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Congressional Record

PROCEEDINGS AND DEBATES OF THE 102d CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES—*Thursday, November 21, 1991*

The House met at 12 noon.

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. NATCHER) laid before the House the following communication from the Speaker:

WASHINGTON, DC,
November 21, 1991.

I hereby designate the Honorable WILLIAM H. NATCHER to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker, House of Representatives.

PRAYER

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

Teach us to pray, O God, not only in times of distress or despair when life is barely lived, but encourage us to offer daily words of thanksgiving and praise. You have blessed us, gracious God, with all the gifts of life and love, of foregiveness and reconciliation, of faith and hope. For all these gifts, for our very lives and all the opportunities we have for helping people, we offer this prayer of praise and thanksgiving. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Maryland [Mr. MCMILLEN] please come forward and lead the House in the Pledge of Allegiance.

Mr. MCMILLEN of Maryland led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

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

H.R. 2270. An act amending certain provisions of title 5, United States Code, relating to the Senior Executive Service; and

H.R. 3624. An act to amend the Tariff Act of 1930 to provide appropriate proedures for the appointment of the Chairman of the U.S. International Trade Commission.

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

H.R. 2280. An act to amend title 38, United States Code, to extend and improve veterans' health care programs; and

H.R. 2629. An act to amend the Small Business Act to assist the development of small business concerns owned and controlled by women, and for other purposes.

The message also announced that the Senate disagrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 1724) "An act to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BENTSEN, Mr. MOYNIHAN, and Mr. PACKWOOD, to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2038) "An act to authorize appropriations for fiscal year 1992 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes".

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

S. 775. An act to improve the compensation of certain veterans for exposure to ionizing radiation, to improve the administration of veterans benefits programs, and for other purposes.

The message also announced that, the Chair, on behalf of the Republican leader, announces the appointment of Mr. MCCAIN, Vice Chairman; Mr. HATFIELD; Mr. GRAMM, Mr. GORTON, and Mr. GARN, as members of the official Senate delegation to attend the 50th Anniversary Commemoration of the Attack on Pearl Harbor.

THE FEDERAL PROGRAM IMPROVEMENT ACT OF 1991

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

Mr. PICKLE. Mr. Speaker, at the start of the 102d Congress, Ways and Means Chairman ROSTENKOWSKI announced that the committee would undertake a major oversight initiative. The initiative would involve a commitment by the committee to improve the efficiency and effectiveness of health, trade, tax, income security, and other laws within the committee's jurisdiction. As chairman of the Committee's Oversight Subcommittee, I was pleased to join Chairman ROSTENKOWSKI in this initiative.

During the first session of this Congress, the Subcommittee on Oversight conducted numerous investigations, hearings, and site visits as part of, and in furtherance of, this major oversight initiative. Today, to advance the objectives of the major oversight initiative, Chairman ROSTENKOWSKI and I are joined by ranking minority committee member BILL ARCHER, ranking minority subcommittee member DICK SCHULZE, and the Oversight Subcommittee members in introducing legislation to improve the administration of programs within the jurisdiction of the Committee on Ways and Means. This legislation reflects the bi-

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partisan reform recommendations unanimously agreed to by the Subcommittee on Oversight. As the legislation is considered by the full committee, I would expect that it could be further expanded based on the suggestions of the committee.

This legislation affects the manner in which the Federal Government manages resources, issues benefit payments, and serves the public. In the end, I believe that enactment of this bill will protect the integrity of many programs within the committee's jurisdiction and the pocketbook of the American taxpayer. I look forward to working with Chairman ROSTENKOWSKI, members of the Oversight Subcommittee, and the other subcommittee chairmen in the second session of this Congress to develop additional savings and good government administrative and legislative changes.

In particular, the legislation we are introducing today would improve Federal programs relating to: First, erroneous payments under the Medicare Secondary Payer Program; second, abusive marketing practices by durable medical equipment suppliers seeking reimbursement under the Medicare Program; third, abuse and mismanagement of inspector overtime pay by the U.S. Customs Service; fourth, incorrect payment of Federal benefits to deceased individuals; and, fifth, the Pension Benefit Guaranty Corporation's Program to identify, collect, and account for premium payments.

In summary, the Federal Program Improvement Act of 1991 provides changes with regard to the following:

First, to prevent erroneous Medicare payments and to enhance recovery efforts relating to the Medicare Secondary Payer Program:

Medicare beneficiaries would be screened regarding employer group health insurance coverage at the time of enrollment in the Medicare Program; and sanctions would be allowed against providers who routinely and willfully fail to screen beneficiaries for other insurance coverage.

Medicare contractors would be required to submit quarterly reports to the Health Care Financing Administration [HCFA] on their efforts to recover erroneous payments and would be evaluated on their recovery efforts; the payment recovery process would be streamlined; and, HCFA would be required to develop and submit to the Committee on Ways and Means proposals for an incentive program to encourage contractors to make additional recoveries of erroneous payments.

Second, to eliminate abuses regarding durable medical equipment [DME] under the Medicare Program, as well as to improve administration of the Medicare Program:

Medicare carriers would be required to deny Medicare provider numbers to DME suppliers who engage in telemarketing; that is, suppliers who initiate unsolicited telephone calls to beneficiaries to induce them to buy equipment.

HCFA would develop a questionnaire designed to alert Medicare carriers to potentially abusive DME sales practices.

Medicare carriers would deny the use of more than one provider number by DME suppliers.

HCFA would be required to submit a report on the Medicare Pre-Approval Program authorized in the Omnibus Budget Reconciliation Act of 1990, and decubitus care mattresses would be added to the list of items subject to the preapproval process.

Medicare carriers would be required to reimburse DME suppliers based on the fee schedule in effect for the residence or address of the beneficiary, rather than the fee schedule at the point of sale, in order to eliminate carrier shopping.

HCFA would be required to develop a standardized "Physician's Prescription for Durable Medical Equipment" to be used nationwide, containing information both from the supplier and the prescribing physician; and, Medicare carriers would be required to amend the explanation of medical benefits form so that beneficiaries can clearly understand exactly what equipment has been paid for by Medicare.

HCFA would be required to prepare a list of items of DME for which improved definitions or standards might be appropriate, together with recommendations regarding quality standards and definitional terms.

Medicare carriers would be authorized to use current price information, including current wholesale prices, in making determinations regarding the inherent reasonableness of DME fee-schedule allowances.

The GAO would be required to compare, for 150 items of DME, supplier costs with the range of Medicare fee-schedule allowances for these items, to analyze the appropriateness of a national fee schedule for DME, and to propose a timetable for implementation of a nationwide fee schedule.

HCFA would be required to review the items classified as "prosthetics and orthotics" to identify those iterms not requiring individualized, custom fitting and adjustment, and submit recommendations regarding the appropriate method for reimbursement of these items similar to other classes of DME.

Third, to improve Customs administration of inspectional overtime and to ensure that resources are better managed:

The Customs Service overtime pay laws—the 1911 act—would be modified to mirror the Federal Employees Pay Act [FEPA] rules which generally apply to Federal Government workers in order to: ensure that hours paid bear a more direct relationship to hours worked; provide for more reasonable overtime rates; provide pay rate differentials for Sunday and holiday work performed as part of an inspector's regular workweek schedule; and, provide for the payment of overtime benefits only after 40 hours of work is completed. These changes would be phased in over a 3-year period.

The definition of "inspectional services" would be clarified to limit 1911 act overtime benefits to employees performing actual inspectional activities.

The current COBRA user fee would be modified to reinstate congressional oversight of Customs' use of overtime funds.

The Office of Management and Budget would be given oversight authority for 1911 act overtime funds.

The General Accounting Office [GAO] would be required to report on costs of covering night and weekend workload with additional inspectors, rather than by covering such workload by use of inspector overtime.

Fourth, to minimize the payment of Federal benefits to deceased beneficiaries:

The Social Security Administration would be authorized to share with all Federal agencies death certificate information purchased from State agencies.

The Social Security Administration would conduct a study of ways in which death information can be gathered and reported more quickly.

Fifth, to improve accountability in the Pension Benefit Guaranty Corporation's [PBGC] program to identify, collect, and account for premium payments;

The PBGC would be required to provide two annual reports to the Congress, the first listing plans with underfunding in excess of $25 million and the amount of such underfunding, and the second listing plans with underfunding in excess of $5 million that have been granted a minimum-funding waiver according to publicly disclosable information.

THE TAXPAYER BILL OF RIGHTS ACT OF 1991, H.R. 3838

Mr. Speaker, one of the most important responsibilities of the Ways and Means Subcommittee on Oversight is the charge to continually review the operations of the Internal Revenue Service. We must be vigilant to make certain that the rights and interests of taxpayers are being protected. In a very real sense, we are the only congressional voice average taxpayers have to speak out for the common interests of every hard working, taxpaying American.

Over the years the members of the Subcommittee on Oversight have taken this charge very seriously, and have recommended many taxpayer safeguards which have been accepted by this House and enacted into law. For

the past year, as an integral part of the overall oversight initiative of the Committee on Ways and Means, we conducted an extensive investigation into the problems taxpayers have under the current Federal tax system. We held a series of hearings and site visits to review the operations, practices, and procedures of the IRS. We considered recommendations for improving the tax system made by individual taxpayers, tax professionals, IRS employees, and the administration. We held public hearings to receive testimony from the IRS Taxpayer Ombudsman, the IRS Commissioner, the Assistant Secretary of the Treasury for Tax Policy, and a variety of public witnesses.

Based on this extensive review we found that while the IRS is generally meeting its responsibilities, and in many respects should be commended, there are, nevertheless, some areas in which changes must be made in order to protect the legitimate interests of taxpayers. Specifically, the subcommittee has identified 33 areas in which taxpayers encounter significant difficulty in dealing with the IRS. As a result, the subcommittee has agreed, on a unanimous basis, to nearly 80 recommendations for reform. These recommendations are provided in the bill I am introducing today.

I would stress to my colleagues that this is a well balanced and responsible package of reforms. I understand that these reforms will impose some additional burdens on the IRS, and that in some cases they will make the already difficult task of collecting revenues a little more difficult. I intend to continue my discussions with the IRS and Treasury about how the bill can be fine tuned and improved, both from the taxpayers' perspective and that of the tax law administrator. I also accept that this package will not solve every difficulty that taxpayers encounter. The process of addressing the problems relating to the Internal Revenue Code must be continuous, and is, in all likelihood, unending. But, I believe this is a good package, and I urge you to join with me and my colleagues on the committee in supporting the taxpayer bill of rights of 1991.

In summary, the taxpayer bill of rights of 1991 would provide for the following major changes:

First, create an independent taxpayer advocate: The bill would establish a new taxpayer advocate with broader authorities to intervene and take action on behalf of taxpayers. Under the bill, the position of taxpayer advocate would be elevated to the same level as that of the IRS chief counsel and made subject to the Senate confirmation process. Further, the advocate would be required to make reports directly to Congress on problems encountered by taxpayers and to provide recommendations for improvement of the tax system.

Second, grant authority to withdraw IRS liens and levies: The bill would permit the IRS to withdraw liens and levies when it is in the best interests of the taxpayer and the Government. These provisions will allow the Government to correct its mistakes. For example, the IRS will be allowed to return moneys that were levied upon in a manner inconsistent with an existing installment agreement. Under current law, such action is legally impermissible.

Third, improve IRS handling of erroneous information returns: The bill would require the IRS to take reasonable steps to corroborate the accuracy of information returns, such as forms 1099 and W–2, when the returns are disputed by the taxpayer. This provision is designed to address situations where a taxpayer is forced to prove a negative, an unfair burden of proof. In addition, taxpayers would be allowed to bring suit against any person who willfully files a false or fraudulent information return. Finally, payors would be required to provide a telephone number on information returns to assist taxpayers in resolving disputes concerning these returns.

Fourth, expand the abatement of interest provision: The bill would expand the abatement of interest provision to make clear that the IRS has the authority to grant relief in cases where the IRS loss of tax records or personnel decisions result in delays of more than 6 months.

Fifth, problems regarding responsible officers: The bill would allow the IRS to excuse from the 100-percent penalty for certain responsible officers who notify the IRS of a failure of a business to pay over taxes. The bill would also make improvements in the area of notifying individuals, tax-exempt organizations, and businesses of their obligations and responsibilities for collecting and paying withheld taxes.

Sixth, equalize interest rates: The bill would require that the IRS and taxpayers pay the same interest rates on deficiencies and refunds.

Seventh, divorced or separated spouses: The bill would provide both spouses with notices of deficiences and allow the IRS to disclose the status of its collection activities with regard to the other joint filer.

Eighth, various pilot projects, reports, and studies: The bill would provide for a number of pilot projects, reports, and studies, by the IRS and General Accounting Office [GAO]. The IRS is required to conduct a pilot project to give taxpayers an administrative appeal in certain collection cases. The IRS is also required to conduct studies involving taxpayers with special needs, like the elderly; IRS employee misconduct; and, the taxpayer rights education program for revenue officers. The GAO will be required to study the effectiveness of IRS' efforts to notify taxpayers of tax deficiencies; the IRS' efforts to notify taxpayers of tax deficiencies; the accuracy and clarity of various IRS forms, notices, and publications; and, the various IRS employee suggestion programs.

TAXPAYER BILL OF RIGHTS ACT OF 1991

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

Mr. SCHULZE. Mr. Speaker, I am pleased to join with Chairman JAKE PICKLE in introducing the Taxpayer Bill of Rights Act of 1991.

The original taxpayer bill of rights was enacted in 1988. The 1988 legislation was a significant step in the direction of protecting taxpayer rights.

It codified many taxpayer protections which up until then were only administrative guidelines within the Internal Revenue Service. It also expanded taxpayer rights to recover damages from the IRS for improper liens and for improper collection efforts.

Despite the excellent progress we made in 1988, there is more we should do to protect the taxpayers in their dealings with the IRS.

The untold story from 1988 is not what we put into the taxpayer bill of rights, but what we left out of it.

The new bill has many features which follow up on the good start we made in 1988. First, the bill codifies the decision of the U.S. Court of Appeals in *Portillo* v. *Commissioner*, 932 F. ad 1129 (5th Cir. 1991). The appeals court ruled that the IRS could not impose a valid determination of a tax deficiency based on an uncorroborated form 1099, when the accuracy of the form 1099 was disputed by the taxpayer.

Up until the Portillo case the taxpayer was guilty until proven innocent. The taxpayer—Portillo—had to convince the IRS that he did not receive the money. It is virtually impossible to prove a negative proposition, but that is what the tax law required. Accordingly, the U.S. Tax Court upheld the IRS' deficiency against Mr. Portillo because the IRS had the presumption of correctness and the taxpayer could not prove that he was innocent.

The U.S. Tax Court of Appeals overturned the decision of the U.S. Tax Court.

Under the bill, the IRS would have to take reasonable steps to corroborate the accuracy of a disputed information return. If it failed to take reasonable steps, then the consequence would be that its determination of a tax deficiency would be invalid. At last the taxpayer will be innocent until proven guilty when he disputes the accuracy of an information return filed by a third party.

Second, the bill would end the discrepancy in the interest rates which

now apply to deficiencies and refunds. The interest rate paid by the IRS on refunds to taxpayers is 1 percent less than the rate paid by taxpayers on deficiences to the IRS. The bill would apply the higher interest rate on refunds paid to taxpayers by the IRS.

Third, the bill would modify the rules which apply to the award of attorney's fees to taxpayers who prevail over the IRS.

The bill would remove the current hurdle which requires that taxpayers who beat the IRS also have to prove that the Government was not substantially justified in pressing its case against the taxpayer.

The bill also allows the courts to award reasonable litigation costs to taxpayers who act on their own counsel and represent themselves before the IRS and the courts.

The current interpretation of the law disallows payments to such taxpayers when they prevail over the IRS.

Mr. Speaker, while I have focused my remarks on the three preceding provisions, there are numerous other provisions which improve the rights of taxpayers. The bill strengthens the rights of married couples to receive separate notice of IRS actions; it expands the authority of the IRS to abate interest charges; it increases the ability of taxpayers to pursue installment payment schedules and offers in compromise with the IRS; and it gives some protection to working level payroll personnel from being held as a responsible person for the nonpayment of payroll withholding to the IRS.

The taxpayer bill of rights of 1991 is not the final chapter in what needs to be done to fully protect taxpayer rights.

But it certainly will get us past the half-way point in our goal to achieve a level playing field between taxpayers and the IRS.

BANKING REFORM

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

Mr. MCMILLEN of Maryland. Mr. Speaker, today is round 3 of the banking legislation. I hope that with reference to that my colleagues saw a Wall Street Journal article on last Friday, an editorial by Lowell Bryan that made the point that Congress essentially, the main point of the banking reform is that we are not reforming the deposit insurance system. Instead we are adjusting the situation.

I could not agree more with Mr. Bryan's premise, as I have said time and time again. Reform is desperately needed in our deposit insurance system. Unfortunately, the bills we have been considering do not address the real problem, the pricing of deposit insurance.

Until banks pay for the real costs of their insurance, our Government policy will be heads the banks win, tails the taxpayers lose.

If we can infuse some market pressure into the system, then the whole question of firewalls, towers, and safeguards becomes much less important. We have a gun to our head and must pass this refinancing bill. But let us come back next year and truly reform our banking system.

I include for the RECORD a copy of the editorial to which I referred.

[From the Wall Street Journal, Nov. 15, 1991]

SAVING INTERSTATE BANKING

(By Lowell Bryan)

It appears that once again the U.S. is going to fail to reform and modernize its bankrupt approach to financial regulation. Last week, the House of Representatives failed to pass a—very flawed—package of financial regulation reforms. The Senate is now struggling with its own package of reforms, while the House is getting ready for a second vote on a revised version of its earlier proposal. The administration's original proposal in February and the bill that emerged from the House Banking Committee in June were imperfect, but were essentially right. Since that time, the effort to reform the financial system has faltered.

At the end of the day, the combination of special interests and the difficulty of getting U.S. government to work has led to the near collapse of the effort to reform fundamentally the regulation of banks. At this moment, the only real reform that still has a possibility of enactment is the proposal to permit national interstate branching. Even this reform is threatened by special interests trying to hold interstate branching reform hostage to a roll-back of existing securities and insurance powers of banks.

Indeed, it appears quite possible that the only banking law we will see this year will be a "narrow" law that is limited to increasing the supervision and regulation of banks and to recapitalizing the Federal Deposit Insurance Corp.

DISTORTING MARKET FORCES

The great loser from this political morass is the nation. The continuing weakness in the economy is clearly linked to weakness in the banking system. In turn, the weakness in the banking system is directly linked to a regulatory structure that has distorted market and economic forces.

Discussions of whether the country should rely on "regulation" or on "markets" miss the point. Hundreds of years of history demonstrate that unregulated financial markets self-destruct. On the other hand, in today's world, market, economic and competitive forces are too powerful to control. The current system is bankrupt precisely because it tries to use regulation to control market forces that are beyond its control and, in the process, has created destructive flaws in the marketplace.

Attempts to impose overly rigid, rulebased, "firewalls" between banks and their holding company activities take the regulatory system down the wrong path. The U.S. needs instead to adopt a fundamentally different approach: Rather than trying to control market, economic, and competitive forces, they must be made to work better. This means eliminating the flaws in today's system; in particular, it means real reform of the deposit insurance system.

Instead, Congress is heading in exactly the opposite direction. Rather than reforming the deposit insurance system, it is increasing the power of regulators and examiners to determine who will get credit and who will not. Indeed, by the time the full magnitude of the loan losses from commercial real estate have been realized, it is quite possible that 40% or more of the nation's deposits will be in the hands of banks and thrifts that will be undercapitalized under the capital zones defined by the new "narrow" law. And, once this law is passed, how these deposits will be lent will be as much or more under the control of regulators than under the control of management and shareholders.

Worse, instead of all market participants playing by the same rules, each participant will continue to work to find ways to exploit the particular rules that apply to them. For example, strong banks will continue to search for "loopholes" in the Glass-Steagall Act and to find friendly states willing to let them do things not permitted by national law. Simultaneously, non-bank financial firms will continue to sell bank-like products (i.e., money market mutual funds, credit cards, home equity loans, etc.) with a different set of rules. In other words, far from serving to make market, economic and competitive forces work better, a purely "narrow" reform will take the American financial system farther down the path of distorting those forces. Instead of gaining competitive advantage from the quality of their service, companies will gain advantage by exploiting the special set of rules that apply to them.

It is for this reason that it is futile for lawmakers to hope that the issue of financial reform will go away. Until the regulation of banks is improved, the law will continue to destroy their ability to perform their role in society. Without fundamental reform of the deposit insurance system and modernization of the regulatory system, the long-term health and profitability of the banking system will not be restored. And only by restoring health and profitability will the nation regain confidence in its banks and bankers regain confidence in themselves. Bankers need confidence in their own institutions and in the banking system as a whole, if they are to have the courage to finance economic recovery and long-term growth.

For this reason, it is important that interstate banking and branch reform be part of this year's law. The potential cost savings from consolidation of U.S. banks could amount to $10 billion or more in pre-tax savings—in an industry that earned only $24.5 billion before taxes in 1990, with a return on equity of less than 8%.

This economic consolidation is now already underway. To a large extent consolidation has been triggered by anticipation that meaningful interstate reform was coming. Banks have already announced projected cost savings, based on anticipated savings from consolidation and interstate branching, of more than $3.2 billion from just 10 large mergers.

Assuming that interstate branching reform is adopted to help achieve these savings, it will increase the ability of banks to raise the capital they need. The capital created from these savings over a 5-year period could conservatively support more than $600 billion in new lending. Indeed, without such improvements in earnings, it will be difficult to get the kind of bank lending needed to get the economy moving again.

From the taxpayer's perspective, it would be helpful to get genuine interstate banking

and branching reform as soon as possible. Any amendments that delay the effective date or make the process more cumbersome and irrational will only delay the realization of savings that will help to recapitalize the industry and restore its profitability. And restored profitability is the best defense against a taxpayer bailout of the deposit insurance fund.

TRUE REFORM

The administration and Congress should be seeking to eliminate overcapacity and weak banks from the system as rapidly as possible. True interstate banking and branching reform will help to jump-start this important process. Failure to encourage rapid cost rationalization in the banking industry will likely result in a higher cost, not only to the deposit insurance fund, but potentially to the American taxpayer as well. Simply passing a bill that increases supervision and that recapitalizes the FDIC, without meaningful reform of interstate banking laws, would be a disservice to well run banks, the economy and the public at large.

THANKSGIVING AND A REPUBLICAN CONGRESS

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

Mr. IRELAND. Mr. Speaker, Thanksgiving is a time to celebrate with family and friends, to feast in the face of hardship, to count blessings, and to reflect on how things could be better.

Many Americans will face some hardship this Thanksgiving. Of course, the Democrats will blame the President, but nothing could be further from the truth.

Indeed, George Bush should be counted as one of this country's blessings. His successes on the international front are well known.

But, the President has battled an intractable Congress that refuses to implement his domestic programs.

The Democrats have their own special interest agenda that they want to foist on the Nation.

This special interest agenda is handicapping America's competitive standing, and slowly strangling our Nation's economy.

As Americans gather together this Thanksgiving, I hope they will think of how our country could do better. One way is to elect a Republican majority in the House.

A Republican Congress would work with the President, instead of undermining his program for political reasons. A Republican Congress would get this Nation moving again.

On this Thanksgiving, that is exactly what this country needs.

SLAUGHTER AT VUKOVAR

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

Mr. LANTOS. Mr. Speaker, the front page of the New York Times brings us a picture of 50 corpses in the hospital yard of Vukovar—a picturesque Croatian town just a few months ago.

The Times reports that after 86 days of shelling, aerial bombardment, and house-to-house combat, Vukovar is a wasteland of gutted homes and churches, burning storefronts, and bloated, bullet-riddled bodies.

The leadership of Western Europe and our own administration have flunked dismally the first test of the new world order. European impotence and administration inaction have replaced the decisive leadership demonstrated during the Persian Gulf war.

Mr. Speaker, the neoisolationists have so intimidated this administration that it cannot now make an honest claim to the leadership of the civilized world or to the cause of human rights. Surely we can walk and chew gum at the same time. Surely we can address the long neglected domestic agenda without abdicating our international responsibilities.

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TURKEY DAY AND THE ECONOMY

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

Mr. BALLENGER. Mr. Speaker, turkey day is a week away, but my friends across the aisle are talking bull.

They say the economy is the President's fault, when they are responsible for this recession.

They rejected the President's growth policies, including, yes, a capital gains tax cut. They put countless regulations on our small and large businesses. And now our private sector companies have lost their competitive edge.

Mr. Speaker, if Republicans were in control of this Congress, Government would work with business, not work to destroy it.

If Republicans were in the majority, progrowth policies would already be implemented, not hidden away.

And if this were a Republican Congress, people would be collecting paychecks, not unemployment checks.

Thanksgiving is a week away, and America has much to be thankful for. Our President has led this country well. International communism is dead. And the world looks to the United States for leadership.

But if Republicans were really in control of this economy, this holiday would be better for more people. Well, maybe next Thanksgiving.

SOVIET $64 MILLION MONUMENT TO CAPITALISM

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

Mr. TRAFICANT. Mr. Speaker, the Soviets are getting another $1.5 billion from Uncle Sam, which brings the total now to $4 billion. This is the former evil empire. I am wondering if the needy in the Soviet Union are going to get the money. I say this because news reports say that old glasnost Gorbachev has just built a summer home worth $64 million, that is right, with 30 rooms, an indoor pool, and outdoor pool, tennis courts, and a movie theater.

Now, Mr. Gorbachev says he needs all this to do his perestroika. I say, Mr. Speaker, who in the world will accept rubles? I say the American taxpayers are now paying for a $64 million monument to capitalism in the Soviet Union. Beam me up. This is glasnost, all right, right between the eyes of the American taxpayers.

NOW IS THE TIME TO REVISE OUR EXPORT ADMINISTRATION ACT

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

Mr. ROTH. Mr. Speaker, in a few days we will be celebrating the 50th anniversary of the attack on Pearl Harbor. We were totally unprepared for the military conflict at that time, but today the conflict before us is economic conflict, and we are as equally unprepared for the economic conflict that is coming as we were at that time for the military conflict.

Let me give an example. Fiberoptics in the 1990's and the 21st century is what the railroads and highways were to the last century, and we do not allow the sale of fiberoptics to Eastern Europe. The Germans are now telling us that they are starting a huge sale of fiberoptics to Eastern Europe. If the Germans go through with this sale not only will the United States companies lose major contracts now and future contracts and Americans lose many jobs, but it puts America at the back of the pack in the race to dominate future trade in telecommunications, and this is an impending economic disaster for the United States of America.

Now is the time for us to revise our Export Administration Act. Now is the time for us to help open American eyes to the future if we are to remain an economic power.

THE PRESIDENT'S STATEMENT ON CIVIL RIGHTS

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

Mr. EDWARDS of California. Mr. Speaker, as one of the authors of the Civil Rights Act of 1991 I was invited to go to the White House today for the bill signing. I want to say, Mr.

Speaker, that I have canceled my acceptance after reading of the announcement made by the President last night that states that preferences are no longer to be used in fair employment laws. This is a frontal assault on the fair employment laws of this country that have served us so well for decades. There are no preferences in civil rights employment laws. The President ought to read them and get that straight. Yes, there is affirmative action. Affirmative action is not a quota and is not a preference. It only means that employers, where the employment statistics are low in minority and female jobs, should seek qualified applicants for jobs. That is all, qualified applicants.

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

Mr. EDWARDS of California. I am happy to yield to the gentleman from Indiana.

Mr. JACOBS. Mr. Speaker, I want to announce to the body that the President has just changed his mind. CBS has just reported that the President will not rescind the Executive order. We have entered in on the Pavlovian Presidency.

IT'S TIME TO STOP VIOLENT CRIME

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

Mr. RAMSTAD. Mr. Speaker, the front page of today's Washington Post reports that the suspected killer of Patricia Lexie was arrested yesterday.

The suspect was out on bail after being arraigned 4 days earlier on a prior charge of assault with intent to kill. According to a police source, the suspect was riding with friends on I–295 when he said, "I feel like killing someone."

The suspect then shot through the passenger window of the Lexie's car, striking Mrs. Lexie in the head. Her husband Freddie, who was driving the car, drove off the highway and flagged down the police. The Lexies were married for only 11 months.

Mr. Speaker, as Congress bickers over the crime bill, and how many conferees should be on the conference committee, senseless murders like this happen every day. We owe it to Freddie and Patricia Lexie and all Americans to pass a crime bill this year with stiffer penalties for violent crimes that ensure the most dangerous criminals never see the light of day.

Today, I am introducing the Three Time Loser Violence Reduction Act, which I offered as an amendment to the crime bill. This bill would reduce violent crimes by repeat offenders by imposing a mandatory life sentence without parole for a third conviction of a felony crime of violence. I urge my colleagues to sign on to this bill and to push for passage of a tough crime bill this year.

MY CIVIL RIGHTS NIGHTMARE

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

Mr. DOWNEY. Mr. Speaker, last night I had a dream that President Bush finally recognized his moral responsibility as the leader of our Nation. That by compromising on the civil rights bill after months of fighting it, the President was signaling a new willingness to unite, rather than divide, Americans. In my dream, the President repudiated the Reagan tradition of trying to turn back the clock on decades of progress in the area of civil rights.

But Mr. Speaker, as with many dreams, the cold light of the morning revealed a different reality. What I woke up to find was that the Bush administration was apparently planning to direct Federal agencies to repeal all affirmative action regulations—reversing policies that have been in force for more than 25 years. And I discovered that the President was planning to elevate cynicism to a new level by announcing this decision when he signed the civil rights bill.

Make no mistake, Mr. Speaker, about what transformed my dream into a nightmare: The President thought he had found a solution to the myriad of problems he faces. He reached back to his own experience in the 1988 election and decided to once again play the race card. Challenged by the right wing of his own party, the President was ready to offer his own version of the "Duke dividend" and the "Buchanan bonus." With the economy failing and white voters deserting him, the President was prepared to appeal to people's fears. With increasing criticism over the absence of a Bush domestic agenda, the President's new strategy was to divide and conquer.

Now we learn, Mr. Speaker, that the Bush administration has reversed itself. Could it be that the President and those around him recognized that no matter how clever the smokescreen or diversion, they could not hide from their responsibility to deal with America's problems? I hope so and I remain hopeful that my dream may come true some day.

THE PRESIDENT AND THANKSGIVING

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

Mr. SHAW. Mr. Speaker, a week from today, this country will celebrate Thanksgiving, a holiday when Americans reflect on their many blessings.

Thanksgiving is a distinctly American tradition, stretching back to when the Pilgrims endured that first, difficult winter in the new world.

Like those first Pilgrims, we have much to be thankful for. The leadership of President Bush is one example.

George Bush has done an excellent job on both the international and domestic fronts as President.

His bold leadership in the Persian Gulf led the United States to victory over Saddam Hussein.

He fought for a civil rights bill that attained true justice, not more quotas.

And he worked to provide extended compensation to the unemployed without busting the budget agreement.

Mr. Speaker, the President has faced challenges from many opponents. The Democrats in the Congress haven't made his job any easier.

So while we reflect on our Nation's many blessings this Thanksgiving, let us think of the leadership of George Bush. He's doing a fine job as President of the United States, and he deserves our support.

WHERE IS OUR KINDER AND GENTLER AMERICA?

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

Mrs. COLLINS of Illinois. Mr. Speaker, I was, to say the least, a little shocked to read in the paper this morning that the administration is pondering the elimination of Federal affirmative action regulations when the President signs the Civil Rights Act today. I guess now that David Duke is out of his immediate focus, President Bush seemingly felt comfortable enough to take over the lead as the rightwing's leading purveyor of racially divisive politics.

The double speak coming out of the White House these last few days is enough to make your head spin. Just last week, we heard the President state his desire for lower credit card interest rates, yet when the Congress tries to accommodate his wishes, he blasts the idea. He claimed he is a defender of free speech, yet gags counselors in family planning clinics who provide services to poor women.

And now, on the same day when he is to the sign the Civil Rights Act, which he himself lauds as a great achievement for minorities and women, President Bush wants to eliminate 25 years of Federal affirmative action policy with the stroke of a pen. Important Federal hiring standards, standards which have become the accepted norm throughout private industry as well, might simply be thrown out the door.

Not only might millions of minorities and women once again have to fight an uphill battle for a chance to serve the public in the Federal Govern-

ment, but important set-aside programs for disadvantaged businesses—programs written into law by this body—could be in jeopardy.

I guess the old adage still applies that he who giveth, can just as easily taketh away. If this is our new kinder and gentler America, Mr. Speaker, I don't recognize it.

□ 1220

TRIBUTE TO MAYORS

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

Mr. FRANKS of Connecticut. Mr. Speaker, recently while in my district, I had the privilege of attending a gathering where homage was paid to three men who had served their community with distinction as mayors of the city of Ansonia.

Mr. Speaker, James W. Martin, Sturgis Andrew Sobin, and William J. Menna will be remembered as true leaders. They were leaders who used their tenure in office to modernize local government, to fight for the rights of their taxpayers, and to provide economic opportunity for the people of Ansonia.

These men personify public service. At a time when confidence in our elected leaders is waning, the accomplishments of these three men were based on the premise that the interests of the taxpayers should always come first.

The city of Ansonia is a better place today partially due to their leadership.

And Mr. Speaker, I wish Mayor Martin, Mayor Sobin, and Mayor Menna continued good health and happiness.

TIME TO LOOK AMERICA'S TROUBLES STRAIGHT IN THE EYE

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

Mr. DORGAN of North Dakota. Mr. Speaker, it has been a curious thing to watch over the years as the economy grew in the 1980's to see Republicans come to the floor of the House and to say, "It's our economy. We're in charge. Credit us. We want the credit for economic growth."

Then the economy goes in the tank from a decade of dangerous fiscal policies, and the Republicans come to the floor of the House and say, "Well, it's not ours. We have not been here. It's you Democrats. You are at fault for all of this."

Well, Mr. Speaker, this is not a time any longer for the fainthearted to be finger pointing. It seems to me what the American people want is a little leadership.

Let me give you yesterday's page from the Washington Post—it tells the whole story:

Bank and S&L bills bailing out in a declining market investors bet stocks slide. Economic worries spur new slide in stock prices. Giant Food's earnings fall 43 percent. U.S. trade deficit increases $6.79 billion. NBC says network in dire straits.

All of that on one page of the same newspaper. Is there anybody who still does not believe this country is in desperate trouble; and is there anybody who still does not believe leadership is required from the White House and from Congress to look this country's troubles straight in the eye and begin solving them?

CLOSE THE HOUSE BANK

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

Mr. JAMES. Mr. Speaker, I rise today because yet again, I am frustrated and confused by this body's inability to control its excesses. According to Roll Call Monday, the 14 employees who work in the House bank make a total of $726,000 a year or $51,000 each.

Mr. Speaker, $51,000 a year? Tellers in my hometown bank do not make half that, but then they do not work for the U.S. House of Representatives, do they?

There are 14 tellers for 435 people? That is 1 bank employee for every 31 Members of this House. But maybe some Members of this body need that kind of special attention.

Even with that kind of special attention, Mr. Speaker, 135 Congressmen still bounced 8,000 checks.

Mr. Speaker, this is just another example of the flagrant disregard Congress has for the American taxpayers' money.

This may be a small example, the tip of the iceberg, but it is an example of the big problem, the problem of waste and inefficiency, Mr. Speaker, that we need to uncover and eliminate throughout Government.

Let us shut down the House bank as swiftly as possible, Mr. Speaker, and put that $726,000 where it belongs, toward reducing our budget deficit.

THE PLIGHT OF HAITIAN REFUGEES

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

Mr. MAZZOLI. Mr. Speaker, there is an acute human tragedy unfolding in the waters off Florida, a tragedy that Congress, with the help of the White House or on its own, must deal with. That is the plight of the Haitian refugees rescued from the perilous sea by the U.S. Coast Guard and currently being held aboard cutters.

These are people, Mr. Speaker, who evaluated their situation in Haiti and found their economic condition so bad, the persecution so real, that a perilous voyage across the sea in rickety ships was preferable.

Mr. Speaker, efforts were made by the U.S. Government through the OAS to resettle these people in regional countries. When those efforts failed, the United States began returning these people to Haiti. This has been stayed by a Federal court order. These people, however, are in a watery limbo aboard these cutters.

A compassionate nation, Mr. Speaker, must do something to alleviate this human tragedy. Let us do so, and let us do so this weekend.

RTC BILL REQUIRES ECONOMIC GROWTH PACKAGE

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

Mr. STEARNS. Mr. Speaker, the Speaker of the House has told us that we must pass the RTC bill before leaving for the year. Without a doubt, this is important legislation, but unless we pass an economic growth package we'll be digging American taxpayers deeper into a hole. Unless we can stimulate the economy, acquiring more assets from failed S&L's will only make the situation worse. The supply of excess real estate, commercial property, and countless other assets will continue to increase, but Congress will have done nothing to increase demand for these assets.

Wall Street has sent Congress a clear message in the last few days. We cannot ignore the marketplace. And why should we want to? If we can pass an economic growth package, the miracle of the American economy can return to work. And so will millions of Americans.

We need a capital gains cut, investment tax credits, passive loss income, and IRA's for first-time home buyers to spur the economy. We need to encourage entrepreneurship and for once get serious about cutting Federal spending. We must do something substantial to stimulate this economy and make Americans feel secure in their jobs.

ANNOUNCEMENT BY THE SPEAKER.

The SPEAKER. The Chair will interrupt 1-minute requests to recognize the gentleman from Kentucky [Mr. NATCHER].

MAKING IN ORDER ON FRIDAY, NOVEMBER 22, 1991, OR ANY DAY THEREAFTER CONSIDERATION OF H.R. 3839, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1992

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that it shall be in order on Friday, November 22, 1991, or any day thereafter to consider in the House the bill (H.R. 3839) making appropriations for the Departments of Labor, Health and Human Services, and Education and Related Agencies, for the fiscal year ending September 30, 1992, and for other purposes; that the bill be debatable for not to exceed 2 hours, to be equally divided and controlled by myself and the gentleman from Michigan [Mr. PURSELL]; that all points of order against the bill and against its consideration be waived; and that the previous question shall be considered as ordered on the bill to final passage without intervening motion, except one motion to commit.

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

Mr. WALKER. Reserving the right to object, Mr. Speaker, this is an interesting unanimous consent request.

I am wondering, are Members, since we are taking up the bill again, are Members going to be permitted to offer amendments to the bill?

Mr. NATCHER. Mr. Speaker, if the gentleman will yield, there will be no amendments permitted under this procedure.

Mr. WALKER. So by unanimous consent we are requesting a closed rule, and as I understand it, we are also asking for 2 hours of debate, is that correct?

Mr. NATCHER. The gentleman is correct, 1 hour to the gentleman from Michigan and 1 hour to this side.

Mr. WALKER. Is it not normal practice on these bills to have 1 hour of debate? As I recall, when the gentleman brought the bill to the floor for the first time, there was 1 hour of debate on the bill.

Mr. NATCHER. The gentleman is correct. At one time, as the gentleman will remember, we put this bill through in 1 hour and 53 minutes.

Mr. WALKER. I do remember that.

Further reserving the right to object, Mr. Speaker, I do remember that, and I am a little confused with this pressing toward trying to get adjourned, why all of a sudden we are expanding this to 2 hours of debate.

Mr. NATCHER. I would like to say to the gentleman, the reason for that is the numbers that will be presented in the new bill are all of the numbers which had been approved, as the gentleman knows, in the conference report on H.R. 2707. Many Members wish to speak on these appropriations or will on the various nonmoney provisions.

□ 1230

The bill will not be changed at all, with one exception, section 514, the so-called gag rule, the Porter amendment, will be stricken. That comes out of the bill.

The entire bill, with all of the numbers intact for the three departments and the related agencies, will be the same as we adopted the conference report.

Mr. WALKER. I thank the gentleman for that, but that still does not answer my question. In fact, it seems the reverse of my question because if there is only one issue to be discussed and we discussed that issue fully the other day on the floor as we brought the veto message before the House, it seems rather strange to me that we will now increase the amount of time to be debated on the bill for a bill that the gentleman says is precisely the same as previous bills except we are now going to extend the debate.

I do not understand why we cannot limit the debate to the single hour, which is typical of the debates of this kind, especially since there is only one topic to be discussed.

Mr. NATCHER. If the gentleman would yield further.

Mr. WALKER. Glad to yield to the gentleman.

Mr. NATCHER. This, as the gentleman knows, is the second largest appropriation bill that is presented each year before the House. We have 13 appropriation bills. The largest, as the gentleman, my friend from Pennsylvania, knows is the defense appropriations bill. This is the second largest appropriation bill.

A number of Members on both sides of the aisle have said to us they would like to talk about the bill; they would like to discuss it. That is the reason we are making the request for 2 hours.

I hope that the gentleman from Pennsylvania would not object and that he would give us a chance to have the bill discussed and, after that, pass the bill and send it down to the President. As the gentleman knows, the President has indicated that he will sign this bill.

Mr. WALKER. I thank the gentleman.

Further reserving the right to object, I would simply say that my suspicion is that the 2 hours is being granted for a highly partisan, politicized debate, and that what we are going to have is another Bush-bashing session on the House floor by the Democrats for an hour. But I guess I will wait and see whether or not that is the nature of the debate, and therefore I will not object.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is their objection to the request of the gentleman from Kentucky?

Mrs. JOHNSON of Connecticut. Mr. Speaker, reserving the right to object, I do reserve the right to object, and I too will not press my reservation, but I think as an advocate for the gag rule, I mean an advocate of repeal, I personally am disappointed that the committee is bringing forward the bill that it is bringing forward.

But I do not feel that it is appropriate under the circumstances of this House to pursue what has become a very partisan debate over the course of 2 hours. I want it known that while I will not object in terms of delaying the process, I personally object strongly to this kind of procedure and believe that there needs to be a far better way of making these decisions in the future.

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

Mr. MAZZOLI. Mr. Speaker, reserving the right to object, and I will not object, I want to take this moment to tell the gentleman from Kentucky how privileged I am to serve with him in our delegation and what great respect and honor he brings to our home State of Kentucky. And realizing the difficult nature of moving a bill like this through the legislative process, particularly, as the gentleman just said, the second largest bill in the whole panoply of appropriations bills, I just want to tell him that he constantly does great work and brings great respect to this Chamber and to our Commonwealth and to our delegation.

The SPEAKER. The gentleman from Kentucky [Mr. MAZZOLI] obviously will not object.

Is there objection to the request of the gentleman from Kentucky?

Mr. PURSELL. Mr. Speaker, reserving the right to object, I am not going to object on this side, but as the manager of the bill I would hope that the debate would be on substance only and not be politicized in terms of one party versus the other, the White House versus—I think, in finishing up our session this weekend, if we can minimize that, this is a very important issue.

There are a lot of people who did not have a chance to speak on the bill. So, 2 hours may or may not be appropriate. We will have to see the contents of those 2 hours in respect to the quality of the debate. But I hope it is at a very high level of character and that we do not politicize the debate, talk about the subject in a meaningful and substantive way.

Mr. Speaker, I withdraw my reservation of objection.

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

The Chair hears no objection.

The Chair would hope that characteristic would mark all debates of the House and on both sides of the aisle.

APPOINTMENT OF CONFEREES ON H.R. 355, RECLAMATION STATES DROUGHT ASSISTANCE ACT

The SPEAKER. Without objection, the Chair appoints the following conferees: From the Committee on Interior and Insular Affairs, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Messrs. MILLER of California, MARKEY, RAHALL, VENTO, DE LUGO, GEJDENSON, KOSTMAYER, LEHMAN of California, YOUNG of Alaska, and HANSEN, Mrs. VUCANOVICH, Mr. RHODES, and Mr. THOMAS of Wyoming.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of sections 102(d), 104(a), 203(a)(4), and 303(6) of the House bill, and sections 102(d), 203(a)(4), 203(c), and 302 of the Senate amendment, and modifications committed to conference: Messrs. JONES of North Carolina, STUDDS, and DAVIS.

Without objection, the Chair reserves the right to appoint additional conferees.

There was no objection.

WAR CONTINUES IN EL SALVADOR

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

Mr. DEFAZIO. Mr. Speaker, the killing goes on in El Salvador. Despite progress at the negotiating table, soldiers and citizens are still dying.

This dirty little civil war has taken a shocking toll. In a nation of only 5 million people, 70,000 have been killed, 8,000 disappeared, and 1½ million have been turned into refugees. The people of El Salvador want the war to stop. Yet the killing goes on.

We've propped up a brutal and corrupt regime in El Salvador to the tune of more than $4 billion. A huge share of our money goes to the Salvadoran military, whose corruption and brutality is as bad as it gets in the Western Hemisphere. Just this week, evidence came to light that implicates the current Minister of Defense in the ruthless execution of six unarmed Jesuit Priests. After the miscarriage of justice that marked the so-called trial in the Jesuits' case, only a fool could expect to see the architects of this brutal murder brought to justice.

This Congress has tried to staunch the flow of blood money to the Salvadoran military, and we've made some progress. Yet approximately $80 million in military aid from previous fiscal years is still in the pipeline.

That money was appropriated by this Congress in a world that had not seen the worldwide collapse of communism or the progress in Salvadoran peace negotiations. It is time to wipe the slate clean, and look at our real needs in El Salvador—and our needs here at home.

I am introducing legislation to close the spigot on the pipeline, to take back this unspent money from previous years. The $80 million just might do some good here at home; in the hands of Salvadoran generals, it will just keep the killing going.

