university presidents.

"From Ralph B. Draughon's leadership in handling integration of the university in 1964 to the problems of today, Auburn has always had strong leaders," he told the AU Report.

"The faculty was greatly strengthened in the Philpott administration and that process has continued," he said. "The recent administrations of Presidents Bailey, Martin, and now Dr. Muse have made it very rewarding to work at the university."

And although he is much too modest to admit, Herb White has been an important ingredient in that successful formula at Auburn. The countless hours he has worked with the media, the legislature, Congress, and others to make Auburn a great university is something that is deeply appreciated by those who consider themselves part of the very large and growing Auburn family of students, alumni, staff, and fans.

I congratulate Herb White for the many successes he has had through the years at Auburn and I wish him, his loving wife, Freda, and his lovely daughters and their families of whom he is so proud, all the best in the long and many years that lay ahead.

TOE THE LINE, MR. PRESIDENT

Mr. HELMS. Mr. President, President Clinton will meet with the President of China, Jiang Zemin, in Seattle tomorrow at the Asia Pacific economic cooperation forum summit. The plan is for the President to discuss proliferation, trade and human rights issues.

I understand that the administration may announce a package deal with China at the end of this meeting. Reports suggest that the administration will repeal the sanctions it imposed on China 3 months ago after the Communist Chinese were caught red-handed—no pun intended—transferring missile-related equipment to Pakistan. If this announcement is not made at the APEC summit, it is likely to be forthcoming after Congress adjourns for the year.

Mr. President, to demonstrate the effectiveness of this policy of imposing and then revoking sanctions on China, a recent example may be instructive: The previous administration, whose failed China policy I never agreed with, advocated a relationship of engagement with the communist Chinese. Administration officials wrung their hands in June 1991 when forced by Congress—and the laws of the United

States—to impose sanctions on the Communist Chinese for transferring missile technology to rogue regimes. The officials declared that it impeded opportunities to coax the Chinese into better behavior.

With much ado, 8 months later, that administration lifted the sanctions with the promise that the Chinese would abide by their commitments to nonproliferation. Where did that get us? Less than a year later, the Chinese were caught transferring the very high-technology components that they had promised months earlier not to sell.

Mr. President, I was heartened by the hard-line stance Candidate Clinton took toward China during his campaign along with his seeming dedication to nonproliferation. His now infamous characterization of the previous administration's policy of "coddling the dictator of Beijing" was one with which many Americans agreed. And, to my surprise, it appeared, albeit fleetingly that his campaign rhetoric had become a reality in August when he imposed sanctions on the Chinese.

But this reality evaporated in September when the Clinton administration ushered in a new era of closer, more open relations with China—a new policy of engagement. And to nobody's surprise, supporters of this policy of engagement are wringing their hands over these sanctions. It's deja vu all over again.

The Chinese break their promises to us, we impose sanctions and within a few months we revoke them. And for what—the opportunity to chat with Chinese leaders, a promise from the Chinese that they will not misbehave in the near future? All of this in light of reports that the Chinese are in the position to proliferate even more.

I disagreed with the revocation of sanctions under the last administration and I disagree with it now. Until the Chinese sign up and adhere to their commitments to nonproliferation, this administration should continue to toe a tough line—and that tough line must include penalties for wrongful acts.

Mr. President, I hope that the President will reconsider his actions when he meets with the Chinese President tomorrow and in his future formulation of United States-China policy.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, anyone even remotely familiar with the U.S. Constitution knows that no President can spend a dime of Federal tax money that has not first been authorized and appropriated by Congress—both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that it was, and is, the constitutional duty of Congress to control Federal spending. Congress has failed miserably in that task for about 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,462,811,124,306.37 as of the close of business yesterday, November 17. Averaged out, every man, woman and child in America owes a share of this massive debt, and that per capita share is $17,374.56.

REGARDING THE SITUATION IN KASHMIR

Mr. WARNER. Mr. President, I rise today to bring attention to the continuing violence in the Indian State of Kashmir, which is located on the India-Pakistan border.

Recently, we have seen that violence flame up with the siege by Indian troops of the Hazratbal Mosque, the holiest mosque in Kashmir. It is my understanding that the siege recently ended; however, Indian troops are still holding several separatist leaders that were taken into custody at the start of the siege.

This incident is an example of the type of violence that has been taking place in Kashmir since 1989. Numerous human rights violations have also been frequently cited. All such violence must cease, including certain activities allegedly carried out by Moslem separatists.

The escalation of tensions in Kashmir has in turn created a deterioration in relations between Pakistan and India. With both India and Pakistan either possessing or being close to obtaining nuclear weapons, it is vital that we prevent a worsening of that already unstable relationship.

Therefore, Mr. President, I call on India to use restraint in its dealings in Kashmir. Nonviolent methods must be utilized by both sides to settle this dispute and calm tensions in the region.

TELEVISION VIOLENCE

Mr. SIMON. Mr. President, I want to mention to my colleagues that I have been working on this problem of television violence and the problem that entertainment violence glorifies violence in our society. The evidence is overwhelming on that.

I wrote a letter to the television stations and to a number of the cable stations around the Nation asking them: Will you please, one time a day, put a warning on saying you may harm yourself watching too much violence on television—or some kind of warning. It was a little like asking the cigarette manufacturers to put a label on, and I did not expect any response—or modest, if any.

But four stations have volunteered to do this. I want to mention them: WCEE–TV, Mt. Vernon, IL; WPSD–TV, Paducah, KY; WFMZ–TV in Allentown, PA, and GH Cable in Columbia, MS. I commend those four stations, and I hope there may be others that will follow.

ON THE DEATH OF ROBERT F. WAGNER, JR.

Mr. MOYNIHAN. Mr. President, the morning papers report a telephone conversation between President Clinton and the mayor-elect of New York City, Rudolph W. Giuliani, in which the President mentioned that they shared a number of mutual friends, among them, Robert F. Wagner, Jr. It fell to Mr. Giuliani to inform the President that Bob had died just this past Monday.

It would have been a blow to the President, as it was to Mr. Giuliani, as it was to me and so many of Bob Wagner's friends and admirers across the Nation, but most especially in his city of New York.

It happens I last saw him a week ago today. In the Chrysler Building, that magnificent art deco artifact that so defines New York. A practical work of art. He accompanied Mr. Giuliani, who came round to talk about the city whose leadership he will now assume. Rather, I should say, Bob arrived 20 minutes after Mr. Giuliani, late as usual, filled with unfinished thoughts from his last meeting, rushing into the details of the one just commenced. I told the mayor-elect of President Clinton's determination to keep his election season pledge to New York City to help with the recreation of the old Pennsylvania Station in what is now the Farley Post Office Building. The mayor-elect was obviously pleased and interested, but Bob Wagner was, well, thrilled. He knew what we had lost when the old station was torn down; he sensed what we might gain if it were somehow recovered.

I later told friends that Bob had fair-to-tapdanced on the ceiling at the prospect of getting something glorious going in New York City again.

On that occasion, in a corner office on the 41st floor of the Chrysler Building, with the city shining all about us, we talked a bit about politics. I had worked as a volunteer in his father's first campaign for mayor in 1953. It was my start in politics. I recalled the day after the election when I got a telephone call, far above my unpaid level, from the producer of a then-famous new television show called "I've Got A Secret." The idea was to get Bob and his brother Duncan on stage with the secret that their father had just been elected mayor of New York City. I sensibly told the producer I would call back and let the matter end there. But I was then outside the room where the mayor-elect, Carmine de Sapio, the head of Tammany Hall, and Sid Baron, the publicist, made the decision that

with the election over and city hall in prospect, they would drop the "Jr." from the mayor-elect's name. I related this last Thursday and was tickled when Bob told me he had never known how exactly that had happened. And well that it did, for otherwise he would have had to go through life as Robert F. Wagner III, which would certainly not have done.

He, of course, devoted his life to the city as his father had, and his father before him. He was one of the last New Yorkers in public life who could remember that if we have been an idea, also, and possibly more importantly, we have been a place, a place of splendid artifact.

First the canal. The tall ships. Then the tall buildings. The bridge. The statute. The park. The subway. Yet taller buildings, greater bridges. Vast railroad terminals built on the example of Roman emperors. That energy has seeped out of our civilization, something Bob Wagner understood and lamented. He evidently hoped to become the new director of city planning, a quintessential New York idea of the turn of the century, now lost like some magnificent Mayan ruin behind the suffocating tendrils of ULURP. We have, for example, been trying to build or rather, rebuild, a trolley car across 42d Street for 15 years now. When his father was borough president, it would have taken 2 years at most. When his grandfather was a State senator and Charles Francis Murphy, the Democratic country leader, it would have been brought off in 6 months. Oh for the days when Croker built the IRT as a favor to a friend.

Which is only to say that Bob understood this aspect of the city as an expression of the creativeness of its people. People from all about. His grandfather was born in the Province of Hessen-Nassau in Germany; his grandmother was Irish. His beautiful mother Susan was what was then called Old American. In his own work Bob concentrated most on the needs of New Americans in the city, and he did what he could do, which is more than all but a very few persons of this generation. We will never know the loss we suffered when the bureaucratic idiocy of the State education commissioner decided that a public man of unmatched intelligence and range did not have enough credits to be schools chancellor. Earlier in 1977, he had run for the nomination as borough president of Manhattan. I supported him in the primary, which he narrowly lost, after that he returned to public service in the administration of Mayor Koch.

To declare my interests, as the lawyers say, I would have supported him anyway. But there was a special bond between us. When "Beyond the Melting Pot" appeared in 1963, it received an especially warm and welcoming review in a Harvard undergraduate journal from—who else—Robert F. Wagner, Jr.

I do not want to make him out to be too much a New Yorker. Cities everywhere called him, engaged him. He died in San Antonio, working on a book on urban America with Julia Vitullo-Martin.

I would ask his loving stepmother, Phyliss Cerf Wagner, to accept our homage even as we share her grief.

Mr. President, I ask unanimous consent that an editorial on Robert F. Wagner, Jr., that appeared in yesterday's Daily News be printed in the RECORD at this point.

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

A SON OF NEW YORK

Robert F. Wagner, Jr. never matched the elective successes of his father the mayor or his grandfather the senator. No matter. Bobby Wagner, as he was known to a legion of friends, served the city he loved in an extraordinary variety of posts—city councilman, chairman of the City Planning Commission, president of the Health and Hospitals Corp., deputy mayor, president of the Board of Education. And he served always with grace, skill and intelligence.

Among the thousands who grieve at Wagner's untimely death is Mayor-elect Rudolph Giuliani, who owed him a particular debt. When Wagner endorsed Giuliani last month, he made what was probably the most effective campaign commercial of the political season. Wagner simply looked into the camera with the same half-pained, old-beyond-his-49-years expression he usually wore and told how he had decided that New York needed better leadership. It worked in part because many New Yorkers associated him with his father and with Ed Koch. But it worked most of all because the honesty and conviction that characterized the man shone through.

Giuliani says he planned on making Wagner a deputy mayor. He would have been invaluable, not only for his great experience, but for the qualities Giuliani needs most—tolerance, perspective and, most of all, simple, humble kindness.

FLOOD UPDATE

Mr. BOND. Mr. President, in July of this year the country witnessed one of the worst floods in history. The President and Congress reacted quickly and passed the Emergency Supplemental Appropriations for Relief From the Major, Widespread Flooding in the Midwest Act of 1993.

This legislation provided the initial Federal assistance to people, communities, and businesses ravaged by the extensive flooding in the Midwest. More help may be needed to finish the job next year. From my experience with floods as Governor, I can tell you that flood recoveries are measured in months and years, not days. The Federal Government has a responsibility to help flood victims at the end of this recovery as it did at the beginning.

I believe that the strongest element of our Federal relief effort has been to let the people who have suffered through this tragedy make the choices about the recovery. There is a temptation in Washington to make decisions here about how people should live their lives. It's an elite temptation to say subtlely, and sometimes not so subtlely, that we in Washington know what's best for you. While Mother Nature was the Midwest's foe in the disaster, that elite Washington attitude is our foe during the recovery.

Choices about whether people should repair their levees, turn their lands into new wetlands, sell their lands to the Government, or move back into their homes belong to the families and communities that have suffered. I do not believe that I should make that decision for them, nor do I believe that some bureaucrat, environmentalist, or committee chairman should make it either.

No Missouri flood victim will profit from flood pork. Forty-seven people lost their lives and 55,000 families had their homes damaged. All total, our State suffered nearly $15 billion in economic losses. Federal assistance will not come close to compensating flood victims for their actual damages, let alone their suffering. People who call this humanitarian aid pork should be ashamed. Frankly, that's an argument which only people sitting high and dry in Washington or behind 30-foot-high, multimillion-dollar flood protection systems would so cavalierly make.

There is no single answer nor approach that is right for everyone along the river. Each family and community has its own unique situation and must make its own choices about its future. Policymakers or special interest groups in Washington should not try to use these families' personal tragedies as a way to further their political agendas. The disaster legislation Congress passed gave people many options for their future and we should continue that approach.

Buyouts: Helping communities along the river buyout flood-prone property would give families the choice of moving out of the flood plain. On November 15, the House of Representatives passed the Hazard Mitigation and Flood Damage Reduction Act of 1993. This vital buyout legislation must be passed in one form or another before Congress concludes this year.

I will be cosponsoring the buyout legislation offered by Senator HARKIN in consultation with Senator BAUCUS. I have talked with Chairman BAUCUS and have urged him and the administration to take care of their concerns about the House-passed buyout bill. We are working toward legislation that can be passed by Congress in the next few days and enacted quickly.

The victims of the widespread flooding in the Midwest need this option now, not this spring. Towns are trying to get their citizens back on their feet so they can become a productive part of the community again. For that to

happen, many towns need this Federal assistance to get families, businesses, and homes out of harm's way. I appreciate the effort that the chairman of the Environment and Public Works Committee is making to enact this legislation before we adjourn for the year.

Wetlands: Turning flood-damaged lands into new wetlands should be another voluntary choice that Midwesterners have. The Wetlands Reserve Program is an essential option for the landowners in the Midwest who suffered from the flood. However, like the Hazard Mitigation Program, the Wetlands Reserve Program needs some immediate attention.

The Missouri SCS estimates that people with up to 50,000 acres in the Missouri River flood plain are interested in the Wetlands Reserve Program. Unfortunately, there is only enough money to pay for one-tenth of the land that could be enrolled in this program.

I urge both the chairman of the Agriculture Committee and the administration to look into the Wetlands Reserve Program so that the other 40,000 acres of land in the flood plain in Missouri will have the option to participate in this program. They will have my full support.

Levees: People should have the choice to participate in the Federal Levee Program and receive help in rebuilding their flood protection. Unfortunately, that choice is now being denied them. After assuring many flood-ravaged Missouri communities that it would assist them with levee rebuilding, the corps did a complete reversal on September 28. Under orders from Washington, the corps now refused to help communities that it had earlier pledged to assist. Small towns on the river like Orrick and Hardin that had been devastated by flooding have been left with nowhere to turn for help.

I want the corps to allow levees that are sponsored by communities and other public organizations to enter the Federal Levee Program and get rebuilding assistance. The public sponsors of levees entering the Federal program would be required to meet the corps' high standards for levees and abide fully by the program's requirements. Only publicly sponsored levees, not private levees, could participate and get Federal rebuilding assistance under my approach.

If the Federal Government does nothing to help repair these levees, then people in the Midwest will continue to suffer flood damages, costing the Government more in lost tax revenues, economic damages, and disaster assistance, until they are protected. It would also waste billions of dollars already invested in these communities and cause untold suffering.

If the Federal Government creates a new flood protection system, it would easily cost billions of tax dollars. We would need to buy out miles and miles of land, unless the environmentalists suggest that we just seize people's land. Then a new system of levees and wetlands would have to be constructed from scratch.

Simple common sense dictates that repairing our damaged levees is the most cost-effective way to protect people from flooding. Using information from the corps, I estimate that up to 482 publicly sponsored levees would enter the Federal program if they could at an average cost of $218,000 per levee. The total Federal cost could amount to $105 million. In short, we can either spend some tax dollars now to repair levees, or a lot now to create a new system, or a whole bunch down the road as the price of doing nothing.

I have discussed a compromise with the administration on levee repairs that would limit cost to taxpayers and protect the integrity of the Levee Rehabilitation Assistance Program. It would cap the cost of repairs on our damaged levees at $150 million and would set up a 75 percent Federal, 25 percent local cost share, instead of the normal 80–20 cost share. I believe they are negotiating in good faith and appreciate their willingness to work this problem out.

Since this program was put in place by Federal regulations in 1986 and newly interpreted by the administration in 1993, it can be changed by the administration with a stroke of the pen. I have asked them to do that. I trust the administration will do the right thing by changing the policy back to where it was this summer and helping the Midwest restore our flood protection.

Flood insurance: The Federal Government has a responsibility to help Americans who are the victims of a major natural disaster, whether they live in California, Florida, or Missouri. However, the Federal Government cannot and should not take full responsibility for disaster recovery or preparation. People who live in areas that are the most vulnerable to natural disasters also have a responsibility to prepare for a natural emergency. They must take personal responsibility for living and working in an area vulnerable to a disaster.

The recent flood has given this personal responsibility new meaning in the Midwest. Missourians who live in the flood plain should help protect themselves with flood insurance. We should take advantage of the unique protection offered by the National Flood Insurance Program [NFIP].

Unfortunately, Missourians simply are not insuring against the risk of flood as we should. The Federal Emergency Management Agency [FEMA] tells me that Missouri has fewer than 14,890 flood insurance policies, while Texas and Louisiana have over 200,000 active policies each. Of the 169,000 structures in communities where flood insurance can be purchased in our State, only 15,210 are covered by flood insurance.

Many of the homes damaged in the great flood of 1993 were without flood insurance. It is too late to insure these homes for that flood, but I want to stress that we need to reform the National Flood Insurance Program to insure these homes and other uninsured homes against the future risk of flooding. It is also critical to place the program on a sound financial footing, because there is little question that the National Flood Insurance Program is massively exposed. Bipartisan flood insurance reform should increase participation in the NFIP to protect people and insure the soundness of the fund to protect taxpayers.

I say this today because I am frustrated. Flood insurance reform legislation has been introduced on several occasions over the last several congresses and the needed reforms have not been enacted. Missouri and other States have suffered because the National Flood Insurance Program has not done its job in encouraging participation. Until Congress enacts meaningful and directed legislation, the National Flood Insurance Program will continue to fail and families and homes will continue to suffer from this failure.

The Banking Committee during this session began consideration of S. 1405, the National Flood Insurance Reform Act of 1993. While S. 1405 has some flaws, it also has many sound provisions which can provide a base for needed reforms to the National Flood Insurance Program. In particular, S. 1405 would provide stricter requirements to ensure the placement of insurance on properties in flood-prone areas; it would increase flood insurance coverage amounts; it would establish a community rating system to provide premium rate credits for communities that implement land use and loss control measures that exceed minimum criteria; and it would establish a new program for mitigation assistance. These are important reforms which I strongly support.

This Nation can ill afford to let flood insurance reform slip away in this Congress. Thus I will certainly join with other Senators interested in reforming the flood insurance program to see that the goals of an affordable, locally directed, and actuarially sound flood insurance program are enacted. I hope we can reach some agreement to move a meaningful reform package as soon as possible. Senators should not allow the search for the perfect to be the enemy of the good.

Those who choose to live and work in the flood plain have a responsibility to themselves, their families, and the taxpayers to insure against the possibility of flooding. And those who work here should help reform the program so that

it will effectively protect the taxpayers.

I thank Senators for their willingness to help Midwesterners recover from this tragedy. There is still much to be done, but we have gone far in a short time. Midwesterners need choices for our families and communities, and in most cases, that's what we have helped them have.

STATEMENT ON THE NOMINATION OF CARL KIRKPATRICK

Mr. SASSER. Mr. President, I am very pleased that the Senate was able to approve last night the nomination of Carl Kirkpatrick as U.S. attorney for eastern Tennessee.

I was honored to nominate Carl Kirkpatrick for this position and I am confident he will be an outstanding U.S. attorney. He has already shown his potential during his distinguished service as a district attorney general in Sullivan County, TN. He was elected to that office in 1966 and swiftly reduced the backlog of over 300 cases that he faced.

Mr. Kirkpatrick is widely respected in our State as an effective prosecutor. Just to cite one example, in 1990, Carl Kirkpatrick secured convictions in 90 percent of the cases he tried. That's how you deter crime, Mr. President—effective prosecution.

Carl Kirkpatrick is a native of Kingsport and received his undergraduate and law degrees from Vanderbilt University. He has held all offices in the Tennessee District Attorneys General Conference. While he was president, he wrote and was instrumental in passing legislation to create an office of executive secretary of the Attorneys General Conference. Also during his tenure as president, he conducted the first annual statewide 3-day training session for district attorneys and their staffs.

Carl Kirkpatrick has been an instructor in numerous local police training seminars and a great lecturer at the Tennessee Bureau of Investigation academy, as well as East Tennessee State University. He has also taught criminal law and procedure at Virginia Intermont College for the past 3 years.

Mr. Kirkpatrick was instrumental in creating the Sullivan County Drug Education Council, which provided information services to the high schools in Sullivan County for several years. The council was so successful that it was taken over by, and is now part of, the school system.

Among many other activities, he is a member of the State Victims of Crime Act Policy Advisory Committee, the Governor's Drug-Free Tennessee Advisory Committee, and the Tennessee Child Abuse Advisory Committee. He has also been active in his community, receiving the American Legion Distinguished Service Award and the Kingsport Times News Award for Community Achievement.

Mr. President, I have known Carl Kirkpatrick for many years. He has the experience and temperament needed for this important position and I am confident he will be an outstanding U.S. attorney.

THE MEDICARE DATA BANK PENALTIES—S. 1668

Mr. LIEBERMAN. Mr. President, I thank the chairman for agreeing to discuss the Medicare/Medicaid data bank. In 6 weeks, small and large businesses across America must begin keeping detailed records on individuals for whom they provide health coverage—including employees, spouses, and dependents—and the period of coverage for each individual. This is a daunting, new paperwork burden for employers. And each employer will be subject to penalties of $100 per employee if they do not submit the proper forms for each and every person covered when the time comes to report in February 1995. Despite the fact that employers must begin keeping these records in just 6 weeks, most of them will know nothing about what to collect or how to submit it because the Health Care Financing Administration [HCFA] has done nothing to notify them of this liability, or tell them how to comply. HCFA has issued no guidance on what or how to file, and they have routinely rejected requests from the business community to meet and discuss the requirements.

It is simply a matter of fairness. It is unconscionable to impose penalties on business for not collecting information when we haven't told them what to collect or how to submit it. If HCFA can't issue final guidance to employers before January 1, penalties should be waived.

Mr. MOYNIHAN. I thank the Senator for raising this most important point. He is absolutely right that it is unfair to penalize businesses when we haven't advised them of their responsibilities. It was never the intent of the Finance Committee to put businesses in that kind of catch-22. If we discover that HCFA is penalizing businesses for not collecting or submitting information on employees and their families when HCFA has not given them instructions on how to file this information and has not given them appropriate time to respond, you can be sure that we will move quickly and firmly to address the problem, including the consideration of any legislation, if necessary.

RULES OF THE COMMITTEE ON FOREIGN RELATIONS

Mr. PELL. Mr. President, pursuant to the requirements of paragraph 2 of Senate rule XXVI, I ask to have printed in the RECORD the amendments to the rules of the Committee on Foreign Relations.

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

RULES OF THE COMMITTEE ON FOREIGN RELATIONS

(Adopted November 18, 1993)

RULE 1—JURISDICTION

(a) *Substantive.*—In accordance with Senate Rule XXV.1(j), the jurisdiction of the Committee shall extend to all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Acquisition of land and buildings for embassies and legations in foreign countries.
2. Boundaries of the United States.
3. Diplomatic service.
4. Foreign economic, military, technical, and humanitarian assistance.
5. Foreign loans.
6. International activities of the American National Red Cross and the International Committee of the Red Cross.
7. International aspects of nuclear energy, including nuclear transfer policy.
8. International conferences and congresses.
9. International law as it relates to foreign policy.
10. International Monetary Fund and other international organizations established primarily for international monetary purposes (except that, at the request of the Committee on Banking, Housing, and Urban Affairs, any proposed legislation relating to such subjects reported by the Committee on Foreign Relations shall be referred to the Committee on Banking, Housing, and Urban Affairs).
11. Intervention abroad and declarations of war.
12. Measures to foster commercial intercourse with foreign nations and to safeguard American business interests abroad.
13. National security and international aspects of trusteeships of the United States.
14. Ocean and international environmental and scientific affairs as they relate to foreign policy.
15. Protection of United States citizens abroad and expatriation.
16. Relations of the United States with foreign nations generally.
17. Treaties and executive agreements, except reciprocal trade agreements.
18. United Nations and its affiliated organizations.
19. World Bank group, the regional development banks, and other international organizations established primarily for development assistance purposes.

The Committee is also mandated by Senate Rule XXV.1(j) to study and review, on a comprehensive basis, matters relating to the national security policy, foreign policy, and international economic policy as it relates to foreign policy of the United States, and matters relating to food, hunger, and nutrition in foreign countries, and report thereon from time to time.

(b) *Oversight.*—The Committee also has a responsibility under Senate Rule XXVI.8, which provides that ". . . each standing Committee . . . shall review and study, on a continuing basis, the application, administration, and execution of those laws or parts of laws, the subject matter of which is within the jurisdiction of the Committee."

(c) *Advice and Consent" Clauses.*—The Committee has a special responsibility to assist the Senate in its constitutional function of providing "advice and consent" to all treaties entered into by the United States and

all nominations to the principal executive branch positions in the field of foreign policy and diplomacy.

RULE 2—SUBCOMMITTEES

(a) *Creation.*—Unless otherwise authorized by law or Senate resolution, subcommittees shall be created by majority vote of the Committee and shall deal with such legislation and oversight of programs and policies as the Committee directs. Legislative measures or other matters may be referred to a subcommittee for consideration in the discretion of the Chairman or by vote of a majority of the Committee. If the principal subject matter of a measure or matter to be referred falls within the jurisdiction of more than one subcommittee, the Chairman or the Committee may refer the matter to two or more subcommittees for joint consideration.

(b) *Assignments.*—Assignments of members to subcommittees shall be made in an equitable fashion. No member of the Committee may receive assignment to a second subcommittee until, in order of seniority, all members of the Committee have chosen assignments to one subcommittee, and no member shall receive assignments to a third subcommittee until, in order of seniority, all members have chosen assignments to two subcommittees.

No member of the Committee may serve on more than three subcommittees at any one time.

The Chairman and Ranking Minority Member of the Committee shall be ex officio members, without vote of each subcommittee.

(c) *Meetings.*—Except when funds have been specifically made available by the Senate for a subcommittee purpose, no subcommittee of the Committee on Foreign Relations shall hold hearings involving expenses without prior approval of the Chairman of the full Committee or by decision of the full Committee. Meetings of subcommittees shall be scheduled after consultation with the Chairman of the Committee with a view toward avoiding conflicts with meetings of other subcommittees insofar as possible. Meetings of subcommittees shall not be scheduled to conflict with meetings of the full Committee.

The proceedings of each subcommittee shall be governed by the rules of the full Committee, subject to such authorizations or limitations as the Committee may from time to time prescribe.

RULE 3—MEETINGS

(a) *Regular Meeting Day.*—The regular meeting day of the Committee on Foreign Relations for the transaction of Committee business shall be on Tuesday of each week, unless otherwise directed by the Chairman.

(b) *Additional Meetings.*—Additional meetings and hearings of the Committee may be called by the Chairman as he may deem necessary. If at least three members of the Committee desire that a special meeting of the Committee be called by the Chairman, those members may file in the offices of the Committee their written request to the Chairman for that special meeting. Immediately upon filing of the request, the Chief Clerk of the Committee shall notify the Chairman of the filing of the request. If, within three calendar days after the filing of the request, the Chairman does not call the requested special meeting, to be held within seven calendar days after the filing of the request, a majority of the members of the Committee may file in the offices of the Committee their written notice that a special meeting of the Committee will be held, specifying the date and hour of that special meeting. The Committee shall meet on that date and hour. Immediately upon the filing of the notice, the Clerk shall notify all members of the Committee that such special meeting will be held and inform them of its date and hour.

(c) *Minority Request.*—Whenever any hearing is conducted by the Committee or a subcommittee upon any measure or matter, the minority on the Committee shall be entitled, upon request made by a majority of the minority members to the Chairman before the completion of such hearing, to call witnesses selected by the minority to testify with respect to the measure or matter during at least one day of hearing thereon.

(d) *Public Announcement.*—The Committee, or any subcommittee thereof, shall make public announcement of the date, place, time, and subject matter of any hearing to be conducted on any measure or matter at least one week in advance of such hearings, unless the Chairman of the Committee, or subcommittee, determines that there is good cause to begin such hearing at an earlier date.

(e) *Procedure.*—Insofar as possible, proceedings of the Committee will be conducted without resort to the formalities of parliamentary procedure and with due regard for the views of all members. Issues of procedure which may arise from time to time shall be resolved by decision of the Chairman, in consultation with the Ranking Minority Member. The Chairman, in consultation with the Ranking Minority Member, may also propose special procedures to govern the consideration of particular matters by the Committee.

(f) *Closed Sessions.*—Each meeting of the Committee on Foreign Relations, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by the Committee or a subcommittee on the same subject for a period of no more than fourteen calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in paragraphs (1) through (6) would require the meeting to be closed followed immediately by a record vote in open session by a majority of the members of the Committee or subcommittee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) will relate solely to matters of Committee staff personnel or internal staff management or procedure;

(3) will tend to charge an individual with crime or misconduct; to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identify of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(5) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(A) an Act of Congress requires information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person, or

(6) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

A closed meeting may be opened by a majority vote of the Committee.

(g) *Staff Attendance.*—A member of the Committee may have one member of his or her personal staff, for whom that member assumes personal responsibility, accompany and be seated nearby at Committee meetings.

Each member of the Committee may designate members of his or her personal staff, who hold a Top Secret security clearance, for the purpose of their eligibility to attend closed sessions of the Committee, subject to the same conditions set forth for Committee staff under Rules 12, 13, and 14.

In addition, the Majority Leader and the Minority Leader of the Senate, if they are not otherwise members of the Committee, may designate one member of their staff with a Top Secret security clearance to attend closed sessions of the Committee, subject to the same conditions set forth for Committee staff under Rules 12, 13, and 14. Staff of other Senators who are not members of the Committee may not attend closed sessions of the Committee.

Attendance of Committee staff at meetings will be limited to those designated by the Staff Director or the Minority Staff Director.

The Committee, by majority vote, or the Chairman, with the concurrence of the Ranking Minority Member, may limit staff attendance at specified meetings.

RULE 4—QUORUMS

(a) *Testimony.*—For the purpose of taking sworn or unsworn testimony at any duly scheduled meeting a quorum of the Committee and each subcommittee thereof shall consist of one member.

(b) *Business.*—A quorum for the transaction of Committee or subcommittee business, other than for reporting a measure or recommendation to the Senate or the taking of testimony, shall consist of one-third of the members of the Committee on subcommittee, including at least one member from each party.

(c) *Reporting.*—A majority of the membership of the Committee shall constitute a quorum for reporting any measure or recommendation to the Senate. No measure or recommendation shall be ordered reported from the Committee unless a majority of the Committee members are physically present. The vote of the Committee to report a measure or matter shall require the concurrence of a majority of those members who are physically present at the time the vote is taken.

RULE 5—PROXIES

Proxies must be in writing with the signature of the absent member. Subject to the requirements of Rule 4 for the physical presence of a quorum to report a matter, proxy voting shall be allowed on all measures and matters before the Committee. However, proxies shall not be voted on a measure or matter except when the absent member has been informed of the matter on which he is being recorded and has affirmatively requested that he or she be so recorded.

RULE 6—WITNESSES

(a) *General.*—The Committee on Foreign Relations will consider requests to testify on

any matter or measure pending before the Committee.

(b) *Presentation.*—If the Chairman so determines, the oral presentation of witnesses shall be limited to 10 minutes. However, written statements of reasonable length may be submitted by witnesses and other interested persons who are unable to justify in person.

(c) *Filing of Statements.*—A witness appearing before the Committee, or any subcommittee thereof, shall file a written statement of his proposed testimony at least 48 hours prior to his appearance unless this requirement is waived by the Chairman and the Ranking Minority Member following their determination that there is good cause for failure to file such a statement.

(d) *Expenses.*—Only the Chairman may authorize expenditures of funds for the expenses of witnesses appearing before the Committee or its subcommittees.

(e) *Requests.*—Any witness called for a hearing may submit a written request to the Chairman no later than 24 hours in advance for his testimony to be in closed or open session, or for any other unusual procedure. The Chairman shall determine whether to grant any such request and shall notify the Committee members of the request and of his decision.

RULE 7—SUBPOENAS

(a) *Authorization.*—The Chairman or any other member of the Committee, when authorized by a majority vote of the Committee at a meeting or by proxies, shall have authority to subpoena the attendance of witnesses or the production of memoranda, documents, records, or any other materials. When the Committee authorizes a subpoena, it may be issued upon the signature of the Chairman or any other member designated by the Committee.

(b) *Return.*—A subpoena, or a request to an agency, for documents may be issued whose return shall occur at a time and place other than that of a scheduled Committee meeting. A return on such a subpoena or request which is incomplete or accompanied by an objection constitutes good cause for a hearing on shortened notice. Upon such a return, the Chairman or any other member designated by him may convene a hearing by giving 2 hours notice by telephone to all other members. One member shall constitute a quorum for such a hearing. The sole purpose of such a hearing shall be to elucidate further information about the return and to rule on the objection.

(c) *Depositions.*—At the direction of the Committee, staff is authorized to take depositions from witnesses.