BUSH ADMINISTRATION HEALTH POLICY

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

Mrs. JOHNSON of Connecticut. Mr. Speaker, the prevailing wisdom, fickle like the prevailing wind, suggests that our President and his administration are in hot water with the American people.

The supposed lack of attention to growing problems like the runaway cost of health care is repeatedly cited.

But let us look at the record.

Sure, why hasn't the executive branch joined the debate with a small group market reform proposal? House Republicans have been out front in this area all year long and Democrats have gradually come on board.

But, in truth, this administration has been far from silent on health care.

The President's medical malpractice reform bill would save billions in health care resources, but Congress hasn't even held hearings on it.

Secretary Sullivan's emphasis on prevention—smoking cessation, injury prevention, physical fitness, and other prevention programs—is right on target.

Yet Congress has held no hearings to determine how we might more effectively require people to take responsibility for their own health-affecting decisions.

In addition, Doctor Sullivan's efforts to reduce paperwork and promote better health among minorities are good, concrete steps. The President and his men are taking action. Congress talks.

Democrats are not going to coast on the health care issue.

The truth is that our President and Republicans have been working, with serious Democrats, on health measures Congress could pass this year if the Democratic leadership wanted to.

□ 1240

SIGNED IN INVISIBLE INK

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

Mr. DOOLEY. Mr. Speaker, President Bush might as well use invisible ink when he signs the Civil Rights Act today.

At the same time that he is set to put his name on this landmark law, his administration has issued a mean-spirited directive that runs counter to its high promise.

This sweeping directive would terminate hiring guidelines established over many years to ensure that our Nation's great diversity is represented in the workplace.

It's a tragedy that on a day when all Americans should be celebrating their right to fairness and equal opportunity, behind the scenes those rights are being callously undermined.

The American people deserve better. They deserve the uniform fairness that is promised by the Civil Rights Act of 1991. And they deserve leadership that will live up to that promise.

OPPOSE ADJOURNMENT UNTIL WE EXTEND OUR NATION'S HOUSING PROGRAMS

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

Mr. MACHTLEY. Mr. Speaker, as we approach adjournment, among other extenders the Mortgage Revenue Bond Program and the low-income housing tax credit will expire unless this Congress chooses to help our Nation's housing programs by extending them.

I have heard from both sides of the aisle eloquent speeches about homelessness in this country. I have seen it portrayed in magazines and in person, and there has been criticism of the administration for not taking a more aggressive approach in domestic issues. But we in this Congress, both Democrats and Republicans, have the chance, before we leave this distinguished body, to do something about housing by extending the Mortgage Revenue Bond Program and the low-income housing tax credit.

Mr. Speaker, I urge my colleagues to join me in opposing adjournment until these two programs, among other extenders, are at least extended.

H.R. 3768—THE ROBIN HOOD IN REVERSE PROPOSAL

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

Mr. SANDERS. Mr. Speaker, today we will be asked to appropriate $70 billion for a potential bailout of the commercial banks. Within a few days we will be asked to appropriate another $80 billion for the S&L bailout—on top of the $80 billion which has already been appropriated for that purpose.

Mr. Speaker, the American people are angry and disgusted with politics as usual—with both the President of the United States and the Congress, with both the Republicans and the Democrats. The rich get richer, the poor get poorer—and the working people and the middle class are asked to bailout banks which were destroyed by the greed, irresponsibility, and the out-

right dishonesty of many banking officials. Once again, it is the Robin Hood proposal in reverse. We take from the poor and give to the rich.

Mr. Speaker, we must protect our banking system and the bank depositors, but we can do it without increasing the deficit and without hitting up the ordinary people of this country. Let's show a little bit of courage in this body, and not increase the cynicism which the working people of this country already feel. Let's ask the people who caused this crisis, and who have the money to fund this bailout to do so, not the ordinary American.

SPRINTING TOWARD AN IMAGINARY FINISH LINE

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

Mr. GOSS. Mr. Speaker, as the Congress sprints toward some imaginary finish line, we hurry through an obstacle course of massive pieces of complicated legislation. I understand we're trying to get home for Thanksgiving, but what we're in danger of doing is leaving the American people with a bunch of well-stuffed turkeys—but not the kind you eat over the holidays. It is in the air around here—adjournment fever—and it tends to make casualties of meaningful and responsible legislation. It was this time last year when a closed-door, middle of the night meeting left us with the so-called budget deal and such infamous foul ups as the recreational boat user fee. When we hurry through such important and complex issues—we're bound to make mistakes, mistakes the American people will get stuck paying for, mistakes like the catastrophic health bill.

Mr. Speaker, instead of rushing to shut down by Thanksgiving, why don't we just stay here until we have done some work we can be proud of? We should be able to make a real start in that direction before Christmas—and that would be the best present of all.

NOTHING HAS CHANGED—50 PERCENT OF OUR OIL STILL COMES FROM OVERSEAS

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

Mr. SARPALIUS. Mr. Speaker, we just heard from one of my colleagues on the Republican side talking about how we should be thankful this Thanksgiving for the leadership the President gave in the Persian Gulf. Well, let us examine that leadership.

Mr. Speaker, a year ago we had 500,000 troops in Saudi Arabia, there to protect the oil reserves in Saudi Arabia. We were there for two reasons: First, to liberate Kuwait, and second, to protect those oil reserves because over 50 percent of our oil in this country comes from overseas.

A year has now passed. I had hoped that, after that war, the President would have come back and showed his leadership and pushed for a national energy policy that would have created jobs and moved away from that dependency, and, Mr. Speaker, today we are no better off in this country than what we were a year ago. Still today over 50 percent of the oil that we use comes from overseas.

ABORTION—THE KILLING OF INNOCENT HUMAN LIFE

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

Mr. DORNAN of California. Mr. Speaker, yesterday's Washington Post had a lead editorial ticking off all the vetoes that President Bush has exercised on the sanctity of human life, the issue of abortion, and they say this is not going to do well for him in the election next year.

Mr. Speaker, I disagree. With each advance of medical science, as President Reagan pointed out and as President Bush has reemphasized, the prolife side wins.

Has America seen the headline of one of our papers where an abortion, a failed abortion 4 weeks ago, tore the arm off a little girl who was born the next day and is now healthy, 4 weeks old? Of course, her arm is gone from the shoulder. Guess what? In her life existence in the womb that was the same arm 4 months ago, 3 months ago, 2 months ago.

Abortion is simply the killing of innocent human life. That is not what this country should be all about, and all of these vetoes the President has exercised, he will not only be rewarded in heaven, my colleagues. He is going to be rewarded with a big election victory.

Stop killing innocent human life in this country.

THIS IS A BAD WEEK FOR WOMEN

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

Mrs. KENNELLY. Mr. Speaker, this has been a very bad week for women.

I say to my colleagues, if you are poor, very poor and young, you probably have to use a community health care service center, and after this week you'll not get, probably, or might not get all the health care information you need. And if you're an old woman, it was a bad week because you always thought you could support family planning, whether as a volunteer or as a donator, and be a good community person and not be political. This is no longer true. It was also a very bad week for thoughtful women because all of a sudden you realized that your freedoms and your rights are under such attack that some are willing to use the first amendment against you, and now we find out that it could be a very bad week if you work for the Federal Government, want to work for the Federal Government or want to advance in the Federal Government because all of a sudden you find out, because some have insisted on a civil rights bill, you are going to be under very deep scrutiny.

So, I can only say, Mr. Speaker, that this administration is sadly mistaken if they think the American public or Members of this body will tolerate for the American people the cavalier abandonment of basic principles of justice and fairness.

Mr. Speaker, this has been a bad week. Some of us will have to make it a better week.

U.N. SECURITY COUNCIL SHOULD DEPLOY PEACEKEEPERS IN CROATIA BEFORE ALL OUT HOSTILITIES RESUME

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

Mr. SMITH of New Jersey. Mr. Speaker, after months of relentless bombing and mortar fire, the Croat city of Vukovar has fallen to the Serbs. Reports of the dead and wounded grow by the hour. It's horrifying. TV footage of civilians, especially kids with intravenous tubes attached to their arms and blank stares on their faces, reflect some of the horror of the ordeal that they are living, and these, Mr. Speaker, are the lucky ones who have survived.

Mr. Speaker, the gentleman from Virginia [Mr. WOLF] and I were in Vukovar 2 months ago and saw the consequences of hate and war first-hand. It was heartbreaking. For months the city of Vukovar has been bombed by the Serb-dominated Yugoslav army. During our visit Mig fighters flew overhead as we walked the streets. We warned them, on the streets of Yukovar at an improptu press conference and numerous times since that things would get progressively worse and more people would die if effective international diplomacy was not forthcoming. A full court press for peace is desperately needed now in Crotia.

To date, Mr. Speaker, all that could and should have been done has not been done. The current lull in fighting, it seems to me, and the shock over the devastation of Vukovar, offers a short window of opportunity for aggressive diplomacy backed by U.N. peacekeepers to work.

Mr. Speaker, in a meeting with Secretary of State Jim Baker this morning, I asked the Secretary to press the

U.N. Security Council to take up the Serbian war against Crotia and to immediately call for deployment of U.N. peacekeepers before hostilities resume at a fevered pace.

□ 1250

THE MESSAGE OF DAVID DUKE

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

Mr. RICHARDSON. Mr. Speaker, David Duke has lost the election in Louisiana but his message has won the hearts and minds of the White House. By shoving aside women and minorities, as evidenced by a new White House directive on the Federal work place, President Bush starts his reelection campaign by welcoming back Willie Horton and using the race card once again.

David Duke does not need to run for President, preaching his gospel of dividing the races. His issues are already being advanced by the White House. The ultimate act is that the President today signs the civil rights amendment——

Mr. WALKER. Mr. Speaker, I demand that the words be taken down.

Mr. RICHARDSON. While telling women and minorities to go to the back of the bus in the Federal workplace.

Mr. WALKER. Mr. Speaker——

Mr. RICHARDSON. Mr. Speaker, again the President wants it both ways.

Mr. WALKER. Mr. Speaker, I demand that the words be taken down. He should have been interrupted immediately.

The SPEAKER pro tempore. (Mr. MAZZOLI). The gentleman will be seated, and the Clerk will report the words.

Mr. WALKER. Mr. Speaker, when are the words going to be reported?

I demand that the words be reported, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the words.

The Clerk read as follows:

David Duke does not need to run for President, preaching his gospel of dividing the races. His issues are already being advanced by the White House. The ultimate act of hypocrisy is that the President today signs the civil rights amendment * * *.

The SPEAKER pro tempore. For what purpose does the gentleman from New Mexico [Mr. RICHARDSON] seek recognition?

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent that the word "hypocrisy" be stricken from the RECORD.

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

There was no objection.

The SPEAKER pro tempore. So ordered. The gentleman from Pennsylvania's demand is withdrawn.

CONFLICTING PROPOSALS ON CAMPAIGN REFORM LEGISLATION

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

Mr. NICHOLS. Mr. Speaker, since coming to Congress, I have worked hard to reduce spending and lighten the burden on taxpayers. Now, there is talk about taking taxpayers money for campaign contributions.

That is right, a plan proposed by the Democrats allows a candidate to raise a third of the money from PAC's, a third from large donors, and a third from taxpayer money.

This plan leaves one, very important unanswered question. Who pays for the Government subsidy to political candidates? The authors of the plan make some suggestions, but those suggestions are inadequate.

The Republican bill is simple, clear, clean reform. Make candidates raise a majority of funds from local voters. Reduce the amount of money PAC's can contribute to any one campaign. Require total disclosure and reporting of indirect campaign contributions that now go unreported.

Reform the campaign laws, but do not pass the buck to the taxpayer. Make the simple, clear, clean reforms needed to make elections more competitive and politicians more accountable.

A REPORT ON THE PAVLOVIAN PRESIDENCY

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

Mr. JACOBS. Mr. Speaker, as I mentioned a moment ago, CBO reports that the President has changed his mind and will not rescind John F. Kennedy's Executive order for fair practices for our country. This is not the first time the administration has ended up on both sides of a given issue. In fact, it almost typifies the administration.

Some of us may recall the old Broadway tune that goes:

If you make a bold prediction,
Brand it merely fiction,
Scream to get the credit,
And then deny you said it,
You're a natural in politics.

Anyone who does not like George Bush does not know George Bush. He is a very likeable person. Nevertheless, with apologies to the gentlewoman from Colorado, I do believe that the Teflon Presidency has given way to the Pavlovian Presidency. The heat the White House received on the putative rescinding of this noble Executive order of John F. Kennedy, I would guess, mainly came from Republican Senators and Representatives, who themselves are essentially decent people.

REPUBLICANS PUSH ENACTMENT OF AN ECONOMIC GROWTH PACKAGE

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

Mr. RIGGS. Mr. Speaker, if the Republicans ran the House, we would not even be thinking about going home next week for adjournment until we had enacted an economic growth package. If you have any doubt about that, I say to my colleagues, just look at the letter authored by the gentleman from Texas [Mr. DELAY] that 110 out of 165 Republicans have signed and sent to the Speaker asking the Speaker to keep us in session until we have enacted an economic growth package, because we realize on this side of the aisle that it is pure hypocrisy and very, very mean-spirited politics to extend unemployment insurance benefits without enacting an economic growth package that would create jobs for those folks when their extended unemployment insurance benefits expire. I wonder if my colleagues on the Democratic side of the aisle intend for those folks to remain permanently on welfare.

We further realize, in terms of the debate we will be having between now and next week, that it is pure foolishness and it is folly and reckless irresponsibility for the taxpayers' dollars to consider pumping billions—and I mean billions—into the Resolution Trust Corporation to resolve failing thrifts without enacting some kind of package that would stabilize and reverse the downward decline in real estate values. That is like pumping blood into a patient who is still hemorrhaging from an open wound.

THOSE DARNED T–SHIRT MAKERS

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

Mrs. SCHROEDER. Mr. Speaker, last night in a fundraiser where the President raised way over $1 millon, he said that one of the problems he was having in Washington was with those darned T-shirt makers.

□ 1300

I only wish it had been the Democrats who came up with it. The entrepreneurial people out on the streets selling T-shirts have totally sold out on the new rage in Washington. It is a T-shirt that I wish I could show my colleagues because I love visual aids, but I cannot even buy one because they are all gone.

The T-shirt says, "Friends don't let friends vote Republican."

I think there is a real message in that. I see why the President is upset.

AMERICA'S FORGOTTEN PATRIOTS

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

Mr. BLAZ. Mr. Speaker, as thousands gather in Hawaii on December 7 to commemorate the 50th anniversary of America's entry in World War II, hundreds of journalists and photographers will memorialize the event and broadcast it to the entire world. A million words will be spoken by the President of the United States and other dignitaries to honor the memories of the hundreds of soldiers, sailors, marines, and civilians who were killed and wounded on that infamous day 50 years ago at Pearl Harbor.

As tragic and as devastating as that assault on Pearl Harbor was 50 years ago, we have learned that little note has been made and even less has been remembered about the attack on that other harbor—Apra Harbor, on Guam. This other attack bears striking similarities to the one at Pearl Harbor: same time, same enemy, same American blood, same shattering of a peaceful island community.

Yet, for all these similarities, there is at least one major difference worth noting: Whereas Hawaii was attacked, Guam was attacked, and invaded, and captured, and occupied. For almost 3 years, our people quietly suffered the burden of hostile occupation by enemy forces. No other American territory has suffered the same fate.

As excruciating and as harrowing as this occupation would later prove to be, our people did not surrender without a fight and did not stop fighting after the surrender. In the face of an overwhelmingly larger enemy force, a handful of U.S. sailors and U.S. marines stood their ground. Standing beside them, with equal valor and courage but with even greater pride and determination, were the members of the Navy Insular Force. For these men, native Chamorros all, the defense of Guam meant the defense of home, family, and honor. Although they wore the same U.S. Navy uniforms, their pay was exactly one-half that of their stateside comrades. Although they fought under the same U.S. flag, they were considered only half-brothers in the patronizing, colonial society on Guam at that time. Yet, when it came time to shed blood against foreign invaders, the Chamorros of the Navy Insular Force demonstrated their loyalty to the United States in the same way they demonstrated their love for the U.S. principles of freedom and democracy: not halfheartedly, but totally and wholeheartedly.

Regrettably, this chapter of American history appears to have slowly faded into the recesses of our Nation's collective subconsciousness. While our country may not remember the lives that were lost, the families that were torn asunder, and the homes that were destroyed on that tragic day 50 years ago, these sacrifices are no less real to us and will forever be burned into the psyches of our people.

As a 13-year-old boy who witnessed these events half a century ago, I am often asked by friends and acquaintances to share my memories of that momentous and pivotal period in our history. There are many horrible and appalling stories I could tell about the atrocities inflicted upon our people—about mysterious disappearances of friends, about discoveries of decapitated corpses tied to trees, about clearing jungles under the barrel of a gun, and about the hunger and deprivation of concentration camps. While the sting of remembering these events is very real to those who lived through them and should never be forgotten, I have decided over the years to remember also the brighter sides of that dark period.

There were long hours sitting on a log with our parents sharing their thoughts and experiences with us much like the generations before them had done.

There were the groups of neighboring farmers who pooled their strength to push back the jungle so we could plant.

There were men echoing each other's folksong at twilight as they cut tuba.

There were devout men who emerged among our group as natural leaders to lead us in prayer during our most trying and fearful moments as we labored to finish the airfield under incredible duress.

There was the young Japanese officer who taught me Japanese in exchange for my father's teaching him English and who, after getting to know us, innocently asked my father why we were at war.

There were the U.S. marines who, after hopping island to island, eventually liberated one of their own and seemed almost as glad as we were that they came back to Guam.

Under the adverse conditions of that time, I learned things that no school could ever teach me. I learned to give freely, even when there was nothing to share. I learned to be tolerant, even when conditions were intolerable. I learned to be strong, even though my body was weak. I learned to speak volumes in the silence of eye contact. And I learned the sweetness that can be found in the saltiness of sweat.

Looking around me now, 50 years later, I wonder if those of us who lived and died through those trying times were really ever forgotten—how can we be forgotten if we were never really remembered in the first place?

And those who claim to remember us now, do not really know us: Like the U.S. Postal Commission that just issued in 1991 a set of commemorative stamps for World War II that trivializes and dishonors Guam by labeling it a mere outpost. Like some of the leaders of our great Nation who will congregate at Pearl Harbor in memory of the brave men and women who died there, but whose continuing unawareness of the Guam chapter of this momentous period in our history prevents them from returning the salute extended by the brave men and women of Guam 50 years ago.

On this, the 50th anniversary of World War II, and for the fathers, mothers, brothers, sisters, sons, and daughters of Guam who lived and died through that period, I offer these humble words in proud salute and in eternal gratitude to those patriots whom America may have forgotten but whom Guam shall always remember.

WINGING IT

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

Mr. SCHUMER. Mr. Speaker, the country's economy is in real trouble. What are they doing in the White House about it? They are winging it. The headline of the Washington Post today is "Winging It in Economic Turbulence," and in there is a detailed story about how the President called for lower interest rates on credit cards. It seems he and his advisers were on an airplane, and they decided they would just throw it into the speech. They did not check out its economic consequences. They did not decide how it would affect the country. They just decided to wing it.

With millions of Americans unemployed, tens of millions afraid of losing their jobs, the economy declining, with the Christmas season looking like it is going to be the worst in decades, what are they doing in the White House? They are winging it.

We cannot afford a President on these serious issues who wings it on the most serious issue facing America today, economic policy.

THE GATT TALKS

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

Mr. REGULA. Mr. Speaker, the rush of this week's schedule may have caused many Members to miss something very important now happening across the Atlantic, which will mean jobs lost or won for their constituents. I refer to the GATT talks now entering their final phase on a wide assortment of issues from agriculture to manufacturing.

Be alerted, around Thanksgiving, the final technical text is expected to be completed. Do you know whether your steel mill, semiconductor plant, or software firm will be secure under that document.

In just 2 years, the Midwest lost over 36,000 jobs, in the auto industry alone, to imports. Looking into the faces of these workers and their families quickly teaches us the importance of these faraway discussions.

Final acceptance of an overall treaty could come in December or early January. I would urge my colleagues to call either the Republican GATT task force at 53876 or its Democratic counterpart at 54961 to get more information on the negotiation's status.

At this moment, behind closed doors in Geneva, decisions are being made deciding the future of companies, and industries, throughout America.

THE GAG RULE

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

Mr. TORRICELLI. Mr. Speaker, yesterday this House, by the narrowest of margins, failed to override the President's veto of the HHS legislation and left in place the gag rule.

Mr. Speaker, in my years in the Congress, despite strong views in support of pro-choice, a woman's right to make her own decision about abortion, I have never spoken of this issue, because I believe it is best left to people's consciences and make their own judgments. Speeches will not change minds.

But this vote yesterday was not about abortion. It is about the ability of a woman in a desperate moment in her own life to make an informed decision, to speak with her doctor, to make a real choice.

This House made a mistake, compounding a mistake of the President. The gag rule cannot stand.

It is an insult. It is an injury to every American woman. Before our business is concluded, that freedom of speech with a doctor must be restored to American women.

WHAT ABOUT DAVID DUKE?

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

Mr. WALKER. Mr. Speaker, in the course of the 1-minutes today we have heard the name of Willie Horton mentioned a couple of times. We need to remember one thing about the Willie Horton commercials run by President Bush.

They were not about race. They were about a criminal who killed a human being, an innocent human being, while out on parole. Recently a woman here in Washington was killed by a similar kind of criminal. The issue being addressed is still very much in place and not being addressed by this House.

There is also another interesting thing about Willie Horton. Willie Horton was never brought into the campaign by the Republican first. He was brought in by the Democrats. And I do not remember any of those Democrats who used the Willie Horton issue in the primaries in 1988, ever being criticized by any Member in this House.

David Duke has also been mentioned here. President Bush on several occasions condemned David Duke and told people to vote against him. When has any Democrat ever come to the floor of this House and condemned the racism within their own party?

In fact, the Democratic leadership has campaigned for some of the racists in their own party.

What about Mr. KERREY? The other day, the Presidential candidate who made inappropriate remarks? I have not heard any Democrat come to the House floor and condemn him for his inappropriate remarks.

The Democrat-Socialist coalition that controls this House will never clean up its own act. Coverup, rather than cleanup, is the order of the day in this House.

TAKE IT TO THE WHITE HOUSE

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

Mrs. BOXER. Mr. Speaker, I was interested to hear that our Republican colleagues have gotten together, 110 of them, and written a letter to the Speaker telling him it is time to do something about the economy. They addressed that letter to the wrong person.

We have a President in their party who refuses to admit there is even a recession. So why do they not rewrite that letter and send it to President Bush? We have a bill in conference that will provide jobs, that will build transit systems. that will repair highways. Let us get that bill and act on it. Let the word go out to local and State government. They can begin spending money, rebuilding America, and I have to tell my colleagues that I am really tired of the Republicans in this House looking at our Speaker for an economic growth package.

Let them go to the White House, get an appointment. Tell the President to stay home and let us get going on an economic package.

APPOINTMENT OF CONFEREES ON H.R. 1724, TERMINATION OF JACKSON-VANIK PROVISIONS OF TRADE ACT OF 1974, AND PERMANENT EXTENSION OF MOST-FAVORED-NATION TREATMENT TO HUNGARY AND CZECHOSLOVAKIA

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1724) to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary, with a House amendment to the Senate amendment thereto, insist on the House amendment to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Illinois?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. CRANE

Mr. CRANE. Mr. Speaker, I offer a motion to instruct.

The Clerk read as follows:

Mr. CRANE moves that the Managers on the part of the House, at the conference on the disagreeing vote of the two Houses on the bill H.R. 1724, be instructed to insist upon the position of the House in regard to that portion of the House Amendment designed to combat illegal drug imports by providing trade incentives to stimulate alternatives to drug exports for certain countries under the Andean Initiative contained in H.R. 661.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. CRANE] is recognized for 1 hour.

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

Mr. Speaker, I strongly support my motion to instruct conferees on the trade provisions related to the Andean nations.

The Andean initiative is one of the most important and most visible efforts the United States can make at this time to demonstrate that we stand firmly united with those countries trying to eradicate drug trafficking. The scourge of drugs touches the lives of all of us today. Our society is reeling from the cost, both in economic and human terms, of the widespread availability of illegal drugs.

The dimension of the problem is magnified for those small countries where the cultivation of drugs has become an escape from poverty. It is a tragedy that families have to grow or sell drugs in order to put food on the table.

With passage of the Andean initiative, we have the opportunity to help encourage alternative means, other than the drug trade, to earn a decent living in these small nations.

These provisions would give modest trade benefits to Bolivia, Colombia, Ecuador, and Peru—the nations of the Andean region where drug production is so prevalent—in order to encourage alternatives to drug exports. Goods that are sensitive in our own market would not be affected. The Andean initiative is important for our own country as well as for the Andean region where we can have such a great impact.

Patterned after the successful Caribbean Basin Initiative, the bill authorizes the President to grant duty-free treatment to imports of eligible articles from these four countries. Articles are eligible for duty-free treatment if they are imported directly from a beneficiary country and consist of at least 35-percent value-added in a beneficiary country. Articles which are import sen-

sitive are exempt from duty-free treatment.

H.R. 661 is a very important part of the President's war on illicit drug production. It fulfills his commitment made to Bolivia, Colombia, Ecuador, and Peru to expand economic alternatives for countries that have been fighting to eliminate drug trafficking.

I urge my colleagues to support the motion to recommit on H.R. 1724.

Mr. LAGOMARSINO. Mr. Speaker, I rise to associate myself with the remarks of Congressman PHIL CRANE, the ranking minority member of the Ways and Means Subcommitee on Trade and in support of the motion.

The President's Andean trade initiative is a very important weapon to help fight the war on illegal drug trafficking. Because of the very poor economic situation in the Andean countries, many peasants are turning to producing illegal coca and opium crops for a living. Helping Andean countries economically help themselves coupled with strict enforcement of antidrug laws will help persuade many of these peasant farmers to return to growing legal, responsible crops.

Along with our colleagues BOB TORRICELLI, STEVE SOLARZ, and CHARLIE RANGEL, as the vice chairman of the House Foreign Affairs Subcommittee on Western Hemisphere Affairs, I recently traveled to Peru and Colombia, the primary producers of cocaine and its addictive derivatives, to review the implementation of United States antidrug programs there. I wanted to share my observations with my colleagues because I believe they will reinforce the need for enacting the President's Andean trade initiative.

The answers to the serious drug problems remain: First, reducing demand both here at home and in Europe and Japan where drug use is on the rise, and second, striking at supply through eradication and crop substitution programs. While these general answers may seem simple, there are many challenges to implementing them.

In Peru, the following problems must be addressed: First, eradication of coca growing has been tried, but it is not very effective. There are over 200,000 growers cultivating a similar number of hectares in Peru. The lure of quick profits attracts more growers clearing more land every day. Coca leaf is still legally used in Peru for traditional purposes; medicinal, tea. The Government is reluctant to use sanctions and forced eradication because of the social upheavals and human rights questions such actions raise. Second, while the Fujimori government is pursuing a voluntary eradication/crop substitution program, in order for it to work Peru needs new roads, communications, and markets for other crops. Peru's severe economic crisis—one of the worst in South America—makes providing these services and enticing campesinos to abandon coca growing very hard. Third, drug lords continue to subvert Government efforts through violence, corruption, and smuggling. Fourth, the ultra-Marxist Shining Path guerrillas continue to terrorize the country, often working in conjunction with drug traffickers. Their terror tactics are some of the worst I've ever seen, including use of the most gruesome torture.

There continue to be problems with interdiction operations. Corruption in the police and military forces continues, though not in the leadership which is taking actions to curb it. With the poor economic situation dictating low salaries to the rank and file in the security forces, it is difficult to offset the attractive bribes of narcotraffickers. Institutional friction and poor coordination between the police and military hampers effective interdiction. The lack of modern equipment needs to be addressed. The Peruvians need more helicopters, radar, and communications equipment. It is ironic that the Democratic majority in Congress, which has complained the loudest about this situation, is responsible for delaying aid to Peru. American aid is now under way.

On the brighter side in Peru, President Fujimori, with whom we personally met, is committed to fighting drugs. New civil government organizations are tackling the issues of growing and transporting coca. However, in an effort to protect Peruvian growers, these groups claim coca leaf growing isn't the problem, rather transporting and processing the leaf into a narcotic is. They want to grandfather current coca farmers, allowing them to continue growing. There are serious problems with this policy. The U.S. Drug Enforcement Agency has evidence that the growers themselves are processing the leaf into paste. We know that tons of leaves are not transported to drug labs, but kilos of paste. Because new coca farms appear every day, it is clear to me that as long as growing coca remains legal and profitable, it will attract an increasing number of farmers, making crop substitution even harder. Hopefully, the Peruvians will take action to address this contradiction.

The Peruvian Government is making strides in improving human rights, despite the pressures and absolute disregard for human rights by the Shining Path terrorists. For example, a public, national registry of any individual detained, including guerrillas and drug traffickers, has been established. The Red Cross has access to every detainee. While more needs to be done, the Peruvian Government still must contend with outrageous atrocities by the Shining Path.

In Colombia, the primary processing and transshipment area of cocaine, attention is focused is on eradicating the drug labs and curbing drug-related violence. For example, the entire judicial system is being reformed and strengthened. There are still problems, such as the easy treatment some convicted kingpins are receiving in jail and the repeal of the extradition law, which sent drug traffickers to the United States for trial and punishment. Recognizing that popular support for the Government and its antidrug policies is a key ingredient for success, steps are being taken to address the public's human rights concerns and incorporate the public as part of the war on drugs.

As in Peru, violent guerrilla movements are working with the drug lords terrorizing local populations into cooperation and making Government strikes against labs deep in the guerrilla territory dangerous. Like the Peruvians, the Colombians need more helicopters, firepower, secure airbases in guerrilla areas, radar, and communications equipment.

While not widely reported, eradication progress is being made. Colombia was formerly a top supplier of marijuana. Today, less than 4 percent of marijuana originates from Colombia due to the use of aerial spraying. Unfortunately, unjustified opposition to spraying coca and opium plants has led to an increase in cocaine and heroin. Yet, spraying opponents have remained silent on the drug traffickers' more extensive use of extremely harmful herbicides, like paraquat, and reckless slash-and-burn destruction of rain forests for coca and opium plantations.

During my discussions in Panama with the United States Southern Command Chief, General Joulwan, I emphasized my support for using American military assets like AWACS radar aircraft and Navy patrol vessels, when available, to assist in drug-busting in Colombia and off its coast. I was assured this important and effective help will continue.

While bilateral programs can help combat drug production, real success will come through international cooperation and improved regional strategies. As we crack down on drugs in Peru, Colombia, and Bolivia, traffickers are moving their operations to Venezuela and Ecuador. European countries need to share the burden with us in providing aid to South America, especially since an increasing amount of illegal drugs is destined for Europe. They can also do more to reduce demand at home and improve their own antitrafficking efforts. Other South American countries like Brazil and Argentina need to regulate the sale of precursor chemicals required to process paste into the drugs found on our streets.

My conclusion is that 2 years after President Bush's announcement of the Andean strategy—economic and security assistance to help fight the war on drugs in South America—much is being done. Our job isn't over. The poor economic and security situation in the Andean region needs to be improved. For example, we should restore the $10 million in security assistance cut by the majority in the U.S. Senate and help make licit crops profitable so that Andean campesinos will abandon coca cultivation. While my recent mission focused on the issue of supply, we continue to give even more attention to reducing demand. Action on both supply and demand remains necessary if we are to effectively fight the war on drugs. The President's Andean trade initiative is an important means to confront the problem of supply.

I urge my colleagues to support the motion.

Mr. GUARINI. Mr. Speaker, I rise in support of the motion offered by Mr. CRANE to instruct the conferees to insist that the Senate accept the Andean Trade Preference Act as part of any final conference agreement. I am pleased to be one of the original cosponsors of this most important piece of legislation, and it has been one of my top legislative priorities.

The Andean Trade Preference Act is targeted at four countries—Colombia, Bolivia, Peru, and Ecuador. These countries have been waging a life and death struggle against illegal drugs. They are also emerging democracies. This legislation will help promote their economic development. In so doing, these nations will be able to combat more effectively the narcotics problem and provide a standard of living for their people conductive to democratic development.

Nearly all the world's coca is produced in Peru and Bolivia. Colombia, as we all know, is the major processing point for cocaine. Although there is much that must be done in the United States to curb the demand for drugs, we cannot ignore the supply side of the equation. These countries, at great cost, have made considerable progress in dealing with the drug problem. Assassination and terrorism are scourges that they must live with.

President Bush, at the Cartagena summit, recognized the importance of increasing economic opportunities for these countries if they are to have any chance in their fight against illegal drugs. The President also recognized the mutual economic benefit to both Latin America and the United States of increased trading opportunities within our hemisphere.

This legislation will serve both purposes. The United States will have increased access to goods from the Andean region, as well as new export opportunities. This bill will improve economic prospects in the Andean region and create growth opportunities. It will lead to progress in eradicating the production, processing, and shipment of illegal drugs. Improved trade will also enable these countries to buy more of our goods.

I urge my colleagues to support this motion.

Mr. COUGHLIN. Mr. Speaker, I rise in strong support of the motion to instruct the conferees to support the Andean Trade Preferences Act. I also want to thank Congressman PHIL CRANE for his tenacious leadership on this critical issue.

As the ranking Republican on the House Select Narcotics Committee I am a strong supporter of the Andean Trade Preferences Act of 1991. The ATPA, as part of the administration's comprehensive enterprise for the Americans initiative, is important legislation and is worthy of swift passage.

Virtually all of the cocaine that enters the United States is grown, processed, and transshipped from the Andean region. This legislation is intended to address the narcotics issue by helping to strengthen the economies of the democracies in the region and to complement critical enforcement and interdiction efforts.

My service on the Narcotics Committee has afforded me the opportunity to visit producing and trafficking nations. I am convinced of the importance of a multifaceted approach to the drug problem abroad. The foreign leaders we have met always ask for help in the area of trade, for both practical economic reasons, and as a sign of international moral support for their politically difficult counternarcotics efforts. Trade incentives and other economic support is an important component of our Andean antidrug strategy.

Counternarcotics assistance to our allies in the Andes is a two-way street. If we help them develop their economies and provide some desperately needed resources and training, they in turn can make a serious effort to attack the trafficking organizations that are targeting the United States for cocaine transshipment.

Trade assistance to the Andean nations was promised by President Bush during the drug summit in Cartegena, Colombia. On October 5, 1990, the ATPA legislation was transmitted to Congress and subsequently introduced by Congressman CRANE. Let us not send President Bush to the second drug summit, scheduled for early next year, without this legislation to present to our Andean allies in the drug war.

I urge my colleagues to join me, and the sponsor of this motion, Congressman CRANE, in supporting this important legislation.

□ 1310

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

The SPEAKER pro tempore (Mr. MAZZOLI). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct.

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

Mr. CRANE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 416, nays 0, not voting 18, as follows:

[Roll No. 412]

YEAS—416

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bellenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
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Johnson (CT)
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McEwen
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McMillan (NC)
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Owens (UT)
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Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
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Pelosi
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Pursell
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Rangel
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Rose
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Roth
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Upton
Valentine
Vander Jagt
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Walker
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Waters
Weber
Weiss
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Williams
Wilson
Wise
Wolf
Wolpe
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Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—18

Boehner
Brooks
Early
Fish
Franks (CT)
Goodling
Gunderson
Hatcher
Hunter
Leach
Lewis (CA)
Molinari

Mrazek	Sisisky	Washington
Oberstar	Skelton	Waxman

□ 1335

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

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MAZZOLI). Without objection, the Chair appoints the following conferees: Messrs. ROSTENKOWSKI, GIBBONS, and ARCHER.

Without objection, the Chair reserves the right to appoint additional conferees.

There was no objection.

PERSONAL EXPLANATION

Mr. GOODLING. Mr. Speaker, I missed the vote on the motion to instruct conferees on H.R. 1724, rollcall vote 412. I was attending the signing ceremony at the White House, on civil rights legislation that passed in the House last month. Had I been present, I would have voted "yea" on rollcall 412.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate has passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3371. An act to control and prevent crime.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 3371) "an act to control and prevent crime," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BIDEN, Mr. KENNEDY, Mr. METZENBAUM, Mr. LEAHY, Mr. DECONCINI, Mr. THURMOND, Mr. HATCH, and Mr. SIMPSON, to be the conferees on the part of the Senate.

APPOINTMENT OF CONFEREES ON H.R. 3371, OMNIBUS CRIME CONTROL ACT OF 1991

Mr. EDWARDS of California. Mr. Speaker, pursuant to clause 1, rule XX and by direction of the Committee on the Judiciary, I move to take from the Speaker's table the bill (H.R. 3371) to control of and prevent crimes with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. EDWARDS].

The motion was agreed to.

MOTION TO INSTRUCT CONFEREES OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. SENSENBRENNER moves that the managers on the part of the House at the conference on the disagreeing vote of the two Houses on the bill H.R. 3371, be instructed to accept the Senate position on certain firearms provisions in the Senate-passed crime bill, S. 1241, namely sections 207 and 1213 of that bill.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 30 minutes, and the gentleman from California [Mr. EDWARDS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. SENSENBRENNER].

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

Mr. Speaker, the motion to instruct before the House is to have the conferees on the part of the House instructed to agree to the Senate provisions of the crime bill that were offered by the Senator from New York, Mr. D'AMATO, and accepted by the other body. Similar amendments were offered on the House side by the two Congress people from New York, Mr. MANTON and Ms. MOLINARI, but were not made in order by the Committee on Rules before the House considered the crime bill.

□ 1340

Mr. Speaker, a yes vote on the motion to instruct would direct the House conferees to accept the following mandatory prison terms for using or possessing a firearm during a State crime of violence or a State drug trafficking crime:

First, for knowingly possessing a firearm, an additional mandatory 10 years in jail; second, for discharging a firearm with intent to injure another person, an additional mandatory 20 years in jail; and, third, for knowingly possessing a firearm that is a machinegun, or a destructive device, or is equipped with a firearm silencer or firearm muffler, an additional mandatory 30 years in jail.

In the case of a second conviction, the person would be sentenced to not less than 20 years for possession, 30 years for discharge of a firearm, and life without release if the firearm is a machinegun, or a destructive device, or is equipped with the firearm silencer or firearm muffler.

In the case of a third or subsequent conviction, the person shall be sentenced to life imprisonment without release.

The real problem with guns and crime is that gun crime sentences are absurdly low. We need longer sentences and mandatory minimums to reduce the number of crimes committed by repeat offenders.

In a study of 108,850 State prisoners released in 1983 in 11 States, the Justice Department reports that within 3 years, 60 percent of violent offenders were rearrested for a felony or serious misdemeanor, and 42 percent were reconvicted.

Of the violent offenders, 30 percent were rearrested for a new violent crime.

These 108,850 prisoners accounted for over 1.6 million arrest charges for the period before they entered prison and for the 3 years after their release.

The 1.6 million arrests included 215,000 arrests for violent crimes before prison and another 50,000 violent crimes within 3 years after release, including: 14,467 homicides, 7,073 kidnapings, 23,174 rapes or sexual assaults, 101,226 robberies, and 107,130 assaults.

For those concerned about the rights of State and local prosecutors, let me stress: Federal prosecutions will never replace State prosecution.

This amendment, or this motion to instruct, allows for the availability or the alternative sanctions of the death penalty for certain homicides caused by the use of a firearm, homicides now appearing in the news daily and nightly and affecting our neighbors and our neighbors' children. These crimes specifically require the coordination of State and Federal efforts. Additionally, the Department of Justice has acknowledged that they absolutely will not supplant State prosecutorial efforts. The motion to instruct and the amendment, if it should be adopted by the conference, are merely meant as measures to be kept available, as measures to be used often enough and carefully enough to establish certainty of punishment and an additional level of deterrence for those who are considering committing a crime while armed with a firearm.

In 1988, there were only 2,200 convictions in Federal court for violent crimes, but there were 100,000 convictions for violent crimes in State courts.

Mr. Speaker, I think that it is very important that we have these mandatory additional penalties that are available, and the threat of Federal prosecution in Federal court available as a deterrent because, if a State jurisdiction has got a reputation for one reason or another of letting people out with relatively minor sentences, or even probation after the commission of a violent crime, the criminal will not know when the arm of the Feds will come down on them, and they will be facing a mandatory 20, or 30, or 35 years, or the rest of their life, in jail.

It is time to put some certainty into the sentencing process as a way of stopping violent crime. The real problem with crimes and guns is that gun crime sentences are absurdly low. Repeat offenders get let out, they run

free, and they victimize again and again.

A 35-State sample reveals the following average sentences: 1.9 years for drug trafficking, less than 5 years for homicides, and less than 4 years for rape. This is according to Acting Attorney General William Barr in his statement of November 18, 1991.

In 1990 violent crimes soared by 10 percent, according to the preliminary data of the FBI uniform crime report. There were over 23,000 murders last year. Every 24 minutes someone is murdered in the United States. Every 6 minutes some woman is raped. And every 55 seconds someone is robbed. Every 33 seconds someone is assaulted.

According to the Bureau of Alcohol, Tobacco and Firearms, the most violent criminals commit about three crimes per week, per inmate, or 160 criminal acts per year, per inmate. Approximately 6 percent of the criminals arrested commit up to 70 percent of the serious crimes.

Mr. Speaker, these are the kinds of people that ought to be put in jail and ought to stay in jail so that our society becomes safer and people are able to walk the streets again.

The provisions in the Senate crime bill, addressed in the motion to instruct, provide for tough, mandatory, minimum sentences and the availability of the death penalty for these most violent elements of our society who choose to possess or use a firearm while committing a crime and while victimizing innocent people. The provisions specifically provide for the coordination for Federal and State efforts. Additionally, the Department of Justice has said, and I have to repeat this, that they will not supplant State prosecutorial efforts. This is an additional deterrent. This is an additional arrow in the quiver of law enforcement and for prosecutors.

Mr. Speaker, I would hope that the motion to instruct would be agreed to, and I reserve the balance of my time.

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

Mr. Speaker, the gentleman from Wisconsin [Mr. SENSENBRENNER] is enthusiastic about his motion. He did not bring it up when the Committee on the Judiciary of the House considered the crime bill, and it is a tough crime bill. It is a crime bill that I would have a great deal of difficulty in supporting because of some of the provisions in it. But he did not bring it up, and now he brings it up at this late date.

All of our colleagues, Mr. Speaker, all 435, have received an urgent letter from the Chief Justice of the United States, Justice Rehnquist, and he refers to this amendment, this instruction offered by the gentleman from Wisconsin [Mr. SENSENBRENNER], because this is exactly the provision authored by the Senator from New York, Senator D'AMATO, that in a moment of whatever the Senate agreed to, to its dismay, and has regretted it ever since, I believe.

Now, if my colleagues want to make it impossible to handle anything in the Federal court system, any civil actions in the Federal court system, go ahead and agree because what the gentleman from Wisconsin [Mr. SENSENBRENNER] is proposing is to federalize all crimes committed with a gun, all crimes.

□ 1350

In theory, you can do away with your local sheriff, with your local district attorney, and with your local police departments, and just increase the size of the FBI and the Drug Enforcement Administration to handle all crimes. Do you really want to have the enforcement of all street crimes taken away from your local communities, taken away from your States, and turned over to Uncle Sam?

We have, I believe, up to 50,000 prisoners in Federal penitentiaries now. Do you want to have to build 10 or 20 or 30 more Federal penitentiaries to handle the increased crime load or the increased felony load that the gentleman from Wisconsin [Mr. SENSENBRENNER] is proposing?

We should listen to Chief Justice Rehnquist. I ask my colleagues to go back and read his letter again where he said, "Please, Mr. Congressman," or "Congresswoman, don't burden the Federal courts with these additional responsibilities."

We will not be able to handle in the Federal courts the terribly important civil cases which we are having a great deal of difficulty in handling now, because they have to wait for 2 or 3 or 4 years to get into Federal court on a civil action because of speedy trial provisions, and so forth, in criminal actions and drug cases that have priority.

So, Mr. Speaker, I think it is interesting that the gentleman from Wisconsin [Mr. SENSENBRENNER] has offered this proposal, and I have confidence that we will turn it down. It is really a very bad idea.

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

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

Mr. Speaker, I wish that the gentleman from California had listened to my argument in support of my motion to instruct. This motion, if the language is adopted by the conferees, will not take away the job that everybody's sheriff and local police department and local district attorney will have to do. It will help them because it does put the resources of the Federal Government available on a discretionary basis. If someone is picked up for a crime while armed with a firearm, the U.S. attorney and the local district attorney can decide who will prosecute and under what law the defendant will be prosecuted. Those kinds of arrangements happen all the time. The fact of the matter is that with tough mandatory sentences, we would be able to get after the repeat offenders who seem to get out of jail on a State and local basis and lock them up in the penitentiary and get them off the streets so they will then quit murdering, mugging, and raping our constituents.

I did bring my amendment up in subcommittee. It was voted down. I brought my amendment up in the Rules Committee. The Rules Committee did not allow me to offer it on the floor. Nonetheless, it was adopted by the other body.

It is a matter for the conference to decide, and it seems to me that this House ought to go on record as saying that if you shoot someone while armed with a firearm and kill them, you are going to be in jail for a long period of time, and if the State prosecutorial authorities and the State courts will not do it, then the Federal Government ought to take over that portion and make sure that the person is locked up.