RULE 8—REPORTS

(a) *Filing.*—When the Committee has ordered a measure or recommendation reported, the report thereon shall be filed in the Senate at the earliest practicable time.

(b) *Supplemental, Minority and Additional Views.*—A member of the Committee who gives notice of his intentions to file supplemental, minority, or additional views at the time of final Committee approval of a measure or matter, shall be entitled to not less than 3 calendar days in which to file such views, in writing, with the Chief Clerk of the Committee. Such views shall then be included in the Committee report and printed in the same volume, as a part thereof, and their inclusion shall be noted on the cover of the report. In the absence of timely notice, the Committee report may be filed and printed immediately without such views.

(c) *Rollcall Votes.*—The results of all rollcall votes taken in any meeting of the Committee on any measure, or amendment thereto, shall be announced in the Committee report. The announcement shall include a tabulation of the votes cast in favor and votes cast in opposition to each such measure and amendment by each member of the Committee.

RULE 9—TREATIES

(a) The Committee is the only Committee of the Senate with jurisdiction to review and report to the Senate on treaties submitted by the President for Senate advice and consent. Because the House of Representatives has no role in the approval of treaties, the Committee is therefore the only congressional committee with responsibility for treaties.

(b) Once submitted by the President for advice and consent, each treaty is referred to the Committee and remains on its calendar from Congress to Congress until the Committee takes action to report it to the Senate or recommend its return to the President, or until the Committee is discharged of the treaty by the Senate.

(c) In accordance with Senate Rule XXX.2, treaties which have been reported to the Senate but not acted on before the end of a Congress "shall be resumed at the commencement of the next Congress as if no proceedings had previously been had thereon."

(d) Insofar as possible, the Committee should conduct a public hearing on each treaty as soon as possible after its submission by the President. Except in extraordinary circumstances, treaties reported to the Senate shall be accompanied by a written report.

RULE 10—NOMINATIONS

(a) *Waiting Requirement.*—Unless otherwise directed by the Chairman and the Ranking Minority Member, the Committee on Foreign Relations shall not consider any nomination until 6 calendar days after it has been formally submitted to the Senate.

(b) *Public Consideration.*—Nominees for any post who are invited to appear before the Committee shall be heard in public session, unless a majority of the Committee decrees otherwise.

(c) *Required Data.*—No nomination shall be reported to the Senate unless (1) the nominee has been accorded a security clearance on the basis of a thorough investigation by executive branch agencies; (2) in appropriate cases, the nominee has filed a confidential statement and financial disclosure report with the Committee; (3) the Committee has been assured that the nominee does not have any interests which could conflict with the interests of the government in the exercise of the nominee's proposed responsibilities; (4) for persons nominated to be chief of mission, ambassador-at-large, or minister, the Committee has received a complete list of any contributions made by the nominee or members of his immediate family to any Federal election campaign during the year of his or her nomination and for the 4 preceding years; and (5) for persons nominated to be chiefs of mission, a report on the demonstrated competence of that nominee to perform the duties of the position to which he or she has been nominated.

RULE 11—TRAVEL

(a) *Foreign Travel.*—No member of the Committee on Foreign Relations or its staff shall travel abroad on Committee business unless specifically authorized by the Chairman, who is required by law to approve vouchers and report expenditures of foreign currencies, and the Ranking Minority Member. Requests for authorization of such travel shall state the purpose and, when completed, a full substantive and financial report shall be filed with the Committee within 30 days. This report shall be furnished to all members of the Committee and shall not be otherwise disseminated without the express authorization of the Committee. Except in extraordinary circumstances, staff travel shall not be approved unless the reporting requirements have been fulfilled for all prior trips. Except for travel that is strictly personal, travel funded by non-U.S. Government sources is subject to the same approval and substantive reporting requirements as U.S. Government-funded travel. In addition, members and staff are reminded of Senate Rule XXXV.4 requiring a determination by the Senate Ethics Committee in the case of foreign-sponsored travel.

Any proposed travel by Committee staff for a subcommittee purpose must be approved by the subcommittee chairman and ranking minority member prior to submission of the request to the Chairman and Ranking Minority Member of the full Committee.

When the Chairman and the Ranking Minority Member approve the foreign travel of a member of the staff of the committee not accompanying a member of the Committee, all members of the Committee shall be advised, prior to the commencement of such travel of its extent, nature, and purpose.

(b) *Domestic Travel.*—All official travel in the United States by the Committee staff shall be approved in advance by the Staff Director, or in the case of minority staff, by the Minority Staff Director.

(c) *Personal Staff.*—As a general rule, no more than one member of the personal staff of a member of the Committee may travel with that member with the approval of the Chairman and the Ranking Minority Member of the Committee. During such travel, the personal staff member shall be considered to be an employee of the Committee.

"(d) Personal Representatives of the Member (PRM).—For the purposes of Rule 11 as regards staff foreign travel, the officially-designated personal representative of the member (PRM) shall be deemed to have the same rights, duties and responsibilities as members of the staff of the Committee on Foreign Relations. Furthermore, for the purposes of this section, each Member of the Committee may designate one personal staff member as the "Personal Representative of the Member."

RULE 12—TRANSCRIPTS

(a) *General.*—The Committee on Foreign Relations shall keep verbatim transcripts of all Committee and subcommittee meetings and such transcripts shall remain in the custody of the Committee, unless a majority of the Committee decides otherwise. Transcripts of public hearings by the Committee shall be published unless the Chairman, with the concurrence of the Ranking Minority Member, determines otherwise.

(b) *Classified or Restricted Transcripts.*—

(1) The Chief Clerk of the Committee shall have responsibility for the maintenance and security of classified or restricted transcripts.

(2) A record shall be maintained of each use of classified or restricted transcripts.

(3) Classified or restricted transcripts shall be kept in locked combination safes in the Committee offices except when in active use by authorized persons for a period not to exceed 2 weeks. Extensions of this period may be granted as necessary by the Chief Clerk. They must never be left unattended and shall be returned to the Chief Clerk promptly when no longer needed.

(4) Except as provided in paragraph 7 below, transcripts classified secret or higher may not leave the Committee offices except for the purpose of declassification.

(5) Classified transcripts other than those classified secret or higher may leave the Committee offices in the possession of authorized persons with the approval of the Chairman. Delivery and return shall be made only by authorized persons. Such transcripts may not leave Washington, DC, unless adequate assurances for their security are made to the Chairman.

(6) Extreme care shall be exercised to avoid taking notes or quotes from classified transcripts. Their contents may not be divulged to any unauthorized person.

(7) Subject to any additional restrictions imposed by the Chairman with the concurrence of the Ranking Minority Member, only the following persons are authorized to have access to classified or restricted transcripts.

(i) Members and staff of the Committee in the Committee rooms;

(ii) Designated personal representatives of members of the Committee, and of the Majority and Minority Leaders, with appropriate security clearances, in the Committee's Capitol office;

(iii) Senators not members of the Committee, by permission of the Chairman in the Committee rooms; and

(iv) Members of the executive departments involved in the meeting, in the Committee's Capitol office, or, with the permission of the Chairman, in the offices of the officials who took part in the meeting, but in either case, only for a specified and limited period of time, and only after reliable assurances against further reproduction or dissemination have been given.

(8) Any restrictions imposed upon access to a meeting of the Committee shall also apply to the transcript of such meeting, except by special permission of the Chairman and notice to the other members of the Committee. Each transcript of a closed session of the Committee shall include on its cover a description of the restrictions imposed upon access, as well as any applicable restrictions upon photocopying, note-taking or other dissemination.

(9) In addition to restrictions resulting from the inclusion of any classified information in the transcript of a Committee meeting, members and staff shall not discuss with anyone the proceedings of the Committee in closed session or reveal information conveyed or discussed in such a session unless that person would have been permitted to attend the session itself, or unless such communication is specifically authorized by the Chairman, the Ranking Minority Member, or in the case of staff, by the Staff Director or Minority Staff Director. A record shall be kept of all such authorizations.

(c) *Declassification.*—

(1) All restricted transcripts and classified Committee reports shall be declassified on a date twelve years after their origination unless the Committee by majority vote decides against such declassification, and provided that the executive departments involved and all former Committee members who participated directly in the sessions or reports concerned have been consulted in advance and given a reasonable opportunity to raise objections to such declassification.

(2) Any transcript or classified Committee report, or any portion thereof, may be declassified fewer than twelve years after their origination if:

(i) the Chairman originates such action or receives a written request for such action, and notifies the other members of the Committee;

(ii) the Chairman, Ranking Minority Member, and each member or former member who participated directly in such meeting or report give their approval, except that the Committee by majority vote may overrule any objections thereby raised to early declassification; and

(iii) the executive departments and all former Committee members are consulted in advance and have a reasonable opportunity to object to early declassification.

RULE 13—CLASSIFIED MATERIAL

(a) All classified material received or originated by the Committee shall be logged in at the Committee's offices in the Dirksen Senate Office Building, and except for material classified as "Top Secret" shall be filed in the Dirksen Senate Building offices for Committee use and safekeeping.

(b) Each such piece of classified material received or originated shall be card indexed and serially numbered, and where requiring onward distribution shall be distributed by means of an attached indexed form approved by the Chairman. If such material is to be distributed outside the Committee offices, it shall, in addition to the attached form, be accompanied also by an approved signature sheet to show onward receipt.

(c) Distribution of classified material among offices shall be by Committee members or authorized staff only. All classified material sent to members' offices, and that distributed within the working offices of the Committee, shall be returned to the offices designated by the Chief Clerk. No classified material is to be removed from the offices of the members or of the Committee without permission of the Chairman. Such classified material will be afforded safe handling and safe storage at all times.

(d) Material classified "Top Secret," after being indexed and numbered shall be sent to the Committee's Capitol office for use by the members and authorized staff in that office only or in such other secure Committee offices as may be authorized by the Chairman or Staff Director.

(e) In general, members and staff undertake to confine their access to classified information on the basis of a "need to know" such information related to their Committee responsibilities.

(f) The Staff Director is authorized to make such administrative regulations as may be necessary to carry out the provisions of these regulations.

RULE 14—STAFF

(a) *Responsibilities.*—

(1) The staff works for the Committee as a whole, under the general supervision of the Chairman of the Committee, and the immediate direction of the Staff Director; provided, however, that such part of the staff as is designated Minority Staff, shall be under the general supervision of the Ranking Minority Member and under the immediate direction of the Minority Staff Director.

(2) Any member of the Committee should feel free to call upon the staff at any time for assistance in connection with Committee business. Members of the Senate not members of the Committee who call upon the staff for assistance from time to time should be given assistance subject to the overriding responsibility of the staff to the Committee.

(3) The staff's primary responsibility is with respect to bills, resolutions, treaties, and nominations.

In addition to carrying out assignments from the Committee and its individual members, the staff has a responsibility to originate suggestions for Committee or subcommittee consideration. The staff also has a responsibility to make suggestions to individual members regarding matters of special interest to such members.

(4) It is part of the staff's duty to keep itself as well informed as possible in regard to developments affecting foreign relations and in regard to the administration of foreign programs of the United States. Significant trends or developments which might otherwise escape notice should be called to the attention of the Committee, or of individual Senators with particular interests.

(5) The staff shall pay due regard to the constitutional separation of powers between the Senate and the executive branch. It therefore has a responsibility to help the Committee bring to bear an independent, objective judgment of proposals by the executive branch and when appropriate to originate sound proposals of its own. At the same time, the staff shall avoid impinging upon the day-to-day conduct of foreign affairs.

(6) In those instances when Committee action requires the expression of minority views, the staff shall assist the minority as fully as the majority to the end that all points of view may be fully considered by members of the Committee and of the Senate. The staff shall bear in mind that under our constitutional system it is the responsibility of the elected Members of the Senate to determine legislative issues in the light of as full and fair a presentation of the facts as the staff may be able to obtain.

(b) *Restrictions.*—

(1) The staff shall regard its relationship to the Committee as a privileged one, in the nature of the relationship of a lawyer to a client. In order to protect this relationship and the mutual confidence which must prevail if the Committee-staff relationship is to be a satisfactory and fruitful one, the following criteria shall apply:

(i) members of the staff shall not be identified with any special interest group in the field of foreign relations or allow their names to be used by any such group;

(ii) members of the staff shall not accept public speaking engagements or write for publication in the field of foreign relations without specific advance permission from the Staff Director, or, in the case of minority staff, from the Minority Staff Director. In the case of the Staff Director and the Minority Staff Director, such advance permission shall be obtained from the Chairman or the Ranking Minority Member, as appropriate. In any event, such public statements should avoid the expression of personal views and should not contain predictions of future, or interpretations of past, Committee action; and

(iii) staff shall not discuss their private conversations with members of the Committee without specific advance permission from the Senator or Senators concerned.

(2) The staff shall not discuss with anyone the proceedings of the Committee in closed session or reveal information conveyed or discussed in such a session unless that person would have been permitted to attend the session itself, or unless such communication is specifically authorized by the Staff Director or Minority Staff Director. Unauthorized disclosure of information from a closed session or of classified information shall be cause for immediate dismissal and may, in the case of some kinds of information, be grounds for criminal prosecution.

RULE 15—STATUS AND AMENDMENT OF RULES

(a) *Status.*—In addition to the foregoing, the Committee on Foreign Relations is governed by the Standing Rules of the Senate

which shall take precedence in the event of a clear inconsistency. In addition, the jurisdiction and responsibilities of the Committee with respect to certain matters, as well as the timing and procedure for their consideration in Committee, may be governed by statute.

(b) *Amendment.*—These Rules may be modified, amended, or repealed by a majority of the Committee, provided that a notice in writing of the proposed change has been given to each member at least 48 yours prior to the meeting at which action thereon is to be taken. However, Rules of the Committee which are based upon Senate Rules may not be superseded by Committee vote alone.

INDEPENDENT COUNSEL INVESTIGATION BY JUDGE LAWRENCE WALSH

Mr. LEVIN. Mr. President, earlier today the Senate passed by a large majority of 76–21 the bill to reauthorize the independent counsel law. During the debate on that bill yesterday afternoon and evening and earlier today, there was criticism of the work done by independent counsel Lawrence Walsh in the Iran-Contra matter. Senator COHEN and I responded to that criticism in part during our debate on the various amendments to the bill, but I would like to take a few minutes to complete the record on this particular issue.

Mr. Walsh has been described by his opponents as someone who "has given the independent counsel statute a bad name", as conducting a "witch hunt", as operating with political motivations and performing bad lawyering, and "having a record so lackluster that it would make a junior assistant D.A. blush".

Let's look at the facts.

First, who is Judge Walsh? He's a life-long Republican, the former President of the American Bar Association, a former prosecutor, a former diplomat, a former Deputy Attorney General, and a former judge. He was appointed by President Eisenhower to the Federal bench in 1954 and by President Nixon in 1969 to be an ambassador with the United States delegation to the Vietnam peace conference in Paris. His professional credentials are above reproach.

Second, what was the Iran-Contra investigation all about? It was about the White House selling weapons to a terrorist nation, trading arms for hostages, supporting a civil war despite a Congressional ban on doing so, and lying about its actions to Congress and the American people. It was about issues that are fundamental to the underpinnings of our democratic Government.

Third, what did Judge Walsh do as an independent counsel? He brought 14 indictments resulting in 11 convictions. There were no acquittals. One case was dismissed because the Justice Department refused to release classified materials; two defendants were given pardons just as their trials were about to begin. Two of the convictions were overturned on appeal because of the congressional grant of immunity.

The indictment of Caspar Weinberger who received one of the pardons has borne the brunt of particularly strong criticism. But let's look at the basis for bringing that indictment.

Secretary of Defense Weinberger was smack dab in the middle of the issues in Iran-Contra. He was deeply involved in the White House debate on selling arms to Iran and on the question of trading arms for hostages. He gave the right advice—that these were wrongheaded and potentially criminal activities—but when the White House went ahead anyway, there is a great amount of evidence that shows that he was a team player in covering up the White House role.

Despite repeated requests from the Senate and House Iran-Contra Committees and later requests of Judge Walsh's independent counsel staff, Secretary Weinberger stated that he had no written notes or jottings of the events involved in the investigation, beyond those he had already turned over. What he had not turned over were the 1,700 pages of detailed notes he made on a daily basis about the events of his day as Secretary of Defense.

Weinberger specifically told the independent counsel staff and a special agent of the FBI that it was misleading to infer that he had a habit of taking notes throughout his 7 years as Secretary of Defense because that was not the case. He repeatedly told the independent counsel's staff that he did not take notes—he didn't take notes of phone conversations, he didn't take notes or make a record of meetings he had attended, and that from 1981 to 1982 on he rarely took notes, period. When confronted by independent counsel staff that someone whom Weinberger would consider credible had alleged that Weinberger had withheld some of his notes, Weinberger said that was not true.

When asked by the Iran-Contra Committee, "Do you ever take notes that are not dictated or make jottings when you get back (from meetings)?", Weinberger replied: "Yes, occasionally, but comparatively rarely. I don't know we kept those in any formal way. * * * Occasionally take a few notes but not really very often."

In fact, Weinberger took notes every day, including weekends and Christmas, in pencil on 5 by 7 pads of paper. He had done so for more than 10 years. The notes are a very detailed account of how his time was spent, commonly one page for Sundays and up to 3 or 4, even 20 pages, on workdays. He kept the pads in his desk at the Pentagon and when the drawer was full of completed pads, he would clip the pads together and store them in a bedroom, adjacent to his Pentagon office. Independent Counsel Walsh's staff estimates that between 75–85 percent of these notes involved business and the rest were personal.

The independent counsel staff discovered these notes only after the congressional investigation had been completed and after approximately 5 years of the independent counsel investigation had transpired, and then they were discovered not because Weinberger told the independent counsel office about them, but because the independent counsel staff got a lead that these notes existed and confronted him with that fact.

The notes show that although Weinberger told Congress he didn't have any knowledge about the transfer of Hawk missiles from Israel to Iran in 1985, there were four detailed entries in his diary about the transfer. I ask that Weinberger's statement and the diary entries on the Hawk missiles be put in the RECORD at this time.

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

WEINBERGER STATEMENT

July 31, 1987. Weinberger testified before House/Senate Iran-Contra Committee:

Q. The committee has also received testimony that on that weekend of November 23 and November 24 [1985], there was a shipment of 18 HAWK missiles from Israel to Iran * * * Let me just ask you: Did you have any knowledge that that transfer was to take place?

A. No, I did not.

THE FACTS (ACCORDING TO UNDISCLOSED WEINBERGER NOTES)

November 9, 1985: "Bud McFarline * * * wants to start 'negot.' exploration with Iranians (+ Israelis) to give Iranians weapons for our hostages—I objected—we'll talk later on secure."

November 10, 1985: "Bud McFarlane * * * negotiations are with 3 Iranian dissidents who say they want to overthrow government. We'll demand release of all hostages. Then we might give them—thru Israelis—Hawks but no Phoenix."

November 19, 1985: "Bud McFarlane fm Geneva—update [summit] meetings—all OK so far—Also wants us to try to get 500 Hawks for sale to Israel to pass on to Iran for release of 5 hostages Thurs."

"Colin Powell in office re data on Hawks—can't be given to Israel or Iran w/o Cong. notification,—breaking them up into several packages of 28 Hawks to keep each package under $14 million is a clear violation"

November 20, 1985: "Told him [McFarlane] we shouldn't pay Iranian anything—he said President has decided to do it thru Israelis."

"Bud McFarlane fm Geneva * * * Israelis will sell 120 Hawks, older models to Iranians—Friday [hostage] release * * * Called Colin Powell—re above."

Mr. LEVIN. Weinberger also told Congress that he didn't have any memory of the Saudis providing funds to the Contras. His notes show two specific references to his direct knowledge of this matter. I ask that Weinberger's statement and the diary entries on Saudia Arabia be put in the RECORD at this time.

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

WEINBERGER STATEMENT

June 17, 1987. Testimony before House Iran-Contra Committee.

Q. Do you recall learning at some point that the Saudis or some people connected with the Saudis provided funds for the contras?

A. No. I don't have any memory of any contra funding or of anything connected with the Saudis that I can remember now.

THE FACTS (ACCORDING TO UNDISCLOSED WEINBERGER NOTES)

March 13, 1985:

"Jack Vessey in office alone—after meeting [with others]—Bandar [Ambassador of Saudia Arabia] is giving $25 million to Contras—so all we need is non-lethal aid

Called Bud McFarlane—out; l.w. [left word]

Called Bud McFarlane—passed on to him Jack Vessey's report that Bandar is giving $25 million to Contras . . .

March 14, 1985: Weinberger diary notes:

Called Bud McFarlane—No further news on Saudis gifts to Contras

Also on March 15, 1985. CIA Deputy Director McMahon record of meeting with Weinberger, Deputy Secretary of Defense William Howard Taft IV, and CIA Director Casey:

"Secretary [Weinberger] stated that he had heard that Bandar, Ambassador of Saudi Arabia, had earmarked $25 million for the Contras, in $5 million increments."

Mr. LEVIN. These inconsistencies and the failure of Weinberger to turn over his notes despite direct congressional and independent counsel requests and his denial that he had any such notes formed the basis of Judge Walsh's indictment.

Mr. President, in reviewing these facts, I think the decision of Judge Walsh to indict is well within the parameters of prosecutorial discretion.

I'd like to address a number of other specific criticisms of Judge Walsh as well and I'll go through them one at a time.

ALLEGATIONS CONCERNING WALSH'S IRAN-CONTRA INQUIRY

First, Walsh's actions, particularly the indictment of Caspar Weinberger, were politically motivated.

Walsh is a life-long Republican, a former Federal judge, former head of the American Bar Association, and a respected professional who was chosen to serve by the Special Court. There is no evidence of partisanship in his background or selection.

The charge of politicization arose mainly from the indictment of former Defense Secretary Weinberger. In fact, had Walsh been after Weinberger for political reasons, he would have focused on him much earlier in the process. The reason Walsh didn't pursue the issue of Weinberger's notes sooner was because he was not considered a likely target.

The heart of Walsh's case against Weinberger is that Weinberger did not produce the voluminous notes he had when they were requested by Congress and by the IC, and that he wrongfully denied their existence. The fact that the notes were not acknowledged or produced—while President Reagan and Secretary Schultz produced theirs—cannot be denied.

The timing of the second Weinberger indictment on October 30, 1992—a few days before the Presidential election—was the result of decisions made by the court, not a calculated maneuver on Walsh's part. The first count in the first indictment was dismissed on September 29, 1992, already well into the election season. At an October 22 status call, the court refused an IC to postpone a November 2 deadline for production of documents in the case, and defense counsel asked for the supplemental indictment "as soon as we can get it."

Second, Walsh and his staff lacked prosecutorial experience.

Walsh himself had prosecutorial experience, as did much of his staff.

Third, the Walsh inquiry lasted too long and cost too much.

The length and cost of cases depends on their complexity, whether they are handled by an IC or a career prosecutor. Iran-Contra was a very complex case that involved a large number of people, several foreign countries, and many classified documents. It's natural that it has taken a long time.

Iran-Contra is comparable to other complex cases handled by the Justice Department—like Abscam and Ill Wind—in terms of time and costs.

Fourth, Walsh delegated too much to his assistants.

The record shows that Walsh was involved in all the major decisions. Given the complexity of the inquiry, some delegation was necessary.

Fifth, Walsh and his staff were careless with classified material and made unauthorized disclosures.

A huge volume of classified documents were involved in Iran-Contra, and Walsh's office took its obligation to safeguard them seriously. They admit to a few inadvertent lapses, but their overall security record is good. Walsh's office actually uncovered security lapses at other agencies more significant than the ones they committed.

Press charges about security breaches by Walsh's office have been exaggerated:

Walsh did not personally lose classified documents through negligence at an airport in California on his way back to the District of Columbia;

Walsh's office did not disclose classified documents as "exhibits" to its court filings.

Sixth, Walsh and his staff interviewed some witnesses excessively, up to 20 times.

This charge has been made by Weinberger's attorney. James Brosnahan, the prosecutor who joined Walsh's team when Craig Gillen stepped aside, flatly denies that it happened.

Seventh, some of the counts Walsh brought against Weinberger would never have been brought by a career prosecutor, especially (i) making a false statement on a form 302, and (ii) lying when he said "I don't remember."

While such charges may not be common, they are not unprecedented and some prosecutors have told us that they are not "out of the mainstream."

It's a common defense counsel tactic to charge the prosecutors are abusing their discretion.

Eighth, Walsh tried to coerce false testimony from Weinberger during the preindictment phase of the case.

The record suggests that all that went on was the usual negotiation process. Potential defendants are supposed to be persuaded to plead guilty by the strength of the prosecutor's case, and defendants are often pressured into testifying against others.

Ninth, Walsh tried to evade taxes in the District of Columbia and New York.

This allegation was included in a Wall Street Journal op-ed piece. Walsh flatly denies it.

Walsh maintains that he never established residency in the District of Columbia and so did not owe D.C. tax. Under D.C. law, however, if you spend more than 183 nights in the District of Columbia, you are deemed a domiciliary for income tax purposes. When he learned this in 1992, he paid income tax and interest for 1988, the only time he spent enough time here. He was granted a waiver of any penalty since the violation was not willful.

Walsh's tax dispute with New York involves whether certain retirement benefits are an annuity taxable in Oklahoma or a distribution of New York, taxable in New York. Walsh has paid the taxes under protest in New York and there has been no penalty.

Tenth, Walsh and his staff obtained excess reimbursement from the Government for travel and subsistence expenses, including first-class air travel and an apartment at the Watergate that he kept even when he was out of town.

The GAO found some overpayments of travel and subsistence expenses, but it waived repayment under the statutory rules since there was no evidence of fraud or wrongdoing on the employees' part. GAO found (i) some of the distributions were based on erroneous advice from government officials—at the AO; and (ii) in some respects, the statute is unclear about what expenses are permitted.

Walsh's office has conformed its practices to GAO's recommendations.

S. 24 remedies the ambiguities flagged by GAO.

Eleventh, Walsh missed the opportunity to proceed first against North and Poindexter by not taking up the Senate committee's offer to hold off in deference to his prosecutions.

The Senate committee offer to wait only if Walsh was going to bring a

quick indictment—for example, for shredding documents and obstruction—but Walsh concluded he needed to pursue a more time-consuming conspiracy charge.

The Senate did wait to allow the IC to "can" testimony before immunity was granted.

Twelfth, Walsh's conduct of a mock trial in preparation for the Weinberger case was overzealous and a waste of money.

In ordinary prosecutions, the Justice Department can use internal resources as a proxy for a mock trial—e.g., practicing aspects of its argument on nonlawyer staff members. ICs don't have this option.

The IC staffer who decided to use a mock trial came from a private trial practice where the use of mock trials is standard procedure.

Thirteenth, the jurisdiction given Walsh by the Special Court was overly broad.

Fashioning an appropriate statement of jurisdiction is within the Special Court's discretion.

Fourteenth, Walsh has been unprofessional in making comments to the press.

Walsh and his staff had little contact with the press until after the pardons, which present a prosecutor with a very unique circumstance.

And so, Mr. President, I believe it is important to have a fair record of the independent counsel investigation by Judge Walsh. In such a politically-charged investigation with so much at stake, it can be easier to attack the messenger in order to take public attention off the message. Iran-Contra was one of the most serious scandals affecting the conduct of foreign policy in our history. As the Iran-Contra Committee wrote in its executive summary of its report, "The full story of the Iran-Contra affair is complicated and, for this Nation, profoundly sad. * * * But enough is clear to demonstrate beyond doubt that fundamental processes of governance were disregarded and the rule of law was subverted."

1993 OMNIBUS CRIME BILL

Mr. FEINGOLD. I rise to express my opposition to the Violent Crime Control and Law Enforcement Act of 1993.

But before I begin to describe and express the concerns that I have with this bill, I would like to first praise the many provisions which I support, and commend the managers of this bill, the distinguished chairman and ranking member of the Judiciary Committee, for including them in the bill. Although I will not be able to support the bill as it currently stands. I respect the effort and amount of work they and their staffs have put into this package to assure its passage.

This bill, as amended, will now provide the funding necessary to place up to 100,000 additional police officers on the streets and highways of the United States. These additional men and women, some involved in community policing programs which are a proven effective crime deterrent in urban areas, will provide much needed relief to our Nation's urban, suburban, and rural communities' crime prevention efforts and will come as welcome reinforcements to the law enforcement officials who already serve and protect the public.

As far as I am concerned, this is one of the best components of the package. Additional law enforcement officers is one kind of help the American people want and need. It is about time that we provide meaningful crime prevention tools to our Nation's State and local governments rather than tough rhetoric coupled with the addition of offense after offense to an all but meaningless list of Federal crimes which will affect only a tiny fraction of street crimes. As the distinguished majority leader and a few others have pointed out on the floor urging this debate, the violent street crime that we are all concerned about is for the most part the responsibility of State and local law enforcement agencies. Additional police officers will definitely help in these efforts.

Local law enforcement efforts will also be enhanced by the provisions included in the rural drug enforcement title of the bill. The rural drug law enforcement title would authorize $50,000,000 for rural law enforcement agencies and their drug enforcement operations and training, and would establish drug task forces in rural areas of our Nation involving both Federal, State, and local law enforcement officials. These task forces would provide for greater cooperation and intelligence gathering capabilities in local and State law enforcement drug control efforts.

As I mentioned on the floor last week when describing the State of Wisconsin's State and local law enforcement efforts at controlling the new drug Methcathinone, I was encouraged to see that the distinguished managers of the bill had recognized the inherent difficulties involved in rural, State, and local drug law enforcement efforts by including these provisions and the precursor Chemicals Act in this bill as well.

I strongly support other parts of the package which assist State and local government's efforts in the prevention of youth crime as well, such as the funding to the States for enhanced school security measures and crime prevention programs and the youth gang enforcement and prevention initiatives.

In my view, these are the types of measures that will best alleviate the street crime which the American people are demanding action to be taken on.

Other provisions and concepts that I support are the bill's requirement of much-needed drug treatment for prisoners, a proven tool at reducing future drug use and its related crimes, and the bill's use of punishment alternatives to mandatory prison incarceration for nonviolent drug users, to name a few.

It is because of the merits of these and other provisions that I supported the funding of this anticrime package by voting for the amendment offered by the senior Senator from West Virginia which ensured the funding of this bill and provided the money necessary to place an additional 40,000 police officers on the streets as well as the construction of more prison space.

I voted for this $22 billion in funding because I recognize that we must act now to assist State and local governments help curb the growing violence that is plaguing our Nation.

It is unfortunate that we had to include symbolic measures on top of these real solutions to make the bill more compatible for sound-bite material.

Now I understand that the chairman of the Judiciary Committee has a job to do—get a crime bill passed. And the distinguished Senator from Delaware has probably best described the mood of this Chamber and its get-tough attitude when he speculated that if an amendment were proposed, barbwiring the ankles of anyone who jaywalks, it would pass.

But is it really necessary to expand the death penalty to at least 47 new offenses as the original bill did—not to mention those added by amendment?

It is vital that our Nation comes to grips with the rise in violent crime, and find solutions that will curb the growing violence that is gripping our Nation's communities. This rise in violent crime is disturbing and deserves our undivided attention and concerted action to seek and enact meaningful solutions—symbolic measures such as the death penalty do nothing more than divert our attention away from the real crime prevention efforts.

Debate on capital punishment has shown us the inherent flaws in the implementation of the death penalty. Not only does it increase the potential for mistakes, and ultimately the execution of an innocent individual—in my view one of the most tragic acts a government can take, but it also is carried out in a discriminatory fashion. The death penalty also has no proven deterrent effect and in fact only adds to a society's violence by teaching us, and especially our children, that the way to deal with violence and murder is with more death.

As I have stated several times during this bill's debate, I oppose the death penalty. And due to its inclusion and substantial expansion, I had already decided to vote against this bill even though it contains some very important crime prevention measures. But

any doubt regarding this decision was completely wiped away when the Senate adopted the amendment offered by the junior Senator from New York which would allow the Federal prosecution of gun-related crimes that are presently under the jurisdiction of State law and local prosecutors.

It is one thing for us to beat our chests and get tough on crime by expanding the Federal death penalty for Federal crimes—for that is what we are all elected to do—work on Federal legislation—but to usurp the rights of State legislators that have decided in good conscience against imposing the death penalty by enacting legislation that would override State law and allow local prosecutors to decide who should be charged with the death penalty under Federal law rather than State law is not only going too far—it is an outrage.

As I stated during the debate of that amendment on the floor, I resent the idea that this body would try to overturn—and now has overturned—the will of my State of Wisconsin and its proud tradition of not having the death penalty on its books—a tradition of 140 years—longer than any other State and reaffirmed just months ago by the State legislature.

Previously I briefly mentioned the problems we have now in implementing the death penalty. The implementation of the death penalty has historically been tainted with racial disparities. Study after study including a 1990 GAO report have confirmed this. And even current Justice Department implementation of the drug kingpin law has been criticized for its racial bias. If these problems exist now—I cannot even begin to think of how these racial disparities will be exacerbated when a State or locally elected prosecutor is the one who decides who should and who should not be tried for a capital offense under Federal law.

As I previously stated, I strongly support many of the provisions included in this package and wish that the bill only contained these and other real crime prevention tools so that I could maintain the State of Wisconsin's fine tradition of seeking real solutions to crime problems rather than resort to symbolic solutions like the death penalty.

I can only hope that the conference report will not include this expansion of the death penalty and some of these other provisions which do nothing to but make us sound tough on crime, such as the hate crimes sentencing enhancement, which in my view leads us one step further toward the curtailment of one of our Nation's most treasured assets, the freedom of expression. The amendment which was passed which reversed the long standing legal principle of not admitting evidence of similar conduct to be offered against a defendant embodied in the Federal rules of evidence is yet another provision which sounds great at first—until you sit down and analyze its ramifications. Unfortunately, these are not the only flawed provisions which we have included in our rush to get an anticrime bill passed.