The gentleman from California [Mr. EDWARDS] also says, "Well, the Chief Justice is opposed." The letter the Chief Justice sent called these cases routine cases. I disagree strongly, respectfully, with the Chief Justice of the United States. A murder is not a routine case, an aggravated battery is not a routine case, and a rape is not a routine case. The first obligation of any government is to provide for the safety and security of its citizens, and with crime going up day by day and night by night, with our streets not being safe to walk alone any more, not only in major cities but also in rural areas, penalties for those who are convicted by a jury of their peers is something that is long overdue. I wish the Judiciary Committee would recognize that the time has come to start throwing some of these people in jail, and this motion to instruct will put us along the way to pass a bill that will do that.

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

Mr. SENSENBRENNER. I yield to the gentleman from California.

Mr. RIGGS. Mr. Speaker, I just want to make this clear: that the intent of the gentleman's motion is to give local law enforcement the flexibility of being able to bring a case in Federal court with the cooperation of the local U.S. attorney's office?

Mr. SENSENBRENNER. That is absolutely correct, and it is not very much different than the Operation Trigger Lock proposal that has been on the books for the last year or year and a half, where there is cooperation and concurrent jurisdiction between State prosecutors and Federal prosecutors to make sure that people who are involved in gun-related crimes do serve a significant amount of jail time.

Mr. RIGGS. So, Mr. Speaker, if the gentleman will yield further, the ultimate decision would be the process of consultation between local law enforcement, that is to say, the local district attorney, and the regional U.S. attorney's office as to whether or not the crime is of sufficient gravity to warrant prosecution in Federal court?

Mr. SENSENBRENNER. Reclaiming my time, Mr. Speaker, furthermore, whether the defendant has a sufficient background to warrant that prosecution in Federal court based upon a previous criminal record and conviction of previous crimes of violence.

Mr. RIGGS. Mr. Speaker, will the gentleman yield further?

Mr. SENSENBRENNER. I yield to the gentleman from California.

Mr. RIGGS. If after this process of consultation the matter is tried in Federal district court, if it does result in a successful prosecution and a conviction, then the mandatory minimum sentence the gentleman is recommending here would apply?

Mr. SENSENBRENNER. That is correct. There would be a mandatory minimum sentence after the conviction.

Mr. RIGGS. Mr. Speaker, I thank the gentleman.

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

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

Mr. Speaker, under leave to include extraneous matter, I insert in the RECORD the letter from the Chief Justice of the United States appointed by President Nixon which says: "Please don't enact the Sensenbrenner provision."

I would suggest to all my colleagues that they go back to their offices and get the letter because it is very adamant. It just brings out the point that this would be a disastrous load and an unnecessary load on the Federal court system of the United States.

Mr. Speaker, the text of the letter is as follows:

SUPREME COURT OF THE
UNITED STATES,
Washington, DC, September 19, 1991.

Hon. MICHAEL J. KOPETSKI,
Committee on the Judiciary, U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE KOPETSKI: I am writing in my capacity as Presiding Officer of the Judicial Conference of the United States to convey the opposition of the Judicial Conference to proposed legislation that would provide for federal jurisdiction over offenses traditionally reserved for state prosecution. I enclose a statement expressing the objection and the reasons therefor in more detail. I appreciate your serious consideration of these views.

Sincerely,

WILLIAM H. REHNQUIST.

Mr. Speaker, I yield three minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I think the Members ought to be clear about the implications of this for the whole notion of States' rights. That has been a common theme that has emerged in many of the deliberations of the Judiciary Committee.

Voting for this basically says that we believe the States are not competent to handle this type of crime. We talk about States' rights sometimes here only when it is convenient, but Members ought to understand that a vote for this really does destroy the philosophical underpinnings for any future States' rights arguments.

Members might want to argue consistently that they prefer some things to be done at the Federal level and some things to be done at the State level, depending on how they best like the outcome. That is a perfectly valid position. However, to vote for something like this would be essentially a vote that the States may not be trusted to do these sorts of crimes and, therefore, we must take the Federal Government.

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

Mr. FRANK of Massachusetts. I yield to the gentleman from California.

Mr. RIGGS. Mr. Speaker, I understand the philosophical arguments the gentleman is making, but I wonder if he will acknowledge that at present there are many, many situations in certain types of crimes where we do see joint cooperation between local law enforcement and the U.S. attorney.

Mr. FRANK of Massachusetts. I would be glad to acknowledge that. I would acknowledge that today is Thursday, and that this month is November. I am prepared to acknowledge a number of things. I would not like to do that under the premise that it would somehow add weight to that argument.

The gentleman is right, people can now cooperate. This goes beyond that, and the philosophical premise is that we cannot trust the States, that the Federal Government is going to have to step in from time to time.

If Members want to vote that there has to be a general right of supervision by the Federal Government, that when we think the States are failing to live up to what we think is adequate policy in areas that have been theirs for 200 years and we have the right to do that, that is probably going to break my way more often than not. But Members ought to understand that that is the precedent they are setting, and the next time Members are asked, "Would you vote for this?" and you say, "Oh, no, I am sorry, that might be a good result, but it would violate States' rights," the argument will not be there, because what we are saying here is that when we think we are getting a better outcome by a greater degree of Federal intervention or preemption, we will do it.

□ 1400

Mr. SENSENBRENNER. Mr. Speaker, am I correct that I have the right to close?

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman from Wisconsin does have the right to close.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, my friend, the gentleman from Massachusetts [Mr. FRANK], has a very selective memory. The Congress has federalized both gun laws and drug laws because it has determined that gun laws and drug laws are something that have overwhelming national significance.

My proposal does not even go as far as that. My proposal establishes concurrent jurisdiction.

As the gentleman from California [Mr. RIGGS] has so eloquently stated, it would be up to the prosecutors and other law enforcement officials to get together to determine what is the proper forum to try a defendant who is accused of a crime.

All during the markups and the hearings on the crime bill in the Subcommittee on Crime and Criminal Justice we Republicans heard again and again the complaint that the Federal Government cannot legislate on street crime because only 3 percent of the criminal prosecutions in this country are done at the Federal level.

That argument does not hold water, because if we want to have a stronger Federal role in the prosecution of street crime, we can adopt a motion to instruct and ultimately accept the D'Amato amendment. I would hope that we would do that.

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

Mr. EDWARDS of California. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I just hope that my colleagues take the time to understand fully what our colleague from Wisconsin [Mr. SENSENBRENNER] would want to do. In the first place, our colleague from Wisconsin opted not to offer this amendment in subcommittee or the full committee. There have been no hearings on the impact of this particular amendment in either body, the Senate or the House.

Let me tell Members what I think the impact will be. Mr. Speaker, as you know, I am privileged to chair the Subcommittee on Judicial Administration that handles prisons around the country. This legislation, as I understand the text of it, would federalize all gun offenses as long as they travel on interstate commerce.

I do not think it would be easy to determine how many gun offenses that would be. Gun offenses, like all street crime, are prosecuted at the State level. In fact, 95 percent of all street crime, as my colleagues know, is prosecuted at the State and local level.

This would federalize all gun offenses where they have traveled in interstate commerce. That, in essence, means all gun offenses, because most guns travel in interstate commerce.

We in the Federal Prison System today are at roughly 173 percent of capacity. That means that we have 73 percent overcrowding today. We cannot build Federal prisons fast enough.

I do not have to tell Members what a single Federal prison costs to construct today. Would you think $300 million to $400 million is a fair assessment?

You would have to begin building Federal prisons today and you would have to build Federal prisons every other month or so to house the prisoners that the gentleman from Wisconsin [Mr. SENSENBRENNER] would want to put in jail for State offenses.

Now, aside from the question that the gentleman from Massachusetts [Mr. FRANK] raised, which is the question do we think States are doing that bad a job that we should federalize offenses that are basically rightfully relegated to the States, that is another issue. I find it interesting that a conservative Republican would suggest that we spend tens of billions of dollars in Federal prison construction to cure the problem when they are stingily providing resources to the States to help themselves solve their problem.

Now, if we really want to do something about the overcrowding problem and send a clear signal to those that violate State laws, let us be better partners with the States to help them build the prison systems they need. But we do not do that.

The same folks that would advance this as a quick fix to deal with overcrowding would not only overwhelm the Federal system, but they basically would at the same time deny the States the ability to actually improve their own criminal justice system and build the systems they need.

As the gentleman from Wisconsin [Mr. SENSENBRENNER] knows very well, because he watches the dollars as closely as any Member of this Congress, we do not have the tens of billions of dollars, and he knows it, that would be required to implement the so-called D'Amato amendment. It is the most cockamamie idea that has come down the pike in a long time.

Mr. Speaker, it sounds great. We all want to be tough on crime. But, you know, we have got to develop reasonable and sensible initiatives to deal with the crime problem, and this falls short by any criteria one uses.

Mr. Speaker, the Chief Justice of the United States and others in the system are adamantly opposed to any federalizing of essentially State offenses. To suggest that the Feds are the only ones that have the expertise to prosecute street crime is absolutely ridiculous.

Where have Members on this side of the aisle strayed when they forget about the whole concept of federalism? Are we not interested in deciding basically what is rightfully in the province of the States and what really is in the province of the Federal Government?

So, not only would they bankrupt the budget by such a suggestion, but they also would decimate the whole concept of federalism.

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

Mr. HUGHES. I yield to the gentleman from Wisconsin [Mr. SENSENBRENNER] briefly.

Mr. SENSENBRENNER. Mr. Speaker, is the gentleman aware of the study released May 1, 1991, by the Bureau of Alcohol, Tobacco and Firearms, that indicates or concludes that it is cost effective to incarcerate someone when you subtract the cost of incarceration from the cost to society?

Mr. HUGHES. Mr. Speaker, I reclaim my time.

Mr. Speaker, I am aware of that. I say to my colleague that that makes a great speech, but it has nothing to do with the motion before us. We are talking about the destruction of the concept of federalism and bankrupting the Federal system in the process, instead of basically sharing with the States the resources they need to build their systems.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 15 seconds.

Mr. Speaker, the argument that the gentleman from New Jersey [Mr. HUGHES] is we should not prosecute and lock people in society because we do not have the jail space. That is a bunch of bunk.

Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise to support the motion by the gentleman from Wisconsin [Mr. SENSENBRENNER]. I support it because I believe there should be an increased presence and involvement in the prosecution of violent crime by the Federal Government.

In the first place, our constituents and constituents of State legislators are all one and the same. The public knows they are the victims of violent crime and they are threatened by still more violent crime. They expect action.

I think that the fact that the responsibility is also on State legislatures does not mean there is not a responsibility on the Congress to also act.

Second of all, I find the defense of federalism to ring hollow when it comes from individuals whom I have heard in this Congress advocate nationalizing almost everything else that we talk about, from health care to day care, including such subjects involving the crime bill as what kind of weapons people in individual States can own. So it seems to me the argument of States rights is raised only as a defense against an issue with which they do not agree.

Mr. Speaker, however, I must say as a former career prosecutor that although I believe there should be more Federal involvement in the fight against violent crime, and there usually is good cooperation between Federal and State agencies, that significantly greater action, whether it is in the prosecution of violent crime as proposed here or whether it is in crime prevention measures as are already authorized in the House version of the crime bill, must be matched by appropriations.

Crimes do not prosecute themselves. It requires police investigators, Federal investigators, prosecutors, courts, and, if need be, prisons. All of that costs money. Even the review of a case to decide whether to prosecute it or not prosecute it can involve many hours of investigative and prosecutorial time.

□ 1410

Therefore, I would say that if this Congress is going to become more involved in the fight against crime on both levels, and I hope it does, the prosecution of violent crime and the prevention of crime, it must back that with an appropriation or all of this will be a cruel hoax.

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

Mr. Speaker, the subcommittee that I chair has jurisdiction over the FBI. The budget this year for next year is over $2 billion. I would estimate that we would have to be spending about twice that just to get the program that, this very generous, extravagant program that the gentleman from Wisconsin [Mr. SENSENBRENNER] has in mind, just in additional FBI agents and supporting personnel.

Mr. Speaker, I yield 3 minutes to the gentleman from Rhode Island [Mr. REED].

Mr. REED. Mr. Speaker, I thank the gentleman for yielding time to me. I rise in opposition to the motion to instruct.

This motion to instruct would do great violence to our system of federalism, which over hundreds of years of constitutional history has been worked out, delicate balances have been struck. And this would go right to the core of that in creating thousands and thousands of State crimes and changing them into Federal crimes.

Also it would impose severe restrictions on the resources that the Federal courts presently have in dealing with serious matters of Federal criminal activity.

I think the best evidence against this proposal has been submitted by the Judicial Conference of the United States. This is the conference of senior mem-

bers of the court, the Supreme Court, the appellate courts, the district courts. It is chaired by the Supreme Court Chief Justice Rehnquist.

These are men and women who are dedicated, as we are, to suppressing crime in America, who are intimately knowledgeable of the details of criminal procedure, and who share our concern that violence in America is becoming a difficult burden for all us. Yet they categorically reject this proposal.

Let me quote:

The Judicial Conference of the United States opposes legislation adopted by the Senate which would expand Federal criminal law jurisdiction to encompass homicides and other violent State felonies if firearms are involved. Such expansion of Federal jurisdiction would be inconsistent with long-accepted concepts of federalism and would ignore the boundaries between appropriate State and Federal action.

These are the experts. Their testimony is clear and compelling. It would upset federalism.

As I have suggested before, it would disrupt the resources they presently have available to deal with violent crime at the Federal level.

Let me quote from another report, which was offered by the Committee on Criminal Law and Probation Administration of the Judicial Conference and signed by Judge Broderick, the chairman.

I quote from his report: "The Federal courts are designed to handle complex criminal cases with nationwide impact that States lacked resources or juridiction to investigate and prosecute. The overall effect of this legislation," federalization of these crimes with firearms, "will in our judgment" and this is truly paradoxical, "result in less rather than more effective law enforcement. The pending legislation, if adopted, will dilute Federal court resources needed to try major crimes and to provide forums for the prosecution of national and international conspiracies."

The admission to Federal jurisdiction of virtually any crime committed with a firearm that has crossed a State line will swamp the Federal courts with routine cases that States are better equipped to handle and will weaken the ability of these courts effectively to deal with the difficult criminal cases that present unique Federal issues.

Mr. Speaker, if we pay attention to the facts, to the expert opinion of these distinguished men and women, many of whom have been appointed by Republican Presidents, we will reject this motion.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, I thank the gentleman for yielding to me.

We have heard a lot of legalistic arguments here this afternoon, but I, like many this morning, when I came to work and opened the newspaper was moved like many were when we saw on the front page, and this happens just about every day, "Man Arrested in Slaying," the suspect had been free on $1,000 bond in a previous shooting case.

Now, if we sit here and say we cannot do anything because of what some judge said, are we not accomplices in crimes like this, too?

Yes, we here have it within our power to change the law and to stop some of these killings and murders that are really epidemic here and around the country. So I would ask the Members of this body to review their consciences and to ask themselves whether we are going to follow legalistic thinking or we are going to be concerned about people.

We have heard arguments here on the floor that our Federal prisons are filled to capacity of 173 percent. What do we do when we go back and see people? This woman's husband, her children, and there are thousands of people like this. What are we going to do? Tell them we will not imprison this person that killed their mother or killed their wife because we already have 173 percent capacity?

That is no answer. That is no solution.

Like my colleagues, I was moved when I read where—

Bigby, pounding his heart with his fist, told a sobbing group of friends that he was not going to let his sister die.

"I will never accept what has happened to her. I will never forgive the person who took her away. I will always remember her."

These people have to live with that. We are voting here for, yes, to protect the criminal. But I am asking my colleagues, does not the victim in our society have rights, too? Let us stand up and so something for the victim for a change.

Mr. EDWARDS of California. Mr. Speaker, I yield 4 minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, this amendment was offered, I am not supposed to mention the name of the Senator on the floor. He is the junior Senator from New York, and his name rhymes with tomato.

It is my judgment that what he tried, what he is trying to do in this amendment, which was not subject to any hearings in the Senate, any hearings in the House, is pulling the wool over the eyes of the American people in terms of law enforcement.

Let me tell my colleagues what he does. He federalizes essentially all gun offenses.

What does that mean? That means that local police and State police will no longer automatically be in charge of enforcing the law on gun offenses, gun crimes.

Is that good for law enforcement or bad for law enforcement?

It seems to me it is bad for law enforcement because what we will create, and there are hundreds of thousands of gun crimes committed a year, we will create a scenario where no one will know who is in charge or running the shop when it comes to gun crimes.

It is the local captain of narcotics or vice in the police department of the hometown? Is it the superintendent of State police or is it Mr. Sessions, head of the FBI? No one will know who is in charge of running these operations.

What does that mean? Well, as we have seen from a lot of operations of this country from the Government down to the private sector, when no one knows who is in charge, the operation does not go very well. So what I fear what this will do is this will hinder law enforcement. It will confuse law enforcement. It will make it so that criminals are not brought to justice as quickly as possible.

I understand it sounds good, the junior Senator from New York has this idea. Boy, if we make every gun crime a Federal crime, it will make people shudder in their seats. In fact, what it will do is confuse the local police so they will not go out and quickly and effectively, as they do right now, to make sure that the crooks are caught or tried and are put in the penitentiary.

We do not need more Federal crimes. What we need is more cops on the beat. We need more law enforcement people on the streets.

The base crime bill makes a good step in that direction, but if we vote for this motion to instruct, as well-intentioned as I think it is, I think what we will be doing is voting for less effective law enforcement and a less effective local police department.

If I am not mistaken, I do not believe that any of the local police organizations have formally endorsed this amendment. They do not want it. It takes power away from them.

Do not buy into this argument that making every crime a Federal crime is a way to better law enforcement. Vote against the motion to instruct.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. RIGGS].

□ 1420

Mr. RIGGS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I think the argument we just heard from the gentleman from Kansas is about as much nonsense as we have heard on this floor for quite a while.

I am a former street cop and criminal investigator, and I can guarantee if the motion would become law, local law enforcement would have, as the gentleman from Wisconsin [Mr. SENSENBRENNER] said earlier, yet another tool in their arsenal, in their crime-fighting arsenal.

It would be discretionary whether local law enforcement wanted to work

with Federal prosecutors to bring the case in the U.S. district court. It just might be, gentlemen, that there are certain offenses that would warrant expedited prosecution in Federal court and would warrant the kind of minimum mandatory sentences contemplated here.

Also, again now we have this philosophical cross current blowing across the floor here. Suddenly everyone on this side of the aisle is a born-again Federalist. That is a rich irony. Suddenly we are hearing wonderful arguments about decentralized government, and States' rights, that are frankly missing from so many of the other debates that we have in this House.

There are even some people who have had the audacity to talk about the fiscal impacts of this, as if the gentlemen making those arguments could truly claim to be fiscal conservatives. This argument is about priorities and where we are going to establish priorities on the part of the Federal Government.

I am here today to say that what is proposed here is absolutely consistent, and I would like to direct this to the chairman of the subcommittee, because I know he has a law enforcement background, it is absolutely consistent with the proven effective law enforcement technique of selective law enforcement, where we target limited law enforcement resources to certain types of very serious crimes, toward certain types of offenses, normally repeat offenders who commit violent crimes and are still free in our society.

Law enforcement wants prosecutorial tools such as enhancements, minimum mandatory sentencing standards. I would point out now that we are watching an experiment here locally where local law enforcement, the metropolitan police in the District of Columbia, are working jointly with the FBI in the name of selective law enforcement, again trying to target certain types of offenses and certain types of offenders. This motion is absolutely consistent with that principle as well.

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

Mr. RIGGS. I yield to the gentleman from Texas.

Mr. BRYANT. Mr. Speaker, I would like to ask the gentleman, since he feels so strongly about this, how many new Federal courts are we going to have to create and how many new prosecutors are we going to need to hire if the Federal Government takes over enforcement authority from the States?

Mr. RIGGS. Again I say to the gentleman it may be over time we may have to add courts and prisons. I am not sure that that would be a bad idea.

Mr. BRYANT. Does the gentleman know the answer to my question?

Mr. RIGGS. I do not know.

I will reclaim my time and simply point out that again what we are talking about here is a discretionary tool for local law enforcement. The FBI is not going to come in and usurp the authority of local law enforcement. That is pure nonsense. That is the red herring argument, designed again to protect those who are philosophically inclined to side with the criminal and not the victims of crime.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Oregon [Mr. KOPETSKI], a valued member of the subcommittee.

Mr. KOPETSKI. Mr. Speaker, I rise in opposition to this motion. I serve on the Committee on the Judiciary and I understand the difference between our State court system and their roles and responsibilities in our criminal justice system and our Federal court system. In our State court system, I served on our appropriations committee back home in the State of Oregon, and I know these cost money, the courtroom cost money and the judges cost money and the bailiffs cost money, and I understand the jurisdiction of the Federal judges and the Federal court system as well.

I can tell the Members that this is a Federal budget buster. Where is the money? Where is the money to fund the cells to hold these criminals or alleged criminals while they await trial? Where are the Federal dollars for the courtrooms? Where are the Federal dollars for the bailiffs? Where are the Federal dollars for the additional court reporters? Where are the Federal dollars in this proposal for more prosecutors and more Federal judges, because we are going to immediately see the shift from the State court system to the Federal court system.

I urge my Members just, if for no other reason than that there is no money here, to oppose this motion.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Mr. Speaker, I think it is important to focus on the true nature of this proposal. I think it is grandstanding in its worst form at the late hours of this session of Congress, this year's session of Congress. If the Members would simply ask themselves this one question: If this half-baked idea had any merit, would not the Attorney General of the United States, would not the Director of the FBI, would not the heads of law enforcement in America have come to us a long time ago and said, "Make all of these offenses Federal offenses and take over the responsibility from us and let the Federal Government begin to enforce this law?" Would not they have done that at least once? Of course they would.

They have never done it one time, never once. The chairman of the subcommittee is in possession of a letter which says that the Chief Justice of the United States has specifically asked us not to do this because they do not have the capacity to accomplish it.

This proposal did come up in the subcommittee and the subcommittee rejected it. In fact, it was pulled down before it ever even had a vote on it because it was so patently and impossibly applicable to the situation before us. I strongly urge the Members to reject this amendment. If it has any merit, let us have hearings on it next year, but do not come up with it at the last minute and suggest it is an idea that has any strength or merit to this House of Representatives.

Mr. EDWARDS of California. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Georgia [Mr. JENKINS].

Mr. JENKINS. Mr. Speaker, like so many Members of this body, I too am a former prosecutor, a Federal prosecutor in criminal cases. I think the worst thing this body can do is to promise more than it can deliver, and when we are legislating in an area like this that is so easy to vote for because it sounds good, we ought to make doubly certain that we know exactly what we are doing.

Back when the crime bill was being debated the Federal judge from my area, a Republican, called me specifically concerned about this provision from the Senate side. He said to me, "If you people are going to make Federal crimes out of every gun crime, State crime, then you had better be willing and able to really increase our budget because we will have to set aside all of the drug cases that are not involved with guns and spend all of our time taking care of manslaughter cases, taking care of assault cases where a gun happens to be involved."

So while I know this is a well-intentioned instruction, we are absolutely doing a disaster to law enforcement in this country. The Federal courts have more than they can handle now.

If Members are ready to implement this, if they are ready to fund it, that is one thing. But if we are simply going to pass a motion to instruct the conferees so that we look good, because we are tough on crime, that is something else.

I urge this body in the late hours of this session not to federalize every State crime in the Nation.

Furthermore, we are going to have a State crime in Georgia, because it may be defined as a crime of violence apply whereas it may not apply in Nebraska or some other State. We are saying that whatever is a crime of violence in one State, then suddenly this Federal statute comes into being, and an offender can get 10 years or 20 years or more, but if they commit it in another State it is all right, they are okay because it is not a crime of violence. I think this is not a well-thought-out motion. I would urge my colleagues to reject it for what it is, something that

is simply playing to the people out there as a well-sounding instrument against crime. It will not work.

□ 1430

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

Mr. JENKINS. I am happy to yield to the gentleman from California.

Mr. RIGGS. Mr. Speaker, as a former prosecutor, would the gentleman stipulate that in fact today we have a crazy-quilt pattern of criminal sentences that vary from State to State in respect to these violent crimes?

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

Mr. Speaker, it is interesting to note that every argument that has been lodged against this motion to instruct and the underlying Senate amendment that this motion supports is a real red herring.

Of course, the Federal judiciary is going to be opposed to increasing their caseload. They always have been opposed to increasing their caseload, and they have come to the Congress to ask for certain reductions in Federal jurisdiction, specifically reductions in adversity of citizenship jurisdiction in civil cases.

The fact is that the Constitution of the United States gives the Congress the power to determine the jurisdiction of the inferior courts, including the Federal district courts.

The gentleman from California [Mr. RIGGS] has it absolutely correct. This question is a question of priorities. Where do we want to send our law enforcement resources, where do we want to send our prosecutorial resources, and where do we wish to allocate our court-time resources?

The crisis in this country is a crisis of violent crime. I do not think the Federal district courts or any other courts, for that matter, should be sitting on their hands saying, "Oh, no, violent crime cases should be for some other judge to try."

We ought to be using the court time to try these cases and we ought to have a sentencing pattern that makes sure that those who are convicted of the most gruesome of crimes—murder, battery, rape, robbery, manslaughter—spent time in jail. Most of the real gruesome crimes in this country involve a firearm.

This amendment merely gives the Federal authorities the discretion, in conjunction with the State authorities, to prosecute people who should be facing a mandatory sentence, and that gets to the final point.

The final point is: Do we not have enough faith in our U.S. attorneys and in our local district attorneys to figure out who can prosecute which cases? Do we not have enough faith in the fact that they can sit down and say, "I will take this one and you take the other one"?

I have faith in these individuals. The U.S. attorneys were all appointed by the President and confirmed by the U.S. Senate. Most local district attorneys are elected by the people of their countries or by their judicial districts. It is their job to decide how to manage the flow of their offices.

I think this amendment, because it does provide for the cooperation rather than the preemption, as some people seem to think, increases federalism, increases cooperation, and makes the government in total, Federal, State, and local, better able to deal with street crime and crimes of violence.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. CONYERS], a valued member of the subcommittee.

Mr. CONYERS. Mr. Speaker, I am quite concerned about the growing trend to federalize what are essentially local crimes—crimes which have no inherent Federal interest. The Senate in its crime bill passed two provisions, which are the subject of the gentleman from Wisconsin, that make a Federal crime out of any State drug trafficking or violent crime in which a gun was used and provide steep mandatory minimum sentences or the death penalty. I should note that even Supreme Court Justice Rehnquist has urged this committee to reject similar amendments to this bill.

Let me explain why, as chairman of the Government Operations Committee, I am particularly concerned about these provisions:

The Government Operations Committee has been trying to address and resolve high risk Government programs, programs where the Government's vulnerability to further serious problems is especially severe. The Office of Management and Budget has identified the Federal Bureau of Prisons as a high risk Government program. The Bureau of Prisons was singled out by OMB because of both overcrowding and of the lack of adequate staff to supervise the prison facilities, creating potentially unsafe conditions for staff, inmates, and the community.

According to the most recent figures, BOP is currently 50 percent over its rated capacity. Numerous facilities are more than 100 percent overcrowded, and one facility in North Carolina is actually at 222 percent of rated capacity. To put this in perspective, BOP's target goal is to be down to 30 percent over capacity by 1995 throughout the system.

This is the existing situation. Under the Senate provisions, it would change dramatically. According to 1989 FBI figures, nearly 350,000 robberies and assaults and perhaps more than 1 million drug crimes could be covered by those provisions. If only a fraction are actually prosecuted at the Federal level, it would literally swamp the criminal justice system.

To meet the demands of the Senate provisions, the Bureau of Prisons estimates it would need 500,000 new beds over the next 10 years—at a cost of more than $30 billion for construction alone. Include another $18,000 a year to house, feed, and watch each of those additional inmates.

If the Bureau of Prisons is already at the high-risk stage, imagine what these numbers would do to the system.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Speaker, I thank the gentleman for yielding me this time.

First of all, this would do such a terrible injustice to the people of Florida where the courts are so backed up that no civil cases are being heard in the Federal courts, only drug and criminal cases, it would be an enormous problem.

Second of all, if you want to know how good this will be, find out how the Bureau of Alcohol, Tobacco and Firearms, in this current situation, has not enough people to look for firearms, to track firearms, or to go out and inspect firearms dealers. They cannot even track what is out there, let alone have time to now investigate crimes of that nature.

Third of all, right now if the gentleman from Wisconsin is so sincere about preventing crime, let us do something about it, and I will tell you how.

Firearm crime? Right now on the books, convicted felons and convicted felons who are convicted in the use of a firearm can get their civil rights and a gun-carrying permit restored to them by the BATF and the Federal courts, and they are doing it.

Do you want to do something to stop crime and help victims? Get the guns off the streets and out of the hands of people. File an amendment to give people no rights to get a gun after they have been convicted of a felony.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the gentleman from Alabama [Mr. HARRIS].

Mr. HARRIS. Mr. Speaker, I thank the gentleman for yielding me this time.

I just want to rise in strong opposition to this motion to instruct.

Having been a judge for several years and a prosecutor before that and in close association with our people back in Alabama, and I have just checked with them, the best I can find out from the folks that are going to have to deal with this, this is going to be something that is entirely unworkable.

There are not enough personnel in their offices now with the Federal folks to handle what they have. They are going to end up handling every shooting that comes along and just federalizing any offense, as I can tell, that involves a firearm. This is not good pol-

icy. This is not good judgment, and this should be thoroughly rejected.

Mr. EDWARDS of California. Mr. Speaker, I yield the balance of my time to the gentleman from New York [Mr. SCHUMER], the chairman of the Subcommittee on Crime of the Committee on the Judiciary.

Mr. SCHUMER. Mr. Speaker, first I would like to thank the chairman for yielding me this time. I was going to engage in a colloquy with the gentleman from California, but I would just simply say that language such as the gentleman used on the floor, in my judgment, is uncalled for. People have differences of views. That does not make them procriminal.

I do not think the Attorney General is procriminal. He has refused to support this legislation. I do not think the Chief Justice of the United States is procriminal. They have refused to support this, and that kind of language is uncalled for in this body, in my opinion.

Let me say, Mr. Speaker, that Chief Justice Rehnquist, when he heard about this legislation—hardly known as one being soft on crime, one of the toughest members in the judiciary—wrote a letter, which will be available to all of you, and he said: "I express my opposition to the proposed legislation which would provide for Federal jurisdiction over offenses."

The Judicial Conference opposes the legislation. Why?

It will weaken—weaken, not strengthen—weaken the ability of the Federal courts to effectively deal with criminal cases that present uniquely Federal issues.

The bottom line, Mr. Speaker, is yes, we need more Federal help. It takes dollars.

The one thing my dear friend, the gentleman from Wisconsin, failed to provide—and all those who want this legislation—is to provide money for a single prison cell, a single extra FBI agent, a single additional prosecutor, or a single additional judge.

□ 1440

We all know the Federal courts are overloaded. We all know that people get off and get reduced sentences because they do not have the resources. And what do we do here? We say, "Here is some more jurisdiction." It is about time we stopped fooling the American people; it is about time we said to them, "When we give you jurisdiction, we will give you dollars."

I have heard many of my friends on that side of the aisle say, "Do not impose things on the States and on localities unless you are going to give them the money to do it." The same thing applies to this legislation.

If we do not provide the dollars, which this legislation does not, we will not put a single extra criminal in jail, we will not solve it. I would add parenthetically: When are we going to start preventing crime as opposed to simply punishing them after the crime is committed?

Most of my colleagues, my good friend from Wisconsin says he does not want to ban the most dangerous of the weapons on the streets, the assault weapons; that would prevent crime. But, no, we go through these elaborate procedures to beat our breasts, show how tough we are, and then not do a thing to prevent our citizens from being hit over the head and shot and mauled and maimed.

I ask this motion be defeated.

Mr. SENSENBRENNER. Mr. Speaker, the gentleman from New York mentioned the name of the gentleman from California.

I yield 1 minute to the gentleman from California [Mr. RIGGS].

Mr. RIGGS. I thank the gentleman from Wisconsin for yielding to me.

Mr. Speaker, I would simply respond to the gentleman from New York that I appreciate his lecture, as a new Member, on decorum. I am going to pattern myself after his decorum in the Banking Committee and on the floor from here on out.

But I wonder if—you know, he referred to the Chief Justice's letter. Reading between the lines there, the Chief Justice has a rightful concern about the availability of time in Federal court. I wonder if that could have anything to do with the endless appeals that are brought and heard in Federal court.

I would love to know how the gentleman from New York voted on the proposal for strict habeas corpus reform when the crime bill came up before, given his leadership on the Judiciary Committee.

Mr. SCHUMER. Mr. Speaker, will the gentleman——

Mr. RIGGS. I will not yield to the gentleman at this time.

I would also like to note——

Mr. SCHUMER. The gentleman asked a question.

Mr. RIGGS. I would also like to know if the gentleman would be willing, since he represents a high-crime State and we have heard from Representatives from Florida, Michigan, and other States with high-crime problems, if he would be willing to get back in touch with the local law enforcement back home and ask them whether or not they want as a tool of selective law enforcement the ability to bring the prosecution in Federal court for crimes committed with a firearm.

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

Mr. RIGGS. I believe——

Mr. SCHUMER. The gentleman——

Mr. SENSENBRENNER. Mr. Speaker, regular order, please.

Mr. Speaker, I yield myself the balance of my time.

I am glad the gentleman from New York [Mr. SCHUMER] brought the issue of funding law enforcement in this country because this Congress and the majority party that he represents reduced the request of the President of the United States for funds for law enforcement by $462 million between the time the President submitted his budget and the time the appropriation bills were passed by the Congress and sent to the President. That is $462 million that you people took out of law enforcement and put into various kinds of social spending programs.

Do not come up here and argue against the amendment in this motion to instruct by saying we do not have enough money. We would have had a good start on having that money, had you not taken it away in your budget.

No, I will not yield.

Mr. SCHUMER. I was just wondering if the gentleman put any money into the——

Mr. SENSENBRENNER. Regular order, Mr. Speaker. I believe I have the time.

The SPEAKER pro tempore. The regular order is that the gentleman from Wisconsin has the time.

Mr. SENSENBRENNER. Mr. Speaker, what the motion to instruct does is to ask the House conferees to agree to language adopted by the other body that will impose a mandatory jail term for people who are convicted of certain crimes while armed with a firearm. Under the FBI statistics, the 6 percent of the criminals that commit 70 percent of the crimes are those that are making our streets run in blood. And those people ought to be put in jail. If it requires Federal district court time and time for Federal prosecutors to present these cases, so be it.

The top priority in this country ought to be making our streets safe. And, frankly, people who are convicted of crimes of violence do not spend enough time in jail and get out too soon and continue their life of crime.

In 1988, more than 6 of 10 of New York City's murder victims were murdered with a gun. In 1989, of 1,905 homicides, 1,262 were committed with a gun. In 1990, gunfire was involved in three-quarters of the city's 2,250 homicides.

Yet, the New York City criminal justice system completely fails to stop gun violence.

Of 2,308 convicted of any criminal gun possession charge in New York City last year, only 4 in 10 went to jail and another 4 in 10 got probation.

This motion to instruct, this amendment, is going to put these people in jail.

Mr. Speaker, I urge a "aye" vote and I move the previous question on the motion to instruct.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin [Mr. SENSENBRENNER].

The question was taken, and the Speaker pro tempore announced that the noes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 155, nays 271, not voting 8, as follows:

[Roll No. 413]

YEAS—155

Allard	Gradison	Pickle
Allen	Grandy	Ramstad
Andrews (TX)	Hall (TX)	Ravenel
Applegate	Hammerschmidt	Regula
Archer	Hancock	Rhodes
Armey	Hansen	Ridge
Baker	Hastert	Riggs
Ballenger	Hefley	Rinaldo
Barrett	Herger	Roberts
Barton	Hobson	Rogers
Bereuter	Holloway	Roth
Bilbray	Hopkins	Santorum
Bilirakis	Houghton	Sarpalius
Bliley	Hubbard	Saxton
Boehner	Huckaby	Schaefer
Brewster	Hunter	Schiff
Bunning	Inhofe	Schulze
Burton	Ireland	Sensenbrenner
Byron	Johnson (TX)	Shaw
Callahan	Kasich	Shuster
Campbell (CA)	Klug	Skeen
Chandler	Kolbe	Smith (NJ)
Chapman	Kyl	Smith (OR)
Clinger	Lagomarsino	Smith (TX)
Coble	Lent	Snowe
Combest	Lewis (CA)	Solomon
Costello	Lewis (FL)	Spence
Crane	Lightfoot	Stenholm
Cunningham	Lloyd	Stump
Dannemeyer	Lowery (CA)	Tallon
Davis	Machtley	Tauzin
DeLay	Manton	Taylor (MS)
Doolittle	Marlenee	Taylor (NC)
Dornan (CA)	Martin	Thomas (CA)
Dreier	McCandless	Thomas (WY)
Edwards (OK)	McCrery	Traficant
Edwards (TX)	McEwen	Upton
Emerson	McGrath	Valentine
English	McMillan (NC)	Vander Jagt
Espy	Miller (OH)	Vucanovich
Ewing	Miller (WA)	Walker
Fields	Molinari	Walsh
Franks (CT)	Montgomery	Weber
Gallegly	Moorhead	Weldon
Gekas	Moran	Williams
Geren	Morrison	Wolf
Gibbons	Myers	Wylie
Gilchrest	Nichols	Young (AK)
Gilman	Nussle	Young (FL)
Gingrich	Packard	Zeliff
Goodling	Paxon	Zimmer
Goss	Petri	

NAYS—271

Abercrombie	Boucher	Cox (CA)
Ackerman	Boxer	Cox (IL)
Alexander	Broomfield	Coyne
Anderson	Browder	Cramer
Andrews (ME)	Brown	Darden
Andrews (NJ)	Bruce	de la Garza
Annunzio	Bryant	DeFazio
Anthony	Bustamante	DeLauro
Aspin	Camp	Dellums
Atkins	Campbell (CO)	Derrick
AuCoin	Cardin	Dickinson
Bacchus	Carper	Dingell
Barnard	Carr	Dixon
Bateman	Clay	Donnelly
Bellenson	Clement	Dooley
Bennett	Coleman (MO)	Dorgan (ND)
Bentley	Coleman (TX)	Downey
Berman	Collins (IL)	Duncan
Bevill	Collins (MI)	Durbin
Blackwell	Condit	Dwyer
Boehlert	Conyers	Dymally
Bonior	Cooper	Early
Borski	Coughlin	Eckart
Edwards (CA)	Lehman (FL)	Rangel
Engel	Levin (MI)	Ray
Erdreich	Levine (CA)	Reed
Evans	Lewis (GA)	Richardson
Fascell	Lipinski	Ritter
Fazio	Livingston	Roemer
Feighan	Long	Rohrabacher
Fish	Lowey (NY)	Ros-Lehtinen
Flake	Luken	Rose
Foglietta	Markey	Rostenkowski
Ford (MI)	Martinez	Roukema
Ford (TN)	Matsui	Rowland
Frank (MA)	Mavroules	Roybal
Frost	Mazzoli	Russo
Gallo	McCloskey	Sabo
Gaydos	McCollum	Sanders
Gejdenson	McCurdy	Sangmeister
Gephardt	McDade	Savage
Gillmor	McDermott	Sawyer
Glickman	McHugh	Scheuer
Gonzalez	McMillen (MD)	Schroeder
Gordon	McNulty	Schumer
Green	Meyers	Serrano
Guarini	Mfume	Sharp
Gunderson	Michel	Shays
Hall (OH)	Miller (CA)	Sikorski
Hamilton	Mineta	Sisisky
Harris	Mink	Skaggs
Hatcher	Moakley	Slattery
Hayes (IL)	Mollohan	Slaughter
Hayes (LA)	Moody	Smith (FL)
Hefner	Morella	Smith (IA)
Henry	Murphy	Solarz
Hertel	Murtha	Spratt
Hoagland	Natcher	Staggers
Hochbrueckner	Neal (MA)	Stallings
Horn	Neal (NC)	Stark
Horton	Nowak	Stearns
Hoyer	Oakar	Stokes
Hughes	Oberstar	Studds
Hutto	Obey	Sundquist
Hyde	Olin	Swett
Jacobs	Olver	Swift
James	Ortiz	Synar
Jefferson	Orton	Tanner
Jenkins	Owens (NY)	Thomas (GA)
Johnson (CT)	Owens (UT)	Thornton
Johnson (SD)	Oxley	Torres
Johnston	Pallone	Torricelli
Jones (GA)	Panetta	Towns
Jones (NC)	Parker	Traxler
Jontz	Pastor	Unsoeld
Kanjorski	Patterson	Vento
Kaptur	Payne (NJ)	Visclosky
Kennedy	Payne (VA)	Volkmer
Kennelly	Pease	Washington
Kildee	Pelosi	Waters
Kleczka	Penny	Weiss
Kolter	Perkins	Wheat
Kopetski	Peterson (FL)	Whitten
Kostmayer	Peterson (MN)	Wilson
LaFalce	Pickett	Wise
Lancaster	Porter	Wolpe
Lantos	Poshard	Wyden
LaRocco	Price	Yates
Laughlin	Pursell	Yatron
Leach	Quillen	
Lehman (CA)	Rahall	

NOT VOTING—8

Brooks	Mrazek	Skelton
Dicks	Nagle	Waxman
Fawell	Roe	

□ 1508

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

Mrs. LLOYD and Messrs. BEREUTER, HANCOCK, EDWARDS of Texas, and TAYLOR of Mississippi changed their vote from "nay" to "yea."

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. The Chair appoints the following conferees and, without objection, reserves the right to appoint additional conferees:

From the Committee on the Judiciary, for consideration of the entire House bill, and the entire Senate amendment (except sections 812(f), 1227, 1230, 1231, and 4917), and modifications committed to conference:

Messrs. BROOKS, EDWARDS of California, CONYERS, SCHUMER, HUGHES, STAGGERS, HYDE, SENSENBRENNER, MCCOLLUM, and GEKAS. Provided that Mr. KOPETSKI and Mr. SCHIFF are appointed as additional conferees for consideration of sections 701 through 709 of the Senate amendment, and that Mr. FEIGHAN and Mr. SCHIFF are appointed as additional conferees for consideration of title XXIV of the House bill.

From the Committee on Ways and Means, for consideration of section 1719 of the House bill, and sections 812(f), 1227, 1230, 1231, 2801, 2802, 4401, 4402, 4406, 4407, 4653, 4654, and 4917 of the Senate amendment, and modifications committed to conference:

Messrs. ROSTENKOWSKI, GIBBONS, RANGEL, ARCHER, and VANDER JAGT. Mr. ROSTENKOWSKI and Mr. ARCHER are appointed as additional conferees for consideration of section 702 of the Senate amendment.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of sections 1502 and 1831 of the House bill, and sections 3310 and 3701 through 3704 of the Senate amendment, and modifications committed to conference:

Messrs. GONZALEZ, ANNUNZIO, NEAL of North Carolina, WYLIE, and LEACH.

As additional conferees from the Committee on Education and Labor, for consideration of sections 401 through 403, 1231 through 1233, 1271, 1714, 1727, 1807, and 1831 of the House bill, and title VIII (except section 812(f)) and sections 1511, 1512, 3601 through 3606 and 4301 of the Senate amendment, and modifications committed to conference:

Messrs. FORD of Michigan, KILDEE, MARTINEZ, GOODLING and PETRI.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 1501, 1502(a), 1505 through 1507, 1509 through 1512, 1705, 1824, 2205, and 2321 of the House bill, and sections 1501, 1611, 1612, 1621, 1622, 1641, 2101, 2402, 2506, 2508, 2509, 3101 through 3114, 4656, 4658, 4661 through 4663, 4902, 4903, 4904, and 4906 of the Senate amendment, and modifications committed to conference:

Messrs. DINGELL, WAXMAN, ROWLAND, LENT and BLILEY.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 3301 through 3309 and 3311 through 3314 of the Senate amendment, and modifications committed to conference:

Messrs. DINGELL, SWIFT, ECKART, LENT and RITTER.

As additional conferees from the Committee on Government Operations, for consideration of sections 801, 802,

1509, and 1751 through 1758 of the House bill, and sections 1701 and 1702 of the Senate amendment, and modifications committed to conference:

Messrs. CONYERS, WISE, TOWNS, HORTON, and MCCANDLESS.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of sections 1716, 1719, and 1722(b) of the House bill, and sections 517, 4401, 4402, 4404, 4405 and 4411 through 4414 of the Senate amendment, and modifications committed to conference:

Messrs. JONES of North Carolina, STUDDS, TAUZIN, DAVIS, and LENT. Provided that Mr. TAYLOR of Mississippi is appointed in place of Mr. TAUZIN for consideration of section 1722(b) of the House bill.

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 1508, 1719, 1731, 1732, 2320 and 2328 of the House bill, and sections 502, 2901 and 4401 through 4403 of the Senate amendment, and modifications committed to conference:

Messrs. BROWN, VALENTINE, GLICKMAN, WALKER, and LEWIS, of Florida.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

□ 1510

FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 289 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 289

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3768) to require the least-cost resolution of insured depository institutions, to improve supervision and examinations, to provide additional resources to the Bank Insurance Fund, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill are hereby waived. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Banking, Finance and Urban Affairs now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered as having been read, and all points of order against said substitute are hereby waived. No amendment to said substitute shall be in order. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, which may contain instructions only if offered by Representative Michel of Illinois, or his designee, or without instructions.

The SPEAKER. The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume. All time yielded during debate on House Resolution 289 is yielded for the purpose of debate only.

Mr. Speaker, House Resolution 289 is a closed rule providing for the consideration of H.R. 3768, the Federal Deposit Insurance Corporation Improvement Act of 1991. The Committee on Rules recommends this rule to the House because of the urgent nature of the legislation: It is absolutely necessary that the Congress pass legislation recapitalizing the bank insurance fund prior to our adjournment. As Members know, the House has on two previous occasions rejected legislation which contained the BIF recapitalization as well as other banking reform matters. The Committee on Banking on Tuesday reported H.R. 3768 which provides for the recapitalization of the bank insurance fund as well as several other provisions which reform the regulation of the FDIC. The major banking reform matters, specifically, securities and interstate banking and branching are not in this bill, nor are they made in order as amendments by this rule. The House is presented with a simple choice, whether or not ro recapitalize the bank insurance fund and whether or not to tighten federal banking regulatory requirements.

Mr. Speaker, House Resolution 289 waives all points of order against the consideration of H.R. 3768 and provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking. The rule further provides when the bill is considered for amendment under the 5-minute rule that it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Banking now printed in the bill as an original bill for the purpose of amendment. The rule waives all points of order against the substitute, and provides that it shall be considered as having been read. No amendments will be in order to the substitute.

House Resolution 289 provides that at the conclusion of the consideration of the bill for amendment, the committee shall rise and report the bill to the House, and any Member may demand a separate vote in the House on any amendment adopted in the committee to the bill or the committee amendment in the nature of a substitute. Finally, Mr. Speaker, the rule provides that the previous question shall be considered as ordered on the bill without intervening motion except one motion to recommit, which may contain instructions only if such a motion is offered by Mr. MICHEL of Illinois or his designee.

Mr. Speaker, the House is well aware of the urgent need to recapitalize the bank insurance fund. I urge adoption of the resolution and of the bill.

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

Mr. Speaker, I rise in reluctant support of H. Res. 289, which provides for consideration of H.R. 3768. That legislation will improve the regulation of insured depository institutions, and it will utilize the future profits of the banking industry—not taxpayer dollars—to recapitalize the bank insurance fund.

Obviously, Mr. Speaker, this is not an open rule. I always strive for open rules and I did so last night in the Rules Committee. But the reality is that we must pass H.R. 3768, and this body has made it clear on two previous occasions that it is not willing to accept amendments to reform the banking system, regardless of their merits.

I am as disappointed as anyone that we will not be able to address comprehensive structural reform as part of this legislation. We are doing nothing to strengthen the bank insurance fund by not permitting banks to engage in profitable banking-related activities in a safe and sound manner.

But opening up this rule will not make that happen. Instead, it will probably lead to the third straight defeat of a banking bill in as many weeks, and it will leave 110 million bank depositors unprotected and unsure of whether the Federal Government stands behind its promise to protect their hard-earned savings.

Let's not forget that H.R. 3768 contains all of the noncontroversial amendments that were adopted as part of the Gonzalez substitute to the previous banking bill, H.R. 2094.

Those provisions include the continued pass-through of insurance coverage to California's public employees who participate in section 457 deferred compensation plans.

They include increased powers to allow Federal regulators to detect and prevent future BCCI scandals from occurring.

They include the FDIC affordable housing program, limitations on brokered deposits, and incentives for other financial institutions to purchase failed or failing thrifts, thus saving taxpayers millions of dollars.

Mr. Speaker, let me underscore: H.R. 3768 is not a bailout of the banks. No stockholders will be protected from loss, no management will be unjustly enriched, and no institution will be insulated from competition. Only the deposits of widows, pensioners and working Americans who have their life savings in an insured bank will be protected.

Mr. Speaker, H.R. 3768 is a very small step in the direction for what we are going to have to do next year to ensure that the banking industry can repay this borrowed money. I underscore again: no taxpayer dollars are being used.

Some of my colleagues argue that, ultimately, taxpayer dollars will be used. That may be true if we don't address the issue of structural reform in the near future. But we need to keep this process moving in that direction, Mr. Speaker. For this reason, I support the rule and urge adoption of the bill, and I reserve the balance of my time.

□ 1520

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

Mr. FROST. Mr. Speaker, for the purposes of debate only, I yield 3 minutes to the gentleman from Illinois [Mr. ANNUNZIO].

Mr. ANNUNZIO. Mr. Speaker, I rise in support of the rule of H.R. 3768. I want to take this opportunity to commend the Rules Committee for the way it has handled this very difficult legislation before us today. I particularly want to express my deep thanks to Chairman JOE MOAKLEY, the ranking Democrat, BUTLER DERRICK, the ranking Republican, JERRY SOLOMON, and the gentleman from Texas [Mr. FROST], who is handling the rule today.

The Rules Committee had a very difficult job, and given the restrictions under which it was placed, that committee has done an outstanding job. The fairness with which the Rules Committee treats every witness, and the courtesy extended to every Member who appears before the Rules Committee, I feel is one of the shining spots in this body.

I also want to take a moment to commend the chairman of the Banking Committee, HENRY GONZALEZ, and the ranking Republican, CHALMERS WYLIE from Ohio. I have served on the Banking Committee for some 27 years, and one thing I have learned is that there are no easy issues that come before the Banking Committee. That means that trying to craft legislation within the committee is a very difficult job.

I think Chairman GONZALEZ has done a remarkable job in trying to sort out all the divergent views on the committee and in crafting a bill that, while it may not please everyone, may well be the best product that can be produced.

And finally, I want to commend the Speaker and the other Members of the leadership team for their patience and understanding in dealing with a very emotional issue. They understand that banking issues are never going to be easy. And they have worked hard to set aside the appropriate amount of time to deal with these issues.

So today, let us talk. Let us debate, and sometimes probably we will shout. But let's pass this rule and let's recapitalize the bank insurance fund so that the American people will know that their funds, and in many cases, their life savings are safe.

Mr. DREIER of California. Mr. Speaker, I yield 5 minutes to the gentleman from Columbus, OH, Mr. WYLIE, the senior ranking member of the Committee on Banking, Finance and Urban Affairs, one who has been working for years to try to get us to this point.

Mr. WYLIE. Mr. Speaker, I thank the gentleman from California for yielding time to me. I would acknowledge his good service on the Committee on Rules. He came from the Committee on Banking, Finance and Urban Affairs and is quite well acquainted with some of the issues which come before us. So his accolade is well-received by this Member.

We are here today, Mr. Speaker, for the third time on a banking bill, because we must provide some new capital for the bank insurance fund. This is the fund administered by the Federal Deposit Insurance Corporation, which insures the accounts of depositors in our commercial banks.

The fund has approximately $2 billion in it. By year's end, that fund will be zero. I think there could be very serious, very serious economic and political consequences if we ended this session without assuring the depositors in our banks, strong or weak, that their deposits would be available to them immediately upon request.

The bill before us provides for an increase in the Treasury line of credit from $5 billion to $30 billion. The bill sets up a repayment schedule, and this is very important, a repayment schedule, the money for which comes from the premiums on deposits in banks.

That premium is now 23 basis points or 23 cents on every $100 on deposit. That premium can be increased in case of an emergency to cover any costs of the $25 billion borrowing authority. There can be no taxpayer exposure.

I repeat, there is no taxpayer money involved here. The amount of the new capital which is sought by this bill is $25 billion.

The figure of $70 billion has been thrown around, and some in the news media have picked up on that as the amount being asked for to recapitalize the fund.

The line of credit for loss money will be increased, I repeat, from $5 billion to $30 billion. That means an additional $25 billion which will be made available for the bank insurance fund.

Authorization for providing up to $40 billion for working capital is provided, but this borrowing, if any, would be secured by assets acquired by the FDIC and does not involve a premium increase or any taxpayer money.

It would be available only to the extent the value of assets acquired by the FDIC are available from failed banks.

The administration now supports passage of H.R. 3768 and supports the provisions of the bill, which would recapitalize the bank insurance fund and provide for early intervention or action by regulators to resolve troubled bank cases.

There are improved examination and accounting reforms. There is a new regulation of foreign banks to prevent any more BCCI's. There is some deposit insurance reform in that there is a limitation on brokered deposits and pass through accounts.

The fact that we do not limit multiple accounts made it a little more difficult for me to vote for this bill today, but that is another battle for another day. We need to get back to the issue of bank powers, interstate branching, but these issues will have to wait for another day.

Recapitalizing the bank insurance fund cannot wait. The bottom line is that recapitalizing the bank insurance fund must be our No. 1 priority today to avoid the possibility of another savings and loan-like debacle.

I urge an "aye" vote on the rule and on the bill.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 7 minutes to the gentleman from Vermont [Mr. SANDERS.]

Mr. SANDERS. Mr. Speaker, I thank the gentleman very much for yielding time to me. I especially thank him because I have a feeling today that we are not going to see too much opposition to this piece of legislation, which I have some very deep concerns about.

Mr. Speaker, today we will be asked to put at risk some $70 billion of taxpayers' money for a potential bailout of commercial banks. Within a few days we will be asked to appropriate another $80 billion or real money, no ifs and buts about that one, in order to bail out the savings and loan industry on top of the $80 billion which was appropriated in the past.

□ 1530

Mr. Speaker, the American people are angry and frustrated with politics as usual, and Mr. Speaker, what we are seeing today is politics as usual. The rich get richer, the poor get poorer, and the working people and the middle class are asked to bail out banks which were destroyed by the greed, irrespon-

sibility, and the outright dishonesty of many banking officials, both within the S&L industry and the commercial bank area.

Once again, it is the Robin Hood proposal in reverse. We take from the poor and we give to the rich. Mr. Speaker, we must protect our banking system and the bank depositors. There is no argument about that. But we can do it without increasing the deficit and without hitting up the ordinary people of this country. Let us show a little bit of courage in this body and not increase the cynicism which working people of this country already feel. Let us ask the people who caused the crisis and who have the money to fund this bailout to do so and not the ordinary American.

Mr. Speaker, what all of this amounts to is, in fact, that some of what my friends and colleagues have said is not necessarily the case. Let me refer to my friends who have said, "Hey, do not worry, taxpayers, there is no bailout." Let me refer to the Washington Post, Sunday, October 27. This is an article by Jerry Knight:

> The banking industry is supposed to pay back the money—with interest—so that ordinary taxpayers never feel the bite. But congressional Democrats and many banking economists fear that U.S. banking is simply too weak to repay the money.
>
> The unprecedented loan from the U.S. Treasury is only one part of what Cleveland State University economist Edwin Hill believes will be a $200 billion investment needed to restore the health of the banking industry.

Let me continue. Robert Dugger, chief economist of the American Bankers Association, said, "Bankers are confident that with enough time they can replenish the deposit insurance fund and pay back the loan to the FDIC," quotes the Washington Post.

"But Democratic banking committee leaders in Congress are skeptical. House Banking Committee HENRY B. GONZALEZ flatly predicts the banks will not be able to repay the FDIC loan and the taxpayers will get stuck with that bill."

Mr. GONZALEZ and many economists all over this country are not the only people who feel that the taxpayers will eventually get stuck with the bill. Now, what is going on here? In fact, what this whole discussion amounts to is there is real concern that taxpayers will have to bail out the FDIC. We hope they will not. We all hope they will not, but they may.

I am deeply concerned that the rule before us today does not allow us to vote for amendments which would provide us with sufficient protection for the taxpayers so in the eventuality, in the eventuality that taxpayers may have to bail out the commercial banks, the taxpayers have good protection.

Mr. Speaker, let me make a few suggestions in my hope that this legislation is defeated. Let me offer a few ideas as to how we might proceed. No. 1, in terms of both bailouts, the S&L and the commercial banks, we should be honest and address them together. Ultimately, if the worst scenario comes true it is going to be the taxpayers who will have to bail it out, so let us look at it together. Let us understand that we are talking about, this week, $150 billion of possible taxpayer bailout.

As we contemplate the nature of this bailout we must pledge not to simply dump the money into the deficit as the President and the Congress have done so often in the past. We have to have the courage to do it on a pay-as-you-go basis, not dump the money into the deficit.

Third, as we discuss where the money is going to be coming from we have got to have the courage to say that the payback, neither for the S&L's nor the commercial banks, should lie on the backs of working people, middle-income people and the poor.

As everybody in this room knows, in the last 10 years the richest people in our country have become much richer and the middle class has seen a decline in their standard of living. The rich who have gotten richer are paying less in taxes and working people who have gotten poorer are paying more in taxes. We cannot dump this payback onto the backs of the working people.

Mr. Speaker, a number of proposals have arisen both in this body and in the other body that we address the bailout in a fair and progressive way, rather than on the backs of working people.

Senator JOHN KERRY of Massachusetts, for example, has proposed a Federal wire tax which is a clearance transaction fee on the exchange of money on the two systems which transfer funds between banks internally and abroad, the Federal wire system and the clearinghouse interbank system. The suggestion is that if we put a 2-cent tax fee on every $100 check, that would raise $80 billion a year, more than enough to cover all of the bailouts, and that would fall on those people who can afford to pay it, who are involved in the business.

The gentleman from Illinois [Mr. COX], and member of the Committee on Banking, Finance and Urban Affairs, has suggested an approach by which healthier banks could lend money to the FDIC which would create a situation in which the banks themselves would provide all of the needed money for the FDIC recapitalization. While the faith and credit of the U.S. Government is still involved, this clearly is a much safer approach than what we are proceeding with right now.

Mr. Speaker, let me conclude this. Do not let anybody kid you. What we are talking about here at a time when our people, 2 million people are sleeping out on the street, where our kids are hungry, where our people cannot afford health care, we are talking about, this week, a potential liability for the taxpayers of $150 billion before interest stretched out over a 30-year period. Let us have the guts to do the right thing, stand up for working people and middle-income people and make this into a progressive payback approach.

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

Mr. Speaker, I would respond to my friend from Vermont by saying that he is absolutely right, this potentially could become a taxpayer bailout measure. We had an opportunity to ensure that it would not at all if we had passed H.R. 6, and we will have an opportunity next year to strengthen the industry to make sure that it will not happen.

Mr. Speaker, I am happy to yield 2 minutes to my friend, the gentleman from Texas [Mr. JOHNSON].

Mr. JOHNSON of Texas. Mr. Speaker, I appreciate the Committee on Rules coming out with this rule, the gentleman from Texas [Mr. FROST] and the gentleman from California [Mr. DREIER]. I think the gentlemen all did an excellent job in coming out with it, because obviously, regardless of what my colleague, the gentleman from Vermont [Mr. SANDERS], is saying we cannot raise taxes to cover this and do not need to. It is a loan, pure and simple, and will be paid back.

The gentleman from Texas [Mr. GONZALEZ] and the committee have worked very hard to bring out a bill that can be passed in this House. It has failed a couple of times already, and that is why we are trying to get this rule passed. It failed because we had too many special interests. We had big banks, little banks, insurance interests, real estate interests, and securities interests all pulling in different directions. It pulled this House apart. We have everybody at each other's throats, so we need a closed rule and we need to pass a bill that will resolve the issue before the fund runs out of money.

We did do some good in this thing in that foreign deposits have been protected so that we do not have to pay for any losses in foreign investments or banks. We do not have to worry about transfers, and we have asked them to do the least cost resolution in resolving any bank failures, so I believe that we have a good rule, gentleman.

I think the gentleman from Texas [Mr. GONZALEZ], the chairman, did a super job in getting this bill out in the order it is, and I recommend the Members vote for the rule and for the bill.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I hope the rule and the bill are both adopted. There has been one semantic confusion here over what we

mean by bank reforms. By bank reform some people mean letting financial institutions engage in new activities. I tend to favor that. I think it is procompetitive. But let us be clear that that is not what is in the bill. But because we do not expand any powers in this bill or contract any powers does not mean there are not reforms. The gentleman from Texas just referred to one regarding foreign deposits. We have here a mandate of early intervention, to shut down banks before they bleed too much money. We have severe limits on brokered deposits. We end pass-through insurance on bank investment contracts.

We also have some socially valuable things in here. I worked very hard on an affordable housing piece, the low-end inventory of the FDIC, and in an amendment cosponsored by myself and the gentleman from Ohio, it will be made available for low- and moderate-income people.

□1540

There will be seller financing with the secondary market being used: so it is an effort to do the best we can.

It does have an irreducible unpleasant core. We have depositors to whom we owe money and we have to pay it.

My friend, the gentleman from Vermont and others have come here and complained about it.

My friend, the gentleman from Vermont, has objected. In some ways he said it is an unfortunate transfer, but this House itself as been inconsistent on this subject. We had a vote during one version of this bill on an amendment sponsored by the gentleman from Texas and the gentleman from Ohio to limit deposit insurance. Right now it is $100,000, but I think in fact it is $100,000 to the letter of your name, unless you do not have a middle name, in which case you can use a telephone number, because the $100,000 per limit comes up to well over a million, and the gentleman from Ohio and the gentleman from Texas offered an amendment to limit the amount of deposit insurance that would be covered through any one individual, and a majority of the House voted them down, according to my friend, the gentleman from Vermont.

It seems to me inconsistent to refuse to put restrictions on deposit insurance and then denounce this as being an excessive transfer to the wealthy, because if you want to reduce the extent to which this becomes a transfer to wealthy people, you ought to limit deposit insurance.

To vote for no limits whatsoever on the amount of deposit insurance that is available to individuals and then complain that this is a transfer to the rich, it is a reverse of the old switch of killing your parents and claiming you are an orphan. This is murdering the kid's parents and then making fun of them for not having any, because you cannot consistently refuse to limit deposit insurance and then claim that this somehow is an excessive transfer to the wealthy. We tried to give the wealthy less protection, and we lost. That is a fact of life.

Then there is the question of taxation. I would like the tax system to be more progressive. I do not think I have the votes to do that right now.

I do not think it is fair, moral, economically sound, liberal, progressive or decent to say that depositors whose deposits were forfeited through no fault of their own, we will not pay them back, and that is all this does.

It is also not in our interest to hold up the funds, because the sooner they get the money, the quicker they can move on it.

Let me finally address the issue of, is this a loan, or is it taxpayers? The answer is yes, because it is not a case of either/or. Is it all going to be paid back or none of it is going to be paid back? That is not as sensible way to frame the issue. Most of it will be paid back.

Will it all be paid back? Nobody knows. We are clearly not talking about every dollar of this being at risk. The banks will pay back some of it. I do not know if they will be able to pay back all of it. I hope they will be.

People say, well, this should not go on the backs of the working people. Oh, but the Defense budget should, or Amtrak should? I do not understand the argument that says we have an argument for a progressive tax system for this money, and not for everything else.

I think we ought to be looking at the tax system as a whole, but not holding hostage the depositors until we do it.

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise against the rule and against the bill.

It is not just the economists and a number of other people across the country who have been warning against this kind of bill, it is the Secretary of the Treasury. The Secretary of the Treasury earlier this week said, and I quote:

> Congress must pass banking reform this year that will more than just replenish the Bank Insurance Fund. We need legislation that addresses the underlying structural problems of the industry. Legislation that just simply pours money into the fund without fixing the industry so that it can pay for itself would leave the taxpayer exposed and contribute to the credit crunch.

There are the two problems. What we are about to do here in this bill is take issue to the point that the taxpayer ends up being exposed. I do not know whether the taxpayer will end up being exposed to the entire $25 billion, but we are going to end up with the taxpayer exposed to at least a portion of it, and that is more expense than we can afford at the present time, because we refuse to do banking reform.

The other problem is that we are going to contribute to the credit crunch. The very thing that is impacting communities across the country right now, the very thing which is causing problems for small business, is going to be impacted on by this bill.

So what we have here is a situation where Congress will not face up to its responsibility for total banking reform, and in fact is being asked to do something, a small and possibly doable thing.

Well, this is exactly where we were in the early 1980's on savings and loans. This is exactly what we were asked to do on savings and loans in the early 1980's and we messed it up royally.

The fact is that in the early 1990's, we are going to cast some of the same kinds of votes here that will come back to haunt Members not very far down the pike.

So if you did not like what happened in the early 1980's when Congress messed up on savings and loans, you better vote against this particular piece of legislation, because this particular legislation is taking us down exactly the same route on the banks. Vote no.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I rise in support of the rule and also in support of the bill. I do so realizing that a lot of us did not get what we wanted in this legislation. I, for one, would like to have seen us adopt a core bank concept, but the votes were not here to do that.

I would like to have seen us also adopt some tougher firewalls between the banking industry and the securities industry, but the votes were not here to do that either.

I think it is now time for us to do what we must do in this democracy to keep it working, and that is to compromise on this legislation that we all know has to be passed, and that is legislation to recapitalize the bank insurance fund.

It has already been said, but I think it needs to be reiterated, and that is the point that we are not bailing out the banks. We are honoring an historic commitment that was made to the depositors of this country 50 years ago. We must make sure that we do not alarm depositors of this country at a time when our economy is as fragile as it is. We have to pass this legislation.

There is a lot of discussion about the risk to taxpayers in the future. As we sit here today, no one knows with certainty what kind of risk the taxpayers are going to face as a result of this legislation. Some will argue the risk is greater because we failed to empower

the banks to get into the securities industry. Other will argue that we have reduced the taxpayers' exposure because we did not allow them to get into the securities industry.

I, for one, am glad we did not repeal the Glass-Steagall Act because as I have said before, a number of very conservative bankers in this country, not people in the securities industry, but conservative Republican bankers, say it is wrong for us to empower the banks to get into businesses that they do not understand.

My friend, the gentleman from California spoke earlier, and I would just share with him the comments of a mutual friend of ours in Kansas City, an outstanding banker in this country, Crosby Kemper. Bank Watch magazine has indicated that the runs one of the five best banks in the country. Do you know what he says? He says:

For us to have passed the Bush bank reform proposal would have made the savings and loan mess look like tiddlywinks.

He is against it. He is a banker, a conservative Republican banker, saying we should not do it. We are not doing it with this legislation, and I am glad we are not doing it.

Now, beyond that, there are also some very important regulatory reforms that are good, and supported by a large majority of this body that should be enacted. Certainly the new provisions that will authorize the Federal Reserve to supervise and examine operations of all foreign banks in the United States, and require annual onsite examinations of all foreign banks and require the Fed to approve new foreign banks before they can start business in this country is all good. It is the kind of regulatory reform we need to address the BCCI's of the future.

In addition to that, this legislation will restrict the use of brokered deposits and it will prohibit the use of deposit insurance to cover foreign deposits, and that is something we should do more of in the days and years ahead.

It will also provide for risk-based deposit insurance premiums.

The SPEAKER pro tempore (Mr. MCDERMOTT). The time of the gentleman from Kansas has expired.

Mr. DREIER of California. Mr. Speaker, I yield an additional 30 seconds for the gentleman to conclude this very excellent statement.

Mr. SLATTERY. Mr. Speaker, I am grateful for the 30 seconds from my friend from Kansas City who wandered off to California, and I thank the gentleman very much.

Mr. Speaker, let me just conclude by observing that I think this legislation is needed. It honors an historic commitment made to depositors. It provides some very fundamental regulatory reform that we can all agree upon. It does not do some of the things that I am glad we did not do and others wish we had done, but we will live to debate that again in the days and months and years ahead. I hope by that time we will be able to have a more thoughtful and complete discussion of exactly what we want our financial institutions to look like in the 1990's.

So again I thank the gentleman for yielding time to me and I urge my colleagues to support the rule and to support the bill.

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Mr. Speaker, I intend to vote "no" on this and I do so somewhat reluctantly because I think this issue is vital to the welfare of the country and the economy, but one of the fundamental representations being made about this bill is that it eliminates the too-big-to-fail doctrine.

□ 1550

I have looked into the bill and I would just like to read a paragraph or two because it seems to be that the too-big-to-fail provision remains: if you are really big you are going to be bailed out regardless. On page 108 starting at line 14:

Notwithstanding any other provision of this section, any Federal Reserve bank may make advances to an undercapitalized depository institution under this section if the Secretary of the Treasury determines in writing, upon the recommendation of the Board, that the advances are necessary to prevent a severe adverse effect on a regional or the national economy.

In the next paragraph it goes on to point out that any of the costs "in excess of the cost of liquidating such institution * * * shall be an obligation of the United States" and not the deposit insurance fund.

Mr. Speaker, I would submit that if any of the large banks in this country were to fail—and frankly we have heard some rumors about some of the banks that are big and that may fail—I think the liability of the taxpayers of the United States could be virtually open-ended under this bill. I know we all want to believe that that is not going to happen, but who would have believed what would happen in the savings and loan industry.

For that reason I am going to vote "no" and hope that we might persuade our colleagues to take this section out so that we will have a clean bill that truly does eliminate too big to fail and best serves the taxpayers of the United States.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Georgia [Mr. BARNARD].

Mr. BARNARD. I thank the gentleman for yielding this time to me.

Let me say first of all that I support the rule and I support the bill. As the distinguished chairman of the Committee on Banking, Finance and Urban Affairs said, if this particular simple bill was brought to the floor of the House in this form a number of years ago it would have been a very comprehensive reform bill. We definitely have reform in this bill. That reform is to protect the taxpayers of our country; it is to tighten up on loose practices as far as banks are concerned.

Some definite reform is in this bill.

I might just refer to the gentleman who spoke before that the passage he read from, believe it or not my friends, is correcting the problem that we have today. We have a real problem today about too big to fail. It is interesting enough that he brought this to your attention because that is identical reform. We are going to prevent the Federal Reserve from just willy-nilly making advances to weak banks because if they do it now they are going to have to pay for it. And that is not taxpayers' money.

So let me just say what is the main purpose of us being here? We tried to have reform. We tried to have this as a comprehensive bank reform bill. We wanted the bank insurance fund to be replenished and we tried valiantly to let that be the locomotive for comprehensive bank reform.

Well, my friends, that did not work. We had too many competing forces working against one another. And we tried several times. Give us credit for at least trying. Give the Committee on Rules the credit that they tried to put something together. It failed.

So now we are back to doing the thing that we need to do most, and that is to assure the American people that their money that is in the banks is going to be there, it is going to be there when they want it, it is going to be there when they need it. So consequently now is the time for us to replenish the bank insurance fund.

The SPEAKER pro tempore (Mr. MCDERMOTT). The time of the gentleman from Georgia has expired.

Mr. DREIER of California. Mr. Speaker, I yield an additional minute to the gentleman from Georgia [Mr. BARNARD].

Mr. BARNARD. I thank the gentleman for yielding.

Most important, most important, yes, we have heard some dynamic statements about this is a potential taxpayers' bailout. Well, my friends, it "ain't" a potential taxpayers' bailout until it is a taxpayers' bailout.

We have got in this particular bill the fact that the banks will be paying for the borrowings from the Treasury.

Let me say this: This is not 1982. The banking industry of this country still has over $200 billion in capital. The banking industry, of itself, is not broke. The banking industry is capable of paying this money back over the next 30 years.

So let us say this is the best attempt we can do; we need to pass this bill, we need to get on with reform at another

time, at another date. But right now the most eminent thing to do is pass this bill.

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

Mr. BARNARD. I yield to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. I thank the gentleman for yielding.

Mr. Speaker, I just take this time to reiterate a very good point that the gentleman made. That is this too-big-to-fail question. It is important for Members to understand that under existing law it is really sort of obscure out there as to exactly how it is determined who is going to be able to take advantage of the too-big-to-fail doctrine. We do not know whether it is the Federal Reserve, the Treasury, the FDIC.

Mr. BARNARD. We do now.

Mr. SLATTERY. We do now under this legislation. This is an important reform, my friends, because what we are saying with this legislation is that the Secretary of the Treasury, the administration is going to have to weigh in and make a determination that indeed this bank is too big to fail. In my judgment this is going to make it much more difficult for banks in this country to hide under the too-big-to-fail doctrine.

This is something that is very important to the community banks around this country that have to compete with the big banks for deposits.

I just think it is very important that we make that point crystal clear and not let the earlier statement go unanswered because the earlier statement did not explain the situation accurately.

Mr. BARNARD. It is under control now under this bill and we will know where the responsibility really lies.

Mr. SLATTERY. Absolutely.

Mr. BARNARD. It has to be a very dynamic, a very dynamic economic need for this country before it goes on.

Mr. SLATTERY. It is not as tight as this gentleman would like to see it, but it is all we can do right now.

Mr. DREIER of California. Mr. Speaker, I yield 3 minutes to a hard-working member of the Committee on Banking, Finance and Urban Affairs, the gentleman from California [Mr. RIGGS].

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

Mr. RIGGS. I yield to my ranking member, the gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. I thank the gentleman for yielding.

Mr. Speaker, I just wanted to associate myself with the remarks of the gentleman from Kansas [Mr. SLATTERY], who made a vital point a little while ago. Under the present law, the too-big-to-fail doctrine, lending losses would not be secure as it is under present law. Under this bill those lending losses would not be secure. This is a very limited, very limited approach to a too-big-to-fail doctrine, but it has to be made on a determination by the Secretary, the Chairman of the Board of the Federal Reserve, and the Secretary of the Treasury, that very serious adverse economic impacts could be felt in a certain region. It is a very limited option, but it is spelled out so that the too-big-to-fail doctrine is of itself repealed.

Mr. RIGGS. If I might just ask my ranking member to comment further: Are there any circumstances that the gentleman can concede where we could close completely that too-big-to-fail loophole?

Mr. WYLIE. Well, this is an amendment offered by the distinguished chairman of the Committee on Banking, Finance and Urban Affairs. He said there might be a case way down the road, he did not have any in mind at the time, where you would not want to slam the door if the bank would be in a position maybe to work its way out of the situation, where a failure in that case might cost the taxpayers more money.

But a determination has to be made by two officials first before that could be done.

Mr. RIGGS. So it is only in those certain circumstances where really it might be an exceptional situation where the so-called too-big-to-fail doctrine might kick in. Other than that, the committee has made a good-faith effort to dramatically close the too-big-to-fail window.

Mr. Speaker and colleagues, I rise reluctantly in support of the rule. I say reluctantly because frankly I think the earlier reference would have produced a better banking policy, probably headed off the real likelihood that we will be revisiting this subject on the House floor next year.

But I wanted to rise and simply say with respect to the taxpayer bailout which we continued to hear, we heard it frequently in committee and frequently on the floor, to my colleagues what we are talking about here really is granting the borrowing authority to the FDIC to replenish the bank insurance fund. And that that loan will immediately begin to be repaid by higher premiums assessed on America's banks.

If we do not act on this bill, we do run in my view the very real risk of a taxpayer bailout, particularly if people such as Mr. Seidman are right about the rate of projected bank failures next year.

So I think the only responsible action before we go home and return to our districts and start meeting with our constituents is to pass this bill, replenish the bank insurance fund.

We have the opportunity next year I hope to revisit the whole subject of reforms, expanded powers, and within that context hopefully start talking about core banking, which I think is an intriguing concept.

□ 1600

Hopefully, Mr. Speaker, we will also consider doing something about real estate values in this country because, let us face it, all of our financial institutions, America's banks, our remaining thrifts, our major insurance companies are heavily invested in real estate, and, unless we do something to reverse the decline in real estate values, there is a very real possibility of some sort of taxpayer bailout of the American banking industry.

We on our side of the aisle have a proposal that, I think, deserves merit, or deserves further consideration, would go a long way in our view toward reversing the decline in real estate values. It is known as the Real Estate Recovery Act of 1991, as authored by the gentleman from Wisconsin [Mr. GUNDERSON]. I tried to offer it yesterday as an amendment to the RTC bailout bill, and the distinguished chairman deemed it nongermane and ruled it out of order, and I respect that ruling, but we are going to try again here on the floor in the coming days.

But I really think it is important that we address this subject. The gentleman from Pennsylvania (Mr. KANJORSKI) came over a little while ago and indicated to me that he has a free-standing bill, Emergency Economic Revitalization and Recapitalization Act.

I think there is a dawning awareness that we have got to look at the bigger picture and that we really need to do something to stimulate the economy, reverse the decline in real estate values in order to protect against a long-term taxpayer bailout of America's banks.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama [Mr. ERDREICH].

Mr. ERDREICH. Mr. Speaker, many years ago this Nation instituted a system of insurance to cover the savings of Americans. And the Government of the United States guaranteed these deposits, up to $100,000 per account under current law. This insurance system for bank, thrift, and credit union deposits was developed in response to the economic chaos caused by the Great Depression.

No one in this Chamber or this Nation wants to revisit the economic consequences of any potential default of this deposit insurance system, particularly in today's economic climate.

Working men and women, senior citizens, Americans of every walk of life have insured accounts. It is estimated that 3 out of 4 families have insured accounts, and the average insured account is $6,300.

This bill is no bailout of any bank, bank officer, or director. This bill allows the FDIC to make good on that guarantee to depositors, a guarantee

reaffirmed by this House as recently as May 5, 1987, by a vote of 402 to 6.

That deposit insurance guarantee must be honored, and this narrow bill accomplishes this without the use of taxpayer assistance.

This bill must be passed.

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

Mr. Speaker, I urge support of this rule, and I ask unanimous consent that the administration's policy statement which begins by saying, "The administration supports House passage of H.R. 3768 in order to move forward with the legislative process on banking legislation," be incorporated into the RECORD.

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

There was no objection.

Mr. DREIER of California. Mr. Speaker, the statement of administration policy referred to is as follows:

STATEMENT OF ADMINISTRATION POLICY

The Administration supports House passage of H.R. 3768 in order to move forward with the legislative process on banking legislation. The Administration will continue to strongly support changes before enactment of this legislation, particularly the addition of provisions authorizing interstate branching, which would provide real banking reform. The Administration believes that Congress must in the end fix the problems of the banking industry by enacting real reforms, not just fund the problems by providing additional resources to the Bank Insurance Fund.

The Administration would oppose any amendment to H.R. 3768 that would add additional provisions regarding the insurance activities of banks since the legislation no longer includes interstate branching provisions.

The Administration particularly supports the provisions of H.R. 3768 that would:

Recapitalize the Bank Insurance Fund and set clear standards for prompt corrective action by regulators to resolve troubled banks.

Provide greater flexibility to bank regulators to avoid the premature shutdown of a weak bank that has clear prospects for recovery.

Improve regulation of foreign banks doing business in the U.S.

The Administration opposes and will seek changes in conference to the provisions of H.R. 3768 that would:

Impose onerous reporting requirements on organizations that branch interstate.

Require the Federal Deposit Insurance Corporation (FDIC) to begin a new housing subsidy program funded by banks.

Impair the FDIC's ability to sell failed banks by imposing health insurance obligations on buyers of such banks.

Increase the deficit and require "pay-as-you-go" offsets of over $1 billion over four years (see below).

SCORING FOR PURPOSES OF PAY-AS-YOU-GO

OMB's preliminary estimate of the pay-as-you-go effects of H.R. 3768 is presented in the table below. Final scoring of this legislation may deviate from this estimate. If H.R. 3768 were enacted, final OMB scoring estimates would be published within five days of enactment, as required by the Omnibus Budget Reconciliation Act of 1990. The cumulative effects of all enacted legislation on direct spending and receipts will be issued in monthly reports transmitted to Congress.

Members have tried to address certain pay-as-you-go effects with language making the beginning of particular programs contingent upon the availability or funds. However, the particular language does not specify that funding for these new programs requires an additional congressional action (e.g., an appropriation).

The bill's "too big to fail" provisions would decrease outlays, but it is not possible to estimate the size of the decrease. Similarly, estimates of the pay-as-you-go impact of the bill's provisions on pass-through insurance are not available at this time.

A budget point of order applies in both the House and the Senate against any bill that is not fully offset under CBO scoring. If, contrary to the Administration's recommendation, the House waives any such point of order that applies against H.R. 3768, the effects of this legislation would be included in a look-back pay-as-you-go sequester report at the end of the congressional session.

ESTIMATES FOR PAY-AS-YOU-GO

[In millions of dollars]

	1992	1993	1994	1995	1992–95
Outlays:					
Rhode Island loan guarantee	+21	.....	.....	.....	+21
FDIC affordable housing program	+10	+29	.....	.....	+39
Receipts:					
Credit for distressed communities lending and deposit gathering	.....	−266	−319	−358	−943
Lifeline banking	.....	−7	−9	−11	−27
Net deficit increase	+31	+302	+328	+369	+1,030

Mr. Speaker, I yield back the balance of my time.

Mr. FROST. Mr. Speaker, I, too, have no other requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 289 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3768.

The Chair designates the gentleman from Michigan [Mr. CARR] as Chairman of the Committee of the Whole, and requests the gentleman from Ohio [Mr. PEASE] to assume the chair temporarily.

□ 1604

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3768) to require the least-cost resolution of insured depository institutions, to improve supervision and examinations, to provide additional resources to the bank insurance fund, and for other purposes, with Mr. PEASE (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The Chairman pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Texas [Mr. GONZALEZ] will be recognized for 30 minutes, and the gentleman from Ohio [Mr. WYLIE] will be recognized for 1 hour.

The Chair recognizes the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, a little more than a month from now, when we are in our home districts, the fund that insures the deposits at 12,300 banks across the nation will be insolvent—dead broke without a penny to pay off depositors.

H.R. 3768 may well be our last best chance to prevent what truly would be a monumental disaster. The House cannot afford to let this opportunity to refinance the bank insurance fund slip away.

Mr. Chairman, the intramural games between the industry groups have gone on long enough. We are not here today to reward banks, insurance companies, insurance agents, securities firms or any other scavengers seeking to hold the insurance funds hostage to their special interests. Today, we must focus on the overwhelming priority of refinancing the insurance fund and critically needed regulatory reforms.

Mr. Chairman, everyone in this Chamber knows that the economy is in terrible shape. The headlines each morning bring new evidence that the recession is cutting deep into all sectors of the Nation and all segments of the population. News of a bankrupt Federal Deposit Insurance Program would be a crushing addition to this litany of economic failures.

I realize that there are many who fear we are starting down the road to another bailout with this legislation. In reality, Mr. Chairman, this legislation is antibailout—it is the antidote to a taxpayer bailout of the banking industry.

The bill provides a $30 billion loan to the bank insurance fund—let me repeat, a loan. Who repays the loan—the banks, themselves, through premiums? And there must be a specific repayment schedule.

So, my colleagues, if we can make this money available in a timely fashion, we can prevent the crisis from slipping into what we fear the most—a taxpayer bailout. We are still in a position to prevent a bailout if we act. If we wait, if we fail to act, a bailout is a certainty. A vote for this bill today is a vote against a bailout. A "no" vote very likely will mean a bailout down the road. Rejection of this package would be a huge roll of the dice with the taxpayers' money.

Even more important than the loan money are the regulatory reforms in

this bill which will convert the bank regulators from passive lap dogs into aggressive watchdogs for the taxpayers.

The noisy industry battles going on in the back rooms have obscured the fact that H.R. 3768 contains a major rewrite of regulatory powers—a rewrite aimed squarely at many of the practices that led us into the costly savings and loan mess.

Under the provisions of H.R. 3768, the regulators must move in, take action and demand remedies when the condition of a banking corporation slips below critical levels. This puts an end to the age-old game of wishful thinking by the regulators who all too often delay action until institutions become basket cases with all the losses charged off to the insurance funds. This "hand wringing-no action" style of regulation cost the Nation billions of dollars in the savings and loan disaster. H.R. 3768 makes certain it doesn't happen again.

Mr. Chairman, the bill also:

First, requires annual on-site examinations and annual audits.

Second, requires improved internal controls for banks.

Third, requires that the FDIC use the method least costly to the taxpayers in resolving failed institutions.

Fourth, establishes criteria for the use of the discount window of the Federal Reserve and a curb on the use of the window for secret bailouts of banks.

These and other reforms in H.R. 3768 will save the taxpayers billions of dollars. Let me quote from the letter from the Congressional Budget Office following its review of the legislation:

Overall, CBO believes that enactment of H.R. 3768 could save the federal government significant amounts of money, perhaps billions of dollars, over the next decade, by reforming the deposit insurance system and the regulation of financial institutions.

Mr. Chairman, confidence in the banking system is at its lowest ebb since the Great Depression. We cannot allow it to slip further. And there is no doubt that failure to restore the insurance fund to solvency would shake not only the banks but the entire U.S. economic system.

We must act affirmatively on this legislation.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 20, 1991.

Hon. HENRY B. GONZALEZ,
Chairman, Committee on Banking, Finance and Urban Affairs, U.S. House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed H.R. 3768, the Federal Deposit Insurance Corporation Improvement Act of 1991, as ordered reported by the House Committee on Banking, Finance and Urban Affairs on November 19, 1991. This bill would affect direct spending and thus would be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985. As a result, the estimate required under clause 8 of House Rule XXI also is attached.

In the short time available, we have not been able to prepare a complete analysis of the bill. This letter, therefore, provides an assessment of the overall impact of H.R. 3768 and detailed information on five provisions that affect pay-as-you-go scoring.

OVERALL BUDGETARY IMPACT OF H.R. 3768

Overall, CBO believes that enactment of H.R. 3768 could save the federal government significant amounts of money, perhaps billions of dollars, over the next decade, by reforming the deposit insurance system and the regulation of financial institutions. The consequences of the legislation are, however, quite uncertain. They depend on how the regulatory agencies would implement the authorities the bill would give them. They also depend on broad economic conditions and their effects on the banking and thrift industries. Consequently, CBO cannot estimate with any precision the budgetary impact of H.R. 3768.

More specifically: CBO expects that the bill's reforms of the deposit insurance system and regulatory procedures would reduce the long-term risk to the government insurance funds by reducing the likelihood of future bank and thrift failures and by lowering the cost of resolving those institutions that do fail. The impact of these changes would depend greatly on how aggressively they are implemented by the regulatory agencies. It is likely that additional outlays would be necessary in the short term in order to achieve the long-run savings.

The provisions requiring prompt regulatory action could be particularly significant. The results are difficult to predict, however, because the regulators would determine the points at which each set of actions is triggered. We expect that prompt regulatory action could reduce losses by 10-20 percent, and possibly much more, depending on how aggressively the procedures are implemented. A reduction of 10-20 percent over the 1992-1996 period would reduce Bank Insurance Fund (BIF) losses by $2 billion to $5 billion over this period.

H.R. 3768 would increase the authority of the Federal Deposit Insurance Corporation (FDIC) to borrow from the Treasury on behalf of BIF by raising the existing Treasury line of credit from $5 billion to $30 billion. In addition, the FDIC would be authorized to borrow from the Federal Financing Bank (FFB) or from insured banks, but such borrowings could not exceed BIF's cash balance plus 90 percent of the estimated market value of its other assets. The additional borrowing authority for BIF would not result in additional costs to the government because the funding would fulfill an already-existing deposit insurance liability of the government. Furthermore, CBO expects that the borrowed funds would be repaid from bank assessments over the next several years. The interest costs on such borrowings would probably be higher if BIF borrows from banks than if it borrows only from the Treasury and the Federal Financing Bank.

The reforms mandated by H.R. 3768 would increase the likelihood that the funds loaned to BIF would be repaid from bank assessments and that ultimately the U.S. Treasury would not bear the costs of bank failures. Because insurance losses for savings and loan failures are being covered almost entirely by Treasury funds, reduced insurance losses on saving and loans would result in savings to the Treasury.

PAY-AS-YOU-GO SCORING FOR H.R. 3768

The Budget Enforcement Act of 1990 excludes from pay-as-you-go calculations direct spending and receipts resulting from "full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of enactment of this section." The conference report on that act indicates that the intent of this provision is that "the funding to meet deposit insurance liabilities that meet existing commitments be exempt from any pay-as-you-go sequestration."

In applying the Budget Enforcement Act to H.R. 3768, CBO has determined that the only provisions involving federal deposit insurance that should be included for pay-as-you-go purposes are those that change the existing deposit insurance guarantee commitment as defined in law. Thus, the exclusion of bank investment contracts from deposit insurance coverage would affect pay-as-you-go scoring. In contrast, all spending effects that would result from the additional BIF borrowing authority and the BIF recapitalization plan, all costs of implementing the new deposit insurance procedures mandated by the bill, and all changes in deposit insurance spending that would result from those procedures would not be counted for pay-as-you-go purposes.

CBO believes that five provisions of H.R. 3768, dealing with activities that either are not part of the government's deposit insurance commitment or would change that commitment, would have pay-as-you-go implications—those dealing with premium credits for lifeline accounts and for increased lending in distressed communities, insurance coverage for bank investment contracts, an FDIC affordable housing program, and a federal loan guarantee for Rhode Island. The budgetary impact of these provisions is summarized in the following table and discussed further below.

ESTIMATED PAY-AS-YOU-GO IMPACT OF H.R. 3768

[Outlays, by fiscal year, in millions of dollars]

	1992	1993	1994	1995
Assessment credits for lifeline accounts	0	5	6	6
Assessment credits for activities in distressed communities	0	7	16	20
FDIC affordable housing program	10	30	0	0
Loan guarantee for Rhode Island	0	0	0	0
Total	10	42	22	26

Lifeline Accounts (Section 232): Banks and savings and loans that offer basic transaction accounts for consumers, commonly known as "lifeline" accounts, would pay one-half the assessment rate normally charged for deposit insurance on those qualifying accounts. The FDIC and the Federal Reserve would establish minimum requirements for these accounts, addressing such issues as minimum balance requirements, income eligibility, fees or service charges, and the number of withdrawals permitted. Assuming enactment of this provision in 1991, and allowing time for implementation, we expect that BIF's receipts would be lower by $4 million in 1993 and $5 million in 1994 and in 1995, and that receipts to the Savings Association Insurance Fund (SAIF) would be lower by $1 million annually beginning in 1993.