Although this has been the first crime bill debate that I have been involved with as a Member of this distinguished body, I have noticed that these crime bills that are passed including the present one are progressively tougher and tougher on crime. Yet from all indications, including the uniform crime reports, and most certainly by all the tragic detailed accounts depicted by various Members here on the floor, violent crime has not gone down—in fact it has tragically been on the rise.

So what is the solution? I certainly do not think it is the death penalty and its further expansion. And after we pass all of the sentences we have increased and have federalized almost every violent offense we can think of, what will we do if the next uniform crime report comes out and it shows us that violent crime is still on the rise and even more Americans than already now do live in fear?

If these severe measures that we will pass today are not adequate enough to deal with the violence in our society—what is?

It is in this vein that I urge my colleagues to explore other solutions in the upcoming years so that we can get at the root causes of this disturbing violence. Although it seems that the words root causes are somewhat of a taboo these days, this bill does authorize several commissions that will look into the seeds of crime. Although I realize that there will probably always be some type of crime—no matter what our society does, let's at least carefully examine the recommendations made by these commissions and try and work together on meaningful solutions to at least bring crime down to a manageable level. I look forward to working with each and every Member toward this goal.

GUN DEALER LICENSING AMENDMENT

Mr. LAUTENBERG. Mr. President, I rise to express my strong support for the amendment proposed by the Senator from Illinois, [Mr. SIMON] that will strengthen Federal regulation of firearm dealers. I am proud to be a cosponsor of the amendment, and to have worked extensively with Senator SIMON and other interested Senators on this issue.

Mr. President, the current system of regulating firearm dealers is a joke. A bad joke.

There now are more federally licensed firearm dealers than gas stations in this country. Some 287,000 now have licenses, and the number is growing rapidly.

Yet only about a quarter of these dealers, Mr. President, are operating legitimate storefront businesses. The rest, operating out of their homes, are known as kitchen table dealers. Most of these people obtain licenses in order to obtain guns tax-free by mail at wholesale prices, and to evade waiting periods, gun purchase limits, and other firearm laws.

Many firearms that are used in crimes are traceable to these kitchen table dealers. There are numerous examples of dealers who have provided huge numbers of guns to drug dealers, gang members, gun traffickers, terrorists, and other criminals.

To provide one illustration, consider the case of David Taylor, a resident of a South Bronx housing project. Taylor reportedly had a long criminal record that included an indictment for murder. Nevertheless, he was able to obtain a Federal firearm dealer license. In less than 1 year, Taylor bought more than 500 guns from wholesalers in other States. The guns were delivered by UPS in batches of up to 100 at a time. Taylor then sold the guns to drug dealers and other criminals.

This is not an unusual case, Mr. President. It is typical. And it suggests the importance of tightening up our regulatory system, which is far too loose.

Mr. President, becoming a kitchen table dealer is easy, quick and very inexpensive. All you have to do is fill out a form and send in $30, which covers the $10 annual fee for 3 years. There is no hassle, no fuss, and, most likely, no ATF agent will call.

That is generally not ATF's fault, either. The Bureau has simply lacked the resources to check out applicants, or to investigate many licensees. While the number of firearm dealers has increased by about 65 percent since 1980, the number of ATF investigators assigned to inspect these dealers has been reduced by 13 percent. As a result, fewer than 10 percent of dealer applicants undergo an actual inspection. And then, once licensed, the average dealer is audited only once every 20 years.

Clearly, Mr. President, the Bureau needs more agents and more funding to better police the system. And the best way to both provide those resources, and to limit the Bureau's burden, is to raise the licensing fee.

Mr. President, it is bad enough that innocent Americans are being placed at risk because the system of licensing firearm dealers is so lax. But adding insult to injury, the current $10 annual licensing fee does not even come close to paying for the system. In effect, hard working taxpayers are being forced to subsidize firearm dealers. It is an outrage.

Mr. President, a licensing fee should be sufficient to at least pay for the

costs of administering the regulatory system. And, in my view, the social costs of dealing in firearms—such as the costs of crime and of health care for victims of gun violence—also should be factored in.

Unfortunately, Mr. President, the Simon amendment proposed to this crime bill does not include an increase in the fee. I am disappointed by that, and hope we will be able to gain support for a significant increase in the future.

The amendment does, however, contain several valuable measures.

For example, the amendment will ensure that license recipients are in compliance with State and local laws. Strange as it may seem, ATF now is issuing licenses even in cases where the Bureau expects that the licensee will operate in violation of State or local law. That does not make sense.

The amendment also will make it easier for ATF to complete a thorough background check, by extending from 45 to 60 days the period during which ATF must act on a license application.

The amendment also will require applicants for a dealer license to submit their fingerprints and a photograph. This should help ATF to better monitor licensees, and may discourage some individuals from seeking a license to pursue illegal ends.

Other provisions of the amendment will require dealers to report the theft or loss of a firearm within 48 hours of being discovered, and to respond to requests from ATF for information in a dealer's record within 24 hours. These measures will help ATF conduct timely and effective criminal investigations.

Mr. President, tightening the regulation of firearm dealers can make a real difference in the battle against gun violence. But, clearly, we have to do more. I am very pleased that this bill also includes measures to ban the manufacture of assault weapons and to prohibit the possession of handguns by juveniles. And I am hopeful that we will soon be approving the Brady bill,to establish a waiting period for handgun purchases.

Senator SIMON and I also have introduced legislation to limit handgun sales to one per month, to reduce interstate gun running. And we have proposed to close what I call the "guns for felons loopholes," Federal laws which allow even convicted violent felons to possess firearms. I will continue to push these proposals aggressively in the future.

In closing, let me again congratulate Senator SIMON for his outstanding leadership in this area. He and his excellent staff have devoted a great deal of time and effort to improving the regulation of firearm dealers, and they deserve great credit for their work. I am pleased to have had the opportunity to work with them on the initiative, and I look forward to continuing our joint efforts to raise the licensing fees for dealers, and to enact other measures to combat gun violence.

EXPANSION OF THE CRIME BILL

Mr. PELL. Mr. President, I would like to briefly outline the reasons why I felt I could not support the manner in which the crime bill was expanded when the Senate considered an agreement covering a package of core issues on November 4. First, I would like to state that there is much contained in this package that I support. I applaud the overdue and necessary addition of police officers and the efforts aided at providing post conviction supervision and treatment through drug courts to young, first-time offenders. I also am pleased that the Violence Against Women Act has been funded, a measure which combats the horrible and tragic problem of domestic violence and of which I am a cosponsor.

But in weighing the pros and cons of the entire amendment which placed such heavy emphasis on increasing incarceration space and incarceration time, I felt simply that a major piece of the crime-solving puzzle was left out. If our battle against the truly shocking and abhorrent level of crime in our society is to be successful, we must seriously address the root causes of crime such as poverty, lack of education, and lack of opportunity. We must also continue to explore serious efforts at rehabilitation of nonviolent offenders. This amendment failed to go enough in these areas.

We already have the highest incarceration rate of any developed country in the world. Indeed, over the last 10 years, incarceration has increased 73 percent but crime still spirals out of control. Make no mistake: I do believe that incarceration is appropriate and the only alternative for repeat violent offenders. The heinous acts occurring daily on our streets by previously convicted violent criminals who have been released early must stop and if it means keeping them in prison, we must do so. But we are also locking up thousands and thousands of nonviolent, first-time offenders at great cost without providing the rehabilitation and education that has been shown to work for such individuals. It costs more per year to send a person to jail than it does to educate one at Yale. Certainly any crime control measure which contemplates spending such extraordinary amounts of money on prison construction must also take more seriously the efforts to combat the root cases of crime and providing the opportunity for rehabilitation services for those who are likely to respond to it.

I look forward to continuing the work on this and other crime control measures. I am pleased that the Senate is moving forward on a comprehensive bill to finally address this tragic problem in our society. I regret not being able to support this particular amendment to this bill but am confident that the final package will be one that truly begins to make a serious dent in our Nation's crime problem.

MOTOR VEHICLE THEFT PROVISIONS

Mr. LAUTENBERG. Mr. President, the crime bill before us includes legislation I authored, the Motor Vehicle Theft Prevention Act, to address the growing national problem of motor vehicle theft.

The Motor Vehicle Theft Prevention Act, or MVTPA, would establish a national framework for State and local vehicle theft prevention programs. The legislation is based on programs operating in various jurisdictions around the country, typically called combat auto theft [CAT] or help end auto theft [HEAT].

Under these programs, a vehicle owner may voluntarily sign a form stating that his or her vehicle is not normally operated under certain conditions, typically between the hours of 1 a.m. and 5 a.m. Decals are then affixed to the vehicle. If a law enforcement officer later sees the vehicle being driven under the specified conditions, the decals provide grounds for establishing the reasonable suspicion necessary to stop the vehicle and make appropriate inquiries.

The MVTPA directs the Attorney General to develop a uniform design for decals and consent forms, so that the program can be taken nationwide. Participation will be entirely voluntary on the part of States, localities, and individual vehicle owners.

Mr. President, the problem of auto theft has increased substantially in recent years. According to the Uniform Crime Report, between 1984 and 1991 motor vehicle theft increased by 61 percent, to almost 1.7 million offenses per year. Around the country, there is an average of one motor vehicle theft every 19 seconds. The total value of stolen vehicles now exceeds $8 billion annually.

The vehicle theft problem is particularly serious in my state of New Jersey. Newark, NJ recently has had the highest rate of auto theft in the Nation. Several New Jersey cities also share the dubious distinction of being in the top ten. In addition, a large number of stolen cars are being exported from New Jersey's ports.

There are many dimensions to the vehicle theft problem. To a large extent, stealing cars has developed into a full-fledged industry, run by professionals. Criminal conspirators are stealing cars, sometimes after a buyer gives them an order for a particular part, and selling the parts on the black market. Chop shops are taking in stolen cars, breaking them down, and

making large profits. And increasingly, organized rings of criminals are exporting cars abroad, where they may be worth three times more than in the United States.

In many parts of the country, the problem of auto theft is primarily one of juvenile crime. Children, some not even teenagers, are stealing cars at an appalling rate. They start young—sometimes they're barely tall enough to see over the steering wheel. Unfortunately, it doesn't take long for them to become experts, able to enter and steal a car in a matter of seconds.

Beyond the costs and inconvenience to owners, and the higher insurance rates that result, auto theft is also a highway safety problem. Auto thieves, particularly juveniles, often drive recklessly, sometimes to avoid the police, and that leads to death, injuries, and destruction of property.

Clearly, Mr. President, there's no magic formula for eliminating auto theft. Much of the responsibility rests with local and State law enforcement agencies. But auto theft is a crime with a clear interstate dimension. So the Federal Government also has an important role.

I am pleased that last year the Congress approved the Anti-Car Theft Act of 1992, legislation which I strongly supported and which included several proposals that I had sponsored. Among other things, the new law established federal criminal penalties for car jacking, authorized grants for anticar theft committees, tightened export controls, and strengthened the vehicle parts marking program.

The new law has sent a strong message to prospective car thieves, and I am hopeful that it will help reduce the incidence of this crime. However, more needs to be done. While the MVTPA is no cure-all, it can make an important contribution.

The concept for the MVTPA was first developed in New York City in the mid-1980's by State Senator Leonard Stavisky. New York's program allows law enforcement officials to stop the vehicles of participating owners if the vehicles are being operated between the hours of 1 a.m. and 5 a.m., the period during which most thefts are believed to occur. To participate, an owner must sign a consent form stating that the car is not normally driven during those hours. The owner then gets two decals to place on the rear and side windows, which tell the police that the car may be stopped during the designated hours. Participation is entirely voluntary.

It's a simple, inexpensive and innovative concept. And by all indications it's been extraordinarily successful.

In New York City, over 70,000 vehicles have participated in the program. In 1990, only 60 were stolen. Cars without decals were about 65 times more likely to be lost to theft.

The success of the program in New York has led to similar success stories around the country. Over 75 jurisdictions have adopted the program, including Dallas, Houston, Philadelphia, St. Louis, St. Paul, and San Diego. New Jersey and New York have programs that operate on a state-wide basis. The idea has even been adopted in England, Canada, and Australia.

As a testament to the program's effectiveness, several insurance companies have voluntarily reduced the insurance rates for vehicles that participate in the program.

As I have explained, Mr. President, the Motor Vehicle Theft Prevention Act directs the Attorney General to develop a uniform design for decals and consent forms, so that the program can be taken nationwide.

There are several benefits of establishing a national program. First, it will increase the use of this approach, by increasing its visibility and making it more practical and economical for jurisdictions to participate. Although the idea is spreading rapidly, many local officials remain unfamiliar with the concept. At the same time, many officials, particularly those in small towns, are interested in the program, but do not believe it is cost effective to develop and produce a decal when only a small number may be needed. A uniform decal design would encourage mass production of the decals and consent forms, which would enable many more municipalities, particularly smaller towns, to participate.

Greater participation in the program should mean reduced thefts, which also means saved lives, reduced insurance costs, and lower costs of enforcement to the law enforcement and judicial systems.

The second primary benefit of establishing a national framework for the program is that it will help law enforcement officials apprehend thieves who drive stolen cars across state or city lines. Currently, if a car is stolen in one town and driven into another, law enforcement officials in the second town may be unfamiliar with the decals used in the first town and may not be in a position to lawfully stop the car. A uniform design will eliminate this problem.

Mr. President, some have asked how a program like this works, since professional auto thieves should be able, with some work, to scratch off the decals. Most officials I have talked with believe that the program works because time is of the essence to auto thieves, who typically will enter a car and drive away in a matter of seconds. Many cars are stolen in exposed areas, such as shopping center parking lots. So thieves feel they cannot afford the time to get into a car, climb into the back seat, and scratch off two decals. Also, most decals are manufactured so as to be very difficult to dispose of, and many leave a mark even if they are scratched off.

The bottom line, in any case, is that the program works. The results speak for themselves. And under this bill, if State or local officials are skeptical about the program's likely effectiveness in their jurisdiction, they are free not to participate.

I would also note, Mr. President, that this type of program is entirely consistent with the Constitution's fourth amendment protection against unreasonable searches and seizures. Under well established constitutional law, the police may stop a vehicle if an officer has a reasonable suspicion of criminal activity. Under this bill, a law enforcement officer will be allowed to stop a car only if the car is being operated under conditions that create such a reasonable suspicion. It is also important to again emphasize that participation in the program is entirely voluntary.

Mr. President, the problem of auto theft is of great concern to law enforcement officials, the insurance industry and highway safety advocates. This proposal is supported by the Fraternal Order of Police, the Alliance of American Insurers, and Advocates for Highway and Auto Safety.

I also want to express my appreciation to Senator BIDEN for his support and assistance on the Motor Vehicle Theft Prevention Act.

Mr. President, I have prepared several questions and answers about the Motor Vehicle Theft Prevention Act that will help explain the legislation in greater detail. I ask unanimous consent that they be printed in the RECORD at this point, along with other materials related to the legislation.

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

QUESTIONS AND ANSWERS ON THE MOTOR VEHICLE THEFT PREVENTION ACT

Isn't it wrong to allow car owners to waive the constitutional rights of passengers, or people to whom they might lend their car?

According to well-established constitutional law, a person may consent to be searched under circumstances in which the search would otherwise be unconstitutional, so long as the consent is given voluntarily. However, a law enforcement officer may stop a vehicle without consent, if the officer has "reasonable suspicion" of criminal activity.

Vehicles may be stopped under the Motor Vehicle Theft Prevention Act (MVTPA) not simply because the owner has consented to be stopped, but also because the existence of a decal on a vehicle being driven under the specified conditions provides grounds for establishing a "reasonable suspicion" of criminal activity.

The "reasonable suspicion" arises because, in order to receive a decal, the owner must sign a certification establishing that: 1) the vehicle is not normally driven under the specified conditions, and 2) "the operation of the vehicle under those conditions would provide sufficient grounds for a prudent law enforcement officer to reasonably believe that the vehicle was not being operated by or

with the consent of the owner". Therefore, if the vehicle has such a decal, and is being driven under those circumstances, there is an objective, reasonable basis for a police officer to suspect that the car is not being driven with the owner's consent.

To illustrate the point, the decal might be considered the functional equivalent of a large highly visible placard attached to the rear of a car that says: "If this car is being driven between 1 and 5 am, it probably has been stolen." If a police officer sees such a car being driven at 2 a.m. he or she will be entirely justified (perhaps even morally obligated) to stop the car and see if the car has been stolen. In fact, in the case of a decal under the Motor Vehicle Theft Prevention Act, the officer would have an even stronger basis for stopping a vehicle, since decals may be affixed to a vehicle only if the owner personally has signed a written statement certifying that the car is not operated under the specified conditions. In either case, the fact that a passenger has not personally consented to a stop, or may not have seen the placard or decal when he or she entered the car, does not affect a police officer's right to stop the vehicle.

Moreover, under the terms of the legislation, the decal design must include an express statement explaining that the vehicle may be stopped if operated under the specified conditions. The decal must be "highly visible". So, although this is not required by the Constitution, passengers (and drivers other than the owner) will get notice of the possibility that the car may be stopped under certain conditions.

How can this type of program be successful when thieves can just peel off the decals?

The primary goal of the program is not to apprehend auto thieves, but to protect vehicle owners from having their car stolen in the first place. The effectiveness of the program as a deterrent is well established.

In 1990, for example, of 71,000 vehicles participating in the C.A.T. program in New York City, only 60 were stolen. Vehicles without decals were 65 times more likely to be stolen. Many of the other 75-plus jurisdictions that have these programs [e.g. St. Paul, St. Louis, Dallas, Houston, Trenton] report similar success.

The demonstrated effectiveness of the program explains why several private insurance companies offer discounts to owners who participate. It also explains why the legislation is endorsed by the Alliance of American Insurers and State Farm, the nation's largest auto insurer, as well as the National Fraternal Order of Police and Advocates for Highway and Auto Safety. In addition, it explains why the concept is spreading so rapidly around the U.S. and abroad.

Why does the program work when professional thieves are able to remove decals? First, decals are produced so as to be very difficult to remove. While professional thieves are able to do so, most cannot afford to spend the time it takes to get into the back seat and scratch the decals off. Vehicles typically are stolen in a matter of seconds. From the perspective of a prospective thief, who needs to escape as soon as possible, the additional time it takes to scratch off the decals makes such a vehicle an unattractive target.

In any case, the bill is entirely voluntary. States and municipalities need not participate if they don't think the program will work. And even in States/municipalities that establish programs, vehicle owners who don't think the decals will help are also entirely free not to participate.

Who will produce the decals?

The legislation does not require the federal government to produce the decals. The Attorney General would have flexibility on this matter, but one option would be to allow private firms to produce the decals and then market them to municipalities and States. If the Attorney General so chose, I would urge her to consider the establishment of quality standards, under her general authority to promulgate regulations under the legislation.

For example, the Attorney General could require manufacturers to get approval for their decals before they are used by participating jurisdictions. This would ensure that decals used accurately reflect the Attorney General's design, and that the appearance of the decals produced by different manufacturers remains uniform.

Who would distribute the decals and consent forms at the State and local level?

That's left up to the State and local governments under the legislation, though nothing precludes the Attorney General from promulgating regulations on this matter, if necessary. In New York, administration is handled by police departments.

Would states and localities be allowed, or required, to charge a fee to participants in the consent-to-stop program?

States and localities may charge fees, but they are not required to do so. Many jurisdictions may be able to fund the program from private sector donations.

How can we be sure that law enforcement officials will know what the decals mean?

As a condition of participating in the program, a State or locality must agree to take reasonable steps to ensure that law enforcement officials throughout the State or locality are familiar with the program, and with the conditions under which motor vehicles may be stopped under the program.

Can the Attorney General establish more than one set of conditions under which vehicles may be stopped?

Yes. If the Attorney General does so, she must establish separate decal designs and consent forms for each set of conditions. For example, she might use different colored decals to designate different sets of conditions.

Typically, existing programs are based on the use of vehicles during late night hours. It may be best to at least start the program with only one set of conditions, such as driving during the hours between 1 AM and 5 AM. However, in drafting the legislation, I wanted to provide the Attorney General with the flexibility to establish other types of conditions, if they make sense.

For example, it may be appropriate to establish a decal design for vehicles that are not normally operated during business hours. I understand that a program operating in San Francisco in conjunction with the BART transit system operates during daytime hours—to protect owners who commute to work and who park in mass transit parking lots during the day.

Also, since many senior citizens and others do not drive on fast-moving highways, some have suggested that the Attorney General might consider a decal design that allows a vehicle to be stopped if operated on such a highway, or above a certain speed. Another possibility would be to establish a design indicating that the vehicle is not normally operated outside of a given geographical area, such as a county or state. Such a design could include a space for printing the name of the prescribed normal driving area.

Having raised these possibilities, I would urge the Attorney General to be cautious. Before adopting a wide variety of conditions, I would hope that she would take reasonable steps to ensure sufficient interest among vehicle owners. A plethora of conditions could prove needlessly confusing to law enforcement officers.

Can owners take decals off their car if they want to?

Yes. They need not inform anyone or do anything else, although conceivably the Attorney General, or a State or local government, might establish such a requirement.

What happens when you sell your car?

In New York, you must take the decals off when you sell your car. Under the legislation, the Attorney General would have the authority to promulgate regulations requiring owners to remove decals upon sale or transfer of the vehicle.

What if some kids, as a prank, get some counterfeit decals and start putting them on cars. And then someone driving in the car is stopped, without realizing that a decal has been put on his car. Wouldn't the stop violate the driver's constitutional rights, since he has not consented to be stopped?

No. The basis of the stop would be the officer's reasonable suspicion of unlawful activity, not the driver's consent. The presence of the decal will give an officer reasonable suspicion to stop the car (assuming it is being driven under the specified conditions). However, the legislation includes a provision that makes it illegal to affix a theft prevention decal to a motor vehicle unless authorized to so so under the law. The maximum penalty is $1000.

Once an officer has stopped the car, what kind of questions can he or she ask?

The legislation doesn't say anything about the questions that a police officer asks once the car has been stopped. Police will ask the same type of questions that an officer would ask now if the officer stops a car because of a suspicion that it has been stolen.

For example, the officer might ask the driver for his license and registration forms. If the driver says he doesn't have them, he can ask further questions like: 1) where do you live?, 2) how long have you owned the car?, 3) from whom did you buy the car?, 4) how much did you pay for the car?, 5) what model year is the car?

Most police can determine through such questions whether the driver is really the owner, or has the consent of the owner. Also, the police can call their office, which can check the National Crime Information Center (NCIC) computer data bank, which maintains records of cars reported stolen.

How long can an officer hold a car to ask such questions?

The legislation doesn't change the rules about how long the police can hold a car that has been stopped because they suspect it has been stolen. Generally, the stop can only be for a few minutes, unless the police, through questions or otherwise, determine that there's probable cause to detain the person further, or make an arrest.

Does the legislation seek to establish a new form of "reasonable suspicion"?

No, Congress may not change constitutional law, and this legislation does not seek to do so. The bill operates entirely within the existing structure of Fourth Amendment doctrine. It does not change the meaning of "reasonable suspicion"; it works by establishing the actual conditions that give rise to a "reasonable suspicion", as that term is currently defined.

What if a police officer sees a vehicle with a decal being driven under the specified conditions, but happens to know that the car is being

driven by the owner and the officer does not have a reasonable suspicion of criminal activity; does the legislation authorize the officer to stop the vehicle simply on the basis of the decal?

No. Under the bill's language, the existence of a decal on a vehicle provides a basis for a stop-and-question procedure "to determine whether the vehicle is being operated by or with the permission of the owner". Signing a consent form constitutes consent to be stopped for this purpose, not to be stopped on an arbitrary basis. Where an officer already knows or believes that the car is being driven by or with the permission of the owner, and has no reasonable suspicion of criminal activity, the legislation does not authorize a stop.

Would police officers be allowed to stop a vehicle on the basis of the driver's race, gender or age?

No. The legislation makes clear that vehicles may not be stopped on the basis of race, color, national origin, gender or age. Stops would be allowed only on the basis of a reasonable suspicion that a vehicle has been stolen.

Are vehicle owners likely to be coerced by police officers to participate in the program?

No. I am not aware of any evidence that this has been a problem in the cities that have adopted CAT or HEAT programs, nor is there any reason to believe that police officers would want to coerce citizens to participate. Moreover, the legislation contains safeguards to ensure that owners understand that participation is entirely voluntary. Under the bill, before obtaining a program decal, an owner must sign a consent form that clearly states that participation in the program is voluntary.

What happens in those jurisdictions that already have consent-to-stop programs underway? Do they have to change their decals to conform to the uniform national decal design?

No, they can keep using their existing decals.

The legislation does not preempt existing State or local programs, nor does it require States or localities to adopt the uniform decal designs.

[From the New York Times, Oct. 2, 1988]

ANTIDOTE FOR AUTO THEFT

An innovative, inexpensive New York City program promises genuine relief for the epidemic of automobile thefts in American cities.

Last year, Americans reported 1.3 million stolen cars, an increase of 23 percent since 1983. Most were stolen during early morning hours, and a program called Combat Automobile Theft, conceived two years ago by State Senator Leonard Stavisky of Queens, seeks to take advantage of that fact. Car owners sign a consent form that allows the police to stop the vehicle if it's being driven between the hours of 1 A.M. and 5 A.M. Bright yellow decals affixed to the car's windows put thieves on notice that the owner has enrolled.

Normally, police are prohibited under the Fourth Amendment from stopping a car without cause. Some civil libertarians question whether a car's owner can waive the privacy rights of someone else who might drive the car. But a thief would have no privacy claim, and the owner's statement creates a reasonable suspicion that a crime is in progress.

The program began in 1986 in two Queens precincts and now has been expanded to include 28 precincts citywide. The decals have proved a remarkably successful deterrent. Of the 17,871 cars enrolled in the program citywide, only 18 were stolen in two years—a rate dramatically below the city average.

The Combat Auto Theft program isn't the full answer to the nation's rising auto theft problem. But it does afford a simple, creative way for car owners to better their odds.

FRATERNAL ORDER OF POLICE, NATIONAL LEGISLATIVE COMMITTEE,
Stafford, VA, June 1991.

Hon. FRANK LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: It is with great pleasure that, on behalf of Dewey Stokes, National president of the 230,000 member Fraternal Order of Police, I write to you to endorse, and pledge our support for your "Motor Vehicle Theft Prevention Act".

Motor vehicle theft is a nationwide problem that effects a wide range of people, the insurance industry and the law enforcement community.

On an average, there is probably a motor vehicle stolen every minute of every day in this country. Every one of these thefts requires that a police officer take time away from protecting the citizens of this Country from the more serious crimes of violence and drug abuse. It also has a serious effect on the insurance industry. But, most importantly it is devastating to the victim; the sudden loss of possibly their only means of transportation to and from work and caring for family members.

We applaud your efforts and make ourselves available to assist in the passage of this important piece of legislation.

Yours truly,

ROBERT J. ROBBINS,
Legislative Committee Member.

ADVOCATES FOR HIGHWAY,
AND AUTO SAFETY,
Washington, DC, June 14, 1991.

Hon. FRANK LAUTENBERG,
Hart Senate Office Building,
U.S. Senate, Washington, DC.

DEAR SENATOR LAUTENBERG: Advocates is pleased to see your efforts to address the major national problem of auto theft through S. 1248, the Motor Vehicle Theft Prevention Act. According to the 1989 Uniform Crime Report, every 20 seconds, a car is stolen in the United States. Many are never recovered; they are either shipped overseas or carved up in "chop shops" and sold for parts and scrap metal. The annual cost to Americans of auto theft is more than $8 billion.

Some effective steps to stem such thefts such as marking automobile parts with the VIN (Vehicle Identification Number) have been taken, but much more can be done. One program to reduce auto theft which has been successful in a number of communities allows vehicle owners to authorize law enforcement officials to stop their vehicles when operated during late night hours.

Advocates supports the adoption of such programs, and endorses S. 1248, which will provide uniformity in these programs. Proposing guidelines for such programs, is an appropriate Federal role. Greater uniformity will lead to greater effectiveness of these efforts, and may also lead to wider adoption of these auto theft prevention programs.

We commend you for your vision in these efforts, and we look forward to working with you to assure the passage of this bill.

Sincerely,

JUDITH LEE STONE,
Executive Director.

ALLIANCE OF AMERICAN INSURERS,
Washington, DC, April 26, 1991.

Hon. FRANK R. LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: The Alliance of American Insurers is a national trade association representing 170 property and casualty insurers. As such, we are quite concerned about automobile theft and fully support your legislation, the Motor Vehicle Theft Prevention Act (MVTPA).

Several cities have adopted "consent-to-stop" programs, whereby the vehicle owner agrees that his car can be stopped if it is being operated during certain times or by certain age groups. These programs are showing significant success and should be encouraged in other jurisdictions. Your legislation will aid the formation of these programs and will provide some uniformity as the list of participating jurisdictions increases.

We appreciate the opportunity to participate in discussions on this and other auto issues. If we can be of any assistance, please let me know.

Sincerely,

SARA F. CLARY,
Assistant Vice President,
Federal Affairs.

STATE FARM
INSURANCE COMPANIES,
Bloomington, IL, May 31, 1991.

Hon. FRANK R. LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: As the nation's largest automobile insurer, insuring more than 33 million automobiles, we have a deep and continuing concern about automobile theft. We have been actively involved at the local, state and national level in programs to combat automobile theft. Automobile theft is a multi-faceted problem which calls for a number of effective approaches to make significant headway in battling this serious problem.

We strongly support your legislation, the Motor Vehicle Theft Prevention Act, which will encourage development of programs which will have a significant positive impact on the problem of auto theft. The "consent-to-stop" programs which will be encouraged by this legislation have been used in a number of jurisdictions with positive results. Your legislation will add uniformity to these programs and encourage their adoption in other jurisdictions.

We would be happy to work with you and your staff on this legislation and other auto issues. Let us know if we can be of any assistance to you on your legislation.

Sincerely,

HERMAN BRANDAU.

[From the Wall Street Journal, Mar. 7, 1989]

CAR INSURERS TO CUT RATES FOR CUSTOMERS IN ANTI-THEFT EFFORT

(By Robin G. Blumenthal)

NEW YORK.—Units of Fireman's Fund Corp. and of Travelers Corp. announced a plan a give discounts to policy holders who register their vehicles in a program to combat auto theft.

The plan, outlined at a news conference with representatives of the companies: state Sen. Leonard P. Stavisky, a Queens, N.Y., *Democrat: and the Automobile Club of New* York would offer a 5% reduction on comprehensive automobile coverage to participants in the Combat Auto Theft, or CAT, program that Sen. Stavisky started more than two years ago.

Representatives of Fireman's Fund Insurance Cos., of Novato, Calif., and Travelers Cos., of Hartford, Conn., estimated an average savings to participating policy holders of about $20 to $30 a year on their comprehensive auto coverage, which costs an average of about $300 a year.

CNA Insurance Cos. of Chicago, a unit of Loews Corp., also is participating in the program.

Under the CAT program, car owners sign an informed consent statement issued by the police department that indicates their vehicles aren't usually used between 1 a.m. and 5 a.m., when officials say most thefts occurs. Decals are placed on the rear of the vehicle, so that officers spotting such a car in operation during those hours may stop the driver and request to see his license and registration.

According to Sen. Stavisky, "automobiles not registered in the program are 40 times more likely to be stolen than those that bear the police decals." He likened parts of his constituent area in northeastern Queens to a "Ho Chi Minn trail for chop shops," which parts of stolen cars are stripped and later resold.

In addition to the New York metropolitan area, the CAT program is available in Philadelphia, Yonkers, N.Y., and East Brunswick, N.J. Scotland Yard also plans to begin a pilot project in the greatest London area. Sen. Stavisky said similar legislation is being introduced in California, New Jersey and Florida.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1994

Mr. LIEBERMAN. Mr. President, as the Senate considers passage of the National Defense Authorization Act for fiscal year 1994, I would like to elaborate on one particular provision of the conference report accompanying the act. The conferees agreed that the Navy may obligate $540.2 million, appropriated in Public Law 102-298, for advance procurement of long-lead items for a third *Seawolf* attack submarine, known as SSN-23. This action supports the Department of Defense Bottom-Up Review, which concluded that the most cost-effective way of preserving our Nation's capability to produce submarines is to construct a third *Seawolf*. However, the conferees indicated that they reserve judgment on reauthorizing SSN-23 until the Secretary of Defense requests full funding for this submarine in a future budget. Regarding this issue, it is important to note that the National Defense Authorization Act (H.R. 2100) passed in November, 1991, did authorize SSN-23. An fiscal year 1992 appropriation pursuant to this authorization was also passed in 1991, and I understand that there were significant expenditures of fiscal year 1992 funds for costs related to SSN-23. Subsequently, the remaining fiscal year 1992 appropriation for the *Seawolf* program was partially rescinded in Public Law 102-298, with $540.2 million left either to provide advance procurement for SSN-23 or to preserve the submarine industrial base, depending on a decision by the Secretary of the Navy. Thus, for a substantial period during fiscal year 1992, an SSN-23 appropriation existed in tandem with an SSN-23 authorization, and, in fact, fiscal year 1992 funds were used to purchase SSN-23 items. Since fiscal year 1992 funds were both authorized and appropriated, and some of those funds were actually spent, and neither the authorization nor the complete appropriation were rescinded, the original SSN-23 authorization would seem to remain valid. I make these points because I believe there is no specific legal requirement to reauthorize SSN-23.