Assessment Credits for Qualifying Activities Relating to Distressed Communities (Section 233): Banks and thrifts that make eligible loans in distressed communities would receive a credit against the premiums they pay to the deposit insurance funds equal to five percent of the increase in loan volume. The maximum allowable credit would be 20 percent of the assessment owed in any six-month period. Banks or thrifts providing financial assistance through community development organizations would be eligible

for a 15 percent credit against the premiums paid for deposit insurance, up to a maximum of 50 percent of assessments owed.

Section 233 lists the types of loans that might be considered eligible under the program. These would include loans guaranteed by the Veterans Administration, HUD, and the Small Business Administration, conventional mortgage loans to homeowners, and numerous types of assistance targeted for affordable housing or community development.

Allowing time for the Board to develop standards, the banks and thrifts to make loans, and then premium credits to be applied to insurance premiums owed, we expect that premium reductions to BIF and SAIF would occur beginning in the second half of 1993. We estimate that the premium credits, which result in outlay increases, would amount to about $7 million in 1993, $16 million in 1994, and $20 million in 1995.

The Board would have the authority to change the amount of the premium credit, which might be the case if the FDIC determined that BIF would need this premium income to maintain the solvency of the fund, or if SAIF needed the premium income to repay its debt to the Financing Corporation or for other purposes. We cannot predict what adjustment, if any, the Board would make to amount of the premium credit.

Pass-Through Insurance (Section 311): The FDIC extends full insurance coverage to some deposits greater than $100,000, such as those made by pension funds or money brokers on behalf of many individuals. The FDIC views these accounts as fully insured as if each pension participant or client had placed the funds individually. The bill would reduce the scope of "pass-through" insurance by eliminating coverage of certain types of pension fund deposits, known as bank investment contracts (BICs), that allow the depositor to withdraw funds without penalty. BICs defined as uninsured deposits would not be subject to Bank Insurance Fund premium assessments.

Eliminating insurance coverage of some types of BICs would tend to reduce future losses to the BIF to the extent that the overall volume of insured deposits is reduced in banks that are expected to fail. Such savings would be at least partially offset by a reduction in premium income because banks would no longer pay assessments on the affected BIC deposits. Moreover, it is unclear that significant savings would occur because banks would probably attempt to alter BICs to retain their coverage or increase other kinds of insured deposits. CBO cannot estimate the budgetary impact of this provision at this time.

FDIC Affordable Housing Program (Section 341): The bill would require the FDIC to establish a new program to market and sell, over the next three years, single and multifamily residential properties held in receivership. Qualifying single family homes would be sold to individuals or families with low incomes, or to nonprofit or other groups that would make the property available to those individuals. Purchasers of multifamily structures would be required to reserve for the useful life of the building from 35 percent to 40 percent of the units as affordable for low-income families, and at least 20 percent of the units as affordable for very low-income families. The FDIC could provide financing at market or below-market interest rates.

The bill would cap the losses associated with selling the properties under the affordable housing program at $30 million. Losses are defined as the discounts associated with selling the properties, relative to the price at which the properties otherwise would have been sold. In addition to the losses incurred from selling the properties at below-market rates, the program would incur administrative expenses, costs associated with holding the properties, and interest subsidies for loans made to acquirers to purchase the properties at below-market rates. We expect that the FDIC would sell affordable housing properties worth roughly $300 million or more in the next two years, and that the costs not covered by the $30 million specified in the bill would total about $10 million. The total costs, which would be subject to pay-as-you-go provisions, are estimated to be $10 million in 1992 and $30 million in 1993.

Treasury Loan Guarantee for Rhode Island Credit Union Failures (Section 451): The bill would require the Secretary of the Treasury to guarantee the repayment of up to $180 million in borrowing by the Depositors Economic Protection Corporation (DEPCO). The State of Rhode Island established DEPCO to borrow money to repay depositors of failed credit unions that lacked federal deposit insurance coverage.

The provision specifies a number of conditions that must be met before the Treasury may issue its guarantee. The borrowing would be secured by selected assets from failed credit unions, which include about $380 million in nonperforming loans and $523 million in performing loans. The borrowings would also be secured by revenue from a Rhode Island sales tax dedicated to DEPCO and not otherwise pledged to repay other securities.

The Treasury would collect a guarantee fee of one-half of one percent per year on the outstanding principal amount of any borrowing that has been guaranteed. The Treasury would be prohibited from issuing a guarantee unless a nationally recognized rating agency rates the issue with the highest investment grade or one less than the highest investment grade, or unless the Treasury determines that providing the guarantee would result in no cost to the federal government.

Under the Credit Reform Act of 1990, the federal budget records budget authority equal to the subsidy cost of federal loans and guarantees in the fiscal year in which the government commits to provide the assistance, and outlays in the years in which the assistance is provided. CBO estimates that the guarantee of debt issued by DEPCO under the conditions specified in the bill would have no subsidy cost. Thus, for purposes of pay-as-you-go scoring, we estimate the cost of this provision to be zero.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Mary Maginniss, Andrew Morton, and Robert Sunshine, who can be reached at 226-2860.

Sincerely,

ROBERT D. REISCHAUER,
Director.

CONGRESSIONAL BUDGET OFFICE ESTIMATE[1]

The applicable cost estimate of this act for all purposes of sections 252 and 253 of the Balanced Budget and Emergency Deficit Control Act of 1985 shall be as follows:

[By fiscal year, in millions of dollars]

	1992	1993	1994	1995
Change in outlays	10	42	22	26

[1] An estimate of H.R. 3768 as ordered reported by the House Committee on Banking, Finance, and Urban Affairs on November 19, 1991. This estimate was transmitted by the Congressional Budget Office on November 20, 1991.

[By fiscal year, in millions of dollars]

	1992	1993	1994	1995
Change in receipts	[1]	[1]	[1]	[1]

[1] Not applicable.

□ 1610

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

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 3768.

Although this bill is not perfect, it is the best we can do under the circumstances, I submit to my colleagues. I personally would have liked to have had real financial and deposit insurance reforms in this bill, but those will have to wait until next year.

Right now we need to pass this recapitalization plan. First and foremost, the bank insurance fund must be recapitalized. I cannot emphasize that enough. As William Seidman said before he left office, the bank insurance fund desperately needs more funds. The FDIC needs to borrow money to shut down insolvent banks. The longer these banks stay open, the more money they will lose, and this will drain the fund even more.

Thus it is important that we recapitalize the bank insurance fund. Again may I assure the Members of this body that there are no taxpayer dollars involved in this bank insurance fund recapitalization. Additionally, title I of this bill does make a number of improvements to our regulatory system, which have been mentioned earlier, but I think they deserve further emphasis: For example, early intervention procedures for the regulators to shut down banks before they become completely insolvent. That is very, very important. Annual examinations of banks by the regulators; annual outside audits. We have not had that before, but we have it in this bill, and I think it is a very worthwhile addition. Then, market value disclosure of bank assets; and elimination of the too-big-to-fail policy after 1994. I know there has been some debate on this issue, but there is a very limited exception—and I repeat, a very limited exception—which the chairman was able to put in by an amendment to provide liquidity to a bank that might have—and these are words of art—might have serious adverse effects on a regional economy or the national economy. But before any such lending can be made, the Secretary of the Treasury must approve this in writing, and certify that it would have severe consequences.

Title II of the bill includes new reforms for foreign banks that will prevent future rogue banks like BCCI. They will now be subject to oversight by the Federal Reserve.

Title III of this bill will make a number of reforms to deposit insurance that will reduce the losses to banks

and possibly to the taxpayer later on. I do not think it goes far enough. However, we do have a limit on brokered deposits to level 1 and level 2 banks, those that meet or exceed their capital levels, and we prevent under-capitalized institutions from soliciting deposits at high rates.

Mr. Chairman, the Congress needs to pass this bill today. We need to live up to our promise to protect depositors. Twice we have failed to pass a bill. In 1986 the Congress failed to give FSLIC the money that it needed to close the failed savings and loans. The S&L problem mushroomed from a $15 billion to a $180 billion problem. We cannot afford to make that same mistake again.

As Santayana once said, "Those who do not learn from their mistakes of the past are doomed to repeat them."

If we adjourn without passing this bill—and we must not do that—but if we do that, we are telling bank depositors that Congress does not want to live up to the promise that was made in 1933 that our Government will stand squarely behind the Federal Deposit Insurance Corp.

Mr. Chairman, I am quite sure we do not want to send that kind of a message to the American people.

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

Mr. GONZALEZ. Mr. Chairman, I yield 3½ minutes to our distinguished ranking majority member and chairman of the Financial Institutions Subcommittee, the gentleman from Illinois [Mr. ANNUNZIO].

Mr. ANNUNZIO. Mr. Chairman, I rise in strong support of H.R. 3768. Others will talk about the basic ingredients of this legislation, so I don't want to take up this body's time discussing what is in the bill, other than to say there are a number of provisions that I authored in the legislation that will correct many of the problems in the regulatory agency such as a requirement that every federally insured financial institution be examined at least once a year.

What I do want to talk about today is the need for recapitalizing the bank insurance fund. For some 2 years, I have argued that the bank insurance fund was on its way to insolvency and nothing was being done to correct the problem. I think there can be no doubt now that the bank insurance fund is now the bankrupt insurance fund.

Two days ago, I met for nearly an hour with the new Chairman of the Federal Deposit Insurance Corp., William Taylor. He made a strong and well-reasoned case for immediate passage of the recapitalization of the bank insurance fund. He told me that the bank insurance fund is in such critical shape that he cannot worry about anything that may or may not be in the bill with the exception of recapitalizing the bank insurance fund. That must be done immediately, he said.

Mr. Taylor is a frank and tough regulator, and I want to commend the President of the United States for selecting Bill Taylor for this important job. Mr. Taylor's no-nonsense approach, and his willingness to recognize and deal with the problem in a straightforward manner, is in stark contrast to his predecessor, who was more interested in polishing his image in the media and on TV talk shows than he was in protecting the deposits of our American citizens.

The reasons the bank insurance fund is broke are many. But one of the main reasons that we have been unable to correct the problem sooner was that the former chairman of the FDIC refused to recognize that there was a problem. Every time that I tried to point out that the bank insurance fund was heading for disaster, the former chairman criticized my comments, and said they were unfounded. I was so concerned that the former chairman was misleading the American people that I had the Subcommittee contract for a study on the health of the bank insurance fund by three of the Nation's leading economists. When those economists reported that the fund was in serious trouble and would need a massive infusion of money very shortly, the response from the former chairman was typical. He denounced the study.

Today, Mr. Chairman, I take no great sense of accomplishment in the fact that I have been right about the condition of the bank insurance fund and the former chairman of the FDIC has been wrong. I am more concerned about solving the problem and that is what we must do today.

Our Nation's economy is in a shambles. The recent violent fluctuations in the stock market indicate how fragile our economy is and how the American people perceive our economic future. We cannot delay any longer in recapitalizing the bank insurance fund. If one bank fails and we do not have money to pay off the depositors, it will set off an economic fire storm that will result in the biggest financial holocaust in our Nation. We are indeed playing with fire if we do not act, and act today.

□ 1630

Mr. WYLIE. Mr. Chairman, I yield 3½ minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I rise in support of H.R. 3768, the Federal Deposit Insurance Corporation Improvement Act of 1991.

I want to commend the chairman and ranking member of the Banking Committee for their perseverance and persistence in bringing this bank insurance fund recapitalization and banking reform bill back to the House for this third time.

Mr. Chairman, to my colleagues, I say that time is running out. If we are to avoid the mistakes we made with the savings and loan industry and its problems—as Mr. WYLIE has outlined—we must recapitalize the BIF and pass this banking reform.

If we fail to act, we not only increase the costs by delaying the closure of insolvent banks, but we cannot pay off depositors.

Despite the fact that this bill has been scaled back from the comprehensive reform originally advanced, it is nevertheless, a reform of existing capital standards and regulation.

These reforms are significant.

Now, how does H.R. 3768 meet our goals:

H.R. 3768 authorizes the FDIC to borrow up to $30 billion from the Treasury with this amount to be repaid by increases in deposit insurance premiums paid by the banks themselves. My colleagues must realize this is not a taxpayer bailout or a raid on the Treasury. Banks must repay these loans; establishes higher capital requirements for banks; rolls back the doctrine of too big to fail by prohibiting the payment of uninsured accounts over $100,000; authorizes risk-based premiums, limits brokered deposits and pass through pension accounts to only the highest capitalized banks; and prohibits the FDIC from covering foreign deposits after 1992.

This bill adopts several regulatory measures, including: Requiring annual on-site examinations and reforms auditing standards; mandating prompt corrective actions for problem banks; and requiring early intervention with failing banks.

So, given these reforms, the allegation that we are just handing over money to an unreformed system is plainly untrue.

Now, I regret deeply that such an important measure does not address the two important issues of interstate banking and securities powers. The failure to address the securities issues abdicates our responsibility to define the makeup of the financial services industry of the future and entrusts that authority to unelected regulators.

Interstate banking, more than any other provision, would have helped enhance competitiveness among our banks.

Under that provision, after 3 years, full nationwide banking and branching will go into effect.

Interstate banking and branching would help make banks safer through geographic diversification by allowing banks to diversify their loan portfolios and lessen their exposure to swings in regional economies.

Interstate branching will make banks more efficient through substantially reduced operating costs because it will be less costly to operate branches than to maintain separate banks.

This provision will also increase competition which will benefit con-

sumers by providing more competitors in the marketplace, and thereby making more bank products available, and raising the probability that banking services will become less expensive.

I believe the importance of interstate banking and branching far outweighs the argument against it, as espoused by some interest groups who have put their own self-interest ahead of the national good.

I fought hard for interstate banking and I am disappointed that we will have to wait until next year and use that issue as the proverbial engine that will drive additional reform.

Now I know that the previous two attempts to pass meaningful and comprehensive banking reform left something for everyone to hate.

Nobody gets everything they want. Not the administration, not the bankers, not the securities industry, not insurance, and not this Member. But this is the best we can do at this time.

Now, there is among our Members, too much careless talk about not voting any money for the banks. This is a script for a replay of the savings and loan debacle. Congress refused to act expiditiously then and in the absence of responsible action to recap that FSLIC insurance fund, we accelerated the problem and increased the cost.

We must act on this recap and insure the Nation's depositors that their savings are guaranteed.

If we fail to act, we take the chance that nervous depositors will withdraw their savings and prompt runs on the banks.

I should think that the drop in the stock market last week in reaction to the credit card rate cap would have shocked the Congress into sober and serious evaluation of how we conduct the Nation's business.

This is not the time for petty political posturing.

SUMMARY

Overall, I believe H.R. 3768 represents the necessary recapitalization of the insurance fund and makes a strong effort to effect banking reform.

All of the positive reform initiatives contained in this bill are very much needed.

Mr. Chairman, my colleagues should realize that too much work went into this bill and too much is at stake with the future of the Nation's banking industry, to turn down this legislation again. The longer we delay the inevitable, the more costly the ultimate problem will become.

I urge passage of H.R. 3768.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Chairman, it is imperative that we pass this bill today. This is a bill that will recapitalize the BIF through assessments on the banks. It is not the RTC bill that will be paid off by taxpayer dollars. It is two separate bills, two separate concepts.

Mr. Chairman, this bill avoids the mistakes of the past. What were some of those mistakes? In 1986 we were asked to recapitalize FSLIC. This Congress did not act. We must act now when we are being asked to recapitalize the BIF.

In 1987, we were asked to give adequate recapitalization to FSLIC. Congress gave recapitalization, but woefully inadequate. Further, that 1987 legislation had forbearance language which really prevented the regulators from doing the job they were required to do.

This bill not only does not have forbearance language, it has early intervention language.

We almost made a serious mistake in this bill. The early intervention language almost called for early closure. That would have been repeating the mistake of the 1989 bill, FIRREA, which was much too strict, much too draconian.

Thankfully, an amendment I offered was accepted. It is interesting in the statement of administration policy dated yesterday they now say the administration particularly supports the provisions of H.R. 3768 that would, and they list three, the second one being, "Provide greater flexibility to bank regulators to avoid the premature shutdown of a weak bank that has clear prospects for recovery."

Mr. Chairman, this is one of the main reasons they are now supporting it. We almost made that mistake in this bill. Let us remember that when we consider the RTC bill.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. SOLOMON], the very distinguished ranking member of the Committee on Rules.

Mr. SOLOMON. Mr. Chairman, I thank the gentleman for yielding. I will try to be brief. I have no voice left anyway.

Mr. Chairman, let me say the chief reason I am reluctant to rise in opposition to this bill is because of the great admiration I have for the gentleman from Texas [Mr. GONZALEZ], the chairman of the Committee on Banking, Finance and Urban Affairs, and certainly for the gentleman from Ohio [Mr. WYLIE], the ranking member.

But that is the only reason, because this bill in its present form is a nonreform bill, my colleagues. If there is a problem in the banking industry, this bill does nothing to solve that problem.

As the Washington Post said today, this bill provides tens of billions of dollars, taxpayer dollars, in the form of loans to recapitalize the FDIC.

Mr. Chairman, with no meaningful reform contained in this bill, the taxpayers will never be paid back, and this bill will become one of the biggest ripoffs ever perpetrated on the taxpayers of this Nation.

For instance, one of the major problems today is unlimited insured deposits. Unlimited.

Back in 1980, this Congress, including me, raised the limit on the insured deposits from $40,000 up to $100,000 and allowed an individual to have as many $100,000 insured accounts that they wanted to, up to $1,400,000 per family. If Members want to take a look at the chart, it is outlined right here.

Mr. Chairman, let me explain my own case. When I came to this Congress 14 years ago I was a stockbroker and an insurance broker. I sold all my stock and put my money into CD's because I did not want a conflict of interest, and I kept my money there.

Mr. Chairman, I did what the American people did, all of them. I called my wife and I said, "Those CD's are coming due. Find any insured bank in America and put my money in it so that we will get the highest possible interest rate."

Mr. Chairman, I did that regardless of whether those banks were conservative, longstanding, and well run, or whether those banks were poorly run, because I knew that my money was insured.

That is what is wrong here today with this bill. We are not dealing with the major problem that has caused the disasters we have in the banking industry. Poorly run banks have wasted the money of depositors because those banks have functioned with a cavalier, "I-don't-care" attitude. As long as the deposits are insured, we can waste that money and depositors will still get their money—courtesy of the Government, the taxpayers. That was the attitude of too many banks across the country.

Mr. Chairman, the other major problem is that this bill does nothing to keep bankers in the banking business and out of everybody else's business. There are no firewalls in this bill to prevent banks from dealing in and delving into real estate, insurance, securities, and other businesses. That is exactly what happened to the savings and loans companies and other banks who got into the mess they are in today.

I wanted to offer a motion to recommit to deal with these kinds of problems, but I am not a member of the Committee on Banking, Finance and Urban Affairs, so I am going to be denied that. Therefore, this bill will pass. The Senate will accept it, because they have thrown up their hands. They are not going to even try to amend it in conference.

This bill in its present form is going to the President for his signature, it will be signed, and the taxpayers will never be repaid their $70 billion. And they will not be repaid the $80 billion that we are going to vote on next Monday. That's called the RTC bailout.

□ 1630

What is going on around here? When are we going to be fiscally responsible? Vote no on this bill.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in support of H.R. 3768, the FDIC Recapitalization Improvement Act. I want my colleagues to know that the importance of this bill, I think, cannot be overstated.

Someone referred to it as a narrow bill. It is 339 pages long. And it is full of policy dealing with deposit insurance, with the too-big-to-fail limitation, with a whole host of different measures that tend to try and limit the exposure of the deposit insurance fund and the National Government's payments. And that means the taxpayer payment and savings if limited, Mr. Chairman.

I would hope that we would recognize that in the past weeks we have failed to pass interstate banking. We tried to pass the issues with regard to powers and firewalls and were not able to do so. Those combinations of ingredients resulted in failures in both instances.

Some of those are pleasant palliatives to the banks. Some are not. I suggest that next year we will be able to come to an acceptable compromise, chocolate coat the broccoli, and finally send it to the President and see such measure enacted. But for right now what we need to do today is to provide the dollars for recapitalization and the deposit insurance reforms. This bill has a lot of reforms and will provide new safeguards for the taxpayers' dollars.

While many have labeled this legislation as a narrow bill that refunds the bank insurance fund, I want to correct any misperceptions that my colleagues have by saying that this legislation is less ambitious than previous versions but is broad reaching, and is an important step in restoring the health of the insurance fund and our Nation's financial institutions. This measure is a 342-page measure with many important policy issues essential to the health of our banks and our economy.

Key to this bill is the recapitalization of the bank insurance fund. Clearly, the FDIC needs funds now to close those institutions that already are or are rapidly becoming insolvent. The failure to provide this essential funding will force the regulators to refrain from acting, thus keeping open braindead institutions and driving up the ultimate costs to the insurance fund. In addition, the failure to act will have traumatic effects in our already fragile economy. Recapitalization is and will be repeated often in this debate. There is a risk that banks will not be able to meet the repayment envisioned in this legislation but this is a risk we must accept because of the importance of banking in our economy.

In H.R. 3768, Congress is not just giving the Bush administration the funds necessary, the money, and then shutting up. This bill sets in place reforms, some of the reforms opposed by the administration and special interests, that are crucial to the health of the insurance fund. Those major provisions include steps to lower the exposure to the insurance fund by slowing down too big to fail, restricting the Federal Reserve's ability to use open thrift assistance to prop up failing banks, and requiring least-cost resolutions. These steps are important and, if fully implemented, can prevent significant losses to the insurance fund. The use of the essentiality test, too big to fail, has been misused dating back to the Continental Bank of Illinois.

Too big to fail is a policy built outside the expressed provisions of law that are written in law to limit deposit insurance to $100,000 for each account. The Reagan and Bush administrations developed, nurtured, and fostered this harmful policy and it is absolutely essential that it be brought under control. The legislation before us does so.

This legislation also addresses the problem of least-cost resolution, attempting to define and limit regulator misuse of such recourse when the regulator places a bank in conservatorship. This bill limits the deposit insurance coverage of foreign deposits which pay no insurance premium and the measure before the House provides the option for risk-based premiums and limits on broker deposits. There is a prohibition placed on direct bank underwriting of insurance and other risky, inappropriate activities.

Let us make certain we understand one thing. The real dollars in terms of loss to the bank insurance fund were decisions made in the 1980's. Those decisions have been made by the Reagan administration regulators at that time. Today we have a renewed sense of tough regulation. It comes late, but embedded in the portfolio of the financial institutions of this country, both banks and S&Ls, are the losses, the bad loans, the nonperforming loans and investments.

We do not have a magic wand to wave away these problems. We cannot pass legislation or regulate away such problems. They are with us. They are real. And there is risk in this bill.

We are loaning $70 billion to the bank insurance fund. We hope the banks become more profitable and successful enough and that the economy turns around so that indeed the banks can be assessed to pay back this $70 billion. But the banks may not be able to do so.

But what is the alternative? To put at risk every person's savings in this country? To remove a major pillar in our economy at a time when our Nation is in a serious recession? Surely, that would result in something worse than recession, Mr. Chairman.

Mr. Chairman, these steps and many of the other provisions of H.R. 3768 should be enacted into law. Clearly, this bill is not the end-all of banking reform and a 342-page bill is not such a narrow bill. Significant issues such as interstate branching and improvements of bank profitability must ultimately be resolved but the enactment of this measure would retain good work accomplished, in the first half of this session. While we have yet to reach a consensus on many additional matters, we have tried valiantly. H.R. 3768, is a crucial first step and should be adopted.

Mr. WYLIE. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Iowa [Mr. LEACH].

Mr. LEACH. Mr. Chairman, I rise with no enthusiasm and more than a little disappointment in support of this bill. First, the reasons for disappointment.

It is impossible not to be concerned with the refusal of the committee to take the only credible opportunity before it and institute responsible capital standards for federally insured institutions. With or without new Federal legislative authorization, a great deal of interstate banking consolidation is going to occur in the next decade and larger banks are going to enter the securities arena.

It is conjectural whether this is good or bad. It is not conjectural that conglomeration and new speculative powers should only be authorized if the conglomerating institutions have adequate capital.

Failure to deal with the capital issue is tragic, particularly because the impetus for concentration comes from institutions intent on over-leveraging capital.

As the larger but capital weak institutions take over the smaller but capital strong, total capital in the American banking system will be reduced and a too-big-to-fail syndrome could all too easily become a much-too-big-to-fail dilemma.

Regulators have simply not come to understand that the new standards they are putting their faith in—the Basle accord and risk-based standards which obviate reliance on prudential leveraging ratios—have the effect of jeopardizing the taxpayer, weakening American banking and slanting bank lending against traditional commercial entrepreneurship and toward bond buying and a single industry, housing.

I am also very concerned with certain mischief contained in this allegedly narrow bill. Hidden away, undiscussed by the committee of jurisdiction, is a provision contained in section 303 which allows the banks of certain States to invest up to 10 percent of their assets in the stock market. To the degree legislative history is set here today, it is the view of this Member that any regulator that allows any

bank to use $1 of insured deposits, or 1 cent of capital designed to protect such deposits, to play the stock market or invest in commercial enterprises or real estate should be put in a stock and pillory, a punishment made infamous in the State where this banking witchery is intended to be protected.

In this bill Congress has not only failed to take advantage of the opportunity to set prudential standards for American banking, it is weakening rather than strengthening those standards.

Nonetheless, of overwhelming significance at this late date in this session is the need to shore up the Deposit Insurance Fund. Last week the Senate toyed with capping credit cards, precipitating a 100-point drop in the stock market. This week if we fail to support the deposit insurance system, that drop will be a footnote event. For the sake of depositors as well as stability in the economy, we have no choice but to support this bill at this stage. And hopefully on another day, perhaps this weekend in conference, several of the issues I have commented upon can be readdressed.

Mr. WYLIE. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. RIDGE]

Mr. RIDGE. Mr. Chairman, I rise in opposition to this measure. I believe that we are treating symptoms and not causes.

Halloween may have come and gone for the communities across this country, but it seems to have hung over Washington for an extended period of time. While the economy stagnates and deficits run higher and higher, we in Congress hide behind masks and hand out treats that are only tricks.

First, some facts on the economy. Real growth in the last 3 years has run less than one-half of 1 percent, a notorious modern-day record. Meanwhile, deficits are running higher and higher even though the traditional Democratic scapegoat, defense spending, is now declining in real terms. The portion of the Federal budget devoted to interest payments is now over $18 billion annually, 15 percent of the budget, and it is climbing. And as more funds go to cover the deficit, we relinquish any countercyclical role in the short run and virtually guarantee in the long run that there will not be sufficient funds for investment.

And if the underlying deficit were not bad enough, now we have the Resolution Trust Corporation back for a third time for more thrift funds. We're now up to $160 billion, all of which is destined for addition to the deficit, increasing interest costs to our children and yes, our grandchildren. And the bank bill could potentially cost another $30 billion. Yet here we are, hiding behind masks of indifference and complacency, writing the bills to send forward in time to those who have not yet inherited the earth.

The worse part of the whole process is that we have not addressed the fundamentals of real estate and the economy. This is especially true in the sense that we have stripped away the value of real estate, which makes up a huge portion of assets for banks and thrifts. It is true we overstimulated demand for real estate in the early 1980's, but it is more apparent with every passing day that we ruined the real estate market, and perhaps the banking industry as well, by the reforms of 1986, when we told investors in real estate to dump their property.

There are some items we need right away. We need to restore passive loss rules to real estate. We need a capital gains cut for investment; if we can't have it broadly, we need it for real estate. We need more consumer-oriented incentives for savings and investment, such as IRA's. This will mean that in the short run consumers spend less; you cannot have it both ways. But we will be far stronger in the long run. We need the investment tax credit for industry. But wait—we can't have these items, because we hide behind the mask of the budget agreement.

So by hiding behind our masks, we cripple the economy, which causes slow growth and failing financial institutions, which causes higher payments to cover deposits, which adds to the deficit, which crowds out investment and prevents us from mitigating the effects of the recession.

But at least we had a treat to give the consumer. When things got bad in Rome, they added more holidays, but when they get bad in Washington, we add dubious treats. So Congress came up with a credit card cap. A price control from the powers of Washington. A treat for the consumer.

But wait. It was just a trick. A price cap of 14 percent would have hurt consumers. The working families would have paid higher upfront fees, or they would have seen their limit drop, or they would have just plain lost their cards. Some economists say over one-third of consumers would have lost their cards. Let me say it again: over one-third of consumers would have lost their cards. And I assure you the tennis set would not be among the one-third. It would be those people who work hard every day to pay the bills and need a little credit to buy Christmas gifts.

Imagine that right before Christmas. Merry Christmas from Congress, the holiday note would say. Please turn in your credit card.

And so consumer spending would have dropped further while your job at the retail store or at the bank or at the manufacturing outlet would have been cut. That's some trick.

My friends, lower consumer spending and fewer jobs is no treat.

In summary, we must end Halloween in Washington. We must put away the treats that are tricks and take off our masks. We must face the winter ahead by acknowledging we need real solutions for our problems. If we cannot put real value in real estate and provide real incentives for savings, investment, and jobs, then we will be back again and again for money to cover depositors, and we will be wringing our hands even more over deficits and interest payments. If we cannot end Halloween now, then our Thanksgiving tables shall be more sparse with every passing year. We need incentives for value and growth, and we need them now.

The bottom line is simply this: This bill and the RTC recapitalization to follow next the symptoms, not the causes of the economic malady that afflicts us at enormous, unnecessary, and avoidable expense. Most banks and thrifts today are struggling, not because of mismanagement, not because of fraud, but because of an economy that has endured and been forced to consume too many congressional treats. Adverse Tax Code changes particularly in the real estate area bring us to this vote today.

Banks and thrifts are troubled because the economy is stagnant, the real estate market is virtually nonexistent, and Congress refuses to address either. Reject exposing the taxpayer to even greater "bail out" liability. Demand that the Congress and administration address today the problems plaguing the economy. The best politics for 1992 for both the White House and Congress and for both parties is solving today's economic problem now, not next year.

Mr. WYLIE. Mr. Chairman, I yield 2 minutes to the gentleman from Rhode Island [Mr. MACHTLEY].

Mr. MACHTLEY. Mr. Chairman, I feel like I am in triple overtime in the NBA, the National Bank Act. For too long we have dallied, for too long we have fallen under legislative paralysis.

Our financial markets cannot permit us to remain in legislative gridlock, and we try and find the perfect bill.

Our consumers cannot wait until we find the perfect bill. Our Nation is asking us to pass legislation which admittedly is not perfect, which admittedly is narrow, but which is needed for the financial stability and welfare of our country.

In my State of Rhode Island, we had the worst banking failure in the history, I believe, of the country. For 11 months the citizens have waited for their money. They have not asked why. They have only asked when.

I commend the chairman of the Committee on Banking, Finance and Urban Affairs and the Republican leader for their superlative effort in trying to help our State.

Tonight I wish to contact the members of our State to tell them that this Congress has acted responsibly, that we have risen to the challenge and that we have passed a banking bill which, while admittedly not perfect, has gone a long way to help keep the financial stability of this country and my State from collapsing.

I hope that we have learned something from this tragic triple overtime, and that is that we cannot succumb to the various special interest groups who hound this Congress. The legislative body must in fact be deliberate in looking at the issues which are important for this country. We must vote what is right, not what is expedient.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I thank the gentleman for his generous yielding of time to me. Let me say to my colleagues that the old maxim, if

you do not succeed at first, try, try again, is very, very relevant today. Because after three times, we finally have gotten it right. We first tried an overwhelmingly Democratic bill. We got a lot of Democratic votes and no Republican votes, and it failed. Then we tried an overwhelmingly Republican bill. We got a lot of Republican votes, and not many Democratic votes, and it failed.

Now we have a nice down-the-middle bill. And it should, and I hope, will pass. Because first of all, indeed, we must make sure that the fund is replenished, all the problems that occurred in the banking industry have occurred already.

There is lots of blame to go around, but if we do not vote for this money, we are sticking the one blameless e depositors, with the bag. That is not fair, and we should not do it.

Second, the bill has some reforms in it, noncontroversial reforms, but reforms. More capital, early intervention, ending too-big-to-fail are all worthy changes that our system needs.

Do I have a regret? Of course, I do. And that is that we have not truly reformed the sick banking system. We are going to have to come back a year from now or 2 years from now and do that. The system still has its dependence on insured deposits and uses those deposits for new and risky activities, and as long as that continues to happen, the system will be sick and the taxpayers will be at risk.

□ 1640

But since we are not ready for broad reform now, as our gyrations over the last 2 weeks showed, this narrow bill, with reform, with the needed money, is the doctor's prescription for what is temporarily, although not permanently needed.

I urge support of the bill.

Mr. WYLIE. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Chairman, this Member rises in strong support of H.R. 3768, a bill to recapitalize the bank insurance fund. In addition to providing borrowing authority for the bank insurance fund—a significant portion of which the banking industry must repay through additional premium assessments—the bill also includes some regulatory reforms. These reforms were adopted by this body last week, as part of the Gonzalez en block amendment.

The measure on the floor today contains only the must-do items that were contained in the larger, more comprehensive, measure originally adopted by the Banking Committee last June. Since June, this body twice debated the bill, each time dropping key structural reforms from the bill.

While this Member intends to support today's pared-down banking bill, this Member laments the debate which occurred last week on the second version of the Banking Committee's bill.

Last week's floor action on the banking bill precluded the opportunity for significant reforms. This body was put in a no-win situation, by being forced to vote on an en-bloc amendment. The amendment contained one of the most important of the Banking Committee's structural reforms; namely, a format for interstate banking and branching—a reform which was perfected by the Vento-Bereuter amendment, and overwhelmingly supported by this body. Unfortunately, the interstate banking provisions were linked with other provisions that would have resulted in a cutback in banking powers for some banks.

While not possible today, this Member hopes that at some point, further consideration can be given to a wide range of necessary structural reforms.

Today, the responsible position for all Members is to vote on a banking bill that would at least recapitalize the bank insurance fund and provide for the following important elements in what might be referred to as the Gonzalez en bloc amendment:

Improved regulation of foreign banks;

Prohibition for any of the regulatory agencies from extending any deposit insurance or assistance for deposits in foreign branches of U.S. banks;

Inventives for banks to operate in distressed communities, Ridge/Flake Bank Enterprise Act;

Limitations on Federal deposit insurance for brokered deposits;

An affordable housing program for the FDIC similar to that of the RTC, Frank amendment; and

Restrictions on the activities of State-chartered banks to those allowed to federally chartered banks.

Mr. Chairman, recently, there has been much discussion over something called the October surprise; let us not become the November disappointment or the November fiasco by failing to adopt this straightforward recapitalization bill.

This Member urges adoption of the bill.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, I want to first of all congratulate Chairman GONZALEZ and I wanted to congratulate the gentleman from Ohio [Mr. WYLIE], and others. They have been very, very patient. They have let the House work its will and they have come up with a bill that I think is a very fine bill.

Mr. Chairman, I rise in strong support of H.R. 3768, the FDIC Recapitalization and Improvement Act of 1991.

Mr. Chairman, this bill before us today is critical to protecting the millions of depositors throughout our banking system and it is needed to protect our economy. The only protection between depositors and the potential loss of their hard-earned money when a bank closes its doors is the FDIC's bank insurance fund, which is currently on the verge of insolvency. Make no mistake about it; a delay in recapitalizing the bank insurance fund will imperil the funds of depositors and our entire economy. It would not be responsible to vote against this bill and permit a return to the desperate economic times of our parents and grandparents.

In addition, Members should support the bill because it contains reform provisions which have not proven controversial during prior consideration of banking legislation. The bill contains title I of H.R. 6 which recapitalizes the bank insurance fund and provides regulatory reform. Further, the bill contains the so-called Gonzalez en bloc amendment which passed on the floor of the House by voice vote.

Mr. Chairman, as I have mentioned, not only should Members vote for today's bill because the bank insurance fund needs to be recapitalized, they should also vote for the bill because it contains many reforms needed to avoid future banking system problems. For example, title I of the bill contains GAO's recommendations regarding the trip-wire approach to banking regulation. This concept requires regulators to take increasingly aggressive actions if a bank's capital falls below specified minimum levels. This means that banks will be forced to curtail risky activities and rebuild their capital to proper levels. This is a commonsense idea that all Members should support.

In addition, title II of the bill contains important new authorities for regulators to use when supervising and regulating foreign banks. Title II represents the lessons the country should learn from the BCCI affair. Specifically, the title will require the Federal Reserve to conduct annual on-site examinations of foreign bank branches and agencies and coordinate regulatory efforts with other Federal regulators and State regulatory agencies. Again, this is thoughtful reform legislation which deserves the full support of the entire House.

Title III of the bill contains important changes to the deposit insurance system. For example, insurance for brokered deposits has been limited to banks which meet or exceed the minimum capital standards set in the bill. This means that banks with declining capital will not be able to offer high interest rates to attract more brokered deposits. In addition, this title contains an amendment I offered in committee which continues the 25-year-old FDIC practice of providing pass through deposit insurance on a pro-rata basis for pension plans, including so-called 457 retirement plans. This provision will protect the pensions of 33 million Americans and will act to prevent pension funds from making destabilizing moves from small banks to

larger banks which are deemed too big to fail. This, in turn, means that pension fund deposits can be kept in local banks which makes them available for lending for community purposes.

Title IV of the bill contains several miscellaneous provisions which add up to important reform. Among other provisions, the title contains a directive that all banks are to abide by the internationally accepted Basel accords which were signed in Basel, Switzerland by all of the major industrial nations. This important agreement specifies that all banks of signatory nations shall hold 8 percent total risk-based capital, of which one-half must be tier 1 capital. Tier 1 capital is composed of the bank's cash, common equity capital and other forms of tangible capital. Implementing the Basel accords is critical to the strengthening of our banking system since the accords place more of the bank's money at risk. Clearly, this is a good provision which has been supported by the entire Banking Committee and which should be supported by the whole House.

Finally, title V of H.R. 3768 contains the provisions of an amendment I offered at full committee. Simply stated, this title will permit any bank insurance fund [BIF] institution to combine its operations with any savings association insurance fund [SAIF] institution, and vice versa. I offered this legislation in order to encourage the injection of private sector funds into the banking and thrift systems. Title V of the bill will permit a bank to combine with a thrift—or vice versa—which permits them to combine their strengths and avoid the potential problem of being placed in conservatorship where the taxpayer's money must be used. This title expands upon a similar amendment I offered to the FIRREA legislation 2 years ago which has proven very popular. The Oakar I amendment infused $400 million in capital to the system.

In summary, I urge all Members to support today's bill. This legislation is responsible because it protects the deposits of millions of Americans and our entire economy from needless losses. If we delay the recapitalization of the bank insurance fund much longer, the economic consequences will become worse than we can imagine. For that reason alone the bill should be supported. However, Members should also vote for the bill because of the many fine reforms and improvements I have mentioned.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana [Mr. BAKER].

Mr. BAKER. Mr. Chairman, the people of America are asking, "What is wrong with our banking system," while many others are just angry taxpayers and want to know, "What are you doing with our money?"

The Congress has finally decided it will take steps to try to answer these important questions and make sure taxpayers do not remain angry, or worse yet, scared to put their hard-earned money into a bank in this country. A lot has been said about the inappropriate practices of the past with all the high-flying wheeler-dealers in the financial marketplace who invested money without regard for the hard work that brought it to their institution.

This legislation, for the first time, gives us an opportunity to close a lot of bad loopholes, to eliminate those practices which cause banks to lose money, and, in fact, gives us an opportunity to make sure that future operators will operate in a safe and sound manner. Perhaps there should be further reform. I strongly supported broader bank powers, allowing banks to free enterprise dollars to flow into our system rather than having to rely on the banks to grow their way out of their current problem.

But let us just stop for a moment and consider what would happen if we did not adopt this legislation at this late hour. It is 30 days until the Christmas season. Retailers across the country are finding it difficult to get their hands on credit to buy the inventory to hope to make a profit in this Christmas season. Many are concerned that their credit card interest rates might be capped, and that little box on the top right-hand corner of your statement you get each month that all of us who have credit cards look at that says "available credit" might go to zero.

And what would happen if we continued to encourage the flight of capital from our banking industry, the M–2? One measure of our Nation's money supply continues to shrink. Why? Because interest rates are low, and people looking for rates of return take their money out of banks and put them into the stock market or in some other venture where they hope to have a greater rate of return.

But what happens to the banks when we say, "Hey, your deposit insurance is not worth anything anymore?" Do we think people will continue to put money, hard-earned, after-tax dollars in banks, with the risk that they might not be able to get it out when they need it? Think about an average family in America today. Husband and wife both work and both the kids are in school. They have to feed the dog, pay the car note. They get up just like everybody else and go to work and at the end of the week they take that hard-earned paycheck and take it to the bank.

Why are Americans angry? Because if they put their money in the bank they expect it to be there on Monday morning so they can pay their bills.

This is our last best chance. Vote for this legislation. It keeps the fund solvent, it keeps America working, and it gives our banks a chance to survive in a tough market. It is a good, safe, responsible vote.

Mr. GONZALEZ. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, I rise in support of H.R. 3768, the FDIC Recapitalization and Improvement Act. I plan to vote for this bill, despite strong reservations. Originally, I had planned not to support this legislation. The savings and loan situation taught us many lessons. One of the most important things that banks need is sound regulation. I voted for the first FDIC recapitalization on November 4, because it had reform and regulation. I felt comfortable supporting that bill for that reason. I voted for the second FDIC recapitalization bill on November 14, although it had less reform and said that was as far as I could go. Now I'm being faced with a recapitalization bill that funds that FDIC but has very little reform and I really do not want to vote for it. However, I will because of recent Connecticut banking history and future Connecticut banking needs. We made a promise to the American people in the form of deposit insurance and we must keep that promise.

Mr. Chairman, I am going to support this bill because the FDIC was there when the Bank of New England-CBT failed; because the FDIC was there when Community National and Merchants Bank & Trust failed. The FDIC was there when Whitney Bank & Trust, Housatonic Bank & Trust, CityTrust, Mechanics & Farmers Savings, Enfield National Bank, and Suffield Bank failed. The FDIC was there when Harbor National Bank of Connecticut, Central Bank, Connecticut Valley Bank, and Connecticut Savings Bank failed.

All of these institutions failed in 1991. The fact that the FDIC was there meant that thousands of Connecticut residents did not lose their life savings. This bill will assure that the FDIC will continue to be there should additional banks fail. This is the very essence of our promise to the American people. It was my belief in the sanctity of this promise that led me to support both H.R. 6 and H.R. 2094, the two earlier versions of banking reform that failed to pass.

Although I am going to support this bill, I want to lay out for the record my concerns about the state of the industry and the steps we should take to prevent the BIF from going the way of FSLIC at the ultimate cost of billions of dollars to the American taxpayer.

The primary goal of bank reform should be to restore the health of the banking industry. One necessary reform is interstate banking. We might not have lost all those banks in Connecticut this year if their risk, particularly in real estate, was diversified as opposed to concentrated in New England.

Deposit insurance reform is also necessary. The existence of Federal deposit insurance has been consistently cited as one of the causes of the savings and loan crisis particularly to the extent that troubled institutions paid higher interest rates than sound institutions. These troubled institutions advertised higher rates nationwide to attract depositors. Many brokerage firms divided extremely large deposits into $100,000 blocks to take advantage of the higher interest rates and the protection

of the Federal deposit insurance. In this way, the brokerage firms had no incentive to look at the underlying financial health of the financial institution offering the higher rates. We should ensure that banks do not make the same mistake.

I am concerned that Federal deposit insurance has been expanded far beyond its original intent and that all three versions of bank reform have failed to address this issue. The protections of Federal deposit insurance have been extended to each participant in certain types of pension plans. In this way, the pension fund trustees could pass their fiduciary responsibility onto the Federal Government.

While I certainly understand the arguments made by bankers that they have lost their most profitable business to Wall Street and money market funds and need to branch out to remain competitive and find new profit centers, I am not at all confident that we can adequately protect the taxpayers from losses in other lines of business. The key issues are what new powers, if any, we give which banks, under what conditions, and how we build effective firewalls around deposit insurance. Banks should not be given a competitive advantage over insurance companies, real estate, and securities firms in the form of implied or explicit Federal deposit insurance.

Banking reform should include strong consumer protections including lifeline banking services, an affordable housing initiative, and strengthened antiredlining provisions.

We need a commonsense approach to banking reform above all else. This means using generally accepted accounting principles [GAAP]. This means a reasoned approach to recapitalization, including an acknowledgment that there is a point at which ever-increasing deposit insurance premiums become counterproductive. Common sense should also mean addressing the problems that have come to light in the wake of the BCCI scandal and prohibiting insured depository institutions from engaging in highly leveraged transactions.

Unfortunately, this bill does not go far enough in making the necessary reforms. It is a start, but it is not enough. However, after three tries it appears that what constitutes reform is an issue on which reasonable people may disagree. I fear that passage of this bill will not be the end of this issue. I hope that I am wrong, but we have made a promise to the American people. We should live up to it. I would urge my colleagues support for this legislation.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Chairman, a week or so ago, I told the Committee on Banking, Finance, and Urban Affairs that I was reminded with this legislation about an old car I used to have. It was a clunker and it used a lot of oil. There are some who are going to suggest that simply by passing this bill we are buying maybe a case or two of oil in order to put in a clunker of a car that keeps running out of oil.

Maybe to an extent that is true. I think with the reforms that are added to this measure we are maybe replacing a few seals in the engine, I think we are tightening things up, but we are also buying some more oil. What we really need to do is to fix the engine in our clunker and maybe to buy a new car or at least a new engine.