THE CONVENTION ON BIOLOGICAL DIVERSITY; AND THE CONVENTION ON THE PROHIBITION OF THE DEVELOPMENT, PRODUCTION, STOCKPILING AND USE OF CHEMICAL WEAPONS AND ON THEIR DESTRUCTION

Mr. BAUCUS. Mr. President, as in executive session, I ask unanimous consent that when the Senate receives from the President the following two treaties during the sine die adjournment of the first session of the 103d Congress:

The Convention on Biological Diversity; and the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction; and that upon receipt by the Senate prior to or during the adjournment, the injunction of secrecy be removed from the two treaties, they be considered as having been read the first time; the treaties be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's messages be printed in the RECORD.

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

THE DOE MINORITY BANK PRESERVATION ACT OF 1993

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1685, the DOE Minority Bank Preservation Act of 1993, a bill introduced earlier today by Senators MOSELEY-BRAUN and DOMENICI; that the bill be read three times, passed, the motion to reconsider laid upon the table; and that any statements relating to this measure appear in the RECORD at the appropriate place as if read.

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

So the bill (S. 1685) was deemed read three times and passed.

(The text of the bill, as passed, will be printed in a future edition of the RECORD.)

Ms. MOSELEY-BRAUN. Mr. President, the legislation I am today introducing, along with my colleagues from New Mexico, Mr. DOMENICI, and Oregon, Mr. PACKWOOD, is designed to preserve an important source of community development capital, the Department of Energy minority bank assistance program.

Under this program, the Department of Energy is able to deposit funds from the Petroleum Pricing Violation Escrow Fund in minority banks around the country. These banks are able to use these deposits for a variety of community development needs.

The deposits the Department of Energy makes at the participating minority banks uses a revokable trust mechanism which allowed the Department to retain Federal deposit insurance for the full amount it deposited at each bank. The deposits at minority banks have been fully insured since the program first began in 1980. The Department of Energy has exercised considerable care in selecting the banks that receive the deposits, and the result has been that the program has been problem-free.

Unfortunately, however, the Federal Deposit Insurance Corporation Improvement Act of 1991 terminates the Department of Energy's ability to retain deposit insurance for deposits over $100,000 at any individual bank. The result of that action is that this valuable, long-standing community development program is threatened with extinction.

The DOE Minority Bank Preservation Act of 1993 resolves this community development dilemma in a very narrow, careful way, one that preserves the critical reforms made by the 1991 banking legislation. By preserving the Department of Energy's ability to retain deposit insurance for its funds, it thus makes it possible for the Department to continue to support this community development program, which currently makes available $186 million to communities that desperately need capital for housing, small business, and other important community development needs.

Mr. President, the Senate Banking Committee, on which I serve, has held a number of hearings on community development hearings. I could go on and on about the problems so many communities have in accessing our financial services system, and how that disadvantages those neighborhoods. However, the bottom line is very clear. Less access to our financial system means less home ownership, less jobs, and less economic development.

The Department of Energy program helps change that for neighborhoods that desperately need access to capital. It is a no-cost program, and is a perfect example of the kind of good that can be accomplished through a public-private partnership. I strongly urge the Senate to promptly enact this legislation, so that this program can continue to provide access to capital to neighborhoods that so need that kind of economic development help.

Mr. PACKWOOD. Mr. President, today, along with my colleague Senator DOMENICI, I am introducing the Department of Energy Minority Bank Preservation Act. This legislation will amend the Federal Deposit Insurance Act to permit the continued insurance of certain deposits in minority and women-owned banks.

Since 1980, the Department of Energy has assisted minority and women-owned financial institutions by depositing funds in these institutions through the Bank Deposit Financial Assistance Program [BDFAP]. These funds are placed in a revocable trust account in minority and women-owned institutions in Oregon and across the country. Until 1991, the Federal Deposit Insurance Corporation [FDIC] insured each trust separately up to $100,000.

In 1991, the Federal Deposit Insurance Corporation Improvement Act eliminated the insurability of funds held in revocable trusts. The FDIC, aiming to reduce its risk, unintentionally touched the Department of Energy's successful BDFAP program. This program will expire on December 20, 1993, if Congress does not pass legislation allowing the insurability of these accounts.

The legislation I am introducing provides for the continuation of the current level of insurance coverage for the Bank Deposit Financial Assistance Program. This program has provided deposits to more than 100 minority and women-owned banks serving inner-city communities. In Oregon, American State Bank, located in Northeast Portland, has used these important funds to assist the development of minority entrepreneurship. This fund constitutes almost 25 percent of American State Bank's loan capability. I will include a letter from Mr. Venerable F. Booker, President and Chairman of the Board of American State Bank, supporting the continuance of the BDFAP fund.

This bill will not stop the current credit crunch problem that exists in our country. However, if this bill does not pass, many communities, already facing capital shortages, will lose a major source of funds used to stimulate competitive development in their neighborhoods.

I urge my colleagues to join Senator DOMENICI and me in supporting the passage of this important time-sensitive legislation.

I ask unanimous consent that the letter from Mr. Booker be printed in the RECORD.

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

AMERICAN STATE BANK,
Portland, OR, September 29, 1993.

Hon. BOB PACKWOOD,
U.S. Senate, Washington, DC.

DEAR SENATOR PACKWOOD: Following up on our earlier discussions, this message explains the consequence to American State Bank of the loss of the Department of Energy's Bank Deposit Financial Assistance Program and the impact of terminating more than $170 million of stable deposits minority-owned Banks across the country use to spur competitive development in our nation's capital-starved inner cities.

American State Bank in Portland, Oregon's only Black-owned Bank, will see its service to Portland's inner-city community severely handicapped if we lose access to these stable, low-cost and competitive deposits from the Department of Energy. The BDFAP deposits are funding small business and consumer loans in Portland's inner city. They are helping to develop minority entrepreneurship and they are contributing significantly to building jobs and rebuilding our community. As a small bank, American State Bank and the people who depend on us will be particularly hard hit losing, over a six month period, losing almost 25% of our *loan capability.*

Please fight to preserve the Department of Energy's Bank Deposit Financial Assistance Program. The death of BDFAP means Portland's minority community, as well as minority communities across the country, will have fewer jobs, more unemployment, more hardship, more stress, less opportunity. In short, more of all the bad things that continue to ravage our inner cities.

Sincerely,

VENERABLE F. BOOKER,
President.

Mr. DOMENICI. Mr. President, the President has made community development an important priority with his initiative to create Community Development Financial Institutions. Secretary Cisneros has made reinventing HUD his mission.

While I support the creation of community development financial institutions and I wholeheartedly agree that HUD needs to be reinvented, my top priority as a member of the Housing Subcommittee is helping the South Valley of Bernillio County, New Mexico.

In the Housing, Banking and Urban Affairs Committee we spend a great deal of time working on ways to foster greater community development, and improved housing conditions for our Nation's people.

The Senate Housing Banking and Urban Committee spends a lot of time working on programs to increase the quality of life in our neighborhoods. These are the very same objectives I have for the South Valley.

The leadership of the Senate Banking Committee has been very committed and has gone the extra mile to help me.

There is a moratorium on building multifamily housing in this community until the water and sewage problem is corrected.

The situation is so bad there is almost a daily story in the New Mexico newspapers.

The headline on October 16: "South Valley Residents Blame Water for Girl's Illness."

The headline on October 18: "Residents learn to Live in Sewage."

The headline on October 30: "Living in a Cesspool."

Other recent headlines, "Girl's Illness may Remain Mystery"; "Pools of "Gray Water" surround Girl's Mobile Home"; "State seeks more extensive tests on the water from ill girl's house."

If you lived in this neighborhood, your drinking water well is probably on top of your next door neighbor's septic tank leach field.

In addition to the obvious health hazard, your drinking water is sewage scented.

You would live with murky pools of water in your yard. Your vegetable garden and flower garden struggle to co-exist with raw sewage. In addition to digging holes to plant tomatoes and peppers, sometimes you would have to dig a hole to bury a neighbor's overflowing sewage.

There is often a shortage of water so your daily shower is often cut short.

One of the provisions in this bill will authorize some of the money needed to improve the housing stock infrastructure and fund a waste water treatment and drinking water improvement program.

For almost 30 years this community has suffered deteriorating housing stock, and the health hazard of inadequate sewer and water facilities.

The situation is so critical that there is a moratorium on building desperately needed multifamily housing units. These are units that could greatly improve the housing stock of the area.

This community has been untiring in its efforts to help itself. So many times, its efforts have been ignored or rejected.

Nevertheless, its leaders should be commended. They never gave up.

The leaders of South Valley and I have been meeting on a regular basis for 9½ years to develop an action plan to address this problem.

There have been a few successes at the local level which include the following: The Bernalillo County Commission adopted a one-eighth cent tax on gross receipts in and for the unincorporated area of the South Valley to finance solid waste, water and sewer. The city of Albuquerque, in partnership with Bernalillo County, has contributed its sources in the areas of research planning and education. The University of New Mexico—Institute of Public Law—provided a joint study for the New Mexico Legislature which led to an appropriation of funds for this project. These funds must be spent by the end of 1994. This additional deadline makes timing critical to create this worthy partnership which would use local, State and Federal resources.

This authorization if it is enacted into law, will end 30 years of frustration, denial and avoidable health problems in this community.

Today, the Congress will be helping to make a better neighborhood and

provide better housing conditions for the South Valley. Because of the conditions of the soil, the community is going to use technology that may be useful in other communities.

I want to thank Senate Housing, Banking and Urban Affairs Chairman RIEGLE and ranking member, Senator D'AMATO. I also appreciate the support of Senator SARBANES and Senator BOND who are the chairman and ranking member of the Housing Subcommittee. And I would be remiss if I didn't thank their staffs for all the help in getting this provision passed.

A second provision of this bill will allow the Department of Energy Bank Deposit Financial Assistance Program to continue.

The Department of Energy will begin terminating $186 million low-cost, stable deposits in more than 109 minority-owned banks serving inner-city communities and minority communities across the United States unless this bill is enacted by December 20, 1993.

The Department of Energy, since 1980, has assisted minority and women-owned financial institutions through its Bank Deposit Financial Assistance Program.

The program involves intermediary banks depositing funds in minority and women-owned banks in revocable trusts "petroleum violation escrow funds"—petroleum company overcharges.

The FDIC insures each trust separately up to $100,000. With each separate 6 month revocable trust deposit totaling $95,000, the safety of all the BDFAP funds has been assured.

Federal Deposit Insurance Corporation Improvement Act of 1991 [FDICIA] eliminates the insurability of funds held in revocable trusts effective December 20, 1993.

FDICIA, aiming to reduce FDIC risk unintentionally caught up the Department of Energy's Bank Deposit Financial Assistance Program.

Energy Secretary O'Leary want the program to continue.

The bill would permit continuation and expansion of this program.

This program meets the capital needs and has a proven track record to spur competitive development in their communities.

It has proven a successful government economic assistance targeting inner cities and minority communities at no cost to the taxpayer.

Institutions in New Mexico benefiting from this program include: Dona Ana Savings and Loan in Las Cruces, and El Pueblo State Bank, Espanola.

There are 109 minority banks through 32 "trustee" banks.

I want to compliment my colleague, Senator MOSELEY-BRAUN for her interest in getting this bill passed.

UNDERCHARGE EQUITY ACT OF 1992

Mr. BAUCUS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on (S. 412), a bill to amend title 49, United States Code, regarding the collection of certain payments for shipments via motor common carriers of property and nonhousehold goods freight forwarders, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 412) entitled "An Act to amend title 49, United States Code, regarding the collection of certain payments for shipments via motor common carriers of property and nonhousehold goods freight forwarders, and for other purposes", 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 "Negotiated Rates Act of 1993".

SEC. 2. PROCEDURES FOR RESOLVING CLAIMS INVOLVING UNFILED, NEGOTIATED TRANSPORTATION RATES.

(a) IN GENERAL.—Section 10701 of title 49, United States Code, is amended by adding at the end the following:

"(f) PROCEDURES FOR RESOLVING CLAIMS INVOLVING UNFILED, NEGOTIATED TRANSPORTATION RATES.—

"(1) IN GENERAL.—When a claim is made by a motor carrier of property (other than a household goods carrier) providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title, by a freight forwarder (other than a household goods freight forwarder), or by a party representing such a carrier or freight forwarder regarding the collection of rates or charges for such transportation in addition to those originally billed and collected by the carrier or freight forwarder for such transportation, the person against whom the claim is made may elect to satisfy the claim under the provisions of paragraph (2), (3), or (4) of this subsection, upon showing that—

"(A) the carrier or freight forwarder is no longer transporting property or is transporting property for the purpose of avoiding the application of this subsection; and

"(B) with respect to the claim—

"(i) the person was offered a transportation rate by the carrier or freight forwarder other than that legally on file with the Commission for the transportation service;

"(ii) the person tendered freight to the carrier or freight forwarder in reasonable reliance upon the offered transportation rate;

"(iii) the carrier or freight forwarder did not properly or timely file with the Commission a tariff providing for such transportation rate or failed to enter into an agreement for contract carriage;

"(iv) such transportation rate was billed and collected by the carrier or freight forwarder; and

"(v) the carrier or freight forwarder demands additional payment of a higher rate filed in a tariff.

If there is a dispute as to the showing under subparagraph (A), such dispute shall be resolved by the court in which the claim is brought. If there is a dispute as to the showing under subparagraph (B), such dispute shall be resolved by the Commission. Pending the resolution of any such dispute, the person shall not have to pay any additional compensation to the carrier or freight forwarder. Satisfaction of the claim under paragraph (2), (3), or (4) of this subsection shall be binding on the parties, and the parties shall not be subject to chapter 119 of this title.

"(2) CLAIMS INVOLVING SHIPMENTS WEIGHING 10,000 POUNDS OR LESS.—A person from whom the additional legally applicable and effective tariff rate or charges are sought may elect to satisfy the claim if the shipments each weighed 10,000 pounds or less, by payment of 20 percent of the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Commission.

"(3) CLAIMS INVOLVING SHIPMENTS WEIGHING MORE THAN 10,000 POUNDS.—A person from whom the additional legally applicable and effective tariff rate or charges are sought may elect to satisfy the claim if the shipments each weighed more than 10,000 pounds, by payment of 15 percent of the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Commission.

"(4) CLAIMS INVOLVING PUBLIC WAREHOUSEMEN.—Notwithstanding paragraphs (2) and (3), a person from whom the additional legally applicable and effective tariff rate or charges are sought may elect to satisfy the claim by payment of 5 percent of the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid if such person is a public warehouseman. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Commission.

"(5) EFFECTS OF ELECTION.—When a person from whom additional legally applicable freight rates or charges are sought does not elect to use the provisions of paragraph (2), (3), or (4), the person may pursue all rights and remedies existing under this title.

"(6) STAY OF ADDITIONAL COMPENSATION.—When a person proceeds under this section to challenge the reasonableness of the legally applicable freight rate or charges being claimed by a carrier or freight forwarder described in paragraph (1) in addition to those already billed and collected, the person shall not have to pay any additional compensation to the carrier or freight forwarder until the Commission has made a determination as to the reasonableness of the challenged rate as applied to the freight of the person against whom the claim is made.

"(7) LIMITATION ON STATUTORY CONSTRUCTION.—Except as authorized in paragraphs (2), (3), (4), and (9) of this subsection, nothing in this subsection shall relieve a motor common carrier of the duty to file and adhere to its rates, rules, and classifications as required in sections 10761 and 10762 of this title.

"(8) NOTIFICATION OF ELECTION.—

"(A) GENERAL RULE.—A person must notify the carrier or freight forwarder as to its election to proceed under paragraph (2), (3), or (4). Except as provided in subparagraphs (B), (C), and (D), such election may be made at any time.

"(B) DEMANDS FOR PAYMENT INITIALLY MADE AFTER DATE OF ENACTMENT.—If the carrier or freight forwarder or party representing such carrier or freight forwarder initially

demands the payment of additional freight charges after the date of the enactment of this subsection and notifies the person from whom additional freight charges are sought of the provisions of paragraphs (1) through (7) at the time of the making of such initial demand, the election must be made not later than the later of—

"(i) the 60th day following the filing of an answer to a suit for the collection of such additional legally applicable freight rate or charges, or

"(ii) the 90th day following the date of the enactment of this subsection.

"(C) PENDING SUITS FOR COLLECTION MADE BEFORE OR ON DATE OF ENACTMENT.—If the carrier or freight forwarder or party representing such carrier or freight forwarder has filed, before or on the date of the enactment of this subsection, a suit for the collection of additional freight charges and notifies the person from whom additional freight charges are sought of the provisions of paragraphs (1) through (7), the election must be made not later than the 90th day following the date on which such notification is received.

"(D) DEMANDS FOR PAYMENT MADE BEFORE OR ON DATE OF ENACTMENT.—If the carrier or freight forwarder or party representing such carrier or freight forwarder has demanded the payment of additional freight charges, and has not filed a suit for the collection of such additional freight charges, before or on the date of the enactment of this subsection and notifies the person from whom additional freight charges are sought of the provisions of paragraphs (1) through (7), the election must be made not later than the later of—

"(i) the 60th day following the filing of an answer to a suit for the collection of such additional legally applicable freight rate or charges, or

"(ii) the 90th day following the date of the enactment of this subsection.

"(9) CLAIMS INVOLVING SMALL-BUSINESS CONCERNS, CHARITABLE ORGANIZATIONS, AND RECYCLABLE MATERIALS.—Notwithstanding paragraphs (2), (3), and (4), a person from whom the additional legally applicable and effective tariff rate or charges are sought shall not be liable for the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid—

"(A) if such person qualifies as a small-business concern under the Small Business Act (15 U.S.C. 631 et seq.),

"(B) if such person is an organization which is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code, or

"(C) if the cargo involved in the claim is recyclable materials, as defined in section 10733.".

(b) CONFORMING AMENDMENT.—Subsection (e) of such section is amended by striking "In" and inserting "Except as provided in subsection (f), in".

(c) APPLICABILITY.—The amendments made by subsections (a) and (b) of this section shall apply to all claims pending as of the date of the enactment of this Act and to all claims arising from transportation shipments tendered on or before the last day of the 24-month period beginning on such date of enactment.

(d) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Interstate Commerce Commission shall transmit to Congress a report regarding whether there exists a justification for extending the applicability of amendments made by subsections (a) and (b) of this section beyond the period specified in subsection (c).

(e) ALTERNATIVE PROCEDURE FOR RESOLVING DISPUTES.—

(1) GENERAL RULE.—For purposes of section 10701 of title 49, United States Code, it shall be an unreasonable practice for a motor carrier of property (other than a household goods carrier) providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of such title, a freight forwarder (other than a household goods freight forwarder), or a party representing such a carrier or freight forwarder to attempt to charge or to charge for a transportation service provided before September 30, 1990, the difference between the applicable rate that is lawfully in effect pursuant to a tariff that is filed in accordance with chapter 107 of such title by the carrier or freight forwarder applicable to such transportation service and the negotiated rate for such transportation service if the carrier or freight forwarder is no longer transporting property between places described in section 10521(a)(1) of such title or is transporting property between places described in section 10521(a)(1) of such title for the purpose of avoiding the application of this subsection.

(2) JURISDICTION OF COMMISSION.—The Commission shall have jurisdiction to make a determination of whether or not attempting to charge or the charging of a rate by a motor carrier or freight forwarder or party representing a motor carrier or freight forwarder is an unreasonable practice under paragraph (1). If the Commission determines that attempting to charge or the charging of the rate is an unreasonable practice under paragraph (1), the carrier, freight forwarder, or party may not collect the difference described in paragraph (1) between the applicable rate and the negotiated rate for the transportation service. In making such determination, the Commission shall consider—

(A) whether the person was offered a transportation rate by the carrier or freight forwarder or party other than that legally on file with the Commission for the transportation service;

(B) whether the person tendered freight to the carrier or freight forwarder in reasonable reliance upon the offered transportation rate;

(C) whether the carrier or freight forwarder did not properly or timely file with the Commission a tariff providing for such transportation rate or failed to enter into an agreement for contract carriage;

(D) whether the transportation rate was billed and collected by the carrier or freight forwarder; and

(E) whether the carrier or freight forwarder or party demands additional payment of a higher rate filed in a tariff.

(3) STAY OF ADDITIONAL COMPENSATION.—When a person proceeds under this subsection to challenge the reasonableness of the practice of a motor carrier, freight forwarder, or party described in paragraph (1) to attempt to charge or to charge the difference described in paragraph (1) between the applicable rate and the negotiated rate for the transportation service in addition to those charges already billed and collected for the transportation service, the person shall not have to pay any additional compensation to the carrier, freight forwarder, or party until the Commission has made a determination as to the reasonableness of the practice as applied to the freight of the person against whom the claim is made.

(4) TREATMENT.—Paragraph (1) of this subsection is enacted as an exception, and shall be treated as an exception, to the requirements of sections 10761(a) and 10762 of title 49, United States Code, relating to a filed tariff rate for a transportation or service subject to the jurisdiction of the Commission and other general tariff requirements.

(5) NONAPPLICABILITY OF NEGOTIATED RATE DISPUTE RESOLUTION PROCEDURE.—If a person elects to seek enforcement of paragraph (1) with respect to a rate for a transportation or service, section 10701(f) of title 49, United States Code, as added by subsection (a) of this section, shall not apply to such rate.

(6) DEFINITIONS.—For purposes of this subsection, the following definitions apply:

(A) COMMISSION, HOUSEHOLD GOODS, HOUSEHOLD GOODS FREIGHT FORWARDER, AND MOTOR CARRIER.—The terms "Commission", "household goods", "household goods freight forwarder", and "motor carrier" have the meaning such terms have under section 10102 of title 49, United States Code.

(B) NEGOTIATED RATE.—The term "negotiated rate" means a rate, charge, classification, or rule agreed upon by a motor carrier or freight forwarder described in paragraph (1) and a shipper through negotiations pursuant to which no tariff was lawfully and timely filed with the Commission and for which there is written evidence of such agreement.

(f) PRIOR SETTLEMENTS AND ADJUDICATIONS.—Any claim that, but for this subsection, would be subject to any provision of this Act (including any amendment made by this Act) and that was settled by mutual agreement of the parties to such claim, or resolved by a final adjudication of a Federal or State court, before the date of the enactment of this Act shall be treated as binding, enforceable, and not contrary to law, unless such settlement was agreed to as a result of fraud or coercion.

(g) RATE REASONABLENESS.—Section 10701(e) of title 49, United States Code, is amended by adding at the end the following: "Any complaint brought against a motor carrier (other than a carrier described in subsection (f)(1)(A)) by a person (other than a motor carrier) for unreasonably high rates for past or future transportation shall be determined under this subsection.".

SEC. 3. STATUTE OF LIMITATIONS.

(a) MOTOR CARRIER CHARGES.—Section 11706(a) of title 49, United States Code, is amended by striking the period at the end and inserting the following: "; except that a motor carrier (other than a motor carrier providing transportation of household goods) or freight forwarder (other than a household goods freight forwarder)—

"(1) must begin such a civil action within 2 years after the claim accrues if the transportation or service is provided by the carrier in the 1-year period beginning on the date of the enactment of the Negotiated Rates Act of 1993; and

"(2) must begin such a civil action within 18 months after the claim accrues if the transportation or service is provided by the carrier after the last day of such 1-year period.".

(b) MOTOR CARRIER OVERCHARGES.—Section 11706(b) of title 49, United States Code, is amended by striking ". If that claim is against a common carrier" and inserting the following: "; except that a person must begin a civil action to recover overcharges from a motor carrier subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title for transportation or service—

"(1) within 2 years after the claim accrues if such transportation or service is provided

in the 1-year period beginning on the date of the enactment of the Negotiated Rate Act of 1993; and

"(2) within 18 months after the claim accrues if such transportation or service is provided after the last day of such 1-year period. If the claim is against a common carrier".

(c) CONFORMING AMENDMENT.—Section 11706(d) of title 49, United States Code, is amended—

(1) by striking "3-year period" each place it appears and inserting "limitation periods";

(2) by striking "is extended" the first place it appears and inserting "are extended"; and

(3) by striking "each".

SEC. 4. TARIFF RECONCILIATION RULES FOR MOTOR CARRIERS OF PROPERTY.

(a) IN GENERAL.—Chapter 117 of title 49, United States Code, is amended by adding at the end the following:

"§ 11712. Tariff reconciliation rules for motor common carriers of property

"(a) MUTUAL CONSENT.—Subject to Commission review and approval, motor carriers subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title (other than motor carriers providing transportation of household goods) and shippers may resolve, by mutual consent, overcharge and undercharge claims resulting from incorrect tariff provisions or billing errors arising from the inadvertent failure to properly and timely file and maintain agreed upon rates, rules, or classifications in compliance with sections 10761 and 10762 of this title. Resolution of such claims among the parties shall not subject any party to the penalties of chapter 119 of this title.

"(b) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall relieve the motor carrier of the duty to file and adhere to its rates, rules, and classifications as required in sections 10761 and 10762, except as provided in subsection (a) of this section.

"(c) RULEMAKING PROCEEDING.—Not later than 90 days after the date of the enactment of this section, the Commission shall institute a proceeding to establish rules pursuant to which the tariff requirements of sections 10761 and 10762 of this title shall not apply under circumstances described in subsection (a) of this section.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 117 of title 49, United States Code, is amended by adding at the end the following:

"11712. Tariff reconciliation rules for motor common carriers of property.".

SEC. 5. CUSTOMER ACCOUNT CODES AND RANGE TARIFFS.

(a) CUSTOMER ACCOUNT CODES.—Section 10762 of title 49, United States Code, is amended by adding at the end the following:

"(h) CUSTOMER ACCOUNT CODES.—No tariff filed by a motor carrier of property with the Commission before, on, or after the date of the enactment of this subsection may be held invalid solely on the basis that a numerical or alpha account code is used in such tariff to designate customers or to describe the applicability of rates. For transportation performed on and after the 180th day following such date of enactment, the name of the customer for each account code must be set forth in the tariff (other than the tariff of a motor carrier providing transportation of household goods).".

(b) RANGE TARIFFS.—Such section is further amended by adding at the end the following:

"(i) RANGE TARIFFS.—No tariff filed by a motor carrier of property with the Commission before, on, or after the date of the enactment of this subsection may be held invalid solely on the basis that the tariff does not show a specific rate or discount for a specific shipment if the tariff is based on a range of rates or discounts for specific classes of shipments. For transportation performed on or after the 180th day following such date of enactment, such a range tariff must identify the specific rate or discount from among the range of rates or discounts contained in such range tariff which is applicable to each specific shipment or must contain an objective means for determining the rate.".

SEC. 6. CONTRACTS OF MOTOR CONTRACT CARRIERS.

(a) IN GENERAL.—Section 10702 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(c) CONTRACTS OF CARRIAGE FOR MOTOR CONTRACT CARRIERS.—

"(1) GENERAL RULE.—A motor contract carrier providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title shall enter into a written agreement, separate from the bill of lading or receipt, for each contract for the provision of transportation subject to such jurisdiction which is entered into after the 90th day following the date of the enactment of this subsection.

"(2) MINIMUM CONTENT REQUIREMENTS.—The written agreement shall, at a minimum—

"(A) identify the parties thereto;

"(B) commit the shipper to tender and the carrier to transport a series of shipments;

"(C) contain the contract rate or rates for the transportation service to be or being provided; and

"(D)(i) state that it provides for the assignment of motor vehicles for a continuing period of time for the exclusive use of the shipper; or

"(ii) state that it provides that the service is designed to meet the distinct needs of the shipper.

"(3) RETENTION BY CARRIER.—All written agreements entered into by a motor contract carrier under paragraph (1) shall be retained by the carrier while in effect and for a minimum period of 3 years thereafter and shall be made available to the Commission upon request.

"(4) RANDOM AUDITS BY COMMISSION.—The Commission shall conduct periodic random audits to ensure that motor contract carriers are complying with this subsection and are adhering to the rates set forth in their agreements.".

(b) CIVIL PENALTY.—Section 11901(g) of such title is amended—

(1) by inserting "or enter into or retain a written agreement under section 10702(c) of this title" after "under this subtitle" the first place it appears; and

(2) by striking "or (5)" and inserting "(5) does not comply with section 10702(c) of this title, or (6)".

(c) CRIMINAL PENALTY.—Section 11909(b) of such title is amended—

(1) by inserting "or enter into or retain a written agreement under section 10702(c) of this title" after "under this subtitle" the first place it appears; and

(2) in clause (1) by inserting after "make that report" the following: "or willfully does not enter into or retain that agreement".

SEC. 7. BILLING AND COLLECTING PRACTICES.

(a) IN GENERAL.—Subchapter IV of chapter 107 of title 49, United States Code, is amended by adding at the end the following:

"§ 10767. Billing and collecting practices

"(a) REGULATIONS LIMITING REDUCED RATES.—Not later than 120 days after the date of the enactment of this section, the Commission shall issue regulations that prohibit a motor carrier subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title from providing a reduction in a rate set forth in its tariff or contract for the provision of transportation of property to any person other than (1) the person paying the motor carrier directly for the transportation service according to the bill of lading, receipt, or contract, or (2) an agent of the person paying for the transportation.

"(b) DISCLOSURE OF ACTUAL RATES, CHARGES, AND ALLOWANCES.—The regulations of the Commission issued pursuant to this section shall require a motor carrier to disclose, when a document is presented or transmitted electronically for payment to the person responsible directly to the motor carrier for payment or agent of such responsible person, the actual rates, charges, or allowances for the transportation service and shall prohibit any person from causing a motor carrier to present false or misleading information on a document about the actual rate, charge, or allowance to any party to the transaction. Where the actual rate, charge, or allowance is dependent upon the performance of a service by a party to the transportation arrangement, such as tendering a volume of freight over a stated period of time, the motor carrier shall indicate in any document presented for payment to the person responsible directly to the motor carrier for the payment that a reduction, allowance, or other adjustment may apply.

"(c) PAYMENTS OR ALLOWANCES FOR CERTAIN SERVICES.—The regulations issued by the Commission pursuant to this section shall not prohibit a motor carrier from making payments or allowances to a party to the transaction for services that would otherwise be performed by the motor carrier, such as a loading or unloading service, if the payments or allowances are reasonably related to the cost that such party knows or has reason to know would otherwise be incurred by the motor carrier.".

(b) CONFORMING AMENDMENT.—The analysis for such subchapter is amended by adding at the end the following new item:

"10767. Billing and collecting practices.".

(c) VIOLATION.—

(1) IN GENERAL.—Section 11901 of such title is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following:

"(l) RATE DISCOUNTS.—A person, or an officer, employee, or agent of that person, that knowingly pays, accepts, or solicits a reduced rate or rates in violation of the regulations issued under section 10767 of this title is liable to the United States for a civil penalty of not less than $5,000 and not more than $10,000 plus 3 times the amount of damages which a party incurs because of such violation. Notwithstanding any other provision of this title, the express civil penalties and damages provided for in this subsection are the exclusive legal sanctions to be imposed under this title for practices found to be in violation of the regulations issued under section 10767 and such violations do not render tariff or contract provisions void or unenforceable.".

(2) VENUE.—Section 11901(m)(2) of such title (as redesignated by paragraph (1)) is amended by striking "or (k)" and inserting "(k), or (l)".

SEC. 8. RESOLUTION OF DISPUTES RELATING TO CONTRACT OR COMMON CARRIER CAPACITIES.

Section 11101 of title 49, United States Code, is amended by adding at the end the following:

"(d) RESOLUTION OF DISPUTES RELATING TO CONTRACT OR COMMON CARRIER CAPACITIES.—If a motor carrier (other than a motor carrier providing transportation of household goods) subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title has authority to provide transportation as both a motor common carrier and a motor contract carrier and a dispute arises as to whether certain transportation is provided in its common carrier or contract carrier capacity and the parties are not able to resolve the dispute consensually, the Commission shall have jurisdiction to, and shall, resolve the dispute.".

SEC. 9. LIMITATION ON STATUTORY CONSTRUCTION.

Nothing in this Act (including any amendment made by this Act) shall be construed as limiting or otherwise affecting application of title 11, United States Code, relating to bankruptcy; title 28, United States Code, relating to the jurisdiction of the courts of the United States (including bankruptcy courts); or the Employee Retirement Income Security Act of 1974.

Mr. HOLLINGS. Mr. President, as chairman of the Committee on Commerce, Science, and Transportation, I am pleased that the Senate is considering final passage of S. 412, the Undercharge Equity Act of 1993. Legislation addressing the "undercharge" litigation crisis is not new: in July of this year the Senate passed S. 412, reported by the Commerce Committee on May 25, 1993. That measure was similar to S. 1675, the Undercharge Equity Act of 1992, which passed the Senate unanimously in the last Congress, but which the House did not consider prior to adjournment.

Over the past 3 years, since the Supreme Court's Maislin decision in 1990, the chairman of the Commerce Committee's Surface Transportation Subcommittee, Senator EXON, and others have worked to forge a bipartisan consensus on this legislation. The legislation we consider today incorporates the text of H.R. 2121, the House undercharge companion measure, which the House passed by a vote of 292 to 116 on November 15, 1993.

As the Commerce Committee has recognized for some time, the undercharge crisis reflects a broad spectrum of efforts by trustees for bankrupt motor carriers to collect from shippers additional payments for shipments which moved and were paid for years ago. I recognize the compelling nature of the unsecured claims of former drivers of now bankrupt trucking companies seeking unpaid wages, the pension funds left with unfunded liabilities, and the demands of other creditors. At the same time, the continually escalating undercharge litigation and collection spiral serves no useful purpose, and makes clear the long overdue need for a legislative solution to this problem. The Senate recognized this mandate for action in passing equitable undercharge resolution legislation in this Congress and in the last Congress. Now that the House also has acted, we have an opportunity to consider this measure for final passage in the 103rd Congress.

S. 412, as amended by the House, makes a number of changes in the legislation as passed by the Senate. Under the bill as amended, shippers may settle an eligible undercharge claim for 15 or 20 percent of the amount sought, depending upon the type of shipment (or 5 percent where a warehouseman is involved). Small businesses, charitable organizations, and recyclers (which includes recyclers of rubber) would be exempt from applicable undercharge claims. In addition, shippers facing an undercharge claim for transportation provided before September 1990 (when the Maislin case reversed five U.S. Circuit Courts of Appeal) would be permitted to argue before the Interstate Commerce Commission that the undercharge collection effort was an unreasonable practice. Other options for shippers, including pursuing existing legal rights and remedies, would be preserved.

In addition, S. 412 as amended incorporates other provisions addressing principally the legality and future requirements with regard to range rates, contract rates, coded rates, and accounting and collection practices. The legislation further addresses questions concerning unreasonable rates of operating motor carriers.

The legislation before us today represents a fair and equitable solution to the undercharge litigation problem gripping businesses across the country. I urge my colleagues to join me in voting for passage of this important and necessary legislation.

Mr. DANFORTH. Mr. President, today we may finally bring to an end an expensive nuisance for America's businesses that has resulted from the continued enforcement of outdated laws. Last fall, 60 Minutes ran a story entitled "You're Kidding." This story involved interviews with small businessmen hit with large freight bills related to shipments for which they had paid years ago. These shippers were asking how this could happen.

The answer requires a review of the law governing motor carriers' movement of freight. The Motor Carrier Act of 1980 substantially deregulated the trucking industry by eliminating most price and entry requirements. One significant regulation retained was the requirement that trucking companies file with the Interstate Commerce Commission [ICC] all tariffs governing shipments. Since enactment of the 1980 act, however, carriers have frequently negotiated lower rates with shippers but have not filed those rates with the ICC. In 1990, the Supreme Court, in Maislin Industries versus Primary Steel, held that shippers are required to pay the filed rate when the shipper and carrier have privately negotiated a lower rate, regardless of the equities involved. The trustees of bankrupt trucking companies that had negotiated such rates are now suing shippers for the difference. These suits are being brought years after payment for and delivery of the shipments.

Let me use a hypothetical to illustrate the absurdity of this situation. In my example, you bought a discounted airline ticket from Pam Am several years ago for $300. Subsequently, Pan Am liquidates. Pan Am's bankruptcy trustee notifies you that the nondiscounted price of the ticket you purchased was $600. The trustee says that Pan Am was supposed to file the discounted ticket price, $300, with a government agency, but he failed to do so. Thus, Pan Am's trustee says that you owe the difference between the agreed upon price and the nondiscounted fare. The bottom line is that those who are suffering are the ones who made a deal and fulfilled their obligations.

This problem spares no shipper no matter how noble its effort. In recent months, organizations such as the Red Cross, that use trucks to ship emergency relief supplies, have been hit with these unexpected bills.

The Maislin case has placed a heavy burden on many of our Nation's small businesses. In some instances, these suits are causing small businesses to enter bankruptcy. The ICC estimates that these claims may be worth $32 billion. The beneficiaries are not, however, the creditors or pension funds of the bankrupt carriers. According to the ICC, the attorneys and collection agents who have devised the rebilling suits collect between 55 percent and 80 percent of the proceeds.

Mr. President, today we are considering the House-passed version of undercharge legislation. This bill establishes settlement formulas for a variety of situations. Different approaches are taken with respect to truckload and less than truckload shipments, since carriers usually give shippers larger discounts on truckload shipments.

Claims relating to truckload shipments may be settled by simply paying 15 percent of the claimed undercharge. Claims relating to less than truckload shipments may be settled by paying 20 percent of the claimed undercharge. Furthermore, the legislation makes a distinction on the basis of the size of the shipper, totally exempting small shippers from undercharge claims. In addition, the bill exempts charitable organizations from these claims. Also, no claim is valid if it relates to transportation performed prior to the Supreme Court's Maislin decision.

This legislation also preserves a shipper's right to pursue an ICC determination of the reasonableness of the rate charged, if a shipper elects not to use the settlement formulas. It also eliminates lawsuits that bankruptcy trustees have brought to collect money from shippers related to code and range tariffs.

This legislation is the result of negotiations that have occurred over the last two Congresses. Although the Senate has reported legislation on three occasions to remedy this problem, this is the first opportunity we have had to send a bill to the President for signature.

Mr. President, I urge my colleagues to support this legislation to remedy a problem that is hurting thousands of small businesses around the country.

Mr. BAUCUS. Mr. President, I move that the Senate concur en bloc to the amendments of the House.

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

Mr. BAUCUS. Mr. President, I move to reconsider the vote.

The PRESIDING OFFICER. Without objection, the motion to lay on the table is agreed to.

So the motion to lay on the table was agreed to.

THE CALENDAR

Mr. BAUCUS. I ask unanimous consent that the Senate proceed en bloc to the immediate consideration of Calendar Order Nos. 291, 292, and 293; that the committee amendments, where appropriate, be agreed to; that the bills be deemed read three times, passed, and the motions to reconsider laid upon the table en bloc; and further, that the consideration of these items appear individually in the RECORD, and any statements relative to the calendar items appear at the appropriate place in the RECORD.

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

LECHUGUILLA CAVE PROTECTION ACT OF 1993

The Senate considered the bill (H.R. 698) to protect Lechuguilla Cave and other resources and values in and adjacent to Carlsbad Caverns National Park which had been reported from the Committee on Energy and Natural Resources with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE, FINDING, AND DEFINITIONS.

(a) SHORT TITLE.—This Act may be cited as the "Lechuguilla Cave Protection Act of 1993".

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lachuguilla Cave Protection Act of 1993".

SEC. 2. FINDINGS.

Congress finds that Lechuguilla Cave and adjacent public lands have internationally significant scientific, environmental, and other values, and should be retained in public ownership and protected against adverse effects of mineral exploration and development and other activities presenting threats to the areas.

SEC. 3. LAND WITHDRAWAL.

(a) WITHDRAWAL.—Subject to valid existing rights, all Federal lands within the boundaries of the cave protection area described in subsection (b) are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing, and all amendments thereto.

(b) LAND DESCRIPTION.—The cave protection area referred to in subsection (a) shall consist of approximately 6,280 acres of lands in New Mexico as generally depicted on the map entitled "Lechuguilla Cave Protection Area" numbered 130/80,055 and dated April 1993.

(c) PUBLICATION, FILING, CORRECTION, AND INSPECTION.—(1) As soon as practicable after the date of enactment of this Act, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall publish in the Federal Register the legal description of the lands withdrawn under subsection (a) and shall file such legal description and a detailed map with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives.

(2) Such map and legal description shall have the same force and effect as if included in this Act except that the Secretary may correct clerical and typographical errors.

(3) Copies of such map and legal description shall be available for inspection in the appropriate offices of the Bureau of Land Management.

SEC. 4. MANAGEMENT OF EXISTING LEASES.

(a) SUSPENSION.—The Secretary shall not permit any new drilling on or involving any Federal mineral or geothermal lease within the cave protection area referred to in section 3(a) until the effective date of the Record of Decision for the Dark Canyon Environmental Impact Statement, or for 12 months after the date of enactment of this Act, whichever occurs first.

(b) AUTHORITY TO CANCEL EXISTING MINERAL OR GEOTHERMAL LEASES.—Upon the effective date of the Record of Decision for the Dark Canyon Environmental Impact Statement and in order to protect Lechuguilla Cave or other cave resources, the Secretary is authorized to—

(1) cancel any Federal mineral or geothermal lease in the cave protection area referred to in section 3(a); or

(2) enter into negotiations with the holder of a Federal mineral or geothermal lease in the cave protection area referred to in section 3(a) to determine appropriate compensation, if any, for the complete or partial termination of such lease.

SEC. 5. ADDITIONAL PROTECTION AND RELATION TO OTHER LAWS.

(a) IN GENERAL.—In order to protect Lechuguilla Cave or Federal lands within the cave protection area, the Secretary, subject to valid existing rights, may limit or prohibit access to or across lands owned by the United States or prohibit the removal from such lands of any mineral, geological, or cave resources: *Provided*, That existing access to private lands within the cave protection area shall not be affected by this subsection.

(b) NO EFFECT ON PIPELINES.—Nothing in this title shall have the effect of terminating any validly issued right-of-way, or customary operation, maintenance, repair, and replacement activities in such right-of-way; prohibiting the upgrading of and construction on existing facilities in such right-of-way for the purpose of increasing capacity of the existing pipeline; or prohibiting the renewal of such right-of-way within the cave protection area referred to in section 3(a).

(c) RELATION TO OTHER LAWS.—Nothing in this Act shall be construed as increasing or diminishing the ability of any party to seek compensation pursuant to other applicable law, including but not limited to the Tucker Act (28 U.S.C. 1491), or as precluding any defenses or claims otherwise available to the United States in connection with any action seeking such compensation from the United States.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated such sums as may be necessary to carry out this Act; Provided, that no funds shall be made available except to the extent, or in such amounts as are provided in advance in Appropriation Acts.

So the bill (H.R. 698) was passed.

DESIGNATING THE RED RIVER AS PART OF THE WILD AND SCENIC RIVER SYSTEM

The bill (H.R. 914) to designate certain segments of the Red River in Kentucky as components of the National Wild and Scenic Rivers Systems, and for other purposes was considered, ordered to a third reading, read the third time, and passed.

Mr. MCCONNELL. Mr. President, anyone who has ever visited eastern Kentucky can testify to its rich natural beauty. But the residents of Powell, Wolfe, and Menifee Counties have long known about a special river that could be called the crown jewel of Kentucky's Daniel Boone National Forest. I am very proud to rise today in support of legislation that will protect this unique and unspoiled river so that it may inspire future generations as it has those of the past.

While it is not well known outside of my State, the Red River Gorge has been a source of pride for Kentuckians for generations. The gorge has rugged towering cliffs ascending from the edge of the Red River. Small streams rush down these steep cliffs to the river below. Taking millions of years to form, its cavernous overhangs made visitors take stock of the awesome hand of God, and the temporal nature of humans on this planet. The numerous natural bridges and the surrounding Clifty Wilderness have attracted outdoor enthusiasts from all over the Commonwealth.

The Red River provides recreational opportunities unique to the Eastern United States. Canoeing down the river as a young man, I quickly came to understand its unique place in the psyche of all Kentuckians. Portions of the river have crashing white waters that would cause even the experienced canoeist to take pause. Other stretches softly roll through enormous rock formations that dwarf passersby.

In addition to the gorge's irreplaceable geological value, the Red River is replete with a wide array of flora and fauna. The gorge has many ecological niches that provide ideal habitat for

various species of birds, trees, shrubs, and flowers. Wildflowers are rampant throughout the area including blue violets, asters, foxgloves, and wild roses.

Native Americans discovered the gorge long before European settlers arrived in the New World. Rock shelters protected them from the elements and offered defense from hostile forces. During the Civil War, local residents mined nitrate from the gorge's jagged dens. The area was heavily logged near the turn of the century, but, slowly, it has grown back to its past rich texture of trees. It wasn't until 1934 that the U.S. Forest Service began purchasing land around the gorge in what is now a part of the Daniel Boone National Forest.

Today, the river links cohesive rural communities comprised of small family farms that exist tranquilly with the spectacular natural beauty of the waterway. The area harkens back to a simpler time before the bustle and noise of sprawling urbanization drowned out the quiet simplicity of rural America.

But it was not always so tranquil. Back in 1954, when a dam was proposed to create a Red River Lake, many local residents rose up in strong opposition, and in favor of protecting the gorge. Since then, controversial plans to build the dam have been delayed. By 1978, Congress called for a study of the river to be included in the National Wild and Scenic Rivers System, buying precious time for those who took up the cause of protecting the gorge. Finally, on January 7 of this year, after extensive study by the U.S. Forest Service, President Bush recommended that 19.4 miles of the Red River be designated as a national wild and scenic river to protect forever its unimpeded flow. Shortly thereafter, I introduced legislation to protect the Red River under the Wild and Scenic Rivers Act.

I am very pleased that the Senate Energy Committee moved quickly in conducting hearings and marking up legislation that does not significantly depart from my original bill. I firmly believe the bill before us is in the best long-term interest of the gorge, the river, and the citizens of Wolfe, Menifee, and Powell Counties. It will put to an end plans to flood the irreplaceable gorge, and will ensure the free flowing condition of this unbridled waterway. By adding the Red River to the National Wild and Scenic Rivers System, hikers, campers, canoeists, and other outdoor enthusiasts will always be able to enjoy its rugged and awesome beauty.

Initially, I had reservations about adding the Red River to National Wild and Scenic Rivers System. I was troubled that overzealous efforts to protect the river could preclude public enjoyment of this wonderful resource. I feared the local agricultural economy could be adversely affected if the river was indiscriminately locked up forever. I was also concerned that this Federal designation would violate the constitutional rights of nearby landowners by preventing use of land without full and fair compensation. Since these concerns have been allayed, I have been working diligently for Federal protection of the Red River.

Although landowners along the gorge are afforded significant protections by the Wild and Scenic Rivers Act, I felt the need to include additional safeguards to ensure the protection of private property rights. While lands protected river corridors have been known to increase in value, the Wild and Scenic Rivers Act allows federal acquisition of protected lands that could potentially leave private holdings unmarketable. The bill before us includes additional protections by limiting the acquisition of scenic easements that would effect any regular use of surrounding lands.

The national wild and scenic designation for the Red River allows for the development of recreational facilities as a part of the environmentally responsible management of the overall river ecosystem. Eco-tourism, as it is now called, is big business. Long-term protection of the Red River Gorge will provide a promising and sustainable economic future for the residents of the tricounty area. The potential for canoe excursions, guided tours, and interpretive centers will help support the local economy.

Small family farms dot the landscape around the river. For years, the rural farming communities of Powell, Menifee, and Wolfe Counties have played a critical role in protecting the Gorge. They must continue to be actively involved so that the intricate balance that has been achieved between protecting the river and maintaining a healthy rural economy will continue undisturbed.

Mr. President, a diverse array of citizens and grassroots organizations support the designation of the Red River as a national wild and scenic river. This proposal has been endlessly studied and debated.

With the Senate's approval today, we send to the President more than just a bill, we send him a promise: A promise that the Red River Gorge will remain forever as it always has been. I urge my colleagues to join me today in support of the Red River Designation Act.

DESIGNATING THE MAURICE RIVER AS PART OF THE WILD AND SCENIC RIVERS SYSTEM

The bill (H.R. 2650) to designate the Maurice River and its tributaries in the State of New Jersey as components of the National Wild and Scenic Rivers Systems was considered, ordered to a third reading, read the third time, and passed.

Mr. BRADLEY. Mr. President, I am very pleased that, today, the Senate has passed the South Jersey-Wild and Scenic River Act. This legislation designates some 35 miles of the Maurice River and its tributaries as national wild and scenic rivers. With this bill, we bring to a close a legislative process begun in 1987. From start to finish, this process has been driven by the desires and needs of the affected communities. There are many, many citizens who deserve enormous credit. In the House, especially, Congressman HUGHES has been a true leader and he deserves acknowledgment for all he has accomplished.

Pristine doesn't capture the beauty of the Maurice and its tributaries: A great deal of this river system is in nearly the same condition as it was when the Dutch sailing ship *Prince Maurice* foundered here almost four centuries ago.

Its natural beauty and ecological value is irreplaceable. This is the last nesting site in New Jersey for the American bald eagle. It is a winter home for bald and golden eagles, peregrine falcons, and an enormous variety of waterfowl. The Maurice pours its clean waters into the Delaware Bay and fosters the growth of crabs and oysters, on which our watermen depend. Near these streams are perhaps the highest concentration of rare, threatened, or endangered species in the State.

We're at a crossroad: Our actions today will determine what these rivers will look like in the future. The natural qualities I've described have always been here. But they will continue to be here only because the citizens of this area decide positively that they commit themselves to a pristine future for the river.

For the last 6 years, the river's future has been debated. This has been a trying experience for many. There have been a lot of concerns expressed, fears of a heavy Federal hand, condemnation, new bureaucracy, hardship for private property owners, et cetera. Repeatedly, I have pledged to work with the communities to address these concerns and reduce them. Now, it will be up to all of us to see that the many fears aren't realized while the enormous promise is.

The towns involved have all endorsed this legislation. Many of the industries in the area support it. I especially commend the Atlantic City Electric Co., which has major land holdings in the area. In the end, they supported this bill as well. They are concerned that wild and scenic river States will interfere with or prevent the maintenance and care of their existing facilities and rights-of-way. This is not at all an intended result of the legislation. The Park Service has documented the many attributes of these rivers and these features exist notwithstanding

the presence of the Atlantic Electric facilities.

Wild and scenic river statutes will not destroy the prospects of those who live, work, or own property along these rivers. On the contrary, their prospects will be enhanced and preserved. For everyone in these communities, the rivers provide a constant of natural beauty. It's always been this way. And, with this new land, it always will be this way.

VEGETABLE INK PRINTING ACT OF 1993

Mr. BAUCUS. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 278, S. 716, a bill to require the use of vegetable oil ink for all Federal lithographic printing; that the committee substitute amendment be agreed to; that the bill be read a third time and passed, the motion to reconsider laid upon the table, and any statements thereon appear in the RECORD at the appropriate place as though read.

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

The Senate considered the bill (S. 716) to require that all Federal lithographic printing be performed using ink made from vegetable oil and matrials derived from other renewable resources, and for other purposes, which had been reported from the Committee on Rules and Administration with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Vegetable Ink Printing Act of 1993".

SEC. 2. FINDINGS.

The Congress finds that—

(1) more than 95 percent of Federal printing involving documents or publications is performed using lithographic inks;

(2) various types of oil, including petroleum and vegetable oil, are used in lithographic ink;

(3) increasing the amount of vegetable oil used in a lithographic ink would—

(A) help reduce the Nation's use of nonrenewable energy resources;

(B) result in the use of products that are less damaging to the environment;

(C) result in a reduction of volatile organic compound emissions; and

(D) increase the use of renewable agricultural products;

(4) the technology exists to use vegetable oil in lithographic ink and, in some applications, to use lithographic ink that uses no petroleum distillates in the liquid portion of the ink;

(5) some lithographic inks have contained vegetable oils for many years; other lithographic inks have more recently begun to use vegetable oil;

(6) according to the Government Printing Office, using vegetable-based ink appears to add little if any additional cost to Government printing;

(7) use of vegetable-based ink in Federal Government printing should further develop—

(A) the commercial viability of vegetable-base ink, which could result in demand, for domestic use alone, for 2,500,000,000 pounds of vegetable crops or 500,000,000 pounds of vegetable oil; and

(B) a product that could help the United States retain or enlarge its share of the world market for vegetable ink.

SEC. 3. FEDERAL PRINTING REQUIREMENTS.

(a) *DEFINITION.—In this section,* "Federal agency" means—

(1) an executive department, military department, Government corporation, Government-controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency; and

(2) an establishment or component of the legislative or judicial branch of the Government.

(b) VEGETABLE-BASED INKS.—

(1) IN GENERAL.—Notwithstanding any other law, beginning on the date that is 180 days after the date of enactment of this Act, all lithographic printing performed or procured by a Federal agency that uses oil in its ink shall use the maximum amount of vegetable oil and materials derived from other renewable resources that are technologically feasible and result in printing costs that are cost-competitive with printing using petroleum-based inks.

(2) MINIMUM PERCENTAGES.—Except as provided in paragraph (3), in no event shall a Federal agency use any ink that contains less than the following percentages of vegetable oil in its ink used for lithographic printing:

(A) In the case of news inks, 40 percent.

(B) In the case of sheet-fed inks, 20 percent.

(C) In the case of forms inks, 20 percent.

(D) In the case of heat-set inks, 10 percent.

(3) SUSPENSION OF EFFECTIVENESS OF PARAGRAPH (2).—(A) At any time at which a Federal agency determines that the cost of printing with vegetable-based ink is significantly greater than the cost of printing with petroleum-based ink, the Federal agency may perform or procure lithographic printing using ink that contains less than the percentages of vegetable oil in its ink than those specified in paragraph (a) until such times as the cost of printing with vegetable-based ink is not significantly greater than the cost of printing with petroleum-based ink.

(B) A determination made under subparagraph (A) shall be reviewed—

(i) at least once every quarter, for the performance or procurement of printing of materials that are printed on a regular basis; and

(ii) prior to performing or procuring the printing of particular material of significant size that is printed once or is printed at intervals of 6 months or more.

The title was amended so as to read: "A bill to require that all Federal lithographic printing be performed using ink made from vegetable oil and materials derived from other renewable resources, and for other purposes.".

So the bill (S. 716), as amended, was passed.

BILL READ THE FIRST TIME—H.R. 881

Mr. BAUCUS. Mr. President, I understand that the Senate has received from the House H.R. 881, a ban on smoking in Federal buildings. On behalf of Senator LAUTENBERG, I ask that the bill be read for the first time.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (H.R. 881) to prohibit smoking in Federal buildings.

Mr. BAUCUS. I now ask for its second reading.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Mr. President, on behalf of Senator FORD, I object.

The PRESIDING OFFICER. I thank the Senator.

Objection is heard.

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1993

Mr. BAUCUS. Mr. President I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 275, S. 1299, a bill to reform the requirements for the disposition of multifamily property owned by the Secretary of Housing and Urban Development.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1299) to reform requirements for the disposition of multifamily property owned by the Secretary of Housing and Urban Development, enhance program flexibility, authorize a program to combat crime, 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 Banking, Housing and Urban Affairs with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Housing and Community Development Act of 1993".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "FHA" means the Federal Housing Administration;

(2) the term "Secretary" means the Secretary of Housing and Urban Development; and

(3) the term "RTC" means the Resolution Trust Corporation.

TITLE I—FHA MULTIFAMILY REFORMS

SEC. 101. MULTIFAMILY PROPERTY DISPOSITION.

(a) FINDINGS.—The Congress finds that—

(1) the portfolio of multifamily housing project mortgages insured by the FHA is severely troubled and at risk of default, requiring the Secretary to increase loss reserves from $5.5 billion in 1991 to $11.9 billion in 1992 to cover estimated future losses;

(2) the inventory of multifamily housing projects owned by the Secretary has more than tripled since 1989, and, by the end of 1993, may exceed 75,000 units;

(3) the cost to the Federal Government of owning and maintaining multifamily housing projects escalated to approximately $250 million in fiscal year 1992;

(4) the inventory of multifamily housing projects subject to mortgages held by the Secretary has increased dramatically, to more than 2,400 mortgages, and approximately half of these mortgages, secured by projects with over 230,000 units, are delinquent;

(5) the inventory of insured and formerly insured multifamily housing projects is rapidly deteriorating, endangering tenants and neighborhoods;

(6) over 5 million very low-income families today have a critical need for housing that is affordable and habitable; and

(7) the current statutory framework governing the disposition of multifamily housing projects effectively impedes the Government's ability to dispose of properties, protect tenants, and ensure that projects are maintained over time.

(b) MANAGEMENT AND DISPOSITION OF MULTIFAMILY HOUSING PROJECTS.—Section 203 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z–11) is amended to read as follows:

"SEC. 203. MANAGEMENT AND DISPOSITION OF MULTIFAMILY HOUSING PROJECTS.

"(a) GOALS.—The Secretary of Housing and Urban Development (hereafter in this section referred to as the 'Secretary') shall manage or dispose of multifamily housing projects that are owned by the Secretary or that are subject to a mortgage held by the Secretary in a manner that—

"(1) is consistent with the National Housing Act and this section;

"(2) will protect the financial interests of the Federal Government; and

"(3) will, in the least costly fashion among reasonable available alternatives, further the goals of—

"(A) preserving housing so that it can remain available to and affordable by low-income persons;

"(B) preserving and revitalizing residential neighborhoods;

"(C) maintaining existing housing stock in a decent, safe, and sanitary condition;

"(D) minimizing the involuntary displacement of tenants;

"(E) maintaining housing for the purpose of providing rental housing, cooperative housing, and homeownership opportunities for low-income persons; and

"(F) minimizing the need to demolish multifamily housing projects.

The Secretary, in determining the manner in which a project is to be managed or disposed of, shall balance competing goals relating to individual projects in a manner that will further the purposes of this section.

"(b) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) MULTIFAMILY HOUSING PROJECT.—The term 'multifamily housing project' means any multifamily rental housing project that is, or prior to acquisition by the Secretary was, assisted or insured under the National Housing Act, or was subject to a loan under section 202 of the Housing Act of 1959.

"(2) SUBSIDIZED PROJECT.—The term 'subsidized project' means a multifamily housing project receiving any of the following types of assistance immediately prior to the assignment of the mortgage on such project to, or the acquisition of such mortgage by, the Secretary:

"(A) Below market interest rate mortgage insurance under the proviso of section 221(d)(5) of the National Housing Act.

"(B) Interest reduction payments made in connection with mortgages insured under section 236 of the National Housing Act.

"(C) Direct loans made under section 202 of the Housing Act of 1959.

"(D) Assistance in the form of—

"(i) rent supplement payments under section 101 of the Housing and Urban Development Act of 1965;

"(ii) additional assistance payments under section 236(f)(2) of the National Housing Act;

"(iii) housing assistance payments made under section 23 of the United States Housing Act of 1937 (as in effect before January 1, 1975); or

"(iv) housing assistance payments made under section 8 of the United States Housing Act of 1937 (excluding payments made for tenant-based assistance under section 8);

if (except for purposes of section 183(c) of the Housing and Community Development Act of 1987) such assistance payments are made to more than 50 percent of the units in the project.

"(3) FORMERLY SUBSIDIZED PROJECT.—The term 'formerly subsidized project' means a multifamily housing project owned by the Secretary that was a subsidized project immediately prior to its acquisition by the Secretary.

"(4) UNSUBSIDIZED PROJECT.—The term 'unsubsidized project' means a multifamily housing project owned by the Secretary that is not a subsidized project or a formerly subsidized project.

"(c) MANAGEMENT OR DISPOSITION OF PROPERTY.—

"(1) DISPOSITION TO PURCHASERS.—The Secretary is authorized, in carrying out this section, to dispose of a multifamily housing project owned by the Secretary on a negotiated, competitive bid, or other basis, on such terms as the Secretary deems appropriate considering the low-income character of the project and the requirements of subsection (a), to a purchaser determined by the Secretary to be capable of—

"(A) satisfying the conditions of the disposition plan;

"(B) implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and repair expenses to ensure that the project will remain in decent, safe, and sanitary condition;

"(C) responding to the needs of the tenants and working cooperatively with tenant organizations;

"(D) providing adequate organizational, staff, and financial resources to the project; and

"(E) meeting such other requirements as the Secretary may determine.

"(2) CONTRACTING FOR MANAGEMENT SERVICES.—The Secretary is authorized, in carrying out this section—

"(A) to contract for management services for a multifamily housing project that is owned by the Secretary (or for which the Secretary is mortgagee in possession), on a negotiated, competitive bid, or other basis at a price determined by the Secretary to be reasonable, with a manager the Secretary has determined is capable of—

"(i) implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and maintenance expenses to ensure that the project will remain in decent, safe, and sanitary condition;

"(ii) responding to the needs of the tenants and working cooperatively with tenant organizations;

"(iii) providing adequate organizational, staff, and other resources to implement a management program; and

"(iv) meeting such other requirements as the Secretary may determine; and

"(B) to require the owner of a multifamily housing project that is subject to a mortgage held by the Secretary to contract for management services for the project in the manner described in subparagraph (A).

"(d) MAINTENANCE OF HOUSING PROJECTS.—

"(1) HOUSING PROJECTS OWNED BY THE SECRETARY.—In the case of multifamily housing projects that are owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall—

"(A) to the greatest extent possible, maintain all such occupied projects in a decent, safe, and sanitary condition;

"(B) to the greatest extent possible, maintain full occupancy in all such projects; and

"(C) maintain all such projects for purposes of providing rental or cooperative housing.

"(2) HOUSING PROJECTS SUBJECT TO A MORTGAGE HELD BY THE SECRETARY.—In the case of any multifamily housing project that is subject to a mortgage held by the Secretary, the Secretary shall require the owner of the project to carry out the requirements of paragraph (1).

"(e) REQUIRED ASSISTANCE.—In carrying out the goals specified in subsection (a), the Secretary shall take not less than one of the following actions:

"(1) CONTRACT WITH OWNER.—Enter into contracts under section 8 of the United States Housing Act of 1937, to the extent budget authority is available, with owners of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary.

"(A) SUBSIDIZED OR FORMERLY SUBSIDIZED PROJECTS RECEIVING CERTAIN ASSISTANCE.—In the case of a subsidized project referred to in subparagraph (A), (B), or (C) of subsection (b)(2) or a formerly subsidized project that was subsidized as described in any such subparagraph—

"(i) the contract shall be sufficient to assist at least all units covered by an assistance contract under any of the authorities referred to in subsection (b)(2)(D) before acquisition, unless the Secretary acts pursuant to the provisions of subparagraph (C) of this paragraph;

"(ii) in the case of units requiring project-based rental assistance pursuant to clause (i) that are occupied by families who are not eligible for assistance under section 8, a contract under this subparagraph shall also provide that when a vacancy occurs, the owner shall lease the available unit to a family eligible for assistance under section 8; and

"(iii) the Secretary shall take actions to ensure the availability and affordability, as defined in paragraph (3)(B), for the remaining useful life of the project, as defined by the Secretary, of any unit located in any project referred to in subparagraph (A), (B), or (C) of subsection (b)(2) that does not otherwise receive project-based rental assistance under this subparagraph. To carry out this clause, the Secretary may require purchasers to establish use or rent restrictions on these units.

"(B) SUBSIDIZED OR FORMERLY SUBSIDIZED PROJECTS RECEIVING OTHER ASSISTANCE.—In the case of a subsidized project referred to in subsection (b)(2)(D) or a formerly subsidized project that was subsidized as described in subsection (b)(2)(D)—

"(i) the contract shall be sufficient to assist at least all units in the project that are covered, or that were covered immediately before foreclosure on or acquisition of the project by the Secretary, by an assistance contract under any of the authorities referred to in such subsection, unless the Secretary acts pursuant to provisions of subparagraph (C); and

"(ii) in the case of units requiring project-based rental assistance pursuant to clause (i) that are occupied by families who are not eligible for assistance under section 8, a contract under this paragraph shall also provide that when a vacancy occurs, the owner shall lease the available unit to a family eligible for assistance under section 8.

"(C) EXCEPTIONS TO SUBPARAGRAPHS (A) AND (B).—In lieu of providing project-based rental assistance under subparagraph (A) or (B), the Secretary may require certain units in unsubsidized projects to contain use restrictions providing that such units will be available to and affordable by very low-income families for the remaining useful life of the project, as defined by the Secretary, if—

"(i) the Secretary matches any reduction in the number of units otherwise required to be assisted with project-based rental assistance under subparagraph (A) or (B) with at least an equivalent increase in the number of units made affordable, as such term is defined in paragraph (3)(B), to very low-income persons within unsubsidized projects;

"(ii) the Secretary makes tenant-based assistance under section 8 available to low-income tenants residing in units otherwise requiring project-based rental assistance under subparagraph (A) or (B) upon disposition; and

"(iii) the units described in clause (i) are located within the same market area.

"(D) CONTRACT REQUIREMENTS FOR UNSUBSIDIZED PROJECTS.—Notwithstanding actions that are taken pursuant to subparagraph (C), in any unsubsidized project—

"(i) the contract shall be at least sufficient to provide project-based rental assistance for all units that are covered or were covered immediately before foreclosure or acquisition by an assistance contract under—

"(I) section 8(b)(2) of the United States Housing Act of 1937, as such section existed before October 1, 1983 (new construction and substantial rehabilitation); section 8(b) of such Act (property disposition); section 9(d)(2) of such Act (project-based certificates); section 8(e)(2) of such Act (moderate rehabilitation); section 23 of such Act (as in effect before January 1, 1975); or section 101 of the Housing and Urban Development Act of 1965 (rent supplements); or

"(II) section 8 of the United States Housing Act of 1937, following conversion from section 101 of the Housing and Urban Development Act of 1965; and

"(ii) the Secretary shall make available tenant-based assistance under section 8 of the United States Housing Act of 1937 to tenants currently residing in units that were covered by an assistance contract under the Loan Management Set-Aside program under section 8(b) of the United States Housing Act of 1937 immediately before foreclosure or acquisition of the project by the Secretary.

"(2) ANNUAL CONTRIBUTION CONTRACTS.—In the case of unsubsidized multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, enter into annual contribution contracts with public housing agencies to provide tenant-based assistance under section 8 of the United States Housing Act of 1937 to all low-income families who are eligible for such assistance on the date that the project is acquired by the purchaser. The Secretary shall take action under this paragraph only after making a determination that there is an adequate supply of habitable housing in the area that is available to and affordable by low-income families using such assistance. Actions may also be taken pursuant to this paragraph in connection with not more than 10 percent of the aggregate number of units in subsidized or formerly subsidized projects disposed of by the Secretary in each fiscal year.

"(3) OTHER ASSISTANCE.—

"(A) IN GENERAL.—In accordance with the authority provided under the National Housing Act, reduce the selling price, apply use or rent restrictions on certain units, or provide other financial assistance to the owners of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure, or after sale by the Secretary, on terms that will ensure that at least those units otherwise required to receive project-based section 8 assistance pursuant to subparagraph (A), (B), or (D) of paragraph (1) are available to and affordable by low-income persons for the remaining useful life of the project, as defined by the Secretary.

"(B) DEFINITION.—A unit shall be considered affordable under this paragraph if—

"(i) for very low-income tenants, the rent for such unit does not exceed 30 percent of 50 percent of the area median income, as determined by the Secretary, with adjustments for family size; and

"(ii) for low-income tenants other than very low-income tenants, the rent for such unit does not exceed 30 percent of 60 percent of the area median income, as determined by the Secretary, with adjustments for family size.