There are some disappointments that I have in the context of this legislation. I believe that we have not done enough to narrow the scope of deposit insurance that is out there. We have added to some extent to the regulatory cost and to the insurance cost of our banks. There is always next year. Next year I think we need to come back and finish the job we have begun this year. We need to make sure our banks are able to compete in the 1990's.

□ 1650

We need to go forward with interstate insurance and we again need to permit our banks to compete.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. NEAL].

Mr. NEAL of North Carolina. Mr. Chairman, as with most of our Members, I am sorry that we could not have done more in terms of real reform of the system, but the bill before us is essential to the well-being and health of our economy. There are major reforms in the bill. I commend the chairman and our whole committee for working together to produce this product. I hope we get back to major reform soon. It is essential for the well-being of our Nation.

Mr. Chairman, although H.R. 3768 does little to promote long-term profitability and self-sufficiency in the banking industry, I rise in support of the bill because it's necessary. It recapitalizes the Bank Insurance Fund so our Government can fulfill the promises made to depositors and includes very important regulatory reforms.

Mr. Chairman, H.R. 3768 is not a taxpayer bailout—at least not yet. The bill provides a line of credit from the Treasury that must be paid back by the banking industry. The bill provides that the line of credit may not be used unless the FDIC and the Treasury establish a schedule showing how the money will be repaid.

The bill, Mr. Chairman, also includes numerous provisions to reduce the future risk of losses to the FDIC. The bill will curtail the practice of too-big-to-fail, restrict the use of brokered deposits to only the healthiest banks, and prohibit insurance coverage of foreign deposits. Furthermore, the bill establishes a system of risk-based premiums that would reward highly capitalized institutions. It also requires the FDIC to use the least-cost alternative in resolving failed banks, and it limits open bank assistance, a practice that has in the past prolonged the closure of insolvent institutions.

Mr. Chairman, this bill improves the supervision of banks by requiring Federal regulators to adopt uniform accounting standards for all banks and thrifts. It requires that banks and savings and loans be examined annually through an onsite examination. Moreover, those banks with assets of more than $150 million will be audited annually by an independent public accountant with the reports submitted to the FDIC for review. Mr. Chairman, the bill also gives the Federal Reserve the tools it needs to better regulate foreign banks operating in the United States and avoid a repeat of the BCCI scandal.

Mr. Chairman, H.R. 3768 calls for higher levels of private capital for banks and requires that Federal bank regulators move quickly whenever an institution falls below minimum capital levels. U.S. banks must retain private capital at least equal to the internationally agreed upon capital standards, a ratio that continues to rise.

My major regret, Mr. Chairman, is that H.R. 3768 does not modernize the banking industry to make it more profitable and competitive. The banking industry needs to be able to make a living to ensure that it will pay off the loans we are providing today. Just as importantly, we need a healthy banking system to provide credit for small business and other aspects of our economy, to provide jobs, housing, and a higher standard of living for our people—for savers.

Unfortunately, this bill does not include interstate branching which could save the banking industry up to $10 billion per year simply through efficiencies. That is $10 billion that could be added to the capital base of the banking industry. Interstate branching would also make banks more resistant to regional economic downturns like we have seen in Texas and New England.

I am also disappointed, Mr. Chairman, that H.R. 3768 does not diversify the products and services banks may offer. Diversity is an axiom of safety and solvency, yet this bill does nothing to provide new business opportunities for banks. If the banking industry is not safe, sound, and profitable, taxpayers will almost certainly have to bail it out.

Mr. Chairman, we have tried, and so far this House has rejected many proposals that would modernize the banking industry and improve its safety and soundness. Nevertheless, I hope we can pass this modest bill to fulfill our longstanding commitment to depositors without the use of taxpayer money, and improve the regulation and supervision of banks.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. NEAL].

Mr. NEAL of Massachusetts. Mr. chairman, there are two themes that have been woven in to the context of this debate. One, disappointment, and two, responsibility. We are all a bit dis-

appointed with the final product of 10 months of work, but the obvious responsibility we have here is to recapitalize that bank insurance fund.

We have heard from everybody during the last 10 months. Today we have an opportunity to act upon the most important substance of this legislation, and that is to stand up for the taxpayer and to stand up for the depositor.

We are going to hear a lot of demagoguery that somehow this legislation is for the bankers. This legislation is not for the bankers. This legislation is for the depositors. We should act in the affirmative and vote yes on this bill.

Mr. WYLIE. Mr. chairman, I yield myself such time as I may consume.

Mr. Chairman, we have heard a lot of Members get up here and suggest that this is not he best legislation or best bill that we could come up with. I agree with that. I do not think there is anyone in this body who would want to play the drum in the parade for this bill today, but many of us, as I have suggested, think we could do better, but our views have not prevailed entirely. There are many, many different views on this legislation. It is very controversial. It is difficult to know exactly what to do, but we do not have the opportunity today to have our own views prevail in their entirety.

Of course, some of us will continue to support meaningful structural reforms, to provide more profitability and stability to the banking system, but these reforms will have to be considered next year.

The time to act to recapitalize the bank insurance fund is now. We must maintain confidence in our banking system. We must deliver on our commitment in this regard and stand behind our deposit insurance system.

Mr. Chairman, I can remember very well the Great Depression. I remember the bank failures in 1933. I remember how a lot of people lost their deposits in the banks at that time.

I am reminded of the fact that in 1933 the Deposit Insurance System was put in place. At that time it only called for insurance of up to $2,500. Now we have insurance up to $100,000, which actually is four times more than the cost of living adjustment, given the insurance that we had in 1933; but I, for one, do not want to see us go through a similar situation as we did in 1933. We must maintain and restore confidence in our banking system. We have to tell our depositors that the money is going to be there for them. As I said a little earlier, whether the bank is in trouble or whether it is a good bank, their money will be there when they go to the bank and want to withdraw it. That is what this bill is all about in its basic concept. We do have some meaningful reforms in it which I alluded to a little earlier, but I think it is very, very important that we pass this bill today.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Ohio [Mr. LUKEN].

Mr. LUKEN. Mr. Chairman, I have heard a lot of reluctance about this bill today, and there are reasons to be reluctant to vote for it, but there is a perception that some want to create that somehow we are giving a whole bunch of money to banks or to fat-cat bankers. There are 110 million depositors in commercial banks in this country. A lot of them are small guys. A lot of them are members of the middle class, and when we act today, we act to protect those depositors, those depositors who put their money into these institutions with certain assurances and with certain promises.

We do not exactly have the best of economic times to be doing this, but if you think the economy is bad now, if we fail to act, we are going to compound the economic problems of this country.

I congratulate the chairman of the committee and my friend, the gentleman from Ohio [Mr. WYLIE], and urge a positive vote on the bill.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the gentleman from Rhode Island [Mr. REED], a very hard-working and distinguished member.

Mr. REED. Mr. Chairman, I thank Chairman GONZALEZ and the gentleman from Ohio [Mr. WYLIE] for their great help to my State.

Now is the time to act. We must act for hundreds of thousands of depositors across the country, and particularly in my home State of Rhode Island. If you want to see the consequences of not acting, come to Rhode Island where, for 11 months, people have been without their deposits, and it is not the fat cats who are suffering, it is senior citizens who are living the worst nightmares of the depression. It is young people who cannot afford or worry about keeping their homes. It is students who cannot afford to go to college. That is the reality of not acting today.

We have run out of time. We have run out of alternatives. We have run out of excuses. We must act to help people restore faith in the banking system, in our ability to govern, and help them rebuild their lives, particularly for my constituents in Rhode Island.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Georgia [Mr. BARNARD], a very hard-working and expert member of the committee.

Mr. BARNARD. Mr. Chairman, I rise in strong support of H.R. 3768, which focuses our efforts on what everyone agrees are the essentials, namely recapitalization of the bank insurance fund, early intervention, foreign bank regulation, and the elimination of the too-big-to-fail doctrine.

Do not worry about H.R. 3768 being too easy on the banks or looking like a bailout. The $30 billion recapitalization of the bank insurance fund will be repaid not by taxpayers but by the healthy portion of the industry through greatly increased assessments on which there is no cap. Additionally, remember that the funds are not going to banks, but to depositors—otherwise known as constituents and taxpayers.

H.R. 3768 provides for annual on-site examinations—paid for by the banks. Institutions with over $150 million in assets would have to have outside audits and pay for them—larger institutions would also face audits of their internal controls.

Undercapitalized depository institutions would face limits on dividends, asset growth, and officer salaries. H.R. 3768 adds significant new trip wires pertaining to asset quality, earnings, and management practices that supplement the toughest capital standards—maybe too tough—in history.

The new capital standards set five levels of capital which determine what a bank can do and would require that institutions at a certain critical capital level be placed in conservatorship or receivership after 6 months—in other words, while they still have positive net worth.

H.R. 3768 also provides for least-cost resolution and seeks to effectively eliminate the too-big-to-fail doctrine after 1994. It also places significant limitations on discount window loans.

These are not insubstantial reforms, nor are they inexpensive ones for banks, especially since we do nothing that improves bank competitiveness.

Additionally, H.R. 3768 establishes a new, much needed regulatory structure for foreign banks doing business in the United States that will prevent a repetition of BCCI type scandals.

The bill also contains modest deposit insurance reforms limiting pass through deposit insurance as well as limitations on brokered deposits.

Many of us would like to do more. I would like to see some form of banking and commerce, some would like to see interstate branching, and others would like to roll back insurance powers. This has not proved possible to achieve on the floor this session and we should return to all of these issues, but it would be irresponsible not to recapitalize the BIF and make much-needed regulatory reforms. This is a responsible, defensible vote and I urge my colleagues to vote yes.

Mr. WYLIE. Mr. Chairman, I yield such time as he may consume to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Chairman, I rise to support this measure, H.R. 3768, in an effort to get this bill into conference. Now, I make no assurances of support, however, beyond that.

I just have to say for the record that it gets rather frustrating trying to be responsible around here. It almost al-

ways happens on the tough issues, the tough votes, and we have had plenty lately on the banking bill.

I voted for the rule the very first time this bill was up because I was told by the majority that the amendment to title IV was going to lose. I went against my own membership because I thought it more important to defeat a key amendment that threatened the overall bill than to delay consideration of the bill. I had hoped that my vote was the right one, but the representations made to me about the outcome, obviously, were not very correct.

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When it was clear that the bill had sufficient baggage to be defeated on final passage, I offered the motion to rise and report the bill back, that the enacting clause be stricken, so that we could send the bill back to the committee and work out an agreement among all sides.

And that vote became a leadership vote for the majority, so my motion was defeated. Two days later, after fulminating all around rather uselessly, as I predicted, the banking bill was defeated, with only 89 votes for it and 324 opposed to it.

Now, the new bill was brought to the floor last week. I worked hard for the Wylie amendment. Even to the extent of getting several of our Members to switch their vote, and we passed it by the narrow margin of 210 to 208. And I worked hard for the bill on final passage.

We delivered our side of the aisle, but with only one-third of the Democrats supporting it, it was defeated 191 to 227.

Yesterday in the Committee on Rules, Democrats joked that the reason the previous two bills were defeated was that they did not have their whip organization ginned up. All joking aside, they were doggone right.

Now here we are with a bill which provides a barebones recap, but none of the reforms. It is, however, a vehicle to get us to conference, and that seems all this House is capable of accomplishing for the time being. But be that as it may, I would urge Members certainly to vote for this barebones bill so that we can at least have some degree of progress. And, yes, fate will ultimately lie, I suspect, in what the other body does and what we can finally agree to in conference. But for the moment at least let us agree to agree to do this much, and then we may very well be on the road to adjournment by next Tuesday.

This is absolutely essential. If it goes down, all bets are off. You have got to be here for everything else.

Of course, we hope beyond this we can get agreement on the highway bill and a few other things around here so that conceivably we could adjourn by next Tuesday night.

I urge the Members finally to support the bill this time around. You will all have an opportunity again on the conference report. And that happens any number of times.

I recall once on a very critical tax bill, a lousy bill as it passed the House and my only pitch in the end was, "Well, let us get something to move, and conceivably with the other body in agreement, we can get something to be adopted by every Member."

So I would urge Members to support the bill this afternoon and thank the gentleman for yielding.

Mr. WYLIE. Mr. Chairman, I yield back the balance of my time.

Mr. GONZALEZ. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky [Mr. HUBBARD].

Mr. HUBBARD. Mr. Chairman, I rise in support of H.R. 3768, the Federal Deposit Insurance Corporation Improvement Act of 1991.

Well, they say the third time is a charm. Let us hope it will be so in this case. Today we will see whether any lessons have been learned from the two fruitless trips we have made to the House floor in the last 2 weeks. What we have before us today, H.R. 3768, is the least controversial bill our House Banking Committee could approve. Indeed, conspicuously absent from this bill are extended powers for banks, nationwide interstate banking and branching and any cuts in individual deposit insurance. As we all know, these were the major stumbling blocks which tripped up the two banking reform bills that have so far failed on the House floor.

The most irresponsible action this Congress could take would be to recess without recapitalizing the bank insurance fund. Today we are called upon to keep our promise to American depositors. This is a duty we simply cannot shirk. I urge my colleagues, therefore, in the strongest terms to pass this truly important and vital legislation.

Mr. GONZALEZ. Mr. Chairman, I yield whatever time remains to the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT], for summation and closing.

Mr. GEPHARDT. Mr. Chairman and members of the committee, first I would like to congratulate the committee on their hard work. This bill is not only barebones, it is a reform bill as well, in many respects, with regard to the way the deposit insurance system will work.

This is the third time we have attempted to climb this mountain, and I hope and pray that today we will reach the summit. I voted for the last two bills, and I intend to vote for this bill because I think passing such legislation is important to our economy, it is important to our people, it is important to our competitiveness.

We may need to further reform the banking system, and we can come back at another time and do that. I hope we will.

But today, in November 1991, we need to pass this bill.

Mr. Chairman, I would like to remind Members that, like Social Security, like Medicare, like national defense, this is a Government program that we should be proud of. Many like to say today that Government does not work, does not do the things we want it to do.

I would simply urge Members today to understand this program has done what we wanted it to do. Before there was such a program, we had economic anarchy in this country, deprivation, and there was zero confidence in our banks and in our institutions of Government.

The book "F.D.R." describes the circumstances facing this country as the President-elect took his train ride from New York to Washington in March 1933.

Let me quote from the book:

A newspaper headline said 30 banks now on holiday. Those that remained open were on a restricted-withdrawal basis, with soft-voiced tellers handing depositors their passbooks and saying everything is all right when it wasn't. People lost their faith in banks, and there were runs on the banks in Chicago and Detroit, with armored trucks feeding their branches cash.

As deposits shrank, more banks closed. Real estate lost value and the equity in mortgages disappeared. The New Empire State Building could not rent its offices and cut off elevator service between the 42nd and 67th floors. Construction stagnated because builders could not get loans.

Where were Work and Thrift and Sound Principles and the American way of life and Go West, Young Man? They had been replaced by "tighten your belt," bread lines, soup kitchens, grown men working as caddies, panhandling and riding blind baggage.

Some of these things would be happening today if it were not for the programs that Franklin Roosevelt and Congress put into place in the 1930's. This program is not a bailout for banks. This program is not a bailout for stockholders in banks. This program is not a bailout for the executives of banks.

This program stands behind our people and their deposits in banks. And if we fail to vote for it this afternoon, this program and the Government's full faith and credit behind it will be called into rightful question.

I beg the Members of this House, Republican and Democrat, moderate, conservative, liberal, to vote for this bill, to stand behind the full faith and credit and integrity of this Government and say to our economy and to out people, "This program works, your deposits are safe, and this banking and financial system in our country will be secure into the future."

Vote for this legislation.

Mr. COX of Illinois. Mr. Chairman, I rise today in support of H.R. 3768, the Federal Deposit Insurance Corporation Improvement Act of 1991. Although I regret that Congress was not able to reach a consensus on a more comprehensive bank reform bill, I believe the legislation before us has a great deal of merit.

H.R. 3768 provides the necessary money to replenish the deposit insurance fund and repay depositors of failed financial institutions. In addition, it contains a provision that I introduced when the Banking Committee considered this legislation, allowing banks to purchase bonds from the FDIC, and therefore participate in the recapitalization of their industry. I do not believe that we should discount the willingness of the banking industry to participate in the process before giving banks the opportunity to assist.

It was the banking industry that first presented this basic principle to Chairman Seidman with its proponents committing to participate. I have been given letters from both the Independent Bankers Association of America and the American Bankers Association expressing their support for this provision. In addition, both organizations state their commitment to working with banks throughout the country to encourage their investment in obligations issued to fund the bank insurance fund.

H.R. 3768 also contains provisions that will improve the way in which bank regulators and the FDIC deal with weakening institutions. The bill calls for early intervention by regulators into banks that have fallen below designated capital levels and improvement of examination and auditing requirements. It further moves toward a system of risk-based bank premiums, and the elimination of the too-big-to-fail policy.

Finally, the bill establishes a Bank Enterprise Program, providing incentives for banks to increase their investments in distressed communities with high rates of unemployment and poverty. I was an original cosponsor of the Bank Enterprise Act, and I am pleased to have the opportunity to build a stronger bridge between the banking industry and our Nation's neediest communities.

While I am hopeful that we have not completely put broader bank reform issues to rest, I support this measure to shore up the deposit insurance fund. I believe this measure will provide greatly needed mechanisms to instill safety and soundness to the banking industry.

Mr. TALLON. Mr. Chairman, the main objective of this latest version of the banking reform bill is to infuse $70 billion into the bank insurance fund to cover the costs of the banks that continue to fail.

Congress must pass banking reform legislation this year that will do more than just replenish the bank insurance fund. We need legislation that addresses the underlying structural problems of the industry. Legislation that simply pours money into the fund without fixing the underlying problems of the banking industry will leave the taxpayer exposed and contribute to the credit crunch.

I urge my colleagues to vote no on this legislation.

Mr. WEISS. Mr. Chairman, I rise in support of H.R. 3768, the FDIC Recapitalization and Improvement Act. In the past 2 weeks, the House has twice defeated bank reform legislation. I supported the first measure brought to the floor, H.R. 6, because, in my estimation, it balanced needed reform and diversification with essential regulatory and enforcement muscle. I opposed the second measure before the House, H.R. 2094, because it included an amendment which weighed down the bill with special interest giveaways. Congressional leaders realized that a majority of the Members in this Chamber were not prepared to approve a major reform bill, so we have before us today a stripped down measure which we expect to pass.

H.R. 3768 addresses the most pressing issue confronting the banking system, the recapitalization of the bank insurance fund [BIF]. It is estimated that BIF will have only $2.9 billion on balance in its coffers by the end of this year. When one considers FDIC predictions that 137 banks will have failed during 1991, and 200 more are expected to fail in 1992, the fund is effectively insolvent. If we abdicate our responsibility to recapitalize BIF, thousands of these institutions' depositors will lose their hard-earned savings and face devastating economic circumstances. Even more frightening is the havoc such action would wreak on the rest of the banking system. We must keep our Government's hallowed promise to back taxpayer deposits.

Although the adoption of a core bank provision would have provided the greatest protection to our taxpayers, H.R. 3768 does incorporate numerous provisions which reduces the risk of future losses to the FDIC fund and reduces taxpayer exposure to another bailout. These changes include the requirement of annual onsite examinations of federally insured institutions by regulators, annual independent audits of banks with assets over $150 million, the adoption of uniform accounting standards to improve oversight of institutions, restrictions on the ability of troubled institutions to get advances from the Federal Reserve's discount window, and creation of an early intervention system for troubled banks in order to minimize costs.

This is not a perfect bill. I, like many other Members, wish we could do much more. I also know that we will have to address the issue of true reform and more stringent controls at some point in the future. But today we must replenish the bank insurance fund and maintain consumer confidence in our banking system. I urge my colleagues to place the public's interest above the special interests by supporting this measure.

Mr. BLACKWELL. Mr. Chairman, I, like most Americans, firmly believe that we need total banking reform. But at this time I have little alternative but to vote against this bill. We cannot simply recapitalize the FDIC without the Members of this Congress coming together and formulating a sensible and comprehensive legislative package that will bring about total reform for the American banking industry. I was not elected to simply place a band-aid on a bleeding wound. Our banking industry is in crisis. Many Americans, many of them women and minorities, lack the same access to credit that other Americans have. They cannot get home mortgages. They cannot start new businesses. We can no longer continue to use a patchwork approach when the hard working taxpayers of the American public demand—and deserve to have total confidence in the American banking system.

Mr. MORAN. Mr. Chairman, in early March, President Bush presented to Congress comprehensive legislation overhauling this Nation's banking industry. The legislation reflected a concern the President expressed in his State of the Union Address last January:

> * * * to bring America's financial system into the 21st century so that our banks remain safe and secure and can continue to make job-creating loans for our factories, our businesses, and home buyers.

The driving force behind this legislation, however, is the immediate need to replenish the bank insurance fund [BIF] with a $30 billion line of credit from the U.S. Treasury. The debt would be repaid through a higher premium banks pay to the insurance fund.

For close to 2 months, the House Banking Committee, of which I am a member, weighed through the administration's proposal and considered more than 160 amendments. As we considered the various issues and proposed amendments, we sought to make sure that the legislation addressed the following three concerns: That the regulators be given the authority to intervene early and close down troubled banks before they become insolvent; that this legislation would promote prudently managed and well capitalized institutions; and to promote amendments that would benefit the average bank customer.

Haunted by the specter of the savings and loan debacle, committee members sought to make sure the Federal regulators have the authority to intervene early and close sick banks. During the 1980's, Federal regulators allowed too many insolvent savings and loans to remain open and accept deposits they were never able to pay back. For example, the Federal Savings and Loan Insurance Corporation [FSLIC] allowed two sick Virginia institutions that should have been closed to remain open more than a year, costing the Federal Government and the U.S. taxpayer more than $120 million. Had the FSLIC moved in early the cost to the insurance fund would have been less than $14 million.

One of the major goals before the committee was ending the too-big-to-fail policy by the Federal regulators. Under this policy, large institutions are too big to fail and small institutions are too small to save. People will be reluctant to keep their savings in smaller community banks. Even though these institutions are prudently managed and well capitalized, the deposit base that is necessary for the economic mainstay of many communities will disappear.

One case in point was the bailout of the Bank of New England for $2.3 billion. At approximately the same time, little Independence National Bank of Harlem was allowed to fail because the administration considered it too small to save. One of my favorite movies is "It's a Wonderful Life," with Jimmy Stewart as a community banker whose presence made such a critical difference in his neighbors' ability to realize their dreams. I don't want the big banks to get so powerful and concentrated that the decision of whether to lend to a person or business in need is made by someone many miles away who neither understands the character of the local community nor cares for its future.

Mr. Chairman, true reform has less to do with an overextension of deposit insurance and more to do with an absence of private market discipline within the banking industry. I therefore supported a number of amendments that would provide incentives for institutions to be well managed and well capitalized. These

efforts included the successful full committee approval of amendments that will: Allow brokered deposits—C's sold by brokerage firms—and pass through deposits to only those institutions with level one and two—very high—capital ratings; and reward banks with an insurance premium credit for providing lifelong accounts and investing in distressed communities.

I also supported the idea that would restrict the activities banks could engage in with Government guaranteed deposits to just core banking activities. This proposal would have limited the interest rates banks could offer on guaranteed deposits and created a legal lending limit for institutions with assets of more than $100 million. Guaranteed deposits could only be used for those essential core banking activities such as consumer and small business loans and home mortgages that have made community banks successful enterprises.

The proposal would, however, force such high-risk activities as speculative underwriting, leveraged buyouts and global money market activities, as well as any new activities banks could engage in under the President's proposal, out from under the protection of deposit insurance and into the marketplace.

I firmly believe that this proposal would have instilled the banking industry with greater private market discipline. In the absence of private market discipline, a few imprudently managed banks will penalize the great majority of responsible bankers by forcing them to pay higher premiums and bear the costs of the mistakes of the few. Unfortunately, this proposal was defeated both in committee and again on the House floor.

Without adoption of the core bank provisions, I was reluctant to see banks engage in most of the new activities contained in the President's proposal. A majority of my colleagues were also reluctant to see banks engage in these new activities.

As a result, the House passed a narrow reform bill that: Recapitalizes the bank insurance fund with $30 billion; severely restricts the current too-big-to-fail policy; and requires the Federal regulators to intervene early once a bank fails to meet certain capital and soundness standards.

While I am disappointed that the bill did not include more substantive reforms such as the core bank proposal, I believe it is important to support the narrow bill. Without its passage, the Federal regulators would have been unable to close down failed institutions and pay off the depositors—something the Federal Government has a responsibility to do and the American taxpayer should have a right to expect.

Mr. STEARNS. Mr. Chairman, I rise in support of H.R. 3768, the FDIC Improvement Act. I do so for several reasons.

One, the bank insurance fund is broke. The U.S. Government has put its full faith and credit on the line to protect depositors—large or small. It would be irresponsible to allow the insurance fund to remain in its current sorry state. This would expose depositors to enormous risk.

Second, the bill calls for improved examinations of deposit institutions. It also requires independent audits of the institution's financial management and assesses the institution's compliance with Federal law.

Third, this bill requires the FDIC to use the least cost method in resolving failed banks. This requires the FDIC to use the least expensive and most effective method when closing a failed institution. The bill also states that the FDIC will only cover insured deposits. This eliminates the too-big-too-fail doctrine which asserts there are some banks that are too big and too special to fail.

While I continue to be concerned that we have put off dealing meaningfully with deposit insurance reform, this bill is our best hope for now. However, we must continue to pursue avenues that will lead some reduction to the taxpayer's and depositor's exposure. With a weak insurance fund that is in constant need of replenishment and over $2.4 trillion in guarantees protected by this fund we would be irresponsible not to pursue such avenues.

I urge my colleagues to support this legislation, not only to preserve some confidence in our financial system but also to enact at least some reforms. It is imperative that, at a minimum, these reforms be implemented.

In closing, Mr. Chairman, I would also like to remind my colleagues that bills such as this provides only a temporary respite. A cure to a weakened financial system is a healthier economy. With the passage of this bill, it becomes more urgent than ever that Congress pass an economic recovery program. I urge the leadership on both sides to bring H.R. 3130, the Economic Growth Act, before the House. Economists estimate passage of this bill will create jobs; 1.1 million new jobs, some basic tax relief, and greater economic incentives for all Americans. This would stimulate our economy and lessen the need for the legislation we are considering today.

Mr. RINALDO. Mr. Chairman, this is the third in our weekly series of debates about banking legislation. I am certain that my colleagues join me in hoping it will be the last time we have to deal with this subject.

I will note for this legislation for one and only one reason. We promised many years ago to protect the savings of our constituents. This bill is the only way to keep that vow.

The GAO says that the bank insurance fund is effectively insolvent. We have no choice but to replenish it.

The savings of millions of people are at stake. Our banking system is based on trust. If that faith erodes, the result will be panic. Voting for this bill is our only responsible course of action.

If we pass this legislation, once again the savings of the people who sent us here will be protected by the full faith and credit of this country.

However, passing this bill will not resolve the fundamental problems with our financial system.

This Congress must modernize the laws regulating banks and other types of financial services. Unless we do, this House will sit here again and again debating banking bills.

Continued inaction will mean more failed banks, and additional billions to pay for them. Foreign banks will continue to out-compete our financial services industry.

Mr. Chairman, the cost of bank failures will be much higher due to the failure of this House to pass my amendment allowing corporations to buy failed and failing banks.

When future legislation on this subject is considered, I will again offer my amendment.

The question is simple: Who pays for bank failures? Is it going to be your constituents and neighbors? Or are we going to let corporations buy some of these banks, and prevent the burden from being passed on to the taxpayer?

The CHAIRMAN. All time has expired. Pursuant to the rule, the amendment in the nature of a substitute printed in the reported bill is considered as an original bill for the purpose of amendment and is considered as read.

The text of H.R. 3768 is as follows:

H.R. 3768

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Deposit Insurance Corporation Improvement Act of 1991".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—SAFETY AND SOUNDNESS

Subtitle A—Deposit Insurance Funds

Sec. 101. Funding for the federal deposit insurance funds.
Sec. 102. Limitation on outstanding borrowing.
Sec. 103. Repayment schedule.
Sec. 104. Borrowing for BIF from BIF members.

Subtitle B—Supervisory Reforms

Sec. 111. Improved examinations.
Sec. 112. Independent annual audits of insured depository institutions.
Sec. 113. Assessments required to cover costs of examinations.
Sec. 114. Application to FDIC required for insurance.
Sec. 115. Regulatory requirements study.

Subtitle C—Accounting Reforms

Sec. 121. Accounting objectives, standards, and requirements.
Sec. 122. Small business loan data required in reports of condition.
Sec. 123. Reports of financial condition by large institutions engaged in interstate banking.

Subtitle D—Prompt Regulatory Action

Sec. 131. Prompt regulatory action.
Sec. 132. Appointment of conservator or receiver for insured state depository institutions.

Subtitle E—Least-Cost Resolution

Sec. 141. Least-cost resolution.
Sec. 142. Limitation on use of liquidity lending for deposit insurance fund purposes.
Sec. 143. No assistance to troubled institution without removing management and repudiating shareholders claims.

Subtitle F—Federal Insurance for State Chartered Depository Institutions

Sec. 151. Short title.
Sec. 152. Federal deposit insurance required for state chartered banks, savings associations, and credit unions.

Subtitle G—Technical Corrections

Sec. 161. Technical corrections and clarifications.

TITLE II—REGULATORY IMPROVEMENT

Subtitle A—Regulation of Foreign Banks

Sec. 201. Short title.

Sec. 202. Regulation of foreign bank operations.
Sec. 203. Conduct and coordination of examinations.
Sec. 204. Supervision of the representative offices of foreign banks.
Sec. 205. Reporting of stock loans.
Sec. 206. Cooperation with foreign supervisors.
Sec. 207. Approval required for acquisition by foreign banks of shares of United States banks.
Sec. 208. Penalties.
Sec. 209. Powers of agencies respecting applications, examinations, and other proceedings.
Sec. 210. Clarification of managerial standards in bank holding company act of 1956.
Subtitle B—Customer and Consumer Provisions
Sec. 221. Paperwork reduction and improvements in administration of Community Reinvestment Act of 1977.
Sec. 222. Additional factor in assessing majority-owned institution's record of meeting community credit needs.
Sec. 223. Enforcement of Equal Credit Opportunity Act.
Sec. 224. Fair housing reporting.
Sec. 225. Regulatory burden study.
Sec. 226. Notice of safeguard exception.
Sec. 227. Prohibition on deceptive practices relating to electronic fund transfers from accounts.
Sec. 228. Deposits at nonproprietary automated teller machines.
Sec. 229. Notice of branch closure.
Subtitle C—Bank Enterprise Act
Sec. 231. Short title.
Sec. 232. Reduced assessment rate for deposits attributable to lifeline accounts.
Sec. 233. Assessment credits for qualifying activities relating to distressed communities.
Sec. 234. Community development organizations.
TITLE III—FEDERAL DEPOSIT INSURANCE REFORM
Subtitle A—Activities
Sec. 301. Limitations on brokered deposits and deposit solicitations.
Sec. 302. Risk-based assessments.
Sec. 303. Restrictions on insured state bank activities.
Sec. 304. Restrictions on real estate lending.
Sec. 305. Capital standards and interest rate risk.
Sec. 306. Transition rule.
Sec. 307. FDIC back-up enforcement authority.
Subtitle B—Coverage
Sec. 311. Deposit and pass-through insurance.
Sec. 312. Foreign deposits.
Sec. 313. Penalty for false assessment reports.
Subtitle C—Demonstration Project and Studies
Sec. 321. Feasibility study on authorizing insured and uninsured deposit accounts.
Sec. 322. Private reinsurance study.
Subtitle D—Credit Unions
Sec. 331. Liquidations of federally insured state credit unions.
Subtitle E—FDIC Property Disposition
Sec. 341. FDIC affordable housing program.
TITLE IV—MISCELLANEOUS PROVISIONS
Subtitle A—Payment System Risk Reduction
Sec. 401. Findings and purpose.
Sec. 402. Definitions.
Sec. 403. Bilateral netting.
Sec. 404. Clearing organization netting.
Sec. 405. Preemption.
Sec. 406. Relationship to other payments systems.
Subtitle B—Right to Financial Privacy Act of 1978
Sec. 411. Amendments to the Right to Financial Privacy Act of 1978.
Subtitle C—Final Settlement Payment Procedure
Sec. 421. Final settlement payment procedure.
Subtitle D—Miscellaneous Committees, Studies, and Reports
Sec. 431. Commission on the Thrift Industry.
Sec. 432. Bank Insurance Fund Advisory Committee.
Sec. 433. Amendments relating to Federal Reserve Board reserve requirements.
Sec. 434. Depository Institutions Reform Advisory Committee.
Sec. 435. Report on government check cashing.
Sec. 436. Permanent authorization of Credit Standards Board.
Subtitle E—Utilization of Private Sector
Sec. 441. Utilization of private sector.
Sec. 442. Reporting.
Sec. 443. Requirement to minimize payments for legal services.
Subtitle F—Emergency Assistance for Rhode Island
Sec. 451. Emergency loan guarantee.
Subtitle G—Qualified Thrift Lender Test Improvements
Sec. 461. Short title.
Sec. 462. Adjustment of compliance periods for purposes of qualified thrift lender test.
Sec. 463. Increase in amount of liquid assets excludable from portfolio assets.
Sec. 464. Additional investments included in definition of qualified thrift assets.
Sec. 465. Prudent diversification of assets.
Sec. 466. Consumer lending by Federal savings associations.
Subtitle H—Prohibition on Entering Secrecy Agreements and Protective Orders
Sec. 471. Prohibition on entering into secrecy agreements and protective orders.
Subtitle I—Establishment of Capital Standard Requirement
Sec. 481. Capital standards.
Subtitle J—Bank and Thrift Employee Provisions
Sec. 491. Continuation of health plan coverage in cases of failed financial institutions.
Subtitle K—Severability
Sec. 496. Severability.
Subtitle L—Sense of the House of Representatives on the Credit Crisis
Sec. 498. Credit crunch.
TITLE V—DEPOSITORY INSTITUTION CONVERSIONS
Sec. 501. Mergers and acquisitions of insured depository institutions during conversion moratorium.
Sec. 502. Mergers, consolidations, and other acquisitions authorized.
Sec. 503. Acquisition of thrift institutions by certain companies which control banks and are not treated as holding companies.

TITLE I—SAFETY AND SOUNDNESS

Subtitle A—Deposit Insurance Funds

SEC. 101. FUNDING FOR THE FEDERAL DEPOSIT INSURANCE FUNDS.

Section 14(a) of the Federal Deposit Insurance Act (12 U.S.C. 1824(a)) is amended by striking "$5,000,000,000" and inserting "$30,000,000,000".

SEC. 102. LIMITATION ON OUTSTANDING BORROWING.

(a) IN GENERAL.—Section 15(c) of the Federal Deposit Insurance Act (12 U.S.C. 1825(c)) is amended by striking paragraphs (5) and (6) and inserting the following new paragraphs:

"(5) MAXIMUM AMOUNT LIMITATION ON OUTSTANDING OBLIGATIONS.—Notwithstanding any other provisions of this Act, the aggregate amount of obligations of the Bank Insurance Fund or Savings Association Insurance Fund, respectively, outstanding at any time may not exceed the sum of—

"(A) the amount of cash or the equivalent of cash held by the Bank Insurance Fund or Savings Association Insurance Fund, respectively;

"(B) the amount which is equal to 90 percent of the Corporation's estimate of the fair market value of assets held by the Bank Insurance Fund or the Savings Association Insurance Fund, respectively, other than assets described in subparagraph (A); and

"(C) the total of the amounts authorized to be borrowed from the Secretary of the Treasury pursuant to section 14(a).

"(6) OBLIGATION DEFINED.—For purposes of paragraph (5), the term 'obligation' includes—

"(A) any guarantee issued by the Corporation;

"(B) any amount borrowed pursuant to section 14; and

"(C) any other obligation for which the Corporation has a direct or contingent liability to pay any amount.".

(b) GAO REPORTS.—

(1) QUARTERLY REPORTING.—The Comptroller General of the United States shall submit a report each calendar quarter on the Federal Deposit Insurance Corporation's compliance with section 15(c)(5) of the Federal Deposit Insurance Act for the preceding quarter to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) ANALYSES TO BE INCLUDED.—Each report submitted under paragraph (1) shall include—

(A) an analysis of the performance of the Federal Deposit Insurance Corporation in meeting any repayment schedule under section 14(c) of the Federal Deposit Insurance Act (as added by section 103 of this Act); and

(B) an analysis of the actual recovery on asset sales compared to the estimated fair market value of the assets as determined for the purposes of section 15(c)(5)(B) of such Act.

(c) TECHNICAL AND CONFORMING AMENDMENT.—Section 15(c) of the Federal Deposit Insurance Act (12 U.S.C. 1825(c)) is amended by striking paragraph (7).

SEC. 103. REPAYMENT SCHEDULE.

(a) IN GENERAL.—Section 14 of the Federal Deposit Insurance Act (12 U.S.C. 1824) is amended by adding at the end the following new subsection:

"(c) REPAYMENT SCHEDULES REQUIRED FOR ANY BORROWING.—

"(1) IN GENERAL.—No amount may be provided by the Secretary of the Treasury to the Corporation under subsection (a) unless an agreement is in effect between the Secretary and the Corporation which—

"(A) provides a schedule for the repayment of the outstanding amount of any borrowing under such subsection; and

"(B) demonstrates that income to the Corporation from assessments under this Act will be sufficient to amortize the outstanding balance within the period established in the repayment schedule and pay the interest accruing on such balance.

"(2) CONSULTATION WITH AND REPORT TO CONGRESS.—The Secretary of the Treasury and the Corporation shall—

"(A) consult with the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the terms of any repayment schedule agreement described in paragraph (1) relating to repayment, including terms relating to any emergency special assessment under section 7(b)(7); and

"(B) submit a copy of each repayment schedule agreement entered into under paragraph (1) to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate before the end of the 30-day period beginning on the date any amount is provided by the Secretary of the Treasury to the Corporation under subsection (a).".

(b) EMERGENCY SPECIAL ASSESSMENTS.—Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively, and by inserting after paragraph (6) the following new paragraph:

"(7) EMERGENCY SPECIAL ASSESSMENTS.—In addition to the assessments imposed on insured depository institutions under other provisions of this subsection, the Corporation may impose 1 or more special assessments on insured depository institutions in an amount determined by the Corporation if the amount of any such assessment—

"(A) is necessary—

"(i) to provide sufficient assessment income to repay amounts borrowed from the Secretary of the Treasury under section 14(a) in accordance with the repayment schedule in effect under section 14(c) during the period with respect to which such assessment is imposed;

"(ii) to provide sufficient assessment income to repay obligations issued to and other amounts borrowed from Bank Insurance Fund members under section 14(d); or

"(iii) for any other purpose the Corporation may deem necessary; and

"(B) is allocated between Bank Insurance Fund members and Savings Association Insurance Fund members in amounts which reflect the degree to which the proceeds of the amounts borrowed are to be used for the benefit of the respective insurance funds.".

SEC. 104. BORROWING FOR BIF FROM BIF MEMBERS.

Section 14 of the Federal Deposit Insurance Act (12 U.S.C. 1824) is amended by inserting after subsection (c) (as added by section 103 of this subtitle) the following new subsection:

"(d) BORROWING FOR BIF FROM BIF MEMBERS.—

"(1) BORROWING AUTHORITY.—The Corporation may issue obligations to Bank Insurance Fund members, and may borrow from Bank Insurance Fund members and give security for any amount borrowed, and may pay interest on (and any redemption premium with respect to) any such obligation or amount to the extent—

"(A) the proceeds of any such obligation or amount are used by the Corporation solely for purposes of carrying out the Corporation's functions with respect to the Bank Insurance Fund; and

"(B) the terms of the obligation or instrument limit the liability of the Corporation or the Bank Insurance Fund for the payment of interest and the repayment of principal to the amount which is equal to the amount of assessment income received by the Fund from assessments under section 7.

"(2) LIMITATIONS ON BORROWING.—

"(A) APPLICABILITY OF PUBLIC DEBT LIMIT.—For purposes of the public debt limit established in section 3101(b) of title 31, United States Code, any obligation issued, or amount borrowed, by the Corporation under paragraph (1) shall be considered to be an obligation to which such limit applies.

"(B) APPLICABILITY OF FDIC BORROWING LIMIT.—For purposes of the dollar amount limitation established in section 14(a) of the Federal Deposit Insurance Act (12 U.S.C. 1824(a)), any obligation issued, or amount borrowed, by the Corporation under paragraph (1) shall be considered to be an amount borrowed from the Treasury under such section.

"(C) INTEREST RATE LIMIT.—The rate of interest payable in connection with any obligation issued, or amount borrowed, by the Corporation under paragraph (1) shall not exceed an amount determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

"(D) OBLIGATIONS TO BE HELD ONLY BY BIF MEMBERS.—The terms of any obligation issued by the Corporation under paragraph (1) shall provide that the obligation will be valid only if held by a Bank Insurance Fund Member.

"(3) LIABILITY OF BIF.—Any obligation issued or amount borrowed under paragraph (1) shall be a liability of the Bank Insurance Fund.

"(4) TERMS AND CONDITIONS.—Subject to paragraphs (1) and (2), the Corporation shall establish the terms and conditions for obligations issued or amounts borrowed under paragraph (1), including interest rates and terms to maturity.

"(4) INVESTMENT BY BIF MEMBERS.—

"(A) AUTHORITY TO INVEST.—Subject to subparagraph (B) and notwithstanding any other provision of Federal law or the law of any State, any Bank Insurance Fund member may purchase and hold for investment any obligation issued by the Corporation under paragraph (1) without limitation, other than any limitation the appropriate Federal banking agency may impose specifically with respect to such obligations.

"(B) INVESTMENT ONLY FROM CAPITAL AND RETAINED EARNINGS.—Any Bank Insurance Fund member may purchase obligations or make loans to the Corporation under paragraph (1) only to the extent the purchase money or the money loaned is derived from the member's capital or retained earnings.

"(5) ACCOUNTING TREATMENT.—In accounting for any investment in an obligation purchased from, or any loan made to, the Corporation for purposes of determining compliance with any capital standard and preparing any report required pursuant to section 7(a), the amount of such investment or loan shall be treated as an asset.".

Subtitle B—Supervisory Reforms

SEC. 111. IMPROVED EXAMINATIONS.

(a) ANNUAL EXAMINATIONS.—

(1) IN GENERAL.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by inserting after subsection (c) the following new subsection:

"(d) ANNUAL ON-SITE EXAMINATIONS OF ALL INSURED DEPOSITORY INSTITUTIONS REQUIRED.—

"(1) IN GENERAL.—Each insured depository institution (other than an institution for which a conservator or receiver has been appointed) shall be examined at least once during each 12-month period (beginning on the date on which the most recent examination of such institution ended) by the appropriate Federal banking agency in an on-site examination unless the institution has been examined by the Corporation during such period in an on-site examination.

"(2) ACCEPTANCE OF STATE ON-SITE EXAMINATIONS.—Notwithstanding paragraph (1), the appropriate Federal banking agency or the Corporation may accept an examination report on any insured depository institution which is based on an on-site examination by the appropriate State bank supervisor.".

(2) EFFECTIVE DATE.—Section 10(d) of the Federal Deposit Insurance Act (as added by paragraph (1) of this subsection) shall take effect at the end of the 1-year period beginning on the date of the enactment of this Act.

(3) TRANSITION RULE.—During the period beginning after the end of the period described in paragraph (2) and ending on December 31, 1993, section 10(d) of the Federal Deposit Insurance Act shall be applied by substituting "18-month" for "12-month" with respect to any insured depository institution other than—

(A) an institution which received a composite CAMEL rating of 3, 4, or 5 under the Uniform Financial Institutions Rating System (or a comparable rating under an equivalent rating system) during the most recent examination of such institution; or

(B) an institution for which a notice or application has been received by the appropriate Federal banking agency under section 7(j) or 18(c) of the Federal Deposit Insurance Act during the 12-month period beginning on the date on which the most recent examination ended.

(b) EXAMINATION IMPROVEMENT PROGRAM.—

(1) IN GENERAL.—The appropriate Federal banking agencies, acting through the Federal Financial Institutions Examination Council, shall each establish a comparable examination improvement program which meets the requirements of paragraph (2).

(2) REQUIREMENTS.—An examination improvement program meets the requirements of this paragraph if, under the program, the agency is required—

(A) to periodically review the organization and training of the staff of the agency who are responsible for conducting examinations of insured depository institutions and to make such improvements as the agency determines to be appropriate to ensure frequent, objective, and thorough examinations of such institutions; and

(B) to increase the number of examiners, supervisors, and other individuals employed by the agency in connection with conducting or supervising examinations of insured depository institutions to the extent necessary to ensure frequent, objective, and thorough examinations of such institutions.

(c) DEFINITION RELATING TO STATE BANK SUPERVISORS.—

(1) IN GENERAL.—Section 3(r) of the Federal Deposit Insurance Act (12 U.S.C. 1813(r)) is amended to read as follows:

"(r) STATE BANK SUPERVISOR.—

"(1) IN GENERAL.—The term 'State bank supervisor' means any officer, agency, or other entity of any State which has primary regulatory authority over State banks or State savings associations in such State.