"(C) VERY LOW-INCOME TENANTS.—The Secretary shall provide assistance under section 8 of the United States Housing Act of 1937 to any very low-income tenant currently residing in a unit otherwise required to receive project-based rental assistance under section 8, pursuant to subparagraph (A), (B), or (D) of paragraph (1), if the rents charged such tenants as a result of actions taken pursuant to this paragraph exceed the amount payable as rent under section 3(a) of the United States Housing Act of 1937.

"(4) TRANSFER FOR USE UNDER OTHER PROGRAMS OF THE SECRETARY.—

"(A) IN GENERAL.—Enter into an agreement providing for the transfer of a multifamily housing project—

"(i) to a public housing agency for use of the project as public housing; or

"(ii) to an owner or another appropriate entity for use of the project under section 202 of the Housing Act of 1959 or under section 811 of the Cranston-Gonzalez National Affordable Housing Act.

"(B) REQUIREMENTS FOR AGREEMENT.—The agreement described in subparagraph (A) shall—

"(i) contain such terms, conditions, and limitations as the Secretary determines appropriate, including requirements to assure use of the project under the public housing, section 202, and section 811 programs; and

"(ii) ensure that no current tenant will be displaced as a result of actions taken under this paragraph.

"(f) OTHER ASSISTANCE.—In addition to the actions required by subsection (e), the Secretary may take any of the following actions:

"(1) SHORT-TERM LOANS.—Provide short-term loans to facilitate the sale of multifamily housing projects to nonprofit organizations or to public agencies if—

"(A) authority for such loans is provided in advance in an appropriations Act;

"(B) such loans are for a term of not more than 5 years;

"(C) the Secretary is presented with satisfactory documentation, evidencing a commitment of permanent financing to replace such short-term loan, from a lender who meets standards set forth by the Secretary; and

"(D) the terms of such loans are consistent with prevailing practices in the marketplace or the provision of such loans results in no cost to the Government, as defined in section 502 of the Congressional Budget Act.

"(2) TENANT-BASED ASSISTANCE.—Make available tenant-based assistance under section 8 of the United States Housing Act of 1937 to very low-income families that do not otherwise qualify for project-based rental assistance.

"(3) ALTERNATIVE USES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, and subject to notice to and comment from existing tenants, allow not more than—

"(i) 5 percent of the total number of units in multifamily housing projects that are disposed of by the Secretary during each fiscal year to be made available for uses other than rental or cooperative housing, including low-income homeownership opportunities, community space, office space for tenant or housing-related service providers or security programs, or small business uses, if such uses benefit the tenants of the project; and

"(ii) 5 percent of the total number of units in multifamily housing projects that are disposed

of by the Secretary during each fiscal year to be used in any manner, if the Secretary and the unit of general local government or area-wide governing body determine that such use will further fair housing, community development, or neighborhood revitalization goals.

"(B) DISPLACEMENT PROTECTION.—The Secretary shall—

"(i) make available tenant-based assistance under section 8 of the United States Housing Act of 1937 to any tenant displaced as a result of actions taken by the Secretary pursuant to subparagraph (A); and

"(ii) take such actions as the Secretary determines necessary to ensure the successful use of any tenant-based assistance provided under this subparagraph.

"(4) AUTHORIZATION OF USE OR RENT RESTRICTIONS IN UNSUBSIDIZED PROJECTS.—In carrying out the goals specified in subsection (a), the Secretary may require certain units in unsubsidized projects upon disposition to contain use or rent restrictions providing that such units will be available to and affordable by very low-income persons for the remaining useful life of the property, as defined by the Secretary.

"(g) CONTRACT REQUIREMENTS.—

"(1) CONTRACT TERM.—

"(A) IN GENERAL.—Contracts for project-based rental assistance under section 8 of the United States Housing Act of 1937 provided pursuant to this section shall be for a term of not more than 15 years; and

"(B) CONTRACT TERM OF LESS THAN 15 YEARS.—To the extent that units receive project-based rental assistance for a contract term of less than 15 years, the Secretary shall require that rents charged to tenants for such units shall not exceed the amount payable for rent under section 3(a) of the United States Housing Act of 1937 for a period of at least 15 years.

"(2) CONTRACT RENT.—

"(A) IN GENERAL.—The Secretary shall set contract rents for section 8 project-based rental contracts issued under this section at levels that, in conjunction with other resources available to the purchaser, provide for the necessary costs of rehabilitation of such project and do not exceed the percentage of the existing housing fair market rents for the area, as determined by the Secretary under section 8(c) of the United States Housing Act of 1937.

"(B) UP-FRONT GRANTS.—If such an approach is determined to be more cost-effective, the Secretary may utilize the budget authority provided for project-based section 8 contracts issued under this section to

"(i) provide project-based section 8 rental assistance; and

"(ii) provide up-front grants for the necessary costs of rehabilitation.

"(h) DISPOSITION PLAN.—

"(1) IN GENERAL.—Prior to the sale of a multifamily housing project that is owned by the Secretary, the Secretary shall develop a disposition plan for the project that specifies the minimum terms and conditions of the Secretary for disposition of the project, the initial sales price that is acceptable to the Secretary, and the assistance that the Secretary plans to make available to a prospective purchaser in accordance with this section. The initial sales price shall reflect the intended use of the property after sale.

"(2) COMMUNITY AND TENANT INPUT INTO DISPOSITION PLANS AND SALES.—

"(A) IN GENERAL.—In carrying out this section, the Secretary shall develop procedures to obtain appropriate and timely input into disposition plans from officials of the unit of general local government affected, the community in which the project is situated, and the tenants of the project.

"(B) TENANT ORGANIZATIONS.—The Secretary shall develop procedures to facilitate, where feasible and appropriate, the sale of multifamily housing projects to existing tenant organizations with demonstrated capacity or to public or nonprofit entities that represent or are affiliated with existing tenant organizations.

"(C) TECHNICAL ASSISTANCE.—

"(i) IN GENERAL.—To carry out the procedures developed under subparagraphs (A) and (B), the Secretary is authorized to provide technical assistance, directly or indirectly.

"(ii) TECHNICAL ASSISTANCE PROVIDERS.—Recipients of technical assistance funding under the Emergency Low Income Housing Preservation Act of 1987, the Low-Income Housing Preservation and Resident Homeownership Act of 1990, subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act, shall be permitted to provide technical assistance to the extent of such funding under any of such programs or under this section, notwithstanding the source of funding.

"(iii) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 to carry out this subparagraph. In addition, the Secretary is authorized to use amounts appropriated for technical assistance under the Emergency Low Income Housing Preservation Act of 1987, the Low-Income Housing Preservation and Resident Homeownership Act of 1990, subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act, for the provision of technical assistance under this section.

"(i) RIGHT OF FIRST REFUSAL.—

"(1) PROCEDURE.—

"(A) NOTIFICATION BY SECRETARY OF THE ACQUISITION OF TITLE.—Not later than 30 days after the Secretary acquires title to a multifamily housing project, the Secretary shall notify the appropriate unit of general local government and State agency or agencies designated by the Governor of the acquisition of such title.

"(B) EXPRESSION OF INTEREST.—Not later than 45 days after receiving notification from the Secretary under subparagraph (A), the unit of general local government or designated State agency may submit to the Secretary a preliminary expression of interest in the project. The Secretary may take such actions as may be necessary to require the unit of general local government or designated State agency to substantiate such interest.

"(C) TIMELY EXPRESSION OF INTEREST.—If the unit of general local government or designated State agency has expressed interest in the project before the expiration of the 45-day period referred to in subparagraph (B) and has substantiated such interest if requested, the Secretary shall notify the unit of general local government or designated State agency, within a reasonable period of time, of the terms and conditions of the disposition plan, in accordance with subsection (h). The Secretary shall then give the unit of general local government or designated State agency not more than 90 days after the date of such notification to make an offer to purchase the project.

"(D) NO TIMELY EXPRESSION OF INTEREST.—If the unit of general local government or designated State agency does not express interest before the expiration of the 45-day period referred to in subparagraph (B), or does not substantiate an expressed interest if requested, the Secretary may offer the project for sale to any interested person or entity.

"(2) ACCEPTANCE OF OFFERS.—If the Secretary has given the unit of general local government or designated State agency 90 days to make an offer to purchase the project, the Secretary shall accept an offer that complies with the terms and conditions of the disposition plan. The Secretary may accept an offer that does not comply with the terms and conditions of the disposition plan if the Secretary determines that the offer will further the goals specified in subsection (a) by actions that include extension of the duration of low-income affordability restrictions, or otherwise restructuring the transaction in a manner that enhances the long-term affordability for low-income persons. The Secretary shall, in particular, have discretion to reduce the initial sales price in exchange for the extension of low-income affordability restrictions beyond the period of assistance contemplated by the attachment of assistance pursuant to subsection (e) or for an increase in the number of units that are available to and affordable by low-income families. If the Secretary and the unit of general local government or designated State agency cannot reach agreement within 90 days, the Secretary may offer the project for sale to the general public.

"(3) PURCHASE BY UNIT OF GENERAL LOCAL GOVERNMENT OR DESIGNATED STATE AGENCY.—Notwithstanding any other provision of law, a unit of general local government (including a public housing agency) or designated State agency may purchase multifamily housing projects in accordance with this subsection.

"(4) APPLICABILITY.—This subsection shall apply to projects that are acquired on or after the effective date of this subsection. With respect to projects acquired before such effective date, the Secretary may apply—

"(A) the requirements of paragraphs (2) and (3) of section 203(e) as such paragraphs existed immediately before the effective date of this subsection; or

"(B) the requirements of paragraphs (1) and (2) of this subsection, if the Secretary gives the unit of general local government or designated State agency—

"(i) 45 days to express interest in the project; and

"(ii) if the unit of general local government or designated State agency expresses interest in the project before the expiration of the 45-day period, and substantiates such interest if requested, 90 days from the date of notification of the terms and conditions of the disposition plan to make an offer to purchase the project.

"(j) DISPLACEMENT OF TENANTS AND RELOCATION ASSISTANCE.—

"(1) IN GENERAL.—Whenever tenants will be displaced as a result of the disposition of, or repairs to, a multifamily housing project that is owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall identify tenants who will be displaced, and shall notify all such tenants of their pending displacement and of any relocation assistance that may be available. In the case of a multifamily housing project that is not owned by the Secretary (and for which the Secretary is not mortgagee in possession), the Secretary shall require the owner of the project to carry out the requirements of this paragraph.

"(2) RIGHTS OF DISPLACED TENANTS.—The Secretary shall assure for any such tenant (who continues to meet applicable qualification standards) the right—

"(A) to return, whenever possible, to a repaired unit;

"(B) to occupy a unit in another multifamily housing project owned by the Secretary;

"(C) to obtain housing assistance under the United States Housing Act of 1937; or

"(D) to receive any other available relocation assistance as the Secretary determines to be appropriate.

"(k) MORTGAGE AND PROJECT SALES.—

"(1) IN GENERAL.—The Secretary may not approve the sale of any loan or mortgage held by the Secretary (including any loan or mortgage owned by the Government National Mortgage Association) on any subsidized project or formerly subsidized project, unless such sale is made as part of a transaction that will ensure

that such project will continue to operate at least until the maturity date of such loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the assignment of the loan or mortgage on such project to the Secretary.

"(2) SALE OF CERTAIN PROJECTS.—The Secretary may not approve the sale of any subsidized project—

"(A) that is subject to a mortgage held by the Secretary; or

"(B) if the sale transaction involves the provision of any additional subsidy funds by the Secretary or a recasting of the mortgage;

unless such sale is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of the loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the proposed sale of the project.

"(3) MORTGAGE SALES TO STATE AND LOCAL GOVERNMENTS.—Notwithstanding any provision of law that may require competitive sales or bidding, the Secretary may carry out negotiated sales of mortgages held by the Secretary that are secured by subsidized or formerly subsidized multifamily housing projects, without the competitive selection of purchasers or intermediaries, to units of general local government or State agencies, or groups of investors that include at least 1 such unit of general local government or State agency, if the negotiations are conducted with such agencies, except that—

"(A) the terms of any such sale shall include the agreement of the purchasing agency or unit of local government or State agency to act as mortgagee or owner of a beneficial interest in such mortgages, in a manner consistent with maintaining the projects that are subject to such mortgages for occupancy by the general tenant group intended to be served by the applicable mortgage insurance program, including, to the extent the Secretary determines appropriate, authorizing such unit of local government or State agency to enforce the provisions of any regulatory agreement or other program requirements applicable to the related projects; and

"(B) the sales prices for such mortgages shall be, in the determination of the Secretary, the best prices that may be obtained for such mortgages from a unit of general local government or State agency, consistent with the expectation and intention that the projects financed will be retained for use under the applicable mortgage insurance program for the life of the initial mortgage insurance contract.

"(4) SALE OF MORTGAGES COVERING UNSUBSIDIZED PROJECTS.—Notwithstanding any other provision of law, the Secretary may sell mortgages held on unsubsidized projects on such terms and conditions as the Secretary may prescribe.

"(l) PROJECT-BASED RENTAL ASSISTANCE FOR TERM OF LESS THAN 15 YEARS.—Notwithstanding subsection (g), project-based rental assistance in connection with the disposition of a multifamily housing project may be provided for a contract term of less than 15 years if such assistance is provided—

"(1) under a contract authorized under section 6 of the HUD Demonstration Act of 1993; and

"(2) pursuant to a disposition plan under this section for a project that is determined by the Secretary to be otherwise in compliance with this section.

"(m) REPORT TO CONGRESS.—Not later than June 1 of each year, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, a report describing the status of multifamily housing projects owned by or subject to mortgages held by the Secretary. The report shall include—

"(1) the name, address, and size of each project;

"(2) the nature and date of assignment;

"(3) the status of the mortgage;

"(4) the physical condition of the project;

"(5) an occupancy profile of the project, including the income, family size, and race of current residents as well as the rents paid by such residents;

"(6) the proportion of units in a project that are vacant;

"(7) the date on which the Secretary became mortgagee in possession;

"(8) the date and conditions of any foreclosure sale;

"(9) the date of acquisition by the Secretary;

"(10) the date and conditions of any property disposition sale;

"(11) a description of actions undertaken pursuant to this section, including—

"(A) a comparison of results between actions taken after the date of enactment of the Housing and Community Development Act of 1993 and actions taken in the years preceding such date of enactment;

"(B) a description of any impediments to the disposition or management of multifamily housing projects, together with a recommendation of proposed legislative or regulatory changes designed to ameliorate such impediments;

"(C) a description of actions taken to restructure or commence foreclosure on delinquent multifamily mortgages held by the Department; and

"(D) a description of actions taken to monitor and prevent the default of multifamily housing mortgages held by the Federal Housing Administration;

"(12) a description of any of the functions performed in connection with this section that are contracted out to public or private entities or to States, including—

"(A) the costs associated with such delegation;

"(B) the implications of contracting out or delegating such functions for current Department field or regional personnel, including anticipated personnel or work load reductions;

"(C) necessary oversight required by Department personnel, including anticipated personnel hours devoted to such oversight;

"(D) a description of any authority granted to such public or private entities or States in conjunction with the functions that have been delegated or contracted out or that are not otherwise available for use by Department personnel; and

"(E) the extent to which such public or private entities or States include tenants of multifamily housing projects in the disposition planning for such projects;

"(13) a description of the activities carried out under subsection (j) during the preceding year; and

"(14) a description and assessment of the rules, guidelines, and practices governing the Department's management of multifamily housing projects that are owned by the Secretary (or for which the Secretary is mortgagee in possession) as well as the steps that the Secretary has taken or plans to take to improve the management performance of the Department.".

(c) EFFECTIVE DATE.—The Secretary shall, by notice published in the Federal Register, which shall take effect upon publication, establish such requirements as may be necessary to implement the amendments made by this section. The notice shall invite public comments and, not later than 12 months after the date on which the notice is published, the Secretary shall issue final regulations based on the initial notice, taking into account any public comments received.

SEC. 102. REPEAL OF STATE AGENCY MULTIFAMILY PROPERTY DISPOSITION DEMONSTRATION.

Section 184 of the Housing and Community Development Act of 1987 (12 U.S.C. 1701z-11 note) is hereby repealed.

SEC. 103. RTC MARKETING AND DISPOSITION OF MULTIFAMILY PROJECTS OWNED BY HUD.

(a) AUTHORIZATION.—The Secretary may carry out a demonstration with not more than 50 unsubsidized multifamily housing projects owned by the Secretary, using the RTC for the marketing and disposition of the projects. Any such demonstration shall be carried out pursuant to an agreement between the RTC and the Secretary on such terms and conditions as are acceptable to the RTC and the Secretary. The RTC shall establish policies and procedures for marketing and disposition, subject to review and approval by the Secretary.

(b) RULES GOVERNING THE DEMONSTRATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), in carrying out the provisions of this section, the RTC shall dispose of unsubsidized multifamily housing projects pursuant to the provisions of section 21A(c) of the Federal Home Loan Bank Act.

(2) EXCEPTION.—Notwithstanding paragraph (1), a very low-income tenant currently residing in a unit otherwise required under subsection (e)(1)(D) of section 203 of the Housing and Community Development Amendments of 1978 to receive project-based rental assistance under section 8, shall upon disposition pay not more than the amount payable as rent under section 3(a) of the United States Housing Act of 1937.

(c) DETERMINATION OF PROJECTS INCLUDED.—In determining which projects to include in the demonstration, the Secretary and the RTC shall take into consideration—

(1) the prior experience of the RTC in disposing of other multifamily housing projects in the jurisdictions in which such projects are located; and

(2) such other factors as the Secretary and the RTC determine to be appropriate.

(d) REIMBURSEMENT.—The agreement entered into pursuant to subsection (a) shall provide that the Secretary shall reimburse the RTC for the direct costs associated with the demonstration, including the costs of administration and marketing, property management, and any repair and rehabilitation. The Secretary may use proceeds from the sale of the projects to reimburse the RTC for its costs.

(e) REPORTS.—

(1) ANNUAL REPORTS.—The Secretary and the RTC shall jointly submit an annual report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives detailing the progress of the demonstration.

(2) FINAL REPORT.—Not later than 3 months after the completion of the demonstration, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report describing the results of the demonstration and any recommendations for legislative action.

(f) TERMINATION.—The demonstration under this section shall not extend beyond the termination date of the RTC.

SEC. 104. CIVIL MONEY PENALTIES AGAINST GENERAL PARTNERS AND CERTAIN MANAGING AGENTS OF MULTIFAMILY HOUSING PROJECTS.

(a) CIVIL MONEY PENALTIES AGAINST MULTIFAMILY MORTGAGORS.—Section 537 of the National Housing Act (12 U.S.C. 1735f–15) is amended—

(1) in subsection (b)(1), by inserting after "mortgagor" the second place it appears the following: "or general partner of a partnership mortgagor";

(2) in subsection (c)—

(A) by striking the heading and inserting the following:

"(c) OTHER VIOLATIONS.—"; and

(B) in paragraph (1)—

(i) by striking "The Secretary may" and all that follows through the colon and inserting the following:

"(A) LIABLE PARTIES.—The Secretary may also impose a civil money penalty under this section on—

"(i) any mortgagor of a property that includes 5 or more living units and that has a mortgage insured, coinsured, or held pursuant to this Act;

"(ii) the general partner of a partnership mortgagor of such property; or

"(iii) any agent employed to manage the property that has an identity of interest with the mortgagor or the general partner of a partnership mortgagor of such property.

"(B) VIOLATIONS.—A penalty may be imposed under this paragraph for knowingly and materially taking any of the following actions:";

(ii) in subparagraph (B), as redesignated, by redesignating subparagraphs (A) through (L) as clauses (i) through (xii), respectively; and

(iii) by adding after clause (xii), as redesignated, the following new clauses:

"(xiii) Failure to maintain the premises, accommodations, and the grounds and equipment appurtenant thereto in good repair and condition in accordance with regulations and requirements of the Secretary.

"(xiv) Failure, by a mortgagor or general partner of a partnership mortgagor, to provide management for the project that is acceptable to the Secretary pursuant to regulations and requirements of the Secretary."; and

(iv) in the last sentence, by deleting "of such agreement" and inserting "of this subsection";

(3) in subsection (d)(1)(B), by inserting after "mortgagor" the following: ", general partner of a partnership mortgagor, or identity of interest agent employed to manage the property,";

(4) in subsection (d), by adding at the end the following new paragraph:

"(5) PAYMENT OF PENALTY.—No payment of a civil money penalty levied under this section shall be payable out of project income.";

(5) in subsection (e)(1), by deleting "a mortgagor" and inserting "an entity or person";

(6) in subsection (f), by inserting after "mortgagor" each place such term appears the following: ", general partner of a partnership mortgagor, or identity of interest agent employed to manage the property,";

(7) by striking the heading of subsection (f) and inserting the following: "CIVIL MONEY PENALTIES AGAINST MULTIFAMILY MORTGAGORS, GENERAL PARTNERS OF PARTNERSHIP MORTGAGORS, AND CERTAIN MANAGING AGENTS"; and

(8) in subsection (j), by striking "all civil money" and all that follows through the period at the end and inserting the following: "the Secretary shall apply all civil money penalties collected under this section, or any portion of such penalties, to the fund established under section 201(j) of the Housing and Community Development Amendments of 1978.".

(b) APPLICABILITY OF AMENDMENTS.—The amendments made by subsection (a) shall apply only with respect to—

(1) violations that occur on or after the effective date of this Act; and

(2) in the case of a continuing violation (as determined by the Secretary), any portion of a violation that occurs on or after such date.

SEC. 105. MODELS FOR PROPERTY DISPOSITION.

The Federal Housing Commissioner shall develop models which shall be designed to assist States and units of general local government in using other Federal programs for the purpose of acquiring, rehabilitating, or otherwise participating in—

(1) the disposition, pursuant to section 203 of the Housing and Community Development Amendments of 1978, of multifamily housing projects owned by the Secretary; or

(2) the sale, pursuant to section 203 of the Housing and Community Development Amendments of 1978, of multifamily housing projects subject to mortgages held by the Secretary.

SEC. 106. PREVENTING MORTGAGE DEFAULTS.

(a) MULTIFAMILY HOUSING PLANNING AND INVESTMENT STRATEGIES.—

(1) PREPARATION OF ASSESSMENTS FOR INDEPENDENT ENTITIES.—Section 402(a) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715–1a note) is amended by adding at the end the following: "The assessment shall be prepared by an entity that does not have an identity of interest with the owner.".

(2) TIMING OF SUBMISSION OF NEEDS ASSESSMENTS.—Section 402(b) of the Housing and Community Development Act of 1992 (12 U.S.C. 17152–1a note) is amended to read as follows:

"(b) TIMING.—To ensure that assessments for all covered multifamily housing properties will be submitted on or before the conclusion of fiscal year 1997, the Secretary shall require the owners of such properties, including covered multifamily housing properties for the elderly, to submit the assessments for the properties in accordance with the following schedule:

"(1) For fiscal year 1994, 10 percent of the aggregate number of such properties.

"(2) For each of fiscal years 1995, 1996, and 1997, an additional 30 percent of the aggregate number of such properties.".

(3) REVIEW OF COMPREHENSIVE NEEDS ASSESSMENTS.—Section 404(d) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715–1a note) is amended to read as follows:

"(d) REVIEW.—

"(1) IN GENERAL.—The Secretary shall review each comprehensive needs assessment for completeness and adequacy before the expiration of the 90-day period beginning on the receipt of the assessment.

"(2) INCOMPLETE OR INADEQUATE ASSESSMENTS.—If the Secretary determines that the assessment is substantially incomplete or inadequate, the Secretary shall—

"(A) provide the owner with a reasonable amount of time to resubmit an amended assessment; and

"(B) indicate to the owner the portion of the original assessment requiring completion or other revision.".

(4) REPEAL OF NOTICE PROVISION.—Section 404(f) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715–1a note) is hereby repealed.

(5) FUNDING.—Title IV of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–1a note) is amended by adding at the end the following new section:

"SEC. 409. FUNDING.

"(a) ALLOCATION OF ASSISTANCE.—Based upon needs identified in comprehensive needs assessments, and subject to otherwise applicable program requirements, including selection criteria, the Secretary may allocate the following assistance to owners of covered multifamily housing projects and may provide such assistance on a noncompetitive basis:

"(1) Operating assistance and capital improvement assistance for troubled multifamily housing projects pursuant to section 201 of the Housing and Community Development Amendments of 1978, except for assistance set aside under section 201(n)(1).

"(2) Loan management assistance available pursuant to section 8 of the United States Housing Act of 1937.

"(b) OPERATING ASSISTANCE AND CAPITAL IMPROVEMENT ASSISTANCE.—In providing assistance under subsection (a) the Secretary shall use the selection criteria set forth in section 201(n) of the Housing and Community Development Amendments.

"(c) AMOUNT OF ASSISTANCE.—The Secretary may fund all or only a portion of the needs identified in the capital needs assessment of an owner selected to receive assistance under this section.".

(b) FLEXIBLE SUBSIDY PROGRAM.—

(1) DELETION OF UTILITY COST REQUIREMENTS.—Section 201(l) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–1a(i)) is hereby repealed.

(2) REPEAL OF MANDATORY CONTRIBUTION FROM OWNER.—Section 201(k)(2) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–1a(k)(2)) is amended by striking ", except that" and all that follows through "such loan".

(3) FUNDING.—Section 201(n) of the Housing and Community Development Amendments of 1978 (42 U.S.C. 1715z–1a(n)) is amended to read as follows:

"(n)(1) For fiscal year 1994 only, in providing, and contracting to provide, assistance for capital improvements under this section, the Secretary shall set aside an amount, as determined by the Secretary, for projects that are eligible for incentives under section 224(b) of the Emergency Low Income Housing Preservation Act of 1987, as such section existed before the date of enactment of the Cranston-Gonzalez National Affordable Housing Act. The Secretary may make such assistance available on a noncompetitive basis.

"(2) Except as provided in paragraph (3), with respect to assistance under this section not set aside for projects under paragraph (1), the Secretary—

"(A) may award assistance on a noncompetitive basis; and

"(B) shall award assistance to eligible projects on the basis of—

"(i) the extent to which the project is physically or financially troubled, as evidenced by the comprehensive needs assessment submitted in accordance with title IV of the Housing and Community Development Act of 1992; and

"(ii) the extent to which such assistance is necessary and reasonable to prevent the default of federally insured mortgages.

"(3) The Secretary may make exceptions to selection criteria set forth in paragraph (2) to permit the provision of assistance to eligible projects based upon—

"(A) the extent to which such assistance is necessary to prevent the imminent foreclosure or default of a project whose owner has not submitted a comprehensive needs assessment pursuant to title IV of the Housing and Community Development Act of 1992;

"(B) the extent to which the project presents an imminent threat to the life, health, and safety of project residents; or

"(C) such other criteria as the Secretary may specify by regulation or by notice printed in the Federal Register.

"(4) In providing assistance under this section, the Secretary shall take into consideration—

"(A) the extent to which there is evidence that there will be significant opportunities for residents (including a resident council or resident management corporation, as appropriate) to be

involved in the management of the project (except that this paragraph shall have no application to projects that are owned as cooperatives); and

"(B) the extent to which there is evidence that the project owner has provided competent management and complied with all regulatory and administrative instructions (including such instructions with respect to the comprehensive servicing of multifamily projects as the Secretary may issue).".

(c) IMPLEMENTATION AND EFFECTIVE DATE FOR SUBSECTIONS (a) AND (b).—

(1) IN GENERAL.—The Secretary shall, by notice published in the Federal Register, which shall take effect upon publication, establish such requirements as may be necessary to implement the amendments made by subsections (a) and (b). The notice shall invite public comments and, not later than 12 months after the date on which the notice is published, the Secretary shall issue final regulations based on the initial notice, taking into account any public comments received.

(2) CONTENTS.—The notice and the regulations shall describe the method by which the Secretary allocates assistance in accordance with section 409 of the Housing and Community Development Act of 1992 (as added by section 106(a) of this Act) and paragraphs (2) and (3) of section 201(n) of the Housing and Community Development Amendments of 1978.

(3) ANNUAL PUBLICATIONS.—The Secretary shall publish annually in the Federal Register—

(A) the method by which the Secretary determines which capital needs assessments will be received each year, in accordance with sections 402(b) and 404(d) of the Housing and Community Development Act of 1992; and

(B) a list of all owners of covered multifamily housing projects, by project, that have received funding under—

(i) section 409 of the Housing and Community Development Act of 1992 (as added by section 106(a) of this Act); or

(ii) paragraphs (2) and (3) of section 201(n) of the Housing and Community Development Amendments of 1978.

(4) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by subsections (a) and (b) shall take effect for amounts made available for fiscal year 1995.

(B) EXCEPTION.—Notwithstanding subparagraph (A), section 201(n)(1) of the Housing and Community Development Amendments of 1978 (as added by subsection (b)(3)) shall take effect on the date of enactment of this Act.

(d) STREAMLINED REFINANCING.—As soon as practicable, the Secretary shall implement a streamlined refinancing program under the authority provided in section 223 of the National Housing Act to prevent the default of mortgages insured by the FHA which cover multifamily housing projects, as defined in section 203(b) of the Housing and Community Development Amendments of 1978.

(e) PARTIAL PAYMENTS OF CLAIM.—

(1) IN GENERAL.—Notwithstanding any other provision of law, if the Secretary is requested to accept assignment of a mortgage insured by the Secretary that covers a multifamily housing project, as such term is defined in section 203(b) of the Housing and Community Development Amendments of 1978, and the Secretary determines that partial payment would be less costly to the Federal Government than other reasonable alternatives for maintaining the low-income character of the project, the Secretary may request the mortgagee, in lieu of assignment, to—

(A) accept partial payment of the claim under the mortgage insurance contract; and

(B) recast the mortgage, under such terms and conditions as the Secretary may determine.

(2) CONDITION.—As a condition to a partial claim payment under this section, the mortgagor shall agree to repay to the Secretary the amount of such payment and such obligation shall be secured by a second mortgage on the property on such terms and conditions as the Secretary may determine.

(f) GAO STUDY ON PREVENTION OF DEFAULT.—

(1) IN GENERAL.—Not later than June 1, 1994, the Comptroller General of the United States shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report that evaluates the adequacy of loan loss reserves in the General Insurance and Special Risk Insurance Funds and presents recommendations for the Secretary to prevent losses from occurring.

(2) CONTENTS.—The report submitted under paragraph (1) shall—

(A) evaluate the factors considered in arriving at loss estimates and determine whether other factors should be considered;

(B) determine the relative benefit of creating a new, actuarially sound insurance fund for all new multifamily housing insurance commitments; and

(C) recommend alternatives to the Secretary's current procedures for preventing the future default of multifamily housing project mortgages insured under title II of the National Housing Act.

(g) GAO STUDY ON ACTUARIAL SOUNDNESS OF CERTAIN INSURANCE PROGRAMS.—

(1) IN GENERAL.—Not later than June 1, 1994, the Comptroller General of the United States shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report that evaluates, in connection with the General Insurance Fund, the role and performance of the nursing home, hospital, and retirement service center insurance programs.

(2) CONTENTS.—The reports submitted under paragraph (1) shall—

(A) evaluate the strategic importance of these insurance programs to the mission of the FHA;

(B) evaluate the impact of these insurance programs upon the financial performance of the General Insurance Fund;

(C) assess the potential losses expected under these programs through fiscal year 1999;

(D) evaluate the risk of these programs to the General Insurance Fund in connection with changes in national health care policy;

(E) assess the ability of the FHA to manage these programs; and

(F) make recommendations for any necessary changes.

(h) ANNUAL ACTUARIAL REVIEW.—

(1) SPECIAL RISK INSURANCE FUND.—Section 238(c) of the National Housing Act (12 U.S.C. 1715z–3(c)) is amended by adding at the end the following new paragraph:

"(3) The Secretary shall undertake an annual review of the actuarial soundness of each of the insurance programs comprising the Special Risk Insurance Fund, and shall present findings from such review to the Congress in the FHA Annual Management Report.".

(2) GENERAL INSURANCE FUND.—Section 519 of the National Housing Act (12 U.S.C. 1735c) is amended by adding at the end the following new subsection:

"(g) ANNUAL ACTUARIAL REVIEW.—The Secretary shall undertake an annual review of the actuarial soundness of each of the insurance programs comprising the General Insurance Fund, and shall present findings from such review to the Congress in the FHA Annual Management Report.".

(i) ALTERNATIVE USES FOR PREVENTION OF DEFAULT.—

(1) IN GENERAL.—Subject to notice and comment from existing tenants, to prevent the imminent default of a multifamily housing project subject to a mortgage insured under title II of the National Housing Act, the Secretary may authorize the mortgagor to use the project for purposes not contemplated by or permitted under the regulatory agreement, if—

(A) such other uses are acceptable to the Secretary;

(B) such other uses would be otherwise insurable under title II of the National Housing Act;

(C) the outstanding principal balance on the mortgage covering such project is not increased;

(D) any financial benefit accruing to the mortgagor shall, subject to the discretion of the Secretary, be applied to project reserves or project rehabilitation; and

(E) such other use serves a public purpose.

(2) DISPLACEMENT PROTECTION.—The Secretary shall—

(A) make available tenant-based assistance under section 8 of the United States Housing Act of 1937 to any tenant displaced as a result of actions taken by the Secretary pursuant to paragraph (1); and

(B) take such actions as the Secretary determines necessary to ensure the successful use of any tenant-based assistance provided under this paragraph.

(3) IMPLEMENTATION.—The Secretary shall, by notice published in the Federal Register, which shall take effect upon publication, establish such requirements as may be necessary to implement the amendments made by this subsection. The notice shall invite public comments and, not later than 12 months after the date on which the notice is published, the Secretary shall issue final regulations based on the initial notice, taking into account any public comments received.

(j) MORTGAGE SALE DEMONSTRATION.—The Secretary may carry out a demonstration to test the feasibility of restructuring and disposing of troubled multifamily mortgages held by the Secretary through the establishment of partnerships between public, private, and nonprofit entities.

(k) NATIONAL INTERAGENCY TASK FORCE ON MULTIFAMILY HOUSING.—

(1) FUNCTIONS.—Section 543(e)(1) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended—

(A) in subparagraph (D), by striking "and" at the end;

(B) in subparagraph (E), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(F) make available appropriate information to the Department of Housing and Urban Development that will assist in preventing the future default of multifamily housing project mortgages insured under title II of the National Housing Act.".

(2) USE OF APPROPRIATIONS AUTHORITY.—Section 543(h) of the Housing and Community Development Act of 1992 is amended by inserting after the first sentence the following: "The Secretary may use any non-Federal or private funding or may use the authority provided for salaries and expenses in appropriations Acts for activities carried out under this section.

SEC. 107. INTEREST RATES ON ASSIGNED MORTGAGES.

Section 7(i)(5) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(i)(5)) is amended by striking the first semicolon, and all that follows through "as determined by the Secretary".

SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

(a) SPECIAL RISK INSURANCE FUND.—Section 238(b) of the National Housing Act (12 U.S.C.

1715z-3(b)) is amended by striking the fifth sentence.

(b) GENERAL INSURANCE FUND.—Section 519 of the National Housing Act (12 U.S.C. 1735c) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsection (g) (as added by section 106(h)(2) of this Act) as subsection (f).

(c) MULTIFAMILY INSURANCE FUND APPROPRIATIONS.—Title V of the National Housing Act (12 U.S.C. 1731a et seq.) is amended by adding at the end the following new section:

"SEC. 541. AUTHORIZATION OF APPROPRIATIONS FOR GENERAL AND SPECIAL RISK INSURANCE FUNDS.

"There are authorized to be appropriated $350,000,000 for fiscal year 1994 and $360,500,000 for fiscal year 1995, to be allocated in any manner that the Secretary determines appropriate, for the following costs incurred in conjunction with programs authorized under the General Insurance Fund, as provided by section 519, and the Special Risk Insurance Fund, as provided by section 238:

"(1) The cost to the Government, as defined in section 502 of the Congressional Budget Act, of new insurance commitments.

"(2) The cost to the Government, as defined in section 502 of the Congressional Budget Act, of modifications to existing loans, loan guarantees, or insurance commitments.

"(3) The cost to the Government, as defined in section 502 of the Congressional Budget Act, of loans provided under section 203(f) of the Housing and Community Development Amendments of 1978.

"(4) The costs of the rehabilitation of multifamily housing projects (as defined in section 203(b) of the Housing and Community Development Amendments of 1978) upon disposition by the Secretary.".

TITLE II—ENHANCED PROGRAM FLEXIBILITY

Subtitle A—Office of Public and Indian Housing

SEC. 201. REVITALIZATION OF SEVERELY DISTRESSED PUBLIC HOUSING.

(a) IN GENERAL.—Section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v) is amended—

(1) by amending subsection (b) to read as follows:

"(b) [RESERVED].";

(2) in subsection (c)(2), by striking "$200,000" and inserting "$500,000";

(3) in subsection (c)(3)—

(A) by redesignating subparagraphs (E) through (I) as subparagraphs (F) through (J), respectively;

(B) by inserting after subparagraph (D) the following new subparagraph:

"(E) planning for community service and support service activities to be carried out by the public housing agency, residents, members of the community, and other persons and organizations willing to contribute to the social, economic, or physical improvement of the community (community service is a required element of the revitalization program);"; and

(C) in subparagraph (H), as redesignated, by striking "designing a suitable replacement housing plan," and inserting "designing suitable relocation and replacement housing plans,";

(4) in subsection (c)(4)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(B) by inserting after subparagraph (C) the following new subparagraph:

"(D) a description of the community service and support service planning activities to be carried out by the public housing agency, residents, members of the community, and other persons and organizations willing to contribute to the social, economic, or physical improvement of the community;";

(5) in subsection (c)(5)—

(A) by striking subparagraph (E) and redesignating subparagraphs (F) and (G) as subparagraphs (E) and (F), accordingly;

(B) in subparagraph (E), as redesignated, by inserting before the semicolon ", taking into account the condition of the stock of the public housing agency as a whole"; and

(C) by adding at the end the following:

"In making grants under this subsection, the Secretary may select a lower-rated, approvable application over a higher-rated application to increase the national geographic diversity among applications approved under this section.";

(6) in subsection (d)(2)—

(A) by redesignating subparagraphs (E) through (I) as subparagraphs (G) through (K), respectively;

(B) by inserting after subparagraph (D) the following new subparagraphs:

"(E) community service activities to be carried out by residents, members of the community, and other persons willing to contribute to the social, economic, or physical improvement of the community (community service is a required element of the revitalization program);

"(F) replacement of public housing units;"; and

(C) in subparagraph (K), as redesignated—

(i) by striking "15 percent" and inserting "20 percent"; and

(ii) by inserting before the period at the end the following: ", except that an amount equal to 15 percent of the amount of any grant under this subsection used for support services shall be contributed from non-Federal sources (which contribution shall be in the form of cash, administrative costs, and the reasonable value of in-kind contributions and may include funding under title I of the Housing and Community Development Act of 1974)";

(7) in subsection (d)(3)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(B) by inserting after subparagraph (C) the following new subparagraph:

"(D) a description of the community service and support service activities to be carried out by the public housing agency, residents, members of the community, and other persons and organizations willing to contribute to the social, economic, or physical improvement of the community;";

(8) in subsection (d)(4)—

(A) in subparagraph (D), by inserting "(with assistance from the Department of Housing and Urban Development if necessary)" after "applicant";

(B) by striking subparagraph (E) and redesignating subparagraphs (F) and (G) as subparagraphs (E) and (F), respectively;

(C) in subparagraph (E), as redesignated, by inserting before the semicolon ", taking into account the condition of the applicant's stock as a whole"; and

(D) by adding at the end the following:

"In making grants under this subsection, the Secretary may select a lower-rated, approvable application over a higher-rated application to increase the national geographic diversity among applications approved under this section.";

(9) in subsection (e), by adding at the end the following new paragraph:

"(3) DEMOLITION AND REPLACEMENT.—

"(A) IN GENERAL.—Notwithstanding any other applicable law or regulation, a revitalization plan under this section may include demolition and replacement on site or in the same neighborhood if the number of replacement units provided in the same neighborhood is fewer than the number of units demolished as a result of the revitalization effort.

"(B) TENANT-BASED ASSISTANCE.—Notwithstanding the limitations contained in subparagraph (A)(v) or (C) of section 18(b)(3), a public housing agency may replace not more than one-third of the units demolished or disposed of through a revitalization project under this section with tenant-based assistance under section 8.";

(10) in subsection (h)—

(A) by amending paragraph (5) to read as follows:

"(5) SEVERELY DISTRESSED PUBLIC HOUSING.—The term 'severely distressed public housing' means a public housing project or a building in a project—

"(A) that requires major redesign, reconstruction, redevelopment, or partial or total demolition to correct serious deficiencies in the original design (including inappropriately high population density), deferred maintenance, physical deterioration or obsolescence of major systems, and other deficiencies in the physical plant of the project; and

"(B) that either—

"(i)(I) is occupied predominantly by families with children that have extremely low incomes, high rates of unemployment, and extensive dependency on various forms of public assistance; and

"(II) has high rates of vandalism and criminal activity (including drug-related criminal activity); or

"(ii) that has a vacancy rate, as determined by the Secretary, of 50 percent or more;

"(C) that cannot be revitalized through assistance under other programs, such as the programs under sections 9 and 14, or through other administrative means because of the inadequacy of available funds; and

"(D) that, in the case of individual buildings, the building is, in the Secretary's determination, sufficiently separable from the remainder of the project to make use of the building feasible for purposes of this section."; and

(B) by adding at the end the following new paragraphs:

"(6) COMMUNITY SERVICE.—The term 'community service' means services provided on a volunteer or limited stipend basis for the social, economic, or physical improvement of the community to be served.

"(7) SUPPORT SERVICES.—The term 'support services' includes all activities designed to lead toward upward mobility, self-sufficiency, and improved quality of life for the residents of the project, such as literacy training, job training, day care, and economic development. Such activities may allow for the participation of residents of the neighborhood."; and

(11) in subsection (i)—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) CONFORMING AMENDMENT.—The first sentence of section 25(m)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437w(m)(1)) is amended to read as follows:

"(1) The term 'eligible housing' means a public housing project, or one or more buildings within a project, that is owned or operated by a public housing agency that has been troubled for not less than 3 years and that, as determined by the Secretary, has failed to make substantial progress toward effective management.".

(c) USE OF TENANT-BASED ASSISTANCE FOR REPLACEMENT HOUSING.—Section 18(b)(3)(C)(i) of the United States Housing Act of 1937 (42 U.S.C. 1437p(b)(3)(C)(i)) is amended by striking "15-year".

(d) REPLACEMENT HOUSING OUTSIDE THE JURISDICTION OF THE PHA.—Section 18(b)(3) of the

United States Housing Act of 1937 (42 U.S.C. 1437p(b)(3)), as amended by subsection (c), is amended—

(1) by redesignating subparagraphs (D) through (H) as subparagraphs (E) through (I), respectively; and

(2) by inserting after subparagraph (C) the following new subparagraph:

"(D) may provide that all or part of such additional dwelling units may be located outside of the jurisdiction of the public housing agency (the 'original agency') if—

"(i) the location is in the same housing market area as the original agency, as determined by the Secretary;

"(ii) the plan contains an agreement between the original agency and the public housing agency in the alternate location or other public or private entity that will be responsible for providing the additional units in the alternate location ('alternate agency or entity') that the alternate agency or entity will, with respect to the dwelling units involved—

"(I) provide the dwelling units in accordance with subparagraph (A);

"(II) complete the plan on schedule in accordance with subparagraph (F);

"(III) meet the requirements of subparagraph (G) and the maximum rent provisions of subparagraph (H); and

"(IV) not impose a local residency preference on any resident of the jurisdiction of the original agency for purposes of admission to any such units; and

"(iii) the arrangement is approved by the unit of general local government for the jurisdiction in which the additional units will be located;".

SEC. 202. DISALLOWANCE OF EARNED INCOME FOR RESIDENTS WHO OBTAIN EMPLOYMENT.

(a) IN GENERAL.—Section 3 of the United States Housing Act of 1937 (42 U.S.C. 1437a) is amended—

(1) by striking the undesignated paragraph at the end of subsection (c)(3) (as added by section 515(b) of the Cranston-Gonzalez National Affordable Housing Act); and

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

"(d) DISALLOWANCE OF EARNED INCOME FROM PUBLIC HOUSING RENT DETERMINATIONS.—Notwithstanding any other provision of law, the rent payable under subsection (a) for any public housing unit by a family whose income increases as a result of employment of a member of the family who was previously unemployed for one or more years (including a family whose income increases as a result of the participation of a family member in the Family Self-Sufficiency program or other job training program) shall not be increased for a period of 18 months, beginning with the commencement of employment as a result of the increased income due to such employment. After the expiration of the 18-month period, rent increases due to the continued employment of such family member shall be limited to 10 percent per year. In no case shall rent exceed the amount determined under subsection (a).".

(b) APPLICABILITY OF AMENDMENT.—Notwithstanding the amendment made by subsection (a), any resident of public housing participating in the program under the authority contained in the undesignated paragraph at the end of section 3(c)(3) of the United States Housing Act of 1937 as such paragraph existed before the date of enactment of this subsection shall continue to be governed by such authority.

SEC. 203. CEILING RENTS BASED ON REASONABLE RENTAL VALUE.

(a) AMENDMENT.—Section 3(a)(2)(A)(iii) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(2)(A)(iii)) is amended to read as follows:

"(iii) is not less than the reasonable rental value of the unit, as determined by the Secretary.".

(b) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall, by regulation, after notice and an opportunity for public comment, establish such requirements as may be necessary to carry out the provisions of section 3(a)(2)(A) of the United States Housing Act of 1937, as amended by subsection (a).

(2) APPLICABILITY.—Except in the case of an Indian housing authority, the regulations issued pursuant to paragraph (1) shall not apply to scattered site public housing units.

(3) TRANSITION RULE.—Prior to the issuance of final regulations under paragraph (1), a public housing agency may implement ceiling rents which shall be—

(A) determined in accordance with section 3(a)(2)(A) of the United States Housing Act of 1937, as such section existed before the date of enactment of this Act; or

(B) equal to the 95th percentile of the rent paid for a unit of comparable size by tenants in the same project or a group of comparable projects totaling 50 units or more.

SEC. 204. RESIDENT MANAGEMENT PROGRAM.

Section 20(f) of the United States Housing Act of 1937 (42 U.S.C. 1437r(f)) is amended—

(1) in paragraph (2), by striking "$100,000" and inserting "$250,000"; and

(2) in paragraph (3), by adding at the end the following: "The Secretary may use not more than 10 percent of the amounts made available under this subsection for program monitoring and evaluation, technical assistance, and information dissemination.".

Subtitle B—Office of Community Planning and Development

SEC. 211. ECONOMIC DEVELOPMENT INITIATIVE.

(a) SECTION 108 ELIGIBLE ACTIVITIES.—

(1) IN GENERAL.—Section 108(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(a)) is amended—

(A) in the first sentence—

(i) by striking "or" after "section 105(a);"; and

(ii) by inserting before the period the following: "; (5) the acquisition, construction, reconstruction, or installation of public facilities (except for buildings for the general conduct of government); or (6) in the case of colonias, public works and site or other improvements"; and

(B) by striking the second sentence and inserting the following: "A guarantee under this section (including a guarantee combined with a grant under subsection (q)) may be used to assist a grantee in obtaining financing only if the grantee has made efforts to obtain the financing without the use of the guarantee (and, if applicable, the grant) and cannot complete the financing consistent with the timely execution of the proposed activities and projects without the guarantee (or, if applicable, the grant).".

(2) DEFINITION.—Section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)) is amended by adding at the end the following new paragraph:

"(24) The term 'colonia' means any identifiable community that—

"(A) is in the State of Arizona, California, New Mexico, or Texas;

"(B) is in the United States-Mexico border region;

"(C) is determined to be a colonia on the basis of objective criteria, including lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe, and sanitary housing; and

"(D) was in existence as a colonia before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act.".

(b) ECONOMIC DEVELOPMENT GRANTS.—

(1) IN GENERAL.—Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) is amended by adding at the end the following new subsection:

"(q) ECONOMIC DEVELOPMENT GRANTS.—

"(1) AUTHORIZATION.—The Secretary may make grants in connection with notes or other obligations guaranteed under this section to eligible public entities for the purpose of enhancing the security of loans guaranteed under this section or improving the viability of projects financed with loans guaranteed under this section.

"(2) ELIGIBLE ACTIVITIES.—Assistance under this subsection may be used for the purposes of and in conjunction with projects and activities assisted under subsection (a).

"(3) APPLICATIONS.—Applications for assistance under this subsection shall be submitted by eligible public entities in the form and in accordance with the procedures established by the Secretary. Eligible public entities may apply for grants only in conjunction with a request for guarantee under subsection (a).

"(4) SELECTION CRITERIA.—The Secretary shall establish criteria for awarding assistance under this subsection. Such criteria shall include—

"(A) the extent of need for such assistance;

"(B) the level of distress in the community to be served and in the jurisdiction applying for assistance;

"(C) the quality of the plan proposed and the capacity or potential capacity of the applicant to successfully carry out the plan; and

"(D) such other factors as the Secretary determines to be appropriate.".

(2) CONFORMING AMENDMENT.—Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) is amended—

(A) in section 101(c) in the second sentence, by inserting "or a grant" after "guarantee"; and

(B) in section 104(b)(3), by inserting "or a grant" after "guarantee".

(c) USE OF UDAG RECAPTURES.—Section 119(o) of the Housing and Community Development Act of 1974 (42 U.S.C. 5318(o)) is amended by inserting before the period the following: ", except that amounts available to the Secretary for use under this subsection as of October 1, 1993, and amounts released to the Secretary pursuant to subsection (t) may be used to provide grants under section 108(q).".

(d) UDAG AMNESTY PROGRAM.—

(1) AMENDMENT.—Section 119 of the Housing and Community Development Act of 1974 (42 U.S.C. 5318) is amended by adding at the end the following new subsection:

"(t) UDAG AMNESTY PROGRAM.—If a grant or a portion of a grant under this section remains unexpended as of the issuance of a notice implementing this subsection, the grantee may enter into an agreement, as provided under this subsection, with the Secretary to receive a percentage of the grant amount and relinquish all claims to the balance of the grant within 90 days of the issuance of notice implementing this subsection (or such later date as the Secretary may approve). The Secretary shall not recapture any funds obligated pursuant to this section during a period beginning on the date of enactment of the Housing and Community Development Act of 1993 until 90 days after the issuance of a notice implementing this subsection. A grantee may receive as a grant under this subsection—

"(1) 33 percent of such unexpended amounts if—

"(A) the grantee agrees to expend not less than one-half of the amount received for activities authorized pursuant to section 108(q) and to expend such funds in conjunction with a loan guarantee made under section 108 at least equal to twice the amount of the funds received; and

"(B)(i) the remainder of the amount received is used for economic development activities eligible under title I of this Act; and

"(ii) except when waived by the Secretary in the case of a severely distressed jurisdiction, not more than one-half of the costs of activities under subparagraph (B) are derived from such unexpended amounts; or

"(2) 25 percent of such unexpended amounts if—

"(A) the grantee agrees to expend such funds for economic development activities eligible under title I of this Act; and

"(B) except when waived by the Secretary in the case of a severely distressed jurisdiction, not more than one-half of the costs of such activities are derived from such unexpended amount.".

(2) IMPLEMENTATION.—Notwithstanding subsection (f), not later than 10 days after the date of enactment of this Act, the Secretary shall, by notice published in the Federal Register, which shall take effect upon publication, establish such requirements as may be necessary to implement the amendments made by this subsection.

(e) GUARANTEE OF OBLIGATIONS BACKED BY SECTION 108 LOANS.—Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308), as amended by subsection (b), is amended by adding at the end the following new subsection:

"(r) GUARANTEE OF OBLIGATIONS BACKED BY SECTION 108 LOANS.—

"(1) AUTHORIZATION.—The Secretary may, upon such terms and conditions as the Secretary deems appropriate, guarantee the timely payment of the principal of and interest on trust certificates or other obligations that—

"(A) are offered by the Secretary, or by any other offeror approved for purposes of this subsection by the Secretary; and

"(B) are based on and backed by a trust or pool composed of notes or other obligations guaranteed by the Secretary under this section.

"(2) FULL FAITH AND CREDIT OF THE UNITED STATES.—Subsection (f) shall apply to any guarantee under this subsection.

"(3) SUBROGATION.—If the Secretary pays a claim under a guarantee issued under this section, the Secretary shall be subrogated fully to the rights satisfied by such payment.

"(4) POWERS OF THE SECRETARY.—No Federal, State, or local law shall preclude or limit the exercise by the Secretary of—

"(A) the power to contract with respect to public offerings and other sales of notes, trust certificates, and other obligations guaranteed under this section upon such terms and conditions as the Secretary deems appropriate;

"(B) the right to enforce by any means deemed appropriate by the Secretary any such contract; and

"(C) the Secretary's ownership rights, as applicable, in notes, certificates, or other obligations guaranteed under this section, or constituting the trust or pool against which trust certificates or other obligations guaranteed under this section are offered.".

(f) EFFECTIVE DATE.—The Secretary shall, by notice published in the Federal Register, which shall take effect upon publication, establish such requirements as may be necessary to implement the amendments made by this section. The notice shall invite public comments and, not later than 12 months after the date on which the notice is published, the Secretary shall issue final regulations based on the initial notice, taking into account any public comments received.

SEC. 212. HOME INVESTMENT PARTNERSHIPS.

(a) PARTICIPATION BY STATE AGENCIES OR INSTRUMENTALITIES.—Section 104(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704(2)) is amended by inserting before the period at the end the following: ", or any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the State with regard to the provisions of this Act".

(b) SIMPLIFY PROGRAM-WIDE INCOME TARGETING FOR HOME RENTAL HOUSING.—Section 214(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12744(1)) is amended by striking "such funds are invested with respect to dwelling units that are occupied by" each place such term appears and inserting "(i) the families receiving such rental assistance are, or (ii) the dwelling units assisted with such funds are occupied by" in each such place.

(c) REMOVE FIRST-TIME HOMEBUYER LIMITATION FOR HOME UNITS.—Section 215(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745(b)) is amended by striking paragraph (3) and redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(d) SIMPLIFY RESALE PROVISIONS.—Section 215(b)(3)(B) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745(b)(4)(B)), as redesignated by subsection (c), is amended by striking "subsection" and inserting "title".

(e) STABILIZATION OF HOME FUNDING THRESHOLDS.—The Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701 et seq.) is amended—

(1) in section 216, by striking paragraph (10);

(2) in section 217(b), by striking paragraph (4);

(3) in section 217(b)(3)—

(A) in the first sentence, by striking "only those jurisdictions" and all that follows through "allocation" and inserting "jurisdictions that are not participating jurisdictions that are allocated an amount of $500,000 or more and jurisdictions that are participating jurisdictions shall receive an allocation"; and

(B) in the last sentence, by striking ", except as provided in paragraph (4)"; and

(4) in section 216—

(A) in paragraph (3)(A), by striking "Except as provided in paragraph (10), a jurisdiction" and inserting "A jurisdiction"; and

(B) in paragraph (9)(B), by striking ", except as provided in paragraph (10)".

(f) COMPREHENSIVE AFFORDABLE HOUSING STRATEGY.—

(1) HOME PROGRAM.—Section 218(d) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12748(d)) is amended in the first sentence, by inserting "that it is following a current housing affordability strategy that has been approved by the Secretary in accordance with section 105, and" after "certification".

(2) HOMELESS ASSISTANCE PROGRAMS.—Section 401 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361) is amended to read as follows:

"SEC. 401. HOUSING AFFORDABILITY STRATEGY.

"(a) REQUIREMENT TO FOLLOW A CHAS.—Assistance may be made available under subtitle B to metropolitan cities, urban counties, and States receiving a formula amount under section 413, only if the jurisdiction certifies that it is following a current housing affordability strategy that has been approved by the Secretary in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act.

"(b) REQUIREMENT FOR CONSISTENCY WITH CHAS.—Assistance may be made available under this title only if the application contains a certification that the proposed project or activities are consistent with the housing affordability strategy of the State or unit of general local government in which the project is located. The certification shall be from the public official responsible for submitting the strategy for the jurisdiction.".

(3) CONFORMING CHANGES.—Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended by striking sections 426(a)(2)(F), 434(a)(10), and 454(b)(9).

(g) HOME MATCHING REQUIREMENTS.—Section 220(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12750(a)) is amended to read as follows:

"(a) CONTRIBUTION.—Each participating jurisdiction shall make contributions to housing that qualifies as affordable housing under this title that total, throughout a fiscal year, not less than 25 percent of the funds drawn from the jurisdiction's HOME Investment Trust Fund in that fiscal year. Such contribution shall be in addition to any amounts made available under section 216(3)(A)(ii).".

(h) SEPARATE AUDIT REQUIREMENT FOR THE HOME PROGRAM.—Section 283 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12833) is amended—

(1) by striking the section heading and inserting the following:

"SEC. 283. AUDITS BY THE COMPTROLLER GENERAL.";

(2) by striking subsection (a);

(3) in subsection (b)—

(A) by striking "(b) AUDITS BY THE COMPTROLLER GENERAL.—"; and

(B) by redesignating paragraphs (1) and (2) as subsections (a) and (b), respectively; and

(4) in subsection (a), as redesignated by paragraph (3), by striking the second sentence.

(i) HOME ENVIRONMENTAL REVIEW AMENDMENTS.—Section 288 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12838) is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking "participating jurisdictions" and inserting "jurisdictions, Indian tribes, or insular areas"; and

(B) by adding at the end the following: "The regulations shall—

"(1) provide for the monitoring of environmental reviews performed under this section;

"(2) at the discretion of the Secretary, facilitate training for the performance of such reviews; and

"(3) establish criteria for the suspension or termination of the assumption under this section.

The Secretary's duty under this subsection shall not be construed to limit any responsibility assumed by a State or unit of general local government with respect to any particular release of funds.";

(2) in subsection (b) in the first sentence, by striking "participating jurisdiction" and inserting "jurisdiction, Indian tribe, or insular area";

(3) in subsection (c)(4), by striking "participating jurisdiction" and inserting "jurisdiction, Indian tribe, or insular area"; and

(4) in subsection (d), by striking "ASSISTANCE TO A STATE.—In the case of assistance to States" and inserting the following: "ASSISTANCE TO UNITS OF GENERAL LOCAL GOVERNMENT FROM A STATE.—In the case of assistance to units of general local government from a State".

(j) USE OF CDBG FUNDS FOR HOME ADMINISTRATIVE EXPENSES.—Section 105(a)(13) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(13)) is amended by inserting after "charges related to" the following: "(A) administering the HOME program under title II of the Cranston-Gonzalez National Affordable Housing Act; and (B)".

(k) PROJECT DELIVERY COSTS.—Section 105(a)(21) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(21)) is amended—

(1) by inserting "in connection with tenant-based assistance and affordable housing projects assisted under title II of the Cranston-Gonzalez National Affordable Housing Act" after "housing counseling"; and

(2) by striking "authorized" and all that follows through "any law" and inserting "assisted under title II of the Cranston-Gonzalez National Affordable Housing Act".

SEC. 213. HOPE MATCH REQUIREMENT.

Section 443(c)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C.

12893(c)(1)) is amended by striking "33" and inserting "25".

SEC. 214. FLEXIBILITY OF CDBG PROGRAM FOR DISASTER AREAS.

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 new section:

"SEC. 122. SUSPENSION OF REQUIREMENTS FOR DISASTER AREAS.

"For the duration of time during which an area has been declared a disaster area by the President under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Secretary may suspend all requirements for purposes of assistance under section 106 for that area, except for those related to public notice of funding availability, nondiscrimination, fair housing, labor standards, environmental standards, and requirements that activities benefit persons of low- and moderate-income.".

SEC. 215. FLEXIBILITY OF HOME PROGRAM FOR DISASTER AREAS.

Title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12721 et seq.) is amended by adding at the end the following new section:

"SEC. 290. SUSPENSION OF REQUIREMENTS FOR DISASTER AREAS.

"For the duration of time during which an area has been declared a disaster area by the President under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Secretary may suspend all requirements for purposes of assistance under this title for that area, except for those related to public notice of funding availability, nondiscrimination, fair housing, labor standards, environmental standards, and low-income housing affordability.".

Subtitle C—Community Partnerships Against Crime

SEC. 221. COMPAC PROGRAM.

(a) CONFORMING PROVISIONS.—Section 5001 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901) is amended in the table of contents—

(1) by striking the item relating to the heading for chapter 2 and inserting the following:

"CHAPTER 2—COMMUNITY PARTNERSHIPS AGAINST CRIME";

(2) by striking the item relating to section 5122 and inserting the following:

"Sec. 5122. Purposes.";

and

(3) by adding the following after the item relating to section 5130:

"Sec. 5131. Technical assistance.".

(b) SHORT TITLE, PURPOSES, AND AUTHORITY TO MAKE GRANTS.—The Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11901 et seq.) is amended by striking the chapter heading for chapter 2, and by striking sections 5121, 5122, and 5123 and inserting the following:

"CHAPTER 2—COMMUNITY PARTNERSHIPS AGAINST CRIME

"SEC. 5121. SHORT TITLE.

"This chapter may be cited as the 'Community Partnerships Against Crime Act of 1993'.

"SEC. 5122. PURPOSES.

"The purposes of this chapter are to—

"(1) improve the quality of life for law-abiding public housing residents by reducing the levels of fear, violence, and crime in their communities;

"(2) expand and enhance the Federal Government's commitment to eliminating crime in public housing;

"(3) broaden the scope of the Public and Assisted Housing Drug Elimination Act of 1990 to apply to all types of crime, and not simply crime that is drug-related;

"(4) target opportunities for long-term commitments of funding primarily to public housing agencies with serious crime problems;

"(5) encourage the involvement of a broad range of community-based groups, and residents of neighboring housing that is owned or assisted by the Secretary, in the development and implementation of anti-crime plans;

"(6) reduce crime and disorder in and around public housing through the expansion of community-oriented policing activities and problem solving;

"(7) provide training, information services, and other technical assistance to program participants; and

"(8) establish a standardized assessment system to evaluate need among public housing agencies, and to measure progress in reaching crime reduction goals.

"SEC. 5123. AUTHORITY TO MAKE GRANTS.

"The Secretary of Housing and Urban Development, in accordance with the provisions of this chapter, may make grants, for use in eliminating crime in and around public and other federally assisted low-income housing projects (1) to public housing agencies (including Indian housing authorities), and (2) to private, for profit, and nonprofit owners of federally assisted low-income housing. In designing the program, the Secretary shall consult with the Attorney General.".

(c) ELIGIBLE ACTIVITIES.—Section 5124(a) of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11903(a)) is amended—

(1) in the introductory material preceding paragraph (1), by inserting "and around" after "used in";

(2) in paragraph (3), by inserting ", such as fencing, lighting, locking, and surveillance systems" before the semicolon;

(3) in paragraph (4), by striking subparagraph (A) and inserting the following new subparagraph:

"(A) to investigate crime; and";

(4) in paragraph (6)—

(A) by striking "in and around public or other federally assisted low-income housing projects"; and

(B) by striking "and" after the semicolon;

(5) in paragraph (7)—

(A) by striking "where a public housing agency receives a grant,";

(B) by striking "drug abuse" and inserting "crime"; and

(C) by striking the period at the end and inserting a semicolon; and

(6) by adding at the end the following new paragraphs:

"(8) the employment or utilization of one or more individuals, including law enforcement officers, made available by contract or other cooperative arrangement with State or local law enforcement agencies, to engage in community policing involving interaction with members of the community on proactive crime control and prevention;

"(9) youth initiatives, such as activities involving training, education, after school programs, cultural programs, recreation and sports, career planning, and entrepreneurship and employment; and

"(10) resident service programs, such as job training, education programs, drug and alcohol treatment, and other appropriate social services that address the contributing factors of crime.".

(d) APPLICATIONS.—Section 5125 of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11904) is amended—

(1) in subsection (a)—

(A) by striking "To receive a grant" and inserting the following:

"(1) APPLICATIONS.—To receive a grant";

(B) in the second sentence, by striking "drug-related crime on the premises of" and inserting the following: "crime in and around"; and

(C) by adding at the end the following new paragraphs:

"(2) ONE-YEAR RENEWABLE GRANTS.—

"(A) IN GENERAL.—Eligible applicants may submit an application for a 1-year grant under this chapter that, subject to the availability of appropriated amounts, shall be renewed annually for a period of not more than 4 years, if the Secretary finds, after an annual or more frequent performance review, that the public housing agency is performing under the terms of the grant and applicable laws in a satisfactory manner and meets such other requirements as the Secretary may prescribe.

"(B) PREFERENCE.—The Secretary shall accord a preference to applicants for grants under this paragraph if the grant is to be used to continue or expand activities eligible for assistance under this chapter that have received previous assistance either under this chapter, as it existed prior to the enactment of the Housing and Community Development Act of 1993, or under section 14 of the United States Housing Act of 1937. Such preference shall not unreasonably prejudice the opportunity for other public housing agencies to receive grants under this chapter.

"(3) PUBLIC HOUSING AGENCIES THAT HAVE ESPECIALLY SEVERE CRIME PROBLEMS.—The Secretary shall, by regulation issued after notice and opportunity for public comment, set forth criteria for establishing a class of public housing agencies that have especially severe crime problems. The Secretary may allocate a portion of the annual appropriation for this program for public housing agencies in this class.".

(2) in subsection (b)—

(A) by striking the introductory material preceding paragraph (1) and inserting the following: "The Secretary shall approve applications under subsection (a)(2) that are not subject to a preference under subsection (a)(2)(B) on the basis of—";

(B) in paragraph (1), by striking "drug-related crime problem in" and inserting the following: "crime problem in and around";

(C) in paragraph (2), by inserting immediately after "crime problem in" the following: "and around"; and

(D) in paragraph (4), by inserting after "local government" the following: ", local community-based nonprofit organizations, local resident organizations that represent the residents of neighboring projects that are owned or assisted by the Secretary,";

(3) in subsection (c)(2), by striking "drug-related" each place it appears; and

(4) by striking subsection (d).

(e) DEFINITIONS.—Section 5126 of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11905) is amended by striking paragraphs (1) and (2), and redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively.

(f) IMPLEMENTATION.—Section 5127 of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11906) is amended by striking "Cranston-Gonzalez National Affordable Housing Act" and inserting "Housing and Community Development Act of 1993".

(g) REPORTS.—Section 5128 of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11907) is amended—

(1) by striking "The Secretary" and inserting the following:

"(a) GRANTEE REPORTS.—The Secretary";

(2) by striking "drug-related crime in" and inserting "crime in and around"; and

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

"(b) HUD REPORTS.—The Secretary shall submit a report to the Congress describing the system used to distribute funds to grantees under this section. Such report shall include, at a minimum—

"(1) a description of the criteria used to establish the class of public housing agencies with especially severe crime problems and a list of such agencies;

"(2) the methodology used to distribute funds among the public housing agencies on the list created under paragraph (1); and

"(3) the Secretary's recommendations for any change to the method of distribution of funds.".

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 5130 of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11909) is amended—

(1) in the first sentence of subsection (a), by striking "$175,000,000 for fiscal year 1993" and all that follows through the end of the sentence and inserting "$265,000,000 for fiscal year 1994 and $325,000,000 for fiscal year 1995."; and

(2) in subsection (b)—

(A) in the heading, by striking "SET-ASIDES" and inserting "SET-ASIDE"; and

(B) by striking the second sentence.