"(2) INTERSTATE APPLICATION.—The State bank supervisors of more than 1 State may be the appropriate State bank supervisor for any insured depository institution.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) is amended to read as follows:

"(s) DEFINITIONS RELATING TO FOREIGN BANKS AND BRANCHES.—

"(1) FOREIGN BANK.—The term 'foreign bank' has the meaning given to such term by section 1(b)(7) of the International Banking Act of 1978.

"(2) FEDERAL BRANCH.—The term 'Federal branch' has the meaning given to such term by section 1(b)(6) of the International Banking Act of 1978.

"(3) INSURED BRANCH.—The term 'insured branch' means any branch (as defined in section 1(b)(3) of the International Banking Act of 1978) of a foreign bank any deposits in which are insured pursuant to this Act.".

SEC. 112. INDEPENDENT ANNUAL AUDITS OF INSURED DEPOSITORY INSTITUTIONS.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 36. EARLY IDENTIFICATION OF NEEDED IMPROVEMENTS IN FINANCIAL MANAGEMENT.

"(a) ANNUAL REPORT ON FINANCIAL CONDITION AND MANAGEMENT.—

"(1) REPORT REQUIRED.—Each insured depository institution shall submit an annual report to the Corporation, the appropriate Federal banking agency, and any appropriate State bank supervisor (including any State bank supervisor of a host State).

"(2) CONTENTS OF REPORT.—Any annual report required under paragraph (1) shall contain—

"(A) the information required to be provided by—

"(i) the institution's management under subsection (b); and

"(ii) an independent public accountant under subsections (c) and (d); and

"(B) such other information as the Corporation and the appropriate Federal banking agency may determine to be necessary to assess the financial condition and management of the institution.

"(3) PUBLIC AVAILABILITY.—Any annual report required under paragraph (1) shall be available for public inspection.

"(b) MANAGEMENT RESPONSIBILITY FOR FINANCIAL STATEMENTS AND INTERNAL CONTROLS.—Each insured depository institution shall prepare—

"(1) annual financial statements in accordance with generally accepted accounting principles and such other disclosure requirements as the Corporation and the appropriate Federal banking agency may prescribe; and

"(2) a report signed by the chief executive officer and the chief accounting or financial officer of the institution which contains—

"(A) a statement of the management's responsibilities for—

"(i) preparing financial statements;

"(ii) establishing and maintaining an adequate internal control structure and procedures for financial reporting; and

"(iii) complying with the laws and regulations relating to safety and soundness which are designated by the Corporation or the appropriate Federal banking agency; and

"(B) an assessment, as of the end of the institution's most recent fiscal year, of—

"(i) the effectiveness of such internal control structure and procedures; and

"(ii) the institution's compliance with the laws and regulations relating to safety and soundness which are designated by the Corporation and the appropriate Federal banking agency.

"(c) INTERNAL CONTROL EVALUATION AND REPORTING REQUIREMENTS FOR INDEPENDENT PUBLIC ACCOUNTANTS.—

"(1) IN GENERAL.—With respect to any internal control report required by subsection (b)(2) of any institution, the institution's independent public accountant shall attest to, and report separately on, the assertions of the institution's management contained in such report.

"(2) ATTESTATION REQUIREMENTS.—Any attestation pursuant to paragraph (1) shall be made in accordance with generally accepted standards for attestation engagements.

"(d) ANNUAL INDEPENDENT AUDITS OF FINANCIAL STATEMENTS.—

"(1) AUDITS REQUIRED.—The Corporation, in consultation with the appropriate Federal banking agencies, shall prescribe regulations requiring that each insured depository institution shall have an annual independent audit made of the institution's financial statements by an independent public accountant in accordance with generally accepted auditing standards and section 37.

"(2) SCOPE OF AUDIT.—In connection with any audit under this subsection, the independent public accountant shall determine and report whether the financial statements of the institution—

"(A) are presented fairly in accordance with generally accepted accounting principles; and

"(B) comply with such other disclosure requirements as the Corporation and the appropriate Federal banking agency may prescribe.

"(3) REQUIREMENTS FOR INSURED SUBSIDIARIES OF HOLDING COMPANIES.—The requirements for an independent audit under subsection (d) may be satisfied for insured depository institutions that are subsidiaries of a holding company by an independent audit of the holding company.

"(e) DETECTING AND REPORTING VIOLATIONS OF LAWS AND REGULATIONS.—

"(1) IN GENERAL.—An independent public accountant shall apply procedures agreed upon by the Corporation to objectively determine the extent of the compliance of any insured depository institution or depository institution holding company with laws and regulations designated by the Corporation, in consultation with the appropriate Federal banking agencies.

"(2) ATTESTATION REQUIREMENTS.—Any attestation pursuant to paragraph (1) shall be made in accordance with generally accepted standards for attestation engagements.

"(f) FORM AND CONTENT OF REPORTS AND AUDITING STANDARDS.—

"(1) IN GENERAL.—The scope of each report by an independent public accountant pursuant to this section, and the procedures followed in preparing such report, shall meet or exceed the scope and procedures required by generally accepted auditing standards and other applicable standards recognized by the Corporation.

"(2) CONSULTATION.—The Corporation shall consult with the other appropriate Federal banking agencies in implementing this subsection.

"(g) IMPROVED ACCOUNTABILITY.—

"(1) INDEPENDENT AUDIT COMMITTEE.—

"(A) ESTABLISHMENT.—Each insured depository institution (to which this section applies) shall have an independent audit committee entirely made up of outside directors who are independent of management of the institution, and who satisfy any specific requirements the Corporation may establish.

"(B) DUTIES.—An independent audit committee's duties shall include reviewing with management and the independent public accountant the basis for the reports issued under subsections (b)(2), (c), and (d).

"(C) CRITERIA APPLICABLE TO COMMITTEES OF LARGE INSURED DEPOSITORY INSTITUTIONS.—In the case of each insured depository institution which the Corporation determines to be a large institution, the audit committee required by subparagraph (A) shall—

"(i) include members with banking or related financial management expertise;

"(ii) have access to the committee's own outside counsel; and

"(iii) not include any large customers of the institution.

"(2) REVIEW OF QUARTERLY REPORTS OF LARGE INSURED DEPOSITORY INSTITUTIONS.—

"(A) IN GENERAL.—In the case of any insured depository institution which the Corporation has determined to be a large institution, the Corporation may require the independent public accountant retained by such institution to perform reviews of the institution's quarterly financial reports in accordance with procedures agreed upon by the Corporation.

"(B) REPORT TO AUDIT COMMITTEE.—The independent public accountant referred to in subparagraph (A) shall provide the audit committee of the insured depository institution with reports on the reviews under such subparagraph and the audit committee shall provide such reports to the Corporation, any appropriate Federal banking agency, and any appropriate State bank supervisor.

"(C) LIMITATION ON NOTICE.—Reports provided under subparagraph (B) shall be only for the information and use of the insured depository institution, the Corporation, any appropriate Federal banking agency, and any State bank supervisor which received the report.

"(3) QUALIFICATIONS OF INDEPENDENT PUBLIC ACCOUNTANTS.—

"(A) IN GENERAL.—All audit services required by this section shall be performed only by an independent public accountant who—

"(i) has agreed to provide related working papers, policies, and procedures to the Corporation, an appropriate Federal banking agency, and any State bank supervisor, if requested; and

"(ii) has received a peer review that meets guidelines acceptable to the Corporation.

"(B) REPORTS ON PEER REVIEWS.—Reports on peer reviews shall be filed with the Corporation and made available for public inspection.

"(4) ENFORCEMENT ACTIONS.—

"(A) IN GENERAL.—In addition to any authority contained in section 8, the Corporation or an appropriate Federal banking agency may remove, suspend, or bar an independent public accountant, upon a showing of good cause, from performing audit services required by this section.

"(B) JOINT RULEMAKING.—The appropriate Federal banking agencies shall jointly issue rules of practice to implement this paragraph.

"(5) NOTICE BY ACCOUNTANT OF TERMINATION OF SERVICES.—Any independent public accountant performing an audit under this section who subsequently ceases to be the accountant for the institution shall promptly notify the Corporation pursuant to such rules as the Corporation shall prescribe.

"(h) EXCHANGE OF REPORTS AND INFORMATION.—

"(1) REPORT TO THE INDEPENDENT AUDITOR.—

"(A) IN GENERAL.—Each insured depository institution which has engaged the services of an independent auditor to audit such institution shall transmit to the auditor a copy of the most recent report of condition made by the institution (pursuant to this Act or any other provision of law) and a copy of the most recent report of examination received by the institution.

"(B) ADDITIONAL INFORMATION.—In addition to the copies of the reports required to be provided under paragraph (1), each insured depository institution shall provide the auditor with—

"(i) a copy of any supervisory memorandum of understanding with such institution and any written agreement between such institution and any appropriate Federal banking agency or any appropriate State bank supervisor which is in effect during the period covered by the audit; and

"(ii) a report of—

"(I) any action initiated or taken by the appropriate Federal banking agency or the Corporation during such period under subsection (a), (b), (c), (e), (g), (i), (s), or (t) of section 8;

"(II) any action taken by any appropriate State bank supervisor under State law which is similar to any action referred to in subclause (I); or

"(III) any assessment of any civil money penalty under any other provision of law with respect to the institution or any institution-affiliated party.

"(2) REPORTS TO BANKING AGENCIES.—

"(A) INDEPENDENT AUDITOR REPORTS.—Each insured depository institution shall provide to the Corporation, any appropriate Federal banking agency, and any appropriate State bank supervisor, a copy of each audit report and any qualification to such report, any management letter, and any other report within 15 days of

receipt of any such report, qualification, or letter from the institution's independent auditors.

"(B) NOTICE OF CHANGE OF AUDITOR.—Each insured depository institution shall provide written notification to the Corporation, the appropriate Federal banking agency, and any appropriate State bank supervisor of the resignation or dismissal of the institution's independent auditor or the engagement of a new independent auditor by the institution, including a statement of the reasons for such change within 15 calendar days of the occurrence of the event.

"(i) REQUIREMENTS FOR INSURED SUBSIDIARIES OF HOLDING COMPANIES.—Except with respect to any audit requirements established under or pursuant to subsection (d), the requirements of this section may be satisfied for insured depository institutions that are subsidiaries of a holding company, if—

"(1) services and functions comparable to those required under this section are provided at the holding company level; and

"(2) either—

"(A) the institution has total assets, as of the beginning of such fiscal year, of less than $5,000,000,000; or

"(B) the institution—

"(i) has total assets, as of the beginning of such fiscal year, of more than $5,000,000,000 and less than $9,000,000,000; and

"(ii) has a CAMEL composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating by any such agency under a comparable rating system) as of the most recent examination of such institution by the Corporation or the appropriate Federal banking agency.

"(j) EXEMPTION FOR SMALL DEPOSITORY INSTITUTIONS.—This section shall not apply with respect to any fiscal year of any insured depository institution the total assets of which, as of the beginning of such fiscal year, are less than the greater of—

"(1) $150,000,000; or

"(2) such amount (in excess of $150,000,000) as the Corporation may prescribe by regulation.".

(b) EFFECTIVE DATE.—The requirements established by the amendment made by subsection (a) shall apply with respect to fiscal years of insured depository institutions which begin after December 31, 1992.

SEC. 113. ASSESSMENTS REQUIRED TO COVER COSTS OF EXAMINATIONS.

(a) IN GENERAL.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) (as added by section 111(a)(1) of this subtitle) the following new subsection:

"(e) EXAMINATION FEES.—

"(1) REGULAR AND SPECIAL EXAMINATIONS OF DEPOSITORY INSTITUTIONS.—The cost of conducting any regular examination or special examination of any depository institution under subsection (b)(2), (b)(3), or (d) may be assessed by the Corporation against the institution in proportion to the assets or resources of the institution.

"(2) EXAMINATION OF AFFILIATES.—The cost of conducting any examination of any affiliate of any insured depository institution under subsection (b)(4) may be assessed by the Corporation against each affiliate which is examined in proportion to the assets or resources held by the affiliate on the date of the examination.

"(3) ASSESSMENT AGAINST DEPOSITORY INSTITUTION IN CASE OF AFFILIATE'S REFUSAL TO PAY.—

"(A) IN GENERAL.—Subject to subparagraph (B), if any affiliate of any insured depository institution—

"(i) refuses to pay any assessment under paragraph (2); or

"(ii) fails to pay any such assessment before the end of the 60-day period beginning on the date the affiliate receives notice of the assessment,

the Corporation may assess such cost against, and collect such cost from, the depository institution.

"(B) AFFILIATE OF MORE THAN 1 DEPOSITORY INSTITUTION.—If any affiliate referred to in subparagraph (A) is an affiliate of more than 1 insured depository institution, the assessment under subparagraph (A) may be assessed against the depository institutions in such proportions as the Corporation determines to be appropriate.

"(4) CIVIL MONEY PENALTY FOR AFFILIATE'S REFUSAL TO COOPERATE.—

"(A) PENALTY IMPOSED.—If any affiliate of any insured depository institution—

"(i) refuses to permit an examiner appointed by the Board of Directors under subsection (b)(1) to conduct an examination; or

"(ii) refuses to provide any information required to be disclosed in the course of any examination,

the depository institution shall forfeit and pay a penalty of not more than $5,000 for each day that any such refusal continues.

"(B) ASSESSMENT AND COLLECTION.—Any penalty imposed under subparagraph (A) shall be assessed and collected by the Corporation in the manner provided in section 8(i)(2).

"(5) DEPOSITS OF EXAMINATION ASSESSMENT.—Amounts received by the Corporation under this subsection (other than paragraph (4)) may be deposited in the manner provided in section 13.".

(b) EXAMINATIONS OF APPLICANTS FOR DEPOSIT INSURANCE.—Section 10(b)(2)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)(2)(B)) is amended to read as follows:

"(B) any depository institution which files an application with the Corporation to become an insured depository institution;".

(c) TECHNICAL AND CONFORMING AMENDMENT.—

(1) Section 7(b)(10) of the Federal Deposit Insurance Act (as so redesignated by section 103(b) of this Act) is amended by inserting "or section 10(e)" after "under this section".

(2) Section 10(b)(4)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)(4)(A)) is amended by striking "insured" each place such term appears.

SEC. 114. APPLICATION TO FDIC REQUIRED FOR INSURANCE.

(a) IN GENERAL.—Section 5 of the Federal Deposit Insurance Act (12 U.S.C. 1815(a)) is amended by striking all that precedes subsection (b) and inserting the following:

"SEC. 5. DEPOSIT INSURANCE.

"(a) APPLICATION TO CORPORATION REQUIRED.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), any depository institution which is engaged in the business of receiving deposits other than trust funds (as defined in section 3(p)), upon application to and examination by the Corporation and approval by the Board of Directors, may become an insured depository institution.

"(2) INTERIM DEPOSITORY INSTITUTIONS.—In the case of any interim Federal depository institution that is chartered by the appropriate Federal banking agency and will not open for business, the depository institution shall be an insured depository institution upon the issuance of the institution's charter by the agency.

"(3) APPLICATION AND APPROVAL NOT REQUIRED IN CASES OF CONTINUED INSURANCE.—Paragraph (1) shall not apply in the case of any depository institution whose insured status is continued pursuant to section 4.

"(4) REVIEW REQUIREMENTS.—In reviewing any application under this subsection, the Board of Directors shall consider the factors described in section 6 in determining whether to approve the application for insurance.

"(5) NOTICE OF DENIAL OF APPLICATION FOR INSURANCE.—If the Board of Directors votes to deny any application for insurance by any depository institution, the Board of Directors shall promptly notify the appropriate Federal banking agency and, in the case of any State depository institution, the appropriate State banking supervisor of the denial of such application, giving specific reasons in writing for the Board of Directors' determination with reference to the factors described in section 6.

"(6) NONDELEGATION REQUIREMENT.—The authority of the Board of Directors to make any determination to deny any application under this subsection may not be delegated by the Board of Directors.".

(b) CONTINUATION OF INSURANCE UPON BECOMING A MEMBER BANK.—Section 4(b) of the Federal Deposit Insurance Act (12 U.S.C. 1814(b)) is amended to read as follows:

"(b) CONTINUATION OF INSURANCE UPON BECOMING A MEMBER BANK.—In the case of an insured bank which is admitted to membership in the Federal Reserve System or an insured State bank which is converted into a national member bank, the bank shall continue as an insured bank.".

SEC. 115. REGULATORY REQUIREMENTS STUDY.

(a) STUDY REQUIRED.—The Federal Deposit Insurance Corporation shall conduct a study to determine—

(1) ways to reduce and streamline regulatory requirements imposed by Federal banking agencies, particularly for small community depository institutions; and

(2) which, if any, regulatory requirements may be waived for such institutions without endangering the safety and soundness of the institutions.

(b) REPORT.—Before the end of the 1-year period beginning on the date of the enactment of this Act, the Federal Deposit Insurance Corporation shall submit a report to the Congress and the other appropriate Federal banking agencies (as defined in section 3(q) of the Federal Deposit Insurance Act) containing the Corporation's findings and conclusions under the study conducted pursuant to subsection (a) and any recommendations for legislative or administrative action the Corporation may determine to be appropriate.

(c) IMPLEMENTATION.—The Federal Deposit Insurance Corporation and other appropriate Federal banking agencies (as defined in section 3(q) of the Federal Deposit Insurance Act), acting through the Federal Financial Institutions Examination Council, shall implement any recommendation for administrative action made by the Corporation pursuant to subsection (b).

Subtitle C—Accounting Reforms

SEC. 121. ACCOUNTING OBJECTIVES, STANDARDS, AND REQUIREMENTS.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 36 (as added by section 112 of this title) the following new section:

"SEC. 37. ACCOUNTING OBJECTIVES, STANDARDS, AND REQUIREMENTS.

"(a) IN GENERAL.—

"(1) OBJECTIVES.—Accounting principles applicable to reports or statements required to be filed with Federal banking agencies by insured depository institutions should—

"(A) result in financial statements and reports of condition that accurately reflect the capital of such institutions;

"(B) facilitate effective supervision of the institutions; and

"(C) facilitate prompt regulatory action to resolve the institutions at the least cost to the insurance funds.

"(2) STANDARDS.—

"(A) UNIFORM ACCOUNTING PRINCIPLES CONSISTENT WITH GAAP.—Subject to the requirements of this Act and any other provision of Federal law, the accounting principles applicable to reports or statements required to be filed with Federal banking agencies by all insured depository institutions shall be uniform and consistent with generally accepted accounting principles.

"(B) STRINGENCY.—If the appropriate Federal banking agency or the Corporation determines that the application of any generally accepted accounting principle to any insured depository institution is inconsistent with the objectives described in paragraph (1), the agency or the Corporation may, with respect to reports or statements required to be filed with such agency or Corporation, prescribe an accounting principle which is applicable to such institutions which is no less stringent than generally accepted accounting principles.

"(3) REVIEW AND IMPLEMENTATION OF ACCOUNTING PRINCIPLES REQUIRED.—Before the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, each appropriate Federal banking agency shall take the following actions:

"(A) REVIEW OF ACCOUNTING PRINCIPLES.—Review—

"(i) all accounting principles used by depository institutions with respect to reports or statements required to be filed with a Federal banking agency;

"(ii) all requirements established by the agency with respect to such accounting procedures; and

"(iii) the procedures and format for reports to the agency, including reports of condition.

"(B) MODIFICATION OF NONCOMPLYING MEASURES.—Modify or eliminate any accounting principle or reporting requirement of such Federal agency which the agency determines fails to comply with the objectives and standards established under paragraphs (1) and (2).

"(C) INCLUSION OF 'OFF BALANCE SHEET' ITEMS.—Develop and prescribe regulations which require that all assets and liabilities, including contingent assets and liabilities, of insured depository institutions be reported in, or otherwise taken into account in the preparation of any balance sheet, financial statement, report of condition, or other report of such institution, required to be filed with a Federal banking agency.

"(D) MARKET VALUE DISCLOSURE.—Develop jointly with the other appropriate Federal banking agencies a method for insured depository institutions to provide supplemental disclosure of the estimated fair market value of assets and liabilities, to the extent feasible and practicable, in any balance sheet, financial statement, report of condition, or other report of any insured depository institution required to be filed with a Federal banking agency.

"(b) UNIFORM ACCOUNTING OF CAPITAL STANDARDS.—

"(1) IN GENERAL.—Each appropriate Federal banking agency shall maintain uniform accounting standards to be used for determining compliance with statutory or regulatory requirements of depository institutions.

"(2) TRANSITION PROVISION.—Any standards in effect on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991 under section 1215 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 shall continue in effect after such date of enactment until amended by the appropriate Federal banking agency under paragraph (1).

"(c) REPORTS TO BANKING COMMITTEES.—

"(1) ANNUAL REPORTS REQUIRED.—Each appropriate Federal banking agency shall annually submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing a description of any difference between any accounting or capital standard used by such agency and any accounting or capital standard used by any other agency.

"(2) EXPLANATION OF REASONS FOR DISCREPANCY.—Each report submitted under paragraph (1) shall contain an explanation of the reasons for any discrepancy between any accounting or capital standard used by such agency and any accounting or capital standard used by any other agency.

"(3) PUBLICATION.—Each report under this subsection shall be published in the Federal Register.".

(b) REPEAL OF PROVISION SUPERSEDED BY SUBSECTION (a) AMENDMENTS.—Section 1215 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833d) is hereby repealed.

SEC. 122. SMALL BUSINESS LOAN DATA REQUIRED IN REPORTS OF CONDITION.

Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) is amended by adding at the end the following new paragraph:

"(9) SMALL BUSINESS AND SMALL FARM LOAN DATA.—

"(A) IN GENERAL.—In the report of condition required under paragraph (3) for the 4th quarter of each calendar year, each insured depository institution shall include information indicating the total number and aggregate dollar amount of the institution's outstanding loans in each of the following categories:

"(i) Commercial loans to small businesses.

"(ii) Commercial mortgage loans to small businesses.

"(B) REPORTING CATEGORIES.—The information required by subparagraph (A) shall be listed separately for each of the following small business categories:

"(i) Businesses which were in existence for less than a year at the time the reported loans were made.

"(ii) Businesses with annual sales of $100,000 or less.

"(iii) Businesses with annual sales of more than $100,000 but not more than $250,000.

"(iv) Businesses with annual sales of more than $250,000 but not more than $1,000,000.

"(v) Businesses with annual sales of more than $1,000,000 but not more than $20,000,000.

"(C) MINORITY-OWNED BUSINESS CATEGORY.—The information required by subparagraphs (A) and (B) shall be further itemized for minority-owned small businesses.

"(D) CHARGE-OFFS AND INTEREST AND FEE INCOME.—Any report of condition referred to in subparagraph (A) shall indicate the insured depository institution's net charge-offs and the interest and fee income for commercial loans to small businesses and for commercial mortgage loans to small businesses, listed separately for each of the following small business categories:

"(i) Businesses with annual sales of $250,000 or less.

"(ii) Businesses with annual sales of more than $250,000.

"(E) AGRICULTURAL LOANS TO SMALL FARMS.—Any report of condition referred to in subparagraph (A) shall indicate the total number and aggregate dollar amount of the insured depository institution's outstanding agricultural loans to small farms.

"(F) DEFINITIONS.—For purposes of this paragraph—

"(i) SMALL BUSINESS.—The term 'small business' means an enterprise with annual sales of $20,000,000 or less.

"(ii) SMALL FARM.—The term 'small farm' means a farm business with annual sales of $500,000 or less.

"(iii) COMMERCIAL LOAN.—The term 'commercial loan' means a loan that is reportable as a commercial and industrial loan in the reports of condition submitted pursuant to this subsection.

"(iv) COMMERCIAL MORTGAGE LOAN.—The term 'commercial mortgage loan' means a loan that is reportable as a real estate loan secured by nonfarm nonresidential properties in the reports of condition submitted pursuant to this subsection.

"(v) AGRICULTURAL LOAN.—The term 'agricultural loan' means a loan that is reportable as a loan to finance agricultural production and other loans to farmers in the reports of condition submitted pursuant to this subsection.

"(G) EXEMPTION FOR SMALL DEPOSITORY INSTITUTIONS.—The requirements of this paragraph shall not apply to any insured depository institution which has total assets, as of the most recent full fiscal year of such institution, of $100,000,000 or less.".

SEC. 123. REPORTS OF FINANCIAL CONDITION BY LARGE INSTITUTIONS ENGAGED IN INTERSTATE BANKING.

Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) is amended by adding at the end the following new paragraph:

"(10) CONDITION REPORTS BY LARGE INSURED INSTITUTIONS ENGAGED IN INTERSTATE BANKING.—

"(A) COVERED INSTITUTIONS.—For purposes of this paragraph—

"(i) INTERSTATE BRANCHING INSTITUTION.—The term 'covered interstate branching institution' means an insured depository institution that has total assets of $1,000,000,000 or more, as of its most recent fiscal year, and maintains branches in more than one State.

"(ii) INTERSTATE SUBSIDIARY INSTITUTION.—The term 'covered interstate subsidiary institution' means an insured depository institution that has total assets of $500,000,000 or more, as of its most recent full fiscal year, and it is a subsidiary of a holding company that controls insured institution subsidiaries in more than one State and has consolidated assets of $1,000,000,000 or more, as of the holding company's most recent full fiscal year.

"(iii) DUAL COVERAGE.—An insured depository institution that satisfies the criteria of both clauses (i) and (ii) of this subparagraph shall be deemed to be a covered interstate branching institution.

"(B) INTERSTATE BRANCHES: QUARTERLY LOAN DATA.—A covered interstate branching institution shall include in each quarterly report of financial condition required by this subsection the following loan categories, listed separately for each State within which it maintains one or more branches—

"(i) LOAN DATA ITEMS.—(I) The aggregate dollar amount of the institution's outstanding in-State loans in regard to such State, (II) the interest and fee income earned on such loans, (III) the dollar amount of such loans with nonaccrual status, and (IV) the net charge-offs for such loans.

"(ii) LOAN CATEGORIES.—(I) Construction loans, (II) commercial mortgage loans, (III) residential mortgage loans, (IV) farmland mortgage loans, (V) commercial loans to small businesses, (VI) agricultural production loans, and (VII) consumer loans.

"(C) DEFINITION OF IN-STATE LOANS.—For purposes of subparagraph (B) the term 'in-State loan' means a loan that is made to a business entity that is engaged in business in the State, an agricultural loan to an entity in the State, a loan that is secured with property located in the State, and a loan made to an individual who is a resident of the State.

"(D) INTERSTATE BRANCHES: QUARTERLY DEPOSIT DATA.—A covered interstate branching institution shall also include in each quarterly re-

port of financial condition required by this subsection the following deposit data items for each of the following deposit categories, listed separately for each State within which it maintains one or more branches—

"(i) DEPOSIT DATA ITEMS.—(I) The aggregate dollar amount of deposit balances at the institution's branch offices located within each State, and (II) the interest paid on such deposit balances.

"(ii) DEPOSIT CATEGORIES.—(I) Demand deposits (deposit balance data only), (II) interest-bearing transaction accounts, (III) savings deposits, (IV) time deposits under $100,000, (V) time deposits of $100,000 or more, and (VI) State and local government deposits (deposit balance data only).

"(E) INTERSTATE BRANCHES: OTHER QUARTERLY DATA.—A covered interstate branching institution shall include in its report of financial condition required by this subsection the following financial data, listed separately for each State within which it maintains one or more branches—

"(i) the aggregate dollar amount the institution's real estate owned in each State not including property owned by the institution for banking operations; and

"(ii) the institution's income from service charges on deposit accounts at the institution's branch institution.

"(F) INTERSTATE BRANCHES AND INTERSTATE SUBSIDIARIES: ANNUAL LOAN DATA.—A covered interstate subsidiary institution shall include in its report of financial condition required by this subsection for the fourth quarter of each calendar year the following information for its home State and a covered interstate branching institution shall include in its report of financial condition required by this subsection for the fourth quarter of each calendar year the following information listed separately for each State within which it maintains one or more branches—

"(i) SMALL BUSINESS LOANS.—The institution's total number and aggregate dollar amount of commercial loans and commercial mortgage loans outstanding to small businesses whose principal place of business is located within such State; itemized separately for—

"(I) commercial loans; and

"(II) commercial mortgage loans;

and further itemized separately for—

"(I) small businesses with annual sales of $250,000 or less, and

"(II) small businesses with annual sales of more than $250,000.

"(ii) SMALL FARM LOANS.—The institution's total number and aggregate dollar amount of agricultural production loans and farmland mortgage loans outstanding to small farms whose principal place of business is located with such State; itemized separately for—

"(I) agricultural production loans; and

"(II) farmland mortgage loans.

"(G) SMALL BUSINESS LOANS BY METROPOLITAN AREA.—The small business loans required by subparagraph (F)(i) shall be further itemized (according to the principal place of business of the small business borrowers) separately for—

"(i) each metropolitan area of the State,

"(ii) the low and moderate income portion of each such metropolitan area, and

"(iii) the minority portion (if any) of each such metropolitan area.

"(H) AUTHORITY TO REQUIRE ADDITIONAL INFORMATION.—The Federal banking agencies may require insured depository institutions to report additional information beyond the requirements of this paragraph for the purposes of monitoring the insured condition of the depository institutions engaged in interstate branching and monitoring the volume of credit provided at the State and local community level by institutions engaged in interstate banking through either separate insured institution subsidiaries or interstate branching, and for implementing Federal antitrust laws.

"(I) ADJUSTMENT OF LOAN CATEGORIES.—The Federal banking agencies may adjust the loan category definitions prescribed by this paragraph to reflect changes in loan category definitions or classifications generally employed in the reports of financial condition required by this subsection, except any such adjustments must be consistent with the purposes of this paragraph.

"(J) DEFINITIONS.—For purposes of this paragraph—

"(i) the term 'small business' means an enterprise with annual sales of $20,000,000 or less;

"(ii) the term 'small farm' means a farm business with annual sales of $500,000 or less;

"(iii) the term 'commercial loan' means a loan that is reportable as a commercial and industrial loan;

"(iv) the term 'agricultural production loan' means a loan that is reportable as a loan to finance agricultural production and other loans to farmers;

"(v) the term 'farmland mortgage loan' means a loan that is reportable as a real estate loan secured by farmland;

"(vi) the term 'metropolitan area' means a primary metropolitan statistical area, or consolidated metropolitan area, or consolidated metropolitan statistical area, as defined by the Secretary of Commerce;

"(vii) the term 'commercial mortgage loan' means a loan that is reportable as a real estate loan secured by nonfarm residential properties;

"(viii) the term 'construction loan' means a loan that is reportable as a real estate loan secured by construction and land development;

"(ix) the term 'consumer loan' means a loan that is reportable as a loan to individuals for household, family, and other personal purposes;

"(x) the term 'non-metropolitan portion' means the portion of a State that lies outside the metropolitan areas;

"(xi) the term 'low and moderate income area' means census tracts, as defined by the Secretary of Commerce, whose median family income is less than or equal to 80 percent of the median family income of the metro area in which they are located;

"(xii) the term 'minority area' means all census tracts as defined by the Secretary of Commerce in which minority persons compromise 75 percent or more of the resident population;

"(xiii) the term 'home State' means with respect to an insured depository institution that is a subsidiary of a holding company, the State in which the insured institution's deposit balances are principally located; and

"(xiv) the term 'reportable' refers to the reporting classifications employed in the reports of financial condition submitted pursuant to this subsection.".

Subtitle D—Prompt Regulatory Action

SEC. 131. PROMPT REGULATORY ACTION.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 37 (as added by section 121 of this title) the following new section:

"SEC. 38. PROMPT REGULATORY ACTION.

"(a) ESTABLISHMENT AND IMPLEMENTATION REQUIRED.—

"(1) IN GENERAL.—Each appropriate Federal banking agency and the Corporation (acting in the Corporation's capacity as the insurer of depository institutions under this Act) shall establish a prompt regulatory action system which meets the requirements of this section, including the establishment of any standards, minimum capital requirements, deadlines for the submission and review of plans, and other classifications required to implement this section.

"(2) DOCUMENTATION OF DETERMINATION.—In complying with this section, the agency and the Corporation shall document in writing the facts and assumptions and any other conclusion underlying any determination to take any specific action and any determination not to take any other action authorized under this section.

"(3) DEADLINE FOR REGULATIONS.—Each appropriate Federal banking agency and the Corporation (with respect to regulations required to be prescribed under this section by the Corporation other than as an appropriate Federal banking agency) shall, after notice and opportunity for comment, prescribe final regulations under paragraph (1) not later than 180 days after the date of enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991 and such regulations shall take effect not later than 270 days after such date of enactment.

"(b) DEFINITIONS.—For purposes of this section—

"(1) CAPITAL DISTRIBUTION.—The term 'capital distribution' means any of the following:

"(A) A dividend or other distribution in cash or in kind made with respect to any shares or other ownership interest of any insured depository institution, except a dividend consisting only of shares of the institution or any amount paid on the deposits of a mutual savings bank or a mutual savings association that is determined by the appropriate Federal banking agency not to constitute a dividend.

"(B) A payment made by an insured depository institution to repurchase, redeem, retire, or otherwise acquire any of the institution's shares, including any extension of credit made to finance an affiliate's acquisition of such shares.

"(C) A transaction that the appropriate Federal banking agency or the Corporation determines by order or regulation to be in substance the distribution of capital.

"(2) COMPENSATION.—The term 'compensation' means any payment of money or provision of any other thing of current or potential value in connection with employment.

"(3) CRITICAL CAPITAL LEVEL.—The term 'critical capital level' means a ratio of tier 1 capital to total assets of 2 percent.

"(4) EXECUTIVE OFFICER.—The term 'executive officer' shall have the same meaning as provided in section 22(h) of the Federal Reserve Act.

"(5) LEVEL 1 DEPOSITORY INSTITUTION.—The term 'level 1 depository institution' means any insured depository institution which—

"(A) maintains a risk-based capital ratio that is significantly in excess of the required minimum ratio;

"(B) maintains tier 1 capital that is significantly in excess of the minimum requirements for tier 1 capital; and

"(C) maintains capital that meets or exceeds the required minimum ratio for each other relevant capital measure.

"(6) LEVEL 2 DEPOSITORY INSTITUTION.—The term 'level 2 depository institution' means any insured depository which—

"(A) maintains capital in an amount that meets or exceeds the required minimum ratio for each relevant capital measure; and

"(B) is not a level 1 depository institution.

"(7) LEVEL 3 DEPOSITORY INSTITUTION.—The term 'level 3 depository institution' means any insured depository institution which—

"(A) is not in compliance with all currently applicable capital standards; and

"(B) is not a level 4 or level 5 depository institution.

"(8) LEVEL 4 DEPOSITORY INSTITUTION.—The term 'level 4 depository institution' means any insured depository institution which maintains capital in an amount which—

"(A) is significantly less than the required minimum ratio for any relevant capital measure; and

"(B) exceeds the critical capital level.

"(9) LEVEL 5 DEPOSITORY INSTITUTION.—The term 'level 5 depository institution' means any insured depository institution which maintains capital in an amount which is less than or equal to the critical capital level.

"(10) LEVERAGE LIMIT.—The term 'leverage limit' means the leverage limit established by the appropriate Federal banking agency.

"(11) OTHER DEFINITIONS RELATING TO CAPITAL MEASURES.—The terms 'total assets', 'tier 1 capital', and 'tier 2 capital' have the meanings given to such terms by the appropriate Federal banking agencies.

"(12) REQUIRED MINIMUM RATIO.—The 'required minimum ratio' means the minimum acceptable capital level adopted by the appropriate Federal banking agency by regulation or guideline with respect to each relevant capital measure.

"(13) RISK-BASED CAPITAL RATIO.—The term 'risk-based capital ratio' means the risk-based capital standard established by the appropriate Federal banking agency.

"(14) SUBORDINATED DEBT.—The term 'subordinated debt' means debt subordinated to the claims of depositors or general creditors.

"(15) UNDERCAPITALIZED DEPOSITORY INSTITUTION.—The term 'undercapitalized depository institution' means any level 3, level 4, or level 5 depository institution.

"(c) CAPITAL MEASURES AND RECLASSIFICATIONS OF LEVELS.—

"(1) CAPITAL AND LEVERAGE LIMIT REQUIREMENTS.—

"(A) IN GENERAL.—Any capital measure prescribed by any appropriate Federal banking agency for purposes of this section shall include at a minimum—

"(i) a tier 1 capital to assets ratio;

"(ii) a risk-based capital ratio; and

"(iii) a leverage limit.

"(B) INTEREST RATE AND OTHER MARKET RISKS.—In establishing any risk-based capital standard for purposes of this section, the appropriate Federal banking agencies shall take into account interest rate risk and other market risks.

"(2) MINIMUM CAPITAL RATIOS FOR INSTITUTIONS IN EACH LEVEL.—Consistent with the purposes of this section, each appropriate Federal banking agency shall establish, by regulation, the applicable minimum capital ratios for each relevant capital measure for the insured depository institutions in each level of depository institutions defined in subsection (a).

"(3) OTHER CAPITAL MEASURES.—An appropriate Federal banking agency may, by regulation or guideline, establish any additional relevant capital measure consistent with the purposes of this section.

"(4) CONSULTATION.—In prescribing any regulation under paragraph (2), each appropriate Federal banking agency shall consult with the Corporation.

"(5) RECLASSIFICATION OF UNSAFE OR UNSOUND INSTITUTIONS.—If the appropriate Federal banking agency or the Corporation determines that any insured depository institution is in an unsafe and unsound condition or is operating in a manner which poses a risk to any deposit insurance fund, the agency or the Corporation shall reclassify such institution as a depository institution of an appropriate level for purposes of this section.

"(d) STANDARDS FOR SAFETY AND SOUNDNESS.—

"(1) OPERATIONAL AND MANAGERIAL STANDARDS.—The appropriate Federal banking agencies, in consultation with the Credit Standards Advisory Committee, shall establish operational and managerial standards for all insured depository institutions and depository institution holding companies, including standards relating to the following subjects:

"(A) Internal controls, information systems, and internal audit systems in accordance with section 36.

"(B) Loan documentation requirements.

"(C) Underwriting standards.

"(D) Interest rate exposure.

"(E) Asset growth.

"(2) ASSET AND EARNINGS STANDARDS.—The appropriate Federal banking agencies shall establish standards governing the asset quality and earnings of any insured depository institution or depository institution holding company which shall include—

"(A) a maximum classified loans to capital ratio; and

"(B) an earnings standard for such institutions and companies which require such institutions and companies to maintain earnings sufficient to absorb losses of the institution or company without impairing the capital of the institution or holding company.

"(3) REQUIRED ACTION FOR FAILURE TO COMPLY WITH STANDARDS.—

"(A) CORRECTIVE ACTION PLAN.—In addition to any other action which the appropriate Federal banking agency may take, the agency shall require any insured depository institution or depository institution holding company which fails to meet any standard established pursuant to paragraph (1) or (2) to submit a corrective action plan for correcting any deficiency of the institution or company with respect to such standard to the agency not later than 30 days after the institution is notified by the agency of such failure.

"(B) FAILURE TO COMPLY.—If any insured depository institution or depository institution holding company fails to submit a corrective action plan which meets the appropriate Federal banking agency's approval or fails to comply with the corrective action plan, the agency shall issue an order requiring such corrective action and impose such restrictions as the agency determines to be appropriate.

"(C) RESTRICTIONS WHICH MAY BE INCLUDED IN ORDER.—Any order issued under subparagraph (B) to any insured depository institution or depository institution holding company may include the following restrictions:

"(i) RESTRICTING ASSET GROWTH.—Subject to subparagraph (E), prohibiting any increase in total assets of the institution.

"(ii) RESTRICTING INTEREST RATES PAID.—Restricting the interest rates the institution pays on deposits accepted after the date of the order, including any renewal or rollover of any deposit held on such date.

"(iii) REQUIRING AN INCREASE IN CAPITAL.—Requiring the institution or company to increase the amount of capital of the institution or company.

"(D) ORDER REQUIRED FOR CERTAIN INSTITUTIONS.—The appropriate Federal banking agency shall issue an order under subparagraph (B) imposing at least 1 of the restrictions described in subparagraph (C) on an insured depository institution if—

"(i) the insured depository institution fails to meet any operational or managerial standard established pursuant to paragraph (1) or asset or earnings standard established pursuant to paragraph (2); and

"(ii) the institution—

"(I) has been chartered as a depository institution for less than 2 years;

"(II) has undergone a change in control within the 2 years preceding the date on which the institution first failed to meet a standard described in clause (i); or

"(III) has experienced extraordinary growth (as defined by the agency) during the 18-month period ending on the date on which the institution first failed to meet a standard described in clause (i).

"(E) LIMITED GROWTH EXCEPTION.—Any order issued by any appropriate Federal banking agency under subparagraph (B) which prohibits any increase in the total assets of any insured depository institution in accordance with subparagraph (C)(i) may permit the institution to increase assets in an amount not to exceed the amount of net interest credited to the institution's deposit liabilities if—

"(i) the institution obtains the agency's written approval;

"(ii) any increase in assets is accompanied by an increase in tier 1 capital of a percentage (of such capital) which is not less than the leverage ratio applicable to the institution; and

"(iii) any increase in assets is invested in low-risk assets.

"(4) PROCEDURES.—Each appropriate Federal banking agency shall establish requirements and procedures for the preparation and submission of corrective action plans under paragraph (3) to the agency and shall require the agency to review and to approve or disapprove such plan before the end of the 60-day period beginning on the date such plan is received.

"(e) CAPITAL DISTRIBUTIONS RESTRICTED.—

"(1) IN GENERAL.—An insured depository institution shall make no capital distribution if the institution would not meet all currently applicable capital standards after making the distribution.

"(2) EXCEPTION.—Notwithstanding paragraph (1), any appropriate Federal banking agency, after consultation with the Corporation, may approve a capital distribution by any insured depository institution which would, but for this subparagraph, be prohibited under paragraph (1), if the agency makes a prior written determination that the distribution will enhance the ability of the institution to satisfy capital standards and the institution submits a capital restoration plan in accordance with subsection (f)(1) which is approved by the agency.

"(f) PROVISIONS APPLICABLE TO UNDERCAPITALIZED DEPOSITORY INSTITUTIONS.—

"(1) CAPITAL RESTORATION PLAN REQUIRED.—

"(A) IN GENERAL.—Any undercapitalized depository institution shall submit a capital restoration plan to the appropriate Federal banking agency before the end of the period prescribed by the agency under subparagraph (C).

"(B) CONTENTS OF PLAN.—The capital restoration plan shall—

"(i) specify how the insured depository institution will satisfy all applicable capital standards, without increasing the risk (including credit risk, interest rate risk, and other types of risk) to which the institution is exposed;

"(ii) specify the types and levels of activities in which the institution will engage; and

"(iii) contain such other information as the appropriate Federal banking agency may require.

"(C) DEADLINES FOR SUBMISSION AND REVIEW OF PLANS.—Each appropriate Federal banking agency shall establish deadlines that—

"(i) provide insured depository institutions with reasonable time to submit capital restoration plans, and generally require an institution to submit a plan not later than 45 days after the institution is first classified as an undercapitalized depository institution;

"(ii) require the agency to approve or disapprove any capital restoration plan expeditiously and generally not later than 60 days after the plan is submitted; and

"(iii) require the agency to submit a copy of any plan approved by the agency to the Corporation before the end of the 45-day period beginning on the date such approval is granted.

"(2) ASSET GROWTH RESTRICTIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the appropriate Federal banking agency shall prohibit any asset growth by any undercapitalized depository institution.

"(B) LIMITED GROWTH EXCEPTION.—The appropriate Federal banking agency may permit an undercapitalized depository institution to increase assets in an amount not to exceed the amount of net interest credited to the institution's deposit liabilities if—

"(i) the institution obtains the agency's written approval;

"(ii) any increase in assets is accompanied by an increase in tier 1 capital of a percentage (of such capital) which is not less than the leverage ratio applicable to the institution; and

"(iii) any increase in assets is invested in low-risk assets.

"(3) CAPITAL PLAN GUARANTEE.—

"(A) IN GENERAL.—The appropriate Federal banking agency shall not approve a capital restoration plan under this subsection unless each company having control of the insured depository institution guarantees in writing the institution's compliance with the plan until the institution has satisfied all applicable capital standards for each of 12 consecutive months, and provides appropriate written assurances of continued performance.

"(B) AGGREGATE LIABILITY.—The aggregate amount of liability for any company under subparagraph (A) with respect to any insured depository institution shall not exceed the amount which is necessary (or would have been necessary) to bring the institution into compliance with all capital standards applicable with respect to such institution as of the time the institution fails to comply with a plan under this subsection.

"(C) NO EFFECT ON SECURITIES EXCHANGE ACT REQUIREMENTS.—Nothing in this section shall be interpreted to supersede, or in any way limit or condition compliance by brokers, dealers, government securities brokers, and government securities dealers with the financial responsibility requirements of the Securities Exchange Act of 1934 and the rules, regulations, and orders thereunder.

"(4) EXAMINATION RATINGS TAKEN INTO ACCOUNT.—In reviewing any capital restoration plan submitted under this section with respect to any insured depository institution, the appropriate Federal banking agency may take into account the CAMEL ratings of such institution under the Uniform Financial Institutions Rating System (or any equivalent rating under a comparable system).

"(g) PROVISIONS APPLICABLE TO LEVEL 4 AND LEVEL 5 DEPOSITORY INSTITUTIONS AND INSTITUTIONS THAT FAIL TO SUBMIT OR IMPLEMENT CAPITAL RESTORATION PLANS.—

"(1) SCOPE OF APPLICATION.—This subsection shall apply to—

"(A) any level 4 or level 5 depository institution; and

"(B) any undercapitalized depository institution which—

"(i) fails to submit an acceptable capital restoration plan within the time allowed by the appropriate Federal banking agency under subsection (f)(1)(C); or

"(ii) fails in any material respect to implement a capital restoration plan approved by the agency.