(i) REPEAL.—Section 520(k) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11908) is hereby repealed.

(j) TECHNICAL ASSISTANCE.—The Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11901 et seq.) is further amended by adding at the end the following new section:

"SEC. 5131. TECHNICAL ASSISTANCE.

"Of the amounts appropriated annually for each of fiscal years 1994 and 1995 to carry out this chapter, the Secretary shall use not more than $10,000,000, directly or indirectly, under grants, contracts, or cooperative agreements, to provide training, information services, and other technical assistance to public housing agencies and other entities with respect to their participation in the program authorized by this chapter. Such technical assistance may include the establishment and operation of the clearinghouse on drug abuse in public housing and the regional training program on drug abuse in public housing under sections 5143 and 5144 of this Act. The Secretary is also authorized to use the foregoing amounts for obtaining assistance in establishing and managing assessment and evaluation criteria and specifications, and obtaining the opinions of experts in relevant fields.".

TITLE III—TECHNICAL AND OTHER AMENDMENTS

Subtitle A—Public and Assisted Housing

SEC. 301. CORRECTION TO DEFINITION OF FAMILY.

The first sentence of section 3(b)(3)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(3)(B)) is amended—

(1) by striking "means" and inserting "includes"; and

(2) by inserting "and" immediately after "children,".

SEC. 302. IDENTIFICATION OF CIAP REPLACEMENT NEEDS.

Section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437l) is amended—

(1) in subsection (d)—

(A) by striking paragraph (2); and

(B) in paragraph (4)—

(i) by striking "and replacements,"; and

(ii) by striking "(1), (2), and (3)" and inserting "(1) and (3)"; and

(2) in subsection (f)(1)—

(A) by striking subparagraph (B); and

(B) in subparagraph (D), by striking "(1), (2), and (3)" and inserting "(1) and (3)".

SEC. 303. APPLICABILITY OF PUBLIC HOUSING AMENDMENTS TO INDIAN HOUSING.

(a) AMENDMENT.—Section 201(b) of the United States Housing Act of 1937 (42 U.S.C. 1437aa(b)) is amended to read as follows:

"(b) APPLICABILITY OF TITLE I.—Except as otherwise provided by law, the provisions of title I shall apply to low-income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.".

(b) APPLICABILITY OF AMENDMENT.—The amendment made by subsection (a) shall not affect provisions of the United States Housing Act of 1937 that were made applicable to public housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority in accordance with section 201(b)(2) of such Act, as such section existed before the effective date of this section.

(c) APPLICABILITY OF HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992.—Sections 103(a)(1), 112, 114, 116, 118, 903, and 927 of the Housing and Community Development Act of 1992 shall apply to public housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.

SEC. 304. PROJECT-BASED ACCOUNTING.

Section 6(c)(4)(E) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(E)) is amended by striking "250" and inserting "500".

SEC. 305. OPERATING SUBSIDY ADJUSTMENTS FOR ANTICIPATED FRAUD RECOVERIES.

Section 9(a) of the United States Housing Act of 1937 (42 U.S.C. 1437g(a)) is amended by adding at the end the following new paragraph:

"(4) Adjustments to a public housing agency's operating subsidy made by the Secretary under this section shall reflect actual changes in rental income collections resulting from the application of section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988.".

SEC. 306. TECHNICAL ASSISTANCE FOR LEAD HAZARD REDUCTION GRANTEES.

Section 1011(g) of the Housing and Community Development Act of 1992 (42 U.S.C. 5318 note) is hereby repealed.

SEC. 307. ENVIRONMENTAL REVIEW IN CONNECTION WITH GRANTS FOR LEAD-BASED PAINT HAZARD REDUCTION.

Section 1011 of the Housing and Community Development Act of 1992 (42 U.S.C. 5318 note) is amended—

(1) by redesignating subsection (o) as subsection (p); and

(2) by adding after subsection (n) the following new subsection:

"(o) ENVIRONMENTAL REVIEW.—

"(1) IN GENERAL.—For purposes of environmental review, decisionmaking, and action pursuant to the National Environmental Policy Act of 1960 and other provisions of law that further the purposes of such Act, a grant under this section shall be treated as assistance under the HOME Investment Partnership Act, established under title II of the Cranston-Gonzalez National Affordable Housing Act, and shall be subject to the regulations promulgated by the Secretary to implement section 288 of such Act.

"(2) APPLICABILITY.—This subsection shall apply to—

"(A) grants awarded under this section; and

"(B) grants awarded to States and units of general local government for the abatement of significant lead-based paint and lead dust hazards in low- and moderate-income owner-occupied units and low-income privately owned rental units pursuant to title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Public Law 102–139, 105 Stat. 736).".

SEC. 308. FIRE SAFETY IN FEDERALLY ASSISTED HOUSING.

Section 31(c)(2)(A)(i) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2227(c)(2)(A)(i)) is amended by adding "(or equivalent level of safety)" after "system".

SEC. 309. SECTION 23 CONVERSION PROJECTS.

(a) SECTION 23 CONVERSION.—

(1) AUTHORIZATION.—Notwithstanding contracts entered into pursuant to section 14(b)(2) of the United States Housing Act of 1937, the Secretary is authorized to enter into obligations for conversion of Leonard Terrace Apartments in Grand Rapids, Michigan, from a leased housing contract under section 23 of such Act to a project-based rental assistance contract under section 8 of such Act.

(2) REPAYMENT REQUIRED.—The authorization made in paragraph (1) is conditioned on the repayment to the Secretary of all amounts received by the public housing agency under the comprehensive improvement assistance program under section 14 of the United States Housing Act of 1937 for the Leonard Terrace Apartment project and the amounts, as determined by the Secretary, received by the public housing agency under the formula in section 14(k) of such Act by reason of the project.

(b) CONTRACT RENEWAL.—

(1) IN GENERAL.—Leased housing contracts under section 23 of the United States Housing Act of 1937, as such section existed before the date of enactment of the Housing and Community Development Act of 1974, that—

(A) were converted to section 8 contracts on terms similar to or the same as the terms of the section 8 new construction program; and

(B) expire during fiscal year 1994 or 1995;

shall be extended for a period not to exceed 5 years as if the rents on such projects were established under the section 8 new construction program, except that section 8(c)(2)(C) of the United States Housing Act of 1937 shall not apply to such contracts.

(2) BUDGET COMPLIANCE.—To the extent that paragraph (1) results in additional costs under this section, such paragraph shall be effective only to the extent that amounts to cover such additional costs are provided in advance in appropriation Acts.

SEC. 310. INDEMNIFICATION OF CONTRACTORS FOR INTELLECTUAL PROPERTY RIGHTS DISPUTES.

A recipient of Federal housing assistance may not use such funds to indemnify contractors or subcontractors against costs associated with litigating or settling disputes concerning the infringement of intellectual property rights.

Subtitle B—Multifamily Housing

SEC. 321. CORRECTION OF MULTIFAMILY MORTGAGE LIMITS.

The National Housing Act (12 U.S.C. 1701 et seq.) is amended in sections 207(c)(3), 213(b)(2), 220(d)(3)(B)(iii), and 234(e)(3) by striking "$59,160" each place it appears and inserting "$56,160".

SEC. 322. FHA MULTIFAMILY RISK-SHARING; HFA PILOT PROGRAM AMENDMENTS.

(a) IN GENERAL.—Section 542(c) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended—

(1) in paragraph (1), by inserting after "qualified housing finance agencies" the following: "(including entities established by States that provide mortgage insurance)";

(2) in paragraph (2)—

(A) in subparagraph (C), by striking the last sentence and inserting the following: "Such agreements shall specify that the qualified housing finance agency and the Secretary shall share any loss in accordance with the risk-sharing agreement."; and

(B) by adding at the end the following new subparagraph:

"(F) DISCLOSURE OF RECORDS.—Qualified housing finance agencies shall make available to the Secretary such financial and other records as the Secretary deems necessary for program review and monitoring purposes.";

(3) in paragraph (7)—

(A) by striking "very low-income"; and

(B) by striking "(2)"; and

(4) by adding at the end the following new paragraphs:

"(9) ENVIRONMENTAL AND OTHER REVIEWS.—

"(A) ENVIRONMENTAL REVIEWS.—

"(i) IN GENERAL.—(I) In order to assure that the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the insurance of mortgages under subsection (c)(2), and to assure to the public undiminished protection of the environment, the Secretary may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for agreements to endorse for insurance mortgages under subsection (c)(2) upon the request of qualified housing finance agencies under this subsection, if the State or unit of general local government, as designated by the Secretary in accordance with regulations, assumes all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary may specify, that would otherwise apply to the Secretary with respect to the insurance of mortgages on particular properties.

"(II) The Secretary shall issue regulations to carry out this subparagraph only after consultation with the Council on Environmental Quality. Such regulations shall, among other matters, provide—

"(aa) for the monitoring of the performance of environmental reviews under this subparagraph;

"(bb) subject to the discretion of the Secretary, for the provision or facilitation of training for such performance; and

"(cc) subject to the discretion of the Secretary, for the suspension or termination by the Secretary of the qualified housing finance agency's responsibilities under subclause (I).

"(III) The Secretary's duty under subclause (II) shall not be construed to limit any responsibility assumed by a State or unit of general local government with respect to any particular property under subclause (I).

"(ii) PROCEDURE.—The Secretary shall approve a mortgage for the provision of mortgage insurance subject to the procedures authorized by this paragraph only if, not less than 15 days prior to such approval, prior to any approval, commitment, or endorsement of mortgage insurance on the property on behalf of the Secretary, and prior to any commitment by the qualified housing finance agency to provide financing under the risk-sharing agreement with respect to the property, the qualified housing finance agency submits to the Secretary a request for such approval, accompanied by a certification of the State or unit of general local government that meets the requirements of clause (iii). The Secretary's approval of any such certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the provision of mortgage insurance on the property that is covered by such certification.

"(iii) CERTIFICATION. A certification under the procedures authorized by this paragraph shall

"(I) be in a form acceptable to the Secretary;

"(II) be executed by the chief executive officer or other officer of the State or unit of general local government who qualifies under regulations of the Secretary;

"(III) specify that the State or unit of general local government under this section has fully carried out its responsibilities as described under clause (i); and

"(IV) specify that the certifying officer consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and under each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or such other provisions of law apply pursuant to clause (i), and is authorized and consents on behalf of the State or unit of general local government and himself or herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of the responsibilities as such an official.

"(iv) APPROVAL BY STATES. In cases in which a unit of general local government carries out the responsibilities described in clause (i), the Secretary may permit the State to perform those actions of the Secretary described in clause (ii) and the performance of such actions by the State, where permitted by the Secretary, shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of clause (ii).

"(B) LEAD-BASED PAINT POISONING PREVENTION. In carrying out the requirements of section 302 of the Lead-Based Paint Poisoning Prevention Act, the Secretary may provide by regulation for the assumption of all or part of the Secretary's duties under such Act by qualified housing finance agencies, for purposes of this section.

"(C) CERTIFICATION OF SUBSIDY LAYERING COMPLIANCE. The requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 may be satisfied in connection with a commitment to insure a mortgage under this subsection by a certification by a housing credit agency (including an entity established by a State that provides mortgage insurance) to the Secretary that the combination of assistance within the jurisdiction of the Secretary and other government assistance provided in connection with a property for which a mortgage is to be insured shall not be any greater than is necessary to provide affordable housing.

"(10) DEFINITIONS. For purposes of this subsection, the following definitions shall apply:

"(A) MORTGAGE. The term 'mortgage' means a first mortgage on real estate that is—

"(i) owned in fee simple; or

"(ii) subject to a leasehold interest that—

"(I) has a term of not less than 99 years and is renewable; or

"(II) has a remaining term that extends beyond the maturity of the mortgage for a period of not less than 10 years.

"(B) FIRST MORTGAGE. The term 'first mortgage' means a single first lien given to secure advances on, or the unpaid purchase price of, real estate, under the laws of the State in which the real estate is located, together with the credit instrument, if any, secured thereby. Any other financing permitted on property insured under this section must be expressly subordinate to the insured mortgage.

"(C) UNIT OF GENERAL LOCAL GOVERNMENT; STATE. The terms 'unit of general local government' and 'State' have the same meanings as in section 102(a) of the Housing and Community Development Act of 1974.".

(b) DEFINITION OF MULTIFAMILY HOUSING Section 544(1) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended to read as follows:

"(1) The term 'multifamily housing' means housing accommodations on the mortgaged property that are designed principally for residential use, conform to standards satisfactory to the Secretary, and consist of not less than 5 rental units on 1 site. These units may be detached, semidetached, row house, or multifamily structures.".

SEC. 323. SUBSIDY LAYERING REVIEW.

Section 911 of the Housing and Community Development Act of 1992 (42 U.S.C. 3545 note) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) CERTIFICATION OF SUBSIDY LAYERING COMPLIANCE. The requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 may be satisfied in connection with a project receiving assistance under a program that is within the jurisdiction of the Department of Housing and Urban Development and under section 42 of the Internal Revenue Code of 1986 by a certification by a housing credit agency to the Secretary, submitted in accordance with guidelines established by the Secretary, that the combination of assistance within the jurisdiction of the Secretary and other government assistance provided in connection with a property for which assistance is to be provided within the jurisdiction of the Department of Housing and Urban Development and under section 42 of the Internal Revenue Code of 1986 shall not be any greater than is necessary to provide affordable housing."; and

(2) by striking subsection (c) and inserting the following:

"(c) REVOCATION BY SECRETARY. If the Secretary determines that a housing credit agency has failed to comply with the guidelines established under subsection (a), the Secretary—

"(1) may inform the housing credit agency that the agency may no longer submit certification of subsidy layering compliance under this section; and

"(2) shall carry out section 102(d) of the Housing and Urban Development Reform Act relating to affected projects allocated a low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986.".

Subtitle C—Rural Housing

SEC. 331. TECHNICAL CORRECTION TO RURAL HOUSING PRESERVATION PROGRAM.

Section 515(c)(1) of the Housing Act of 1949 (42 U.S.C. 1485(c)(1)) is amended by striking "December 21, 1979" and inserting "December 15, 1989".

AMENDMENT NO. 1215

(Purpose: To make a series of corrections)

Mr. BAUCUS. Mr. President, on behalf of Senate RIEGLE and others, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] for Mr. RIEGLE, for himself, Mr. D'AMATO, Mr. SARBANES, Mr. BOND, Mr. DOMENICI, and Mr. BINGAMAN, proposes an amendment numbered 1215.

Mr. BAUCUS. 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 80, after line 25, insert the following new paragraph:

"(3) FORECLOSURE SALE. In carrying out this section, the Secretary shall—

"(A) prior to foreclosing on any multifamily housing project held by the Secretary, notify both the unit of general local government in which the property is located and the tenants of the property of the proposed foreclosure sale; and

"(B) upon disposition of a multifamily housing project through a foreclosure sale, determine that the purchaser is capable of implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and repair expenses to ensure that the project will remain in decent, safe, and sanitary condition.

On page 87, line 4, strike "unsubsidized".

On page 87, line 10, insert "otherwise" after "who are".

On page 87, line 11, strike "such" and insert ", in accordance with the requirements of subparagraph (A), (B), or (D) of paragraph (1)," after "assistance".

On page 87, line 17, strike "Actions" and insert "With respect to subsidized or formerly subsidized projects, actions".

On page 87, line 17, strike "also".

On page 101, line 2, strike "disposition of, or" and insert "demolition of,".

On page 101, line 3, insert "or conversion in the use of," after "to,".

On page 101, lines 9 through 11, strike "not owned by the Secretary (and for which the Secretary is not mortgagee in possession)" and insert "subject to a mortgage held by the Secretary".

On page 101, line 13, insert ", if the Secretary has authorized the demolition of, repairs to, or conversion in the use of such multifamily housing project" before the period.

On page 103, line 16, insert ", unsubsidized," after "subsidized".

On page 105, line 20, insert ", on an aggregate basis, which highlights the differences, if any, between the subsidized and the unsubsidized inventory" before the period.

Beginning on page 105, strike line 21 and all that follows through page 106, line 12, and insert the following:

"(1) the average and median size of the projects;

"(2) the geographic locations of the projects, by State and region;

"(3) the years during which projects were assigned to the Department, and the average and median length of time that projects remain in the HUD-held inventory;

"(4) the status of HUD-held mortgages;

"(5) the physical condition of the HUD-held and HUD-owned inventory;

"(6) the occupancy profile of the projects, including the income, family size, race, and ethnic origin of current tenants, and the rents paid by such tenants;

"(7) the proportion of units that are vacant;

"(8) the number of projects for which the Secretary is mortgagee in possession;

"(9) the number of projects sold in foreclosure sales;

"(10) the number of HUD-owned projects sold;

On page 108, line 6, insert "and" after the semicolon.

On page 108, line 8, strike "(j)" and insert "(i)".

On page 108, line 8, strike "; and" and insert ".".

On page 108, strike lines 9 through 15.

On page 113, line 9, before the period insert the following: ", except that nothing in this clause shall have the effect of altering the provisions of an existing regulatory agreement or federally insured mortgage on the property".

On page 114, line 15, strike "and".

On page 114, line 22, strike the period at the end and insert "; and".

On page 114, between lines 22 and 23, insert the following new paragraph:

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

"(k) IDENTITY OF INTEREST MANAGING AGENT. For purposes of this section, the term 'identity of interest managing agent' means an ownership entity, or its general partner or partners, which has an ownership interest in and which exerts effective control over the property's ownership.".

On page 114, between lines 22 and 23, insert the following new subsection:

(b) IMPLEMENTATION.—The Secretary shall implement the amendments made by this section by regulation issued after notice and opportunity for public comment. A proposed rule shall be published not later than March 1, 1994. The notice shall seek comments primarily as to the definition of the terms 'ownership interest in' and 'effective control', as such terms are used in the definition of identity of interest managing agent.

On page 114, line 23, strike "(b)" and insert "(c)".

On page 115, line 2, strike "this Act" and insert "the final regulations implementing the amendments made by this section" before the semicolon.

On page 166, beginning on line 21, strike "Such preference" and all that follows through line 24 and insert the following: "Such preference shall not preclude the selection by the Secretary of other meritorious applications, particularly applications which address urgent or severe crime problems or which demonstrate especially promising approaches to reducing crime. Such preference shall not be construed to require continuation of activities determined by the Secretary to be unworthy of continuation.".

On page 177, between lines 8 and 9, insert the following new sections:

SEC. 311. ASSUMPTION OF ENVIRONMENTAL REVIEW RESPONSIBILITIES UNDER UNITED STATES HOUSING ACT OF 1937 PROGRAMS.

Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

"SEC. 26. ENVIRONMENTAL REVIEWS.

"(a) IN GENERAL.—

"(1) RELEASE OF FUNDS.—In order to assure that the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of funds under this title, and to assure to the public undiminished protection of the environment, the Secretary may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for the release of funds for projects or activities under this title, as specified by the Secretary upon the request of a public housing agency under this section, if the State or unit of general local government, as designated by the Secretary in accordance with regulations, assumes all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary may specify, which would otherwise apply to the Secretary with respect to the release of funds.

"(2) IMPLEMENTATION.—The Secretary, after consultation with the Council on Environmental Quality, shall issue such regulations as may be necessary to carry out this section. Such regulations shall specify the programs to be covered.

"(b) PROCEDURE.—The Secretary shall approve the release of funds subject to the procedures authorized by this section only if, not less than 15 days prior to such approval and prior to any commitment of funds to such projects or activities, the public housing agency has submitted to the Secretary a request for such release accompanied by a certification of the State or unit of general local government which meets the requirements of subsection (c). The Secretary's approval of any such certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the release of funds which are covered by such certification.

"(c) CERTIFICATION.—A certification under the procedures authorized by this section shall—

"(1) be in a form acceptable to the Secretary;

"(2) be executed by the chief executive officer or other officer of the State or unit of general local government who qualifies under regulations of the Secretary;

"(3) specify that the State or unit of general local government under this section has fully carried out its responsibilities as described under subsection (a); and

"(4) specify that the certifying officer—

"(A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and agrees to comply with each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or other such provision of law apply pursuant to subsection (a); and

"(B) is authorized and consents on behalf of the State or unit of general local government and himself or herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his or her responsibilities as such an official.

"(d) APPROVAL BY STATES.—In cases in which a unit of general local government carries out the responsibilities described in subsection (c), the Secretary may permit the State to perform those actions of the Secretary described in subsection (b) and the performance of such actions by the State, where permitted by the Secretary, shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of subsection (b).".

SEC. 312. INCREASED STATE FLEXIBILITY IN THE LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM.

Section 927 of the Housing and Community Development Act of 1992 (42 U.S.C. 8624) is amended—

(1) in subsection (a)—

(A) in the heading, by striking "(a) ELIGIBILITY.—" and inserting the following:

"(a) IN GENERAL.—";

(B) by striking "(including but not limited to the Low-Income Home Energy Assistance Program)"; and

(C) by inserting ", except as provided in subsection (d)" before the period at the end;

(2) in subsection (b)—

(A) by striking "such" and inserting "or receiving energy"; and

(B) by inserting before the period at the end "for any program in which eligibility or benefits are based on need, except as provided in subsection (d)"; and

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

"(d) SPECIAL RULE FOR LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM.—For purposes of the Low-Income Home Energy Assistance Program, tenants described in subsection (a)(2) shall not have their eligibility automatically denied. States may consider the amount of the heating or cooling component of utility allowances received by such tenants when setting benefit levels under the Low-Income Home Energy Assistance Program. Any reduction in fuel assistance benefits must be reasonably related to the amount of the heating or cooling component of the utility allowance received. States shall ensure that the highest level of assistance will be provided to those households with the highest energy burdens, in accordance with section 2605(b)(5) of the Low-Income Home Energy Assistance Act of 1981.".

On page 187, strike line 11 and insert the following:

Subtitle C—Miscellaneous and Technical Amendments

On page 187, after line 16, insert the following new sections:

SEC. 332. CDBG TECHNICAL AMENDMENT.

Notwithstanding any other provision of law, the city of Slidell, Louisiana may submit, not later than 10 days following the enactment of this Act, and the Secretary of Housing and Urban Development shall consider and accept, the final statement of community development objectives and projected use of funds required by section 104(a)(1) of the Housing and Community Development Act of 1974 in connection with a grant to the city of Slidell under title 1 of such Act for fiscal year 1994.

SEC. 333. ENVIRONMENTAL REVIEW IN CONNECTION WITH SPECIAL PROJECTS.

(a) IN GENERAL.—

(1) RELEASE OF FUNDS.—In order to assure that the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of funds for special projects appropriated under an appropriations Act for the Department of Housing and Urban Development, such as special projects under the head "Annual Contributions for Assisted Housing" in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, and to assure to the public undiminished protection of the environment, the Secretary of Housing and Urban Development may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for the release of funds for particular special projects upon the request of recipients of special projects assistance, if the State or unit of general local government, as designated by the Secretary in accordance with regulations, assumes all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary specify, that would otherwise apply to the Secretary were the Secretary to undertake such special projects as Federal projects.

(2) IMPLEMENTATION.—The Secretary shall issue regulations to carry out this section only after consultation with the Council on Environmental Quality. Such regulations shall—

(A) provide for monitoring of the performance of environmental reviews under this section;

(B) in the discretion of the Secretary, provide for the provision or facilitation of training for such performance; and

(C) subject to the discretion of the Secretary, provide for suspension or termination by the Secretary of the assumption under paragraph (1).

(3) RESPONSIBILITIES OF STATE OR UNIT OF GENERAL LOCAL GOVERNMENT.—The Secretary's duty under paragraph (2) shall not be construed to limit any responsibility assumed by a State or unit of general local government with respect to any particular release of funds under paragraph (1).

(b) PROCEDURE.—The Secretary shall approve the release of funds for projects subject to the procedures authorized by this section only if, not less than 15 days prior to such approval and prior to any commitment of funds to such projects, the recipient submits to the Secretary a request for such release, accompanied by a certification of the State or unit of general local government which meets the requirements of subsection (c). The Secretary's approval of any such certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the releases of funds for special projects to be carried out pursuant thereto which are covered by such certification.

(c) CERTIFICATION.—A certification under the procedures authorized by this section shall—

(1) be in a form acceptable to the Secretary;

(2) be executed by the chief executive officer or other officer of the State or unit of general local government who qualifies under regulations of the Secretary;

(3) specify that the State or unit of general local government under this section has fully carried out its responsibilities as described under subsection (a); and

(4) specify that the certifying officer—

(A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and agrees to comply with each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or other such provision of law apply pursuant to subsection (a); and

(B) is authorized and consents on behalf of the State or unit of general local government and himself or herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of the responsibilities as such an official.

(d) APPROVAL BY STATES.—In cases in which a unit of general local government carries out the responsibilities described in subsection (a), the Secretary may permit the State to perform those actions of the Secretary described in subsection (b) and the performance of such actions by the State, where permitted by the Secretary, shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of subsection (b).

At the appropriate place, insert the following new section:

SEC. ___. MOUNT RUSHMORE COMMEMORATIVE COIN ACT.

(a) DISTRIBUTION OF SURCHARGES.—Section 8 of the Mount Rushmore Commemorative Coin Act (31 U.S.C. 5112 note) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) the first $18,750,000 shall be paid during fiscal year 1994 by the Secretary to the Society to assist the Society's efforts to improve, enlarge, and renovate the Mount Rushmore National Memorial; and

"(2) the remainder shall be returned to the United States Treasury for purposes of reducing the national debt.".

(b) RETROACTIVE EFFECT.—If, prior to the date of enactment of this Act, any amount of surcharges have been received by the Secretary of the Treasury and paid into the United States Treasury pursuant to section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect prior to the date of enactment of this Act, that amount shall be paid out of the Treasury to the extent necessary to comply with section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect after the date of enactment of this Act. Amounts paid pursuant to the preceding sentence shall be out of funds not otherwise appropriated.

At the appropriate place, insert the following new section:

SEC. ___. MINORITY COMMUNITY DEVELOPMENT GRANTS FOR COMMUNITIES WITH SPECIAL NEEDS.

(a) AUTHORIZATION.—There are hereby authorized to be expended from sums appropriated for water infrastructure financing and other wastewater activities for cities with special needs, not more than $25,000,000, for wastewater treatment projects, including the construction of facilities and related expenses in minority communities with special needs to—

(1) improve the housing stock infrastructure in the special needs communities; and

(2) abate health hazards caused by groundwater contamination from septage in arid areas with high groundwater levels.

(b) TREATMENT PROJECTS.—The wastewater treatment projects authorized under this section shall include innovative technologies such as vacuum systems and constructed wetlands.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "cities with special needs" includes minority communities with special needs;

(2) the term "minority" means an African-American, a Hispanic-American, an Asian-American, or a Native American; and

(3) the term "minority community with special needs" means an unincorporated community—

(A) that, based on the latest census data, has a minority population in excess of 50 percent;

(B) that has been unable to issue bonds or otherwise finance a wastewater treatment system itself because its attempts to change its political subdivision have been rejected by the State legislature; and

(C) for which the State legislature has appropriated funds to help pay for a wastewater treatment project.

On page 73, amend the table of contents by inserting after the item relating to section 310 the following:

Sec. 311. Assumption of environmental review responsibilities under United States Housing Act of 1937 programs.

Sec. 312. Increased State flexibility in the Low-Income Home Energy Assistance Program.

On page 73, amend the table of contents by striking the item relating to subtitle C and inserting the following:

Subtitle C—Miscellaneous and Technical Amendments

On page 73, amend the table of contents by inserting after the item relating to section 331 the following:

Sec. 332. CDBG technical amendment.

Sec. 333. Environmental review in connection with special projects.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1215) was agreed to.

Mr. RIEGLE. Mr. President, I would like to offer my strong support for S. 1299—the Housing and Community Development Act of 1993. This bill is critically important because it responds to the multi-family crisis confronting the Department of Housing and Urban Development [HUD].

This year the Banking Committee held hearings on problems in HUD's

multi-family portfolio. testimony indicated that HUD has experienced a significant increase in loan loss reserves for 1992 from $5.5 billion to $11.9 billion, in order to cover anticipated losses from future defaults on mortgages insured by HUD. We also heard how problems in HUD's multi-family programs are exacerbated by the current rules governing property disposition.

S. 1299 addresses these issues by providing greater flexibility in the disposition of HUD-owned multifamily properties while protecting affordability and preservation objectives in current law. This bill gives the Department new tools to facilitate disposition. It increases the Department's flexibility in disposing of properties and expedites the sales of properties. The expedited sales of HUD-owned properties will reduce the costs of holding and maintaining the properties in the inventory. This will free up HUD's resources to focus on preventing defaults on currently insured mortgages. the bill also provides tools designed to prevent such defaults from occurring and to minimize losses.

The bill includes several other initiatives to enhance existing public housing programs—making these programs more workable and flexible in meeting the needs of individual communities. S. 1299 also expands the scope of the existing Public Housing Drug Elimination Grant Program to pursue preventive approaches to fighting, not just drug related crime, but all types of crime in and around public housing developments.

S. 1299 will help create jobs for people living in economically distressed communities. It contains an economic development initiative which will allow Community Development Block Grant recipients who use the Section 108 Loan Guarantee Program to use grants to create viable economic development projects. The bill includes a UDAG "Amnesty" program. This program will permit cities to trade in outstanding UDAG grants in exchange for funds for other economic development projects.

Lastly, the bill contains several technical amendments to the HOME program and other technical changes which correct errors in recent legislation.

This bill represents an important first step in providing HUD with the flexibility and the tools it needs to begin to confront the crisis in its multifamily programs, in particular, and its management problems, in general. I want to commend Housing and Affairs Subcommittee Chairman SARBANES and his ranking Republican member, Senator BOND, as well as Senator D'AMATO for the bi-partisan spirit with which they have worked to put this bill together.

Mr. SARBANES. Mr. President, I rise tonight to thank the Senate for passing S. 1299—the Housing and Community Development Act of 1993.

Throughout this year, the Housing Subcommittee's principal objective has been to assist Secretary Henry Cisneros in revitalizing the Department of Housing and Urban Development. We all realize that it is crucial to first restore HUD's credibility in order for the agency to reemerge as a participant in efforts to revitalize our Nation's communities. S. 1299 makes important strides toward addressing HUD's difficulties.

The passage of S. 1299 culminates a careful process that began with a series of hearings that looked into key HUD issue areas. In April, the Housing Subcommittee examined the implementation of the HOME Investment Partnership Program. In May, the Banking Committee highlighted HUD management issues in general and the management of the Public Housing Program. And, in June, the Housing Subcommittee held a hearing on FHA multifamily insurance programs.

The goal in these hearings was to build a constructive record. The Housing Subcommittee invited witnesses who represented the best in their fields. The witnesses made useful suggestions as to how to move forward.

The administration sent up the Housing and Community Development Act of 1993 on July 27, which addressed many of the issues developed during the hearings. At the Banking Committee hearing the next day, Secretary Cisneros ably put forward the case for this legislation. Senators RIEGLE and I introduced the administration's bill as S. 1299 the same day at the hearing.

The Senate Banking Committee then worked through the administration's bill in a bipartisan fashion, consulting with the Department and others, and produced a stronger bill that reflects the efforts and suggestions of many different people. On October 19, the Banking Committee held a markup on S. 1299 and it was passed by unanimous vote out of committee.

S. 1299 is a pivotal piece of legislation and packed with helpful reforms. This legislation allows Secretary Cisneros to move forward in solving some of the most intractable problems of HUD, and it sets the stage for the larger reauthorization effort next year.

At the core of this legislation is a set of reforms addressing the problems facing the Federal Housing Administration's [FHA] multifamily insurance programs.

The evidence of distress in the FHA programs is compelling: the HUD-owned inventory of multifamily properties tripled between 1989 and 1992 to over 30,000 units. By the end of this year, as a result of foreclosure actions, the HUD-owned inventory will have doubled again to over 75,000 units. The inventory is growing because HUD cannot sell properties without providing expensive section 8 subsidies. The appropriations necessary to meet the subsidy requirements in current law are not available.

Existing law embodies a noble impulse: it seeks to preserve as many units of affordable housing as possible. In many communities, the FHA properties are some of the only units affordable to very low-income housrholds—some relaxation in the current requirements is imperative. Evidence suggests that HUD is a poor manager of these properties; it is of no benefit to existing tenants if their houses are poorly managed and become run down.

S. 1299 fully protects the very low-income tenants who currently occupy subsidized affordable housing units. They will continue to pay rent that does not exceed 30 percent of their income. I want to emphasize this because the committee has been very concerned about assuring access to affordable housing and providing adequate protections to tenants.

This legislation reduces the cost of property disposition by removing the requirement for future subsidies for units that are not currently subsidized. This legislation also permits HUD to use shallower subsidies and tenant-based assistance in places where current law would otherwise require more expensive project-based section 8 subsidies. Using these authorities, HUD should be able to cut by more than half the appropriations required over the next 5 years to facilitate disposition. At the same time, new authorizations in this legislation will give HUD the flexibility to set-aside more units for low-income families than could be preserved under current law and to try some creative approaches to preserving low-income housing should appropriations be available.

Unfortunately, the problems in managing the HUD-owned inventory are only the tip of the iceberg: HUD owns and services mortgages with a face value of over $7 billion. some $6.2 billion of these mortgages are delinquent—covering properties with 230,000 units. Further, the 1992 audit of the FHA insurance funds required HUD to increase the loan loss reserves on FHA insurance-in-force from $5.5 billion to $11.9 billion.

S. 1299 also takes some important steps toward preventing some of the $11.9 billion in projected losses from occurring. This legislation requires HUD to develop a streamlined mortgage refinancing program to take advantage of current low interest rates. This legislation also more clearly ties existing assistance programs to default prevention strategies. Civil money penalties are increased and made applicable to general partners and certain managing agents. And, legislation gives HUD clear authority to sell mortgages it