"(2) AGENCY ACTIONS REQUIRED.—

"(A) IN GENERAL.—The appropriate Federal banking agency shall carry out the purpose of this section by issuing an order which imposes 1 or more of the actions described in paragraph (3) with respect to any institution described in paragraph (1).

"(B) SUBSECTION (h) ACTIONS AUTHORIZED.—In addition to actions described in paragraph (3), any appropriate Federal banking agency may issue an order which imposes, with respect to any institution described in paragraph (1), any restriction applicable under subsection (h) to any level 5 depository institution.

"(3) SPECIFIC ACTIONS AUTHORIZED.—The actions described in this paragraph with respect to any insured depository institution described in paragraph (1) are the following:

"(A) REQUIRING SALE OF SHARES OR OBLIGATIONS.—

"(i) Requiring the institution to sell enough shares or obligations of the institution so that the institution will satisfy capital standards after the sale.

"(ii) Requiring that instruments sold under clause (i) be voting shares.

"(B) RESTRICTING INTEREST RATES PAID.—Restricting the interest rates the institution pays on deposits accepted after the date of the order, including any renewal or rollover of any deposit held on such date.

"(C) PROHIBITING PAYMENT OF BONUSES TO EXECUTIVE OFFICERS.—Prohibiting the payment of any bonus to any executive officer.

"(D) PROHIBITING PAYMENT OF EXCESSIVE COMPENSATION TO EXECUTIVE OFFICERS.—Prohibiting the payment of compensation to any executive officer at a rate exceeding that officer's average rate of compensation during the 12 calendar months preceding the calendar month in which the institution ceased to comply with capital standards.

"(E) REQUIRING FDIC APPROVAL FOR NEW BRANCHES.—Requiring the institution to obtain the approval of the Corporation before establishing or acquiring any new branch.

"(F) PROHIBITING DEPOSITS FROM CORRESPONDENT BANKS.—Prohibiting the acceptance by the institution of deposits from correspondent depository institutions, including renewals and rollovers of prior deposits.

"(G) RESTRICTING OTHER ACTIVITIES.—Prohibiting any other activity of the institution which the agency finds is detrimental, or is likely to be detrimental, to the institution's financial condition.

"(H) REQUIRING A NEW ELECTION OF DIRECTORS.—Requiring a new election for the institution's board of directors or any member of the board of directors.

"(h) ADDITIONAL PROVISIONS APPLICABLE TO LEVEL 5 DEPOSITORY INSTITUTIONS.—

"(1) LIMITATIONS ON PAYMENTS ON SUBORDINATED DEBT.—

"(A) IN GENERAL.—An insured depository institution shall make no payment of principal or interest on the institution's subordinated debt unless, after making the payment, the institution would have capital in an amount which is equal to or greater than the critical capital level applicable with respect to such institution.

"(B) LIMITED EXEMPTION FOR CERTAIN SUBORDINATED DEBT.—Until January 1, 1996, subparagraph (A) shall not apply with respect to any subordinated debt that is—

"(i) outstanding on January 1, 1991; and

"(ii) not extended or otherwise renegotiated after such date.

"(2) CONSERVATORSHIP OR OTHER ACTION REQUIRED.—

"(A) IN GENERAL.—Before the end of the 120-day period beginning on the date the capital of any insured depository institution ceases to equal or exceed the critical capital level specified under subsection (b)(3), the appropriate Federal banking agency shall, notwithstanding any provision of any State law, appoint a conservator or receiver for the institution under this Act or any other applicable Federal law.

"(B) OTHER ACTION.—Notwithstanding the requirement under subparagraph (A) to appoint a conservator or receiver for any institution described in such subparagraph, the appropriate Federal banking agency shall take any other action described in subsection (g)(3) which the agency determines to be appropriate in lieu of such appointment if the agency—

"(i) determines in writing, with the written concurrence of the Corporation, that such action would better achieve the purposes of this section; and

"(ii) documents that such action would protect the appropriate deposit insurance fund more than the immediate appointment of a conservator or receiver for such institution.

"(C) PERIODIC REDETERMINATIONS REQUIRED.—Any determination by any appropriate Federal banking agency under subparagraph (B) to take any action with respect to an insured depository institution in lieu of the appointment of a conservator or receiver shall cease to be effective not later than the end of the 90-day period beginning on the date such determination is made and a conservator or receiver shall be appointed for such institution pursuant to subparagraph (A) unless the agency makes a new determination under subparagraph (B) at the end of the effective period of the prior determination.

"(D) APPOINTMENT OF RECEIVER REQUIRED IF OTHER ACTION FAILS TO RESTORE CAPITAL.—In the case of any institution referred to in subparagraph (A) for which a receiver has not been appointed and notwithstanding any provision of the law of any State, the appropriate Federal banking agency shall appoint a receiver for such institution as follows:

"(i) If the capital of such institution does not exceed the critical capital level at the end of the 6-month period beginning on the date action is first taken by the agency under subparagraph (A) or (B), a receiver shall be appointed at the end of such period.

"(ii) If the capital of such institution exceeds the critical capital level at the end of the 6-month period but fails to exceed such level at the end of any of the 3 months immediately following the end of that period, a receiver shall be appointed.

"(E) ACQUISITION BY ANOTHER INSURED DEPOSITORY INSTITUTION.—Notwithstanding the requirement under subparagraph (A) to appoint a conservator or receiver for any insured depository institution described in such subparagraph and subject to section 13, the appropriate Federal banking agency may require the insured depository institution to be acquired (as defined in section 13(f)(8)(B)) by another insured depository institution which offers to acquire such institution if the agency determines, with the written concurrence of the Corporation, that such acquisition would resolve the capital problems of the institution in a manner that is least costly to the affected deposit insurance fund and the taxpayer.

"(F) TREATMENT OF PROFITABLE INSTITUTIONS.—Notwithstanding the provisions of subparagraph (D), the appropriate Federal banking agency may continue to take such other action which the agency determines to be appropriate in lieu of such appointment if—

"(i) the agency determines, with the concurrence of the Corporation, that—

"(I) the insured depository institution has positive net worth;

"(II) the insured depository institution has been in substantial compliance with an approved capital restoration plan which requires consistent improvement in the institution's capital position since the date of the approval of such plan;

"(III) the insured depository institution is profitable or has an upward trend in earnings the agency projects as sustainable; and

"(IV) the insured depository institution is reducing the ratio of nonperforming loans to total loans; and

"(ii) the head of the appropriate Federal banking agency and the Chairperson of the Board of Directors both certify that the institution is viable and not expected to fail.

"(i) RESTRICTING ACTIVITIES OF LEVEL 5 DEPOSITORY INSTITUTIONS.—

"(1) IN GENERAL.—In addition to any other action authorized or required under this section, the Corporation shall, by regulation or order, restrict the activities of any level 5 depository institution.

"(2) MINIMUM RESTRICTIONS.—Regulations and orders prescribed or issued by the Corporation under paragraph (1) with respect to any institution described in such paragraph shall prohibit, at a minimum, the following activities by any such institution without the Corporation's prior written approval:

"(A) Any material transaction other than in the usual course of business, including any investment, expansion, acquisition, or other similar action with respect to which the institution is required to provide notice to the appropriate Federal banking agency.

"(B) Any highly leveraged transaction.

"(C) Any amendment to any charter or bylaws other than to the extent necessary to carry out any other requirement of any law, regulation, or order.

"(D) Any material change in accounting methods.

"(E) Any covered transaction (as defined in section 23A(b) of the Federal Reserve Act).

"(F) Payment of excessive compensation or bonuses.

"(G) Pay interest on new or renewed liabilities at a rate that would increase the institution's weighted average cost of funds.

"(H) Any other limitation on activities which will carry out the purposes of this section.

"(3) TERMINATION OF AFFILIATIONS.—The appropriate Federal banking agency or the Corporation may require any level 5 depository institution or any depository institution holding company which controls such institution to terminate any affiliation with any affiliate of such institution (other than an affiliate which is an insured depository institution) if the agency or the Corporation determines that the affiliate—

"(A) is in danger of default;

"(B) poses a significant risk to the liquidity or solvency of the insured depository institution or any insured depository institution subsidiary of such company; or

"(C) is likely to cause a significant dissipation of such institution's or subsidiary's assets or earnings.

"(4) CONSULTATION WITH FUNCTIONAL REGULATORS.—Before the agency or Corporation makes a determination under paragraph (3) with respect to an affiliate that is a broker, dealer, government securities broker, government securities dealer, investment company, or investment adviser, the agency or Corporation shall consult with the Securities and Exchange Commission and, in the case of any other affiliate which is subject to any financial responsibility or capital requirement, any other functional regulator (as defined in section 2(s) of the Bank Holding Company Act of 1956) of such affiliate with respect to the proposed determination of the agency or the Corporation and actions pursuant to such determination.

"(j) REVIEW REQUIRED IF INSURANCE FUND INCURS LOSS.—

"(1) IN GENERAL.—If any insurance fund or the Resolution Trust Corporation incurs a loss with respect to an insured depository institution on or after the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, the Inspector General of the Corporation shall—

"(A) review the regulatory supervision of the institution (including the implementation of this section) to ascertain why there was a loss to the fund;

"(B) transmit a written report to the appropriate Federal banking agency, the Corporation, and, in the case of a State depository institution, the appropriate State bank supervisor on the results of the review under subparagraph (A), including recommendations for preventing any such loss in the future; and

"(C) provide a copy of the report to—

"(i) the Comptroller General of the United States; and

"(ii) the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(2) LOSS INCURRED.—For purposes of this subsection, any insurance fund incurs a loss with respect to an insured depository institution—

"(A) if the Corporation provides any assistance under section 13(c) with respect to that institution; or

"(B) if the Corporation is appointed receiver for the institution.

"(3) DEADLINE FOR REPORT.—The Inspector General of the Corporation shall comply with paragraph (1) expeditiously, and in any event as follows:

"(A) If the institution is described in paragraph (2)(A), before the end of the 18-month period beginning when the assistance is provided unless the assistance is fully repaid before the end of that period.

"(B) If the institution is described in paragraph (2)(B), before the end of the 12-month period beginning on the date the receiver is appointed for the institution.

"(4) PUBLIC DISCLOSURE REQUIRED.—The Corporation shall disclose any report under paragraph (1)(B) upon request under section 552 of title 5, United States Code, without excising—

"(A) any portion of the report under section 552(b)(5); or

"(B) any information about the insured depository institution under paragraph (4) or (8) of section 552(b).

"(5) GAO REVIEW.—The Comptroller General of the United States shall annually—

"(A) review reports made under paragraph (1)(B) and recommend improvements in the supervision of insured depository institutions (including the implementation of this section); and

"(B) audit 1 or more of those reports.

"(6) APPLICABILITY.—This subsection shall not apply with respect to any assistance provided under section 13(c), or the appointment of any receiver, before the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991.

"(k) NEW CAPITAL PLAN NOT REQUIRED FOR CERTAIN SAVINGS ASSOCIATIONS.—Subsections (e), (f), (g), (h), and (i) shall not apply before July 1, 1994, with respect to any insured savings association if—

"(1) before the end of the 30-day period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, the savings association has submitted a plan meeting the requirements of section 5(t)(6) of the Home Owners' Loan Act;

"(2) the Director of the Office of Thrift Supervision approves or does not disapprove that plan;

"(3) the plan remains in effect; and

"(4) the savings association remains in compliance with the plan.".

(b) CONSERVATORSHIP AND RECEIVERSHIP AUTHORITY.—

(1) ADDITIONAL GROUNDS FOR APPOINTING CONSERVATOR OR RECEIVER FOR STATE BANKS.—Section 11(c)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(5)) is amended by redesignating subparagraph (H) as subparagraph (I) and by inserting after subparagraph (G) the following new subparagraph:

"(H) In the case of any undercapitalized depository institution (as defined in section 38(b))—

"(i) failure to submit a capital restoration plan acceptable to the appropriate Federal banking agency within the time prescribed under section 38(f)(1)(C); or

"(ii) failure to implement a capital restoration plan submitted and accepted under section 38(f)(1)(C).".

(2) ADDITIONAL GROUNDS FOR APPOINTING CONSERVATOR FOR NATIONAL BANKS.—Section 203(a) of the Bank Conservation Act (12 U.S.C. 203(a)) is amended—

(A) by striking "or" at the end of paragraph (7);

(B) by striking the period at the end of paragraph (8) and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(9) in the case of a bank not in compliance with all currently applicable capital standards, the bank fails—

"(A) to submit a capital restoration plan acceptable to the Comptroller of the Currency within the time prescribed under section 38(f)(1)(C) of the Federal Deposit Insurance Act; or

"(B) to implement a capital restoration plan submitted and accepted under section 38(f)(1)(C).".

(3) ADDITIONAL GROUNDS FOR APPOINTING RECEIVER FOR NATIONAL BANKS.—The Comptroller of the Currency may appoint a receiver for any national bank which is not in compliance with all currently applicable capital standards if the bank—

(A) fails to submit a capital restoration plan acceptable to the Comptroller within the time prescribed under section 38(f)(1)(C) of the Federal Deposit Insurance Act; or

(B) fails to implement a capital restoration plan submitted and accepted under section 38(f)(1)(C) of the Federal Deposit Insurance Act.

(4) ADDITIONAL GROUNDS FOR APPOINTING CONSERVATOR OR RECEIVER FOR FEDERAL SAVINGS ASSOCIATIONS.—Section 5(d)(2)(A) of the Home Owners' Loan Act (12 U.S.C. 1464(d)(2)(A)) is amended—

(A) by striking "or" at the end of clause (vii);

(B) by striking the period at the end of clause (viii) and inserting a semicolon; and

(C) by adding at the end the following new clause:

"(ix) with respect to an association not in compliance with all currently applicable capital standards prescribed by the Director—

"(I) failure to submit a capital restoration plan acceptable to the Director within the time prescribed under section 38(f)(1)(C); or

"(II) failure to implement a capital restoration plan submitted and accepted under section 38(f)(1)(C).".

SEC. 132. APPOINTMENT OF CONSERVATOR OR RECEIVER FOR INSURED STATE DEPOSITORY INSTITUTIONS.

(a) IN GENERAL.—Section 11(c)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(4)) is amended to read as follows:

"(4) APPOINTMENT OF THE CORPORATION BY THE CORPORATION.—

"(A) IN GENERAL.—Except as otherwise provided in section 21A of the Federal Home Loan Bank Act and notwithstanding any other provision of Federal law or the law or the constitution of any State, the Board of Directors may appoint the Corporation as sole conservator or receiver of an insured depository institution, after consultation with the appropriate Federal banking agency and the appropriate State bank supervisor (if any), if the Board of Directors determines that—

"(i) 1 or more of the grounds specified in any subparagraph of paragraph (5) exist with respect to the institution; and

"(ii) the appointment is necessary to reduce—

"(I) the risk that the affected deposit insurance fund would incur a loss with respect to the insured depository institution, or

"(II) any loss that the affected deposit insurance fund is expected to incur with respect to that institution.

"(B) NONDELEGATION.—The Board of Directors shall not delegate any action under this paragraph.".

(b) AMENDMENT RELATING TO APPLICABLE GROUND.—Section 11(c)(5)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(5)(B)) is amended to read as follows:

"(B) A finding by the Corporation that—

"(i) a conservator, receiver, or other legal custodian has been appointed for the institution;

"(ii) the institution has been subject to the appointment of any such conservator, receiver, or custodian for a period of at least 15 days; and

"(iii) 1 or more of the depositors in the institution is unable to withdraw any amount of any insured deposit.".

Subtitle E—Least-Cost Resolution

SEC. 141. LEAST-COST RESOLUTION.

(a) LEAST-COST RESOLUTIONS REQUIRED.—

(1) IN GENERAL.—Section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)) is amended—

(A) by redesignating paragraphs (5), (6), (7), (8), and (9) as paragraphs (6), (7), (8), (9) and (10), respectively;

(B) by redesignating subparagraph (B) of paragraph (4) as paragraph (5); and

(C) by amending paragraph (4) (as amended by subparagraph (B) of this paragraph) to read as follows:

"(4) LEAST-COST RESOLUTION REQUIRED.—

"(A) IN GENERAL.—Notwithstanding any other provision of this Act, the Corporation may not exercise any authority under this subsection or subsection (d), (f), (h), (i), or (k) with respect to any insured depository institution unless—

"(i) the Corporation determines that the exercise of such authority is necessary to meet the obligation of the Corporation to provide insurance coverage for the insured deposits in such institution; and

"(ii) the total amount of the expenditures by the Corporation and obligations incurred by the Corporation (including any immediate and long-term obligation of the Corporation and any direct or contingent liability for future payment by the Corporation) in connection with the exercise of any such authority with respect to such institution is the least costly to the affected deposit insurance fund of all possible methods for meeting the Corporation's obligation under this section.

"(B) DETERMINING LEAST COSTLY APPROACH.—In determining how to satisfy the Corporation's obligations to an institution's insured depositors at the least possible cost to the affected deposit insurance fund, the Corporation shall comply with the following provisions:

"(i) PRESENT-VALUE ANALYSIS; DOCUMENTATION REQUIRED.—The Corporation shall—

"(I) evaluate alternatives on a present-value basis, using a realistic discount rate;

"(II) document that evaluation and the assumptions on which the evaluation is based, including any assumptions with regard to interest rates, asset recovery rates, asset holding costs, and payment of contingent liabilities; and

"(III) retain the documentation for not less than 5 years.

"(ii) FOREGONE TAX REVENUES.—Federal tax revenues that the Government would forego as the result of a proposed transaction, to the extent reasonably ascertainable, shall be treated as if they were revenues foregone by the affected deposit insurance fund.

"(C) TIME OF DETERMINATION.—

"(i) GENERAL RULE.—For purposes of this subsection, the determination of the costs of providing any assistance under paragraph (1) or (2) or any other provision of this section with respect to any depository institution shall be made as of the date on which the Corporation makes the determination to provide such assistance to the institution under this section.

"(ii) RULE FOR LIQUIDATIONS.—For purposes of this subsection, the determination of the costs of liquidation of any depository institution shall be made as of the earliest of—

"(I) the date on which a conservator is appointed for such institution;

"(II) the date on which a receiver is appointed for such institution; or

"(III) the date on which the Corporation makes any determination to provide any assistance under this section with respect to such institution.

"(D) LIQUIDATION COSTS.—In determining the cost of liquidating any depository institution for the purpose of comparing the costs under subparagraph (A) (with respect to such institution), the amount of such cost may not exceed the amount which is equal to the sum of the insured deposits of such institution as of the earliest of the dates described in subparagraph (C), minus the present value of the total net amount the Corporation reasonably expects to receive from the disposition of the assets of such institution in connection with such liquidation.

"(E) DEPOSIT INSURANCE FUNDS AVAILABLE FOR INTENDED PURPOSE ONLY.—

"(i) IN GENERAL.—After December 31, 1994, or at such earlier time as the Corporation determines to be appropriate, the Corporation may not take any action, directly or indirectly, with respect to any insured depository institution that would have the effect of increasing losses to any insurance fund by protecting—

"(I) depositors for more than the insured portion of deposits (determined without regard to whether such institution is liquidated); or

"(II) creditors other than depositors.

"(ii) DEADLINE FOR REGULATIONS.—The Corporation shall prescribe regulations to implement clause (i) not later than January 1, 1994, and the regulations shall take effect not later than January 1, 1995.

"(iii) PURCHASE AND ASSUMPTION TRANSACTIONS.—No provision of this subparagraph shall be construed as prohibiting the Corporation from allowing any person who acquires any assets or assumes any liabilities of any insured depository institution for which the Corporation has been appointed conservator or receiver to acquire uninsured deposit liabilities of such institution so long as the insurance fund does not incur any loss with respect to such deposit liabilities in an amount greater than the loss which would have been incurred with respect to such liabilities if the institution had been liquidated.

"(F) DISCRETIONARY DETERMINATIONS.—Any determination which the Corporation may make under this paragraph shall be made in the sole discretion of the Corporation.".

(2) ANNUAL GAO COMPLIANCE AUDIT.—The Comptroller General of the United States shall annually audit the Federal Deposit Insurance Corporation and the Resolution Trust Corporation to determine the extent to which such corporations are complying with section 13(c)(4) of the Federal Deposit Insurance Act.

(3) CLARIFICATION OF MANNER OF APPLICATION TO THE RTC.—Section 21A(b)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(4)) is amended—

(A) by striking "POWERS.—Except as" and inserting "POWERS.—

"(A) IN GENERAL.—Except as"; and

(B) by adding at the end the following new subparagraph:

"(B) MANNER OF APPLICATION OF LEAST-COST RESOLUTION.—For purposes of applying section 13(c)(4) of the Federal Deposit Insurance Act to the Corporation under subparagraph (A), the Corporation shall be treated as the affected deposit insurance fund.".

(b) SECURED CLAIMS IN EXCESS OF VALUE OF COLLATERAL.—Section 11(d)(5)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(5)(D)) is amended to read as follows:

"(D) AUTHORITY TO DISALLOW CLAIMS.—

"(i) IN GENERAL.—The receiver may disallow any portion of any claim by a creditor or claim of security, preference, or priority which is not proved to the satisfaction of the receiver.

"(ii) PAYMENTS TO LESS THAN FULLY SECURED CREDITORS.—In the case of a claim of a creditor against an insured depository institution which is secured by any property or other asset of such institution, any receiver appointed for any insured depository institution—

"(I) may treat the portion of such claim which exceeds an amount equal to the fair market value of such property or other asset as an unsecured claim against the institution; and

"(II) may not make any payment with respect to such unsecured portion of the claim other than in connection with the disposition of all claims of unsecured creditors of the institution.

"(iii) EXCEPTIONS.—No provision of this paragraph shall apply with respect to—

"(I) any extension of credit from any Federal home loan bank or Federal Reserve bank to any institution described in paragraph (3)(A); or

"(II) any security interest in the assets of the institution securing any such extension of credit.".

(c) DATA COLLECTIONS.—Section 7(a)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(8)) is amended to read as follows:

"(8) DATA COLLECTIONS.—In addition to or in connection with any other report required under this subsection, the Corporation shall take such action as may be necessary to ensure that—

"(A) each insured depository institution maintains; and

"(B) the Corporation receives on a regular basis from such institution,

information on the total amount of all insured deposits, preferred deposits, and uninsured deposits at the institution.".

(d) INDUSTRY IMPACT ANALYSIS REQUIRED.—

(1) IN GENERAL.—Section 11(h) of the Federal Deposit Insurance Act (12 U.S.C. 1821(h)) is amended by adding at the end the following new paragraph:

"(4) FINANCIAL SERVICES INDUSTRY IMPACT ANALYSIS.—After the appointment of the Corporation as conservator or receiver for any insured depository institution and before taking any action under this section or section 13 in connection with the resolution of such institution, the Corporation shall—

"(A) evaluate the likely impact of the means of resolution, and any action which the Corporation may take in connection with such resolution, on the viability of other insured depository institutions in the same community; and

"(B) take such evaluation into account in determining the means for resolving the institution and establishing the terms and conditions for any such action.".

(2) CLERICAL AMENDMENT.—The heading for section 11(h) of the Federal Deposit Insurance Act (12 U.S.C. 1821(h)) is amended by striking "LIQUIDATION" and inserting "RESOLUTION".

(e) ASSISTANCE BEFORE APPOINTMENT OF CONSERVATOR OR RECEIVER.—Section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)) is amended by redesignating paragraphs (8), (9), and (10) (as so redesignated by subsection (a)(1)(A) of this section), as paragraphs (9), (10), and (11), respectively, and by inserting after paragraph (7) the following new paragraph:

"(8) ASSISTANCE BEFORE APPOINTMENT OF CONSERVATOR OR RECEIVER.—

"(A) IN GENERAL.—Subject to the least-cost provisions of paragraph (4), the Corporation shall consider providing direct financial assist-

ance under this section for depository institutions before the appointment of a conservator or receiver for such institution only under the following circumstances:

"(i) TROUBLED CONDITION CRITERIA.—The Corporation determines—

"(I) grounds for the appointment of a conservator or receiver exist or likely will exist in the future unless the depository institution's capital levels are increased; and

"(II) it is unlikely that the institution can meet all currently applicable capital standards without assistance.

"(ii) OTHER CRITERIA.—The depository institution meets the following criteria:

"(I) The appropriate Federal banking agency and the Corporation have determined that, during such period of time preceding the date of such determination as the agency or the Corporation considers to be relevant, the institution's management has been competent and has complied with applicable laws, rules, and supervisory directives and orders.

"(II) The institution's management did not engage in any insider dealing, speculative practice, or other abusive activity.

"(B) PUBLIC DISCLOSURE.—Any determination under this paragraph to provide assistance under this section shall be made in writing and published in the Federal Register.".

(f) DEFINITIONS.—Section 3(m) of the Federal Deposit Insurance Act (12 U.S.C. 1813(m)) is amended by adding at the end the following new paragraphs:

"(3) UNINSURED DEPOSITS.—The term 'uninsured deposit' means the amount of any deposit of any depositor at any insured depository institution in excess of the amount of the insured deposits of such depositor (if any) at such depository institution.

"(4) PREFERRED DEPOSITS.—The term 'preferred deposits' means deposits of any public unit (as defined in paragraph (1)) at any insured depository institution which are secured or collateralized as required under State law.".

SEC. 142. LIMITATION ON USE OF LIQUIDITY LENDING FOR DEPOSIT INSURANCE FUND PURPOSES.

(a) REDESIGNATION OF SECTION 10(b) OF THE FEDERAL RESERVE ACT.—The Federal Reserve Act is amended by redesignating section 10(b) (12 U.S.C. 347b) as section 10B.

(b) LIMITATION ON LIQUIDITY LENDING FOR DEPOSIT INSURANCE PURPOSES.—Section 10B of the Federal Reserve Act (as so redesignated by subsection (a) of this section) is amended—

(1) by striking "Any Federal Reserve bank" and inserting "(a) IN GENERAL.—Any Federal Reserve bank"; and

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

"(b) LIMITATIONS ON ADVANCES.—

"(1) LIMITATION ON EXTENDED PERIODS.—Except as provided in paragraph (2), no advances to any undercapitalized depository institution by any Federal Reserve bank under this section may be outstanding for more than 60 days in any 120-day period.

"(2) VIABILITY EXCEPTION.—

"(A) IN GENERAL.—If—

"(i) the head of the appropriate Federal banking agency certifies in advance in writing to the Federal Reserve bank that any depository institution is a viable depository institution; or

"(ii) the Board conducts an examination of any depository institution and the Chairman of the Board certifies in writing to the Federal Reserve bank that the institution is a viable depository institution,

the limitation contained in paragraph (1) shall not apply during the 60-day period beginning on the date such certification is received.

"(B) EXTENSIONS OF PERIOD.—The 60-day period may be extended for additional 60-day periods upon receipt by the Federal Reserve bank of additional written certifications under subparagraph (A) with respect to each such additional period.

"(C) AUTHORITY TO ISSUE A CERTIFICATE OF VIABILITY MAY NOT BE DELEGATED.—The authority of the head of any agency to issue a written certification of viability under this paragraph may not be delegated to any other person.

"(D) EXTENDED ADVANCES SUBJECT TO PARAGRAPH (3).—Notwithstanding paragraph (1), an undercapitalized institution which does not have a certificate of viability in effect under this paragraph may have advances outstanding for more than 60 days in any 120-day period if the Board elects to treat—

"(i) such institution as a level 5 depository institution under paragraph (3); and

"(ii) any such advance as an advance described in subparagraph (A)(i) of paragraph (3).

"(3) ADVANCES TO LEVEL 5 DEPOSITORY INSTITUTIONS.—

"(A) LIABILITY FOR INCREASED COSTS.—Notwithstanding any other provision of this section, if—

"(i) in the case of any level 5 depository institution (as defined in section 38 of the Federal Deposit Insurance Act)—

"(I) any advance under this section to such institution is outstanding without payment having been demanded as of the end of the 5-day period beginning on the date the institution becomes a level 5 depository institution; or

"(II) any new advance is made to such institution under this section after the end of such period; and

"(ii) after the end of such 5-day period, any deposit insurance fund in the Federal Deposit Insurance Corporation incurs costs in excess of the cost of liquidating such institution as of the end of such period,

the excess cost shall be an obligation of the Board to the affected deposit insurance fund, without regard to the terms of the advance or any collateral pledged to secure the advance.

"(B) LIMITATION ON EXCESS COST.—The liability of the Board under subparagraph (A) for the amount of any excess cost described in such subparagraph shall not exceed the amount of the loss the Board or any Federal Reserve bank would have realized on the increases in the amount of advances made after the 5-day period referred to in subparagraph (A) as if such increased advances had not been secured.

"(C) SEMIANNUAL ASSESSMENTS ON FEDERAL RESERVE BANKS TO PAY OBLIGATION.—The amount of any liability of the Board to the Federal Deposit Insurance Corporation shall be paid by the Board from the proceeds of semiannual assessments which the Board may impose on the net earnings of the Federal Reserve banks.

"(4) NO OBLIGATION TO MAKE ADVANCES.—A Federal Reserve bank shall have no obligation to make, increase, renew, or extend any advance or discount under this Act to any depository institution.

"(5) PERMISSIBLE ADVANCES TO AVOID SYSTEMIC RISK.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section, any Federal Reserve bank may make advances to an undercapitalized depository institution under this section if the Secretary of the Treasury determines in writing, upon the recommendation of the Board, that the advances are necessary to prevent a severe adverse effect on a regional or the national economy.

"(B) LIABILITY FOR INCREASED COST.—To the extent that any advance pursuant to a determination of the Secretary of the Treasury under subparagraph (A) to any depository institution causes any deposit insurance fund in the Federal Deposit Insurance Corporation to incur costs in excess of the cost of liquidating such institution as of the first day of such advance, such excess cost shall be an obligation of the United States.

"(C) NOTICE.—The Secretary of the Treasury shall provide a written notice of each determination under subparagraph (A) to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate and each notice shall contain a description of the basis for the determination.

"(6) DEFINITIONS.—

"(A) APPROPRIATE FEDERAL BANKING AGENCY.—The term 'appropriate federal banking agency' has the meaning given such term in section 3(q) of the Federal Deposit Insurance Act.

"(B) CRITICAL CAPITAL LEVEL.—The term 'critical capital level' has the same meaning given to such term in section 38 of the Federal Deposit Insurance Act.

"(C) DEPOSITORY INSTITUTION.—The term 'depository institution' has the meaning given to such term in section 19(b)(1)(A).

"(D) UNDERCAPITALIZED DEPOSITORY INSTITUTION.—The term 'undercapitalized depository institution' means any depository institution which—

"(i) is not in compliance with all currently applicable capital standards; or

"(ii) has a composite CAMEL rating of 5 under the Uniform Financial Institutions Rating System (or an equivalent rating by any such agency under a comparable rating system) as of the most recent examination of such institution.

"(E) VIABLE DEPOSITORY INSTITUTION.—The term 'viable depository institution' means any depository institution which the appropriate Federal banking agency or the Board determines, giving due regard to the economic conditions and circumstances in the marketplace in which the institution operates, has capital in excess of the critical capital level and is not expected to fall below the critical capital level or be placed in conservatorship or receivership.".

(c) CONFORMING AMENDMENT.—Section 11 of the Federal Reserve Act is amended by adding the following new subsection:

"(n) To examine, at the Board's discretion, any depository institution, and any affiliate of such depository institution, in connection with any advance to, any discount of any instrument for, or any request for any such advance or discount by, such depository institution under this Act.".

(d) EFFECTIVE DATE.—The amendment made by subsection (b) shall take effect at the end of the 2-year period beginning on the date of the enactment of this Act.

SEC. 143. NO ASSISTANCE TO TROUBLED INSTITUTION WITHOUT REMOVING MANAGEMENT AND REPUDIATING SHAREHOLDERS CLAIMS.

Section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)) is amended by inserting after paragraph (11) (as so redesignated by section 141(e) of this title) the following new paragraph:

"(12) ACTIONS REQUIRED IF ASSISTANCE IS PROVIDED.—

"(A) IN GENERAL.—Upon providing any assistance under this subsection to or on behalf of any insured depository institution and in addition to any other action or condition the Corporation may take or impose, the Corporation shall—

"(i) remove the board of directors of such institution; and

"(ii) treat the claim of any shareholder against the institution with respect to any share or other capital investment of such shareholder in the institution as if such institution had been closed.

"(B) PREEMPTION OF STATE LAW.—The requirements of this paragraph, and the duty of

the Corporation to carry out such requirements, shall preempt any right of any shareholder in any insured depository institution under the law of any State.

"(C) WAIVER AUTHORITY.—

"(i) IN GENERAL.—The Corporation may waive the requirements of subparagraph (A)(i) for any person upon a written finding that—

"(I) such waiver would lessen the risk to the Corporation posed by the insured depository institution provided assistance; or

"(II) such person complied with the applicable laws, rules, supervisory directives, and orders, and did not engage in any insider dealing, speculative practice, or other abusive activity while serving on the board of directors or any other management position in the institution.

"(ii) AUTHORITY LIMITED TO BOARD OF DIRECTORS.—The authority to waive the requirements of subparagraph (A)(i) may not be delegated by the Board of Directors.

"(iii) PUBLICATION OF WAIVER.—The Board of Directors shall publish a notice in the Federal Register of any waiver granted under this subparagraph and any amendment made by the Board to any such waiver.".

Subtitle F—Federal Insurance for State Chartered Depository Institutions

SEC. 151. SHORT TITLE.

This subtitle may be cited as the "Uniform Depositor Protection Act of 1991".

SEC. 152. FEDERAL DEPOSIT INSURANCE REQUIRED FOR STATE CHARTERED BANKS, SAVINGS ASSOCIATIONS, AND CREDIT UNIONS.

(a) IN GENERAL.—After the end of the 2-year period beginning on the date of the enactment of this Act, no State depository institution or State credit union may accept deposits unless such depository institution or credit union is an insured depository institution or an insured credit union, as the case may be.

(b) DEFINITIONS.—For purposes of this section—

(1) STATE DEPOSITORY INSTITUTION.—The term "State depository institution" has the meaning given to such term by section 3(c)(5) of the Federal Deposit Insurance Act.

(2) STATE CREDIT UNION.—The term "State credit union"—

(A) has the meaning given to such term by section 101(6) of the Federal Credit Union Act; and

(B) includes—

(i) any corporate credit union; and

(ii) any member of the Central Liquidity Facility (as such terms are defined in section 302 of the Federal Credit Union Act).

(3) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the meaning given to such term by section 3(c)(2) of the Federal Deposit Insurance Act.

(4) INSURED CREDIT UNION.—The term "insured credit union" has the meaning given to such term by section 101(7) of the Federal Credit Union Act.

Subtitle G—Technical Corrections

SEC. 161. TECHNICAL CORRECTIONS AND CLARIFICATIONS.

(a) SECTION 11 OF THE FEDERAL DEPOSIT INSURANCE ACT.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended—

(1) in subsection (d)(3)(A), by striking "(4)(A)" and inserting "(4)";

(2) in subsection (d)(11)(B), by striking "(14)(C)" and inserting "(15)(B)";

(3) in subsection (e)(3)(C)(ii), by striking "subsection (k)" and inserting "subsection (i)";

(4) in subsection (e)(4)(B)(iii), by striking "subsection (k)" and inserting "subsection (i)";

(5) in subparagraphs (A) and (E) of subsection (e)(8), by striking "subsections (d)(9) and (i)(4)(I)" and inserting "subsection (d)(9)";

(6) in subsection (n)(9), by striking "(13)" and inserting "(12)"; and

(7) in subsection (n)(11)(D), by striking "(8)" and inserting "(9)".

(b) CLARIFICATION OF FDIC POWERS IN FSLIC RESOLUTION FUND CONSERVATORSHIPS AND RECEIVERSHIPS.—Section 11A(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821a(a)) is amended by adding at the end the following new paragraphs:

"(4) RIGHTS, POWERS, AND DUTIES.—Effective August 10, 1989, the Corporation shall have all rights, powers, and duties to carry out the Corporation's duties with respect to the assets and liabilities of the FSLIC Resolution Fund that the Corporation otherwise has under this Act.

"(5) CORPORATION AS CONSERVATOR OR RECEIVER.—

"(A) IN GENERAL.—Effective August 10, 1989, the Corporation shall succeed the Federal Savings and Loan Insurance Corporation as conservator or receiver with respect to any depository institution—

"(i) the accounts of which were insured before August 10, 1989 by the Federal Savings and Loan Insurance Corporation; and

"(ii) for which a conservator or receiver was appointed before January 1, 1989.

"(B) RIGHTS, POWERS, AND DUTIES.—When acting as conservator or receiver with respect to any depository institution described in subparagraph (A), the Corporation shall have all rights, powers, and duties that the Corporation otherwise has as conservator or receiver under this Act.".

(c) CLERICAL AMENDMENT TO SUBSECTION HEADING.—The heading for section 3(w) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)) is amended by striking "HOLDING COMPANIES" and inserting "AFFILIATES OF DEPOSITORY INSTITUTIONS".

(d) FDIC REMOVAL PERIOD MADE CONSISTENT WITH RTC PERIOD.—Section 9(b)(2)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1819(b)(2)(B)) is amended by inserting "before the end of the 90-day period beginning on the date the action, suit, or proceeding is filed against the Corporation or the Corporation is substituted as a party" before the period.

(e) CLARIFICATION OF FDIC AUTHORITY TO PAY DE MINIMUS CLAIMS.—The 2d sentence of section 11(i)(3)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(i)(3)(A)) is amended by striking "The" and inserting "Notwithstanding any other provision of Federal or State law, or the constitution of any State, the".

(f) CLERICAL AMENDMENT TO SECTION HEADING.—

(1) The heading for section 219 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is amended by striking "from taxation".

(2) The table of contents for the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is amended by striking "from taxation" in the item relating to section 219.

TITLE II—REGULATORY IMPROVEMENT

Subtitle A—Regulation of Foreign Banks

SEC. 201. SHORT TITLE.

This subtitle may be cited as the "Foreign Bank Supervision Enhancement Act of 1991".

SEC. 202. REGULATION OF FOREIGN BANK OPERATIONS.

(a) ESTABLISHMENT AND TERMINATION OF FOREIGN BANK OFFICES IN THE UNITED STATES.—Section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) is amended by striking subsection (d) and inserting the following new subsections:

"(d) ESTABLISHMENT OF FOREIGN BANK OFFICES IN THE UNITED STATES.—

"(1) PRIOR APPROVAL REQUIRED.—No foreign bank may establish a branch or an agency, or acquire ownership or control of a commercial lending company, without the prior approval of the Board.

"(2) STANDARDS FOR APPROVAL.—In acting on any application under paragraph (1), the Board may take into account—

"(A) whether the foreign bank engages directly in the business of banking outside the United States and is subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in its home country;

"(B) whether the appropriate authorities in the home country of the foreign bank have consented to the proposed establishment of a branch, agency or commercial lending company in the United States by the foreign bank;

"(C) the financial and managerial resources of the foreign bank, including the bank's experience and capacity to engage in international banking;

"(D) whether the foreign bank has provided the Board with adequate assurances that the bank will make available to the Board such information on the operations or activities of the foreign bank and any affiliate of the bank that the Board deems necessary to determine and enforce compliance with this Act, the Bank Holding Company Act of 1956, and other applicable Federal law; and

"(E) whether the foreign bank and the United States affiliates of the bank are in compliance with applicable United States law.

"(3) ESTABLISHMENT OF CONDITIONS.—Consistent with the standards for approval in paragraph (2), the Board may impose such conditions on its approval under this subsection as it deems necessary.

"(e) TERMINATION OF FOREIGN BANK OFFICES IN THE UNITED STATES.—

"(1) STANDARDS FOR TERMINATION.—The Board, after notice and opportunity for hearing and notice to any appropriate State bank supervisor, may order a foreign bank that operates a State branch or agency or commercial lending company subsidiary in the United States to terminate the activities of such branch, agency, or subsidiary if the Board finds that—

"(A) there is reasonable cause to believe that such foreign bank, or any affiliate of such foreign bank, has committed a violation of law or engaged in an unsafe or unsound banking practice in the United States; and

"(B) as a result of such violation or practice, the continued operation of the foreign bank's branch, agency or commercial lending company subsidiary in the United States would not be consistent with the public interest or with the purposes of this Act, the Bank Holding Company Act of 1956, or the Federal Deposit Insurance Act.

"(2) DISCRETION TO DENY HEARING.—The Board may issue an order under paragraph (1) without providing for an opportunity for a hearing if the Board determines that expeditious action is necessary in order to protect the public interest.

"(3) EFFECTIVE DATE OF TERMINATION ORDER.—An order issued under paragraph (1) shall take effect before the end of the 120-day period beginning on the date such order is issued unless the Board extends such period.

"(4) COMPLIANCE WITH STATE AND FEDERAL LAW.—Any foreign bank required to terminate activities conducted at offices or subsidiaries in the United States pursuant to this subsection shall comply with the requirements of applicable Federal and State law with respect to procedures for the closure or dissolution of such offices or subsidiaries.

"(5) RECOMMENDATION TO AGENCY FOR TERMINATION OF A FEDERAL BRANCH OR AGENCY.—The Board may transmit to the Comptroller of the Currency a recommendation that the license of

any Federal branch or Federal agency of a foreign bank be terminated in accordance with section 4(i) if the Board has reasonable cause to believe that such foreign bank or any affiliate of such foreign bank has engaged in conduct for which the activities of any State branch or agency may be terminated under paragraph (1).

"(6) ENFORCEMENT OF ORDERS.—

"(A) IN GENERAL.—In the case of contumacy of any office or subsidiary of the foreign bank against which the Board or, in the case of an order issued under section 4(i), the Comptroller of the Currency has issued an order under paragraph (1) or a refusal by such office or subsidiary to comply with such order, the Board or the Comptroller of the Currency may invoke the aid of the district court of the United States within the jurisdiction of which the office or subsidiary is located.

"(B) COURT ORDER.—Any court referred to in subparagraph (A) may issue an order requiring compliance with an order issued under paragraph (1).

"(f) JUDICIAL REVIEW.—

"(1) JURISDICTION OF UNITED STATES COURTS OF APPEALS.—Any foreign bank—

"(A) whose application under subsection (d) or section 10(a) has been disapproved by the Board;

"(B) against which the Board has issued an order under subsection (e) or section 10(b); or

"(C) against which the Comptroller of the Currency has issued an order under section 4(i) of this Act,

may obtain a review of such order in the United States court of appeals for any circuit in which such foreign bank operates a branch, agency, or commercial lending company that has been required by such order to terminate its activities, or in the United States Court of Appeals for the District of Columbia Circuit, by filing a petition for review in the court before the end of the 30-day period beginning on the date the order was issued.

"(2) SCOPE OF JUDICIAL REVIEW.—Section 706 of title 5, United States Code, (other than paragraph (2)(F) of such section) shall apply with respect to any review under paragraph (1).

"(g) CONSULTATION WITH STATE BANK SUPERVISOR.—The Board shall request and consider any views of the appropriate State bank supervisor with respect to any application or action under subsection (d) or (e).".

(b) STANDARDS FOR APPROVAL OF FEDERAL BRANCHES AND AGENCIES.—Section 4(a) of the International Banking Act of 1978 (12 U.S.C. 3102(a)) is amended—

(1) by striking "(a) Except as provided in section 5," and inserting "(a) ESTABLISHMENT AND OPERATION OF FEDERAL BRANCHES AND AGENCIES.—

"(1) INITIAL FEDERAL BRANCH OR AGENCY.—Except as provided in section 5,"; and

(2) by adding at the end the following new paragraph:

"(2) BOARD CONDITIONS REQUIRED TO BE INCLUDED.—In considering any application for approval under this subsection, the Comptroller of the Currency shall include any condition imposed by the Board under section 7(d)(3) as a condition for the approval of such application by the agency.".

(c) STANDARDS FOR APPROVAL OF ADDITIONAL FEDERAL BRANCHES AND AGENCIES.—Section 4(h) of the International Banking Act of 1978 (12 U.S.C. 3102(h)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by striking "(h) A foreign bank" and inserting "(h) ADDITIONAL BRANCHES OR AGENCIES.—

"(1) APPROVAL OF AGENCY REQUIRED.—A foreign bank"; and

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

"(2) NOTICE TO AND COMMENT BY BOARD.—The Comptroller of the Currency shall provide the Board with notice and an opportunity for comment on any application to establish an additional Federal branch or Federal agency under this subsection.".

(d) DISAPPROVAL FOR FAILURE TO AGREE TO PROVIDE NECESSARY INFORMATION.—Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by striking "(c) The Board shall" and inserting "(c) FACTORS FOR CONSIDERATION BY BOARD.—

"(1) COMPETITIVE FACTORS.—The Board shall";

(3) by striking "In every case" and inserting "(2) BANKING AND COMMUNITY FACTORS.—In every case";

(4) by striking "community to be served. Notwithstanding any other provision of law" and inserting "community to be served.

"(4) TREATMENT OF CERTAIN BANK STOCK LOANS.— Notwithstanding any other provision of law"; and

(5) by inserting after paragraph (2) (as so designated by paragraph (3) of this subsection) the following new paragraph:

"(3) SUPERVISORY FACTORS.—The Board shall disapprove any application under this section by any company if—

"(A) the company fails to provide the Board with adequate assurances that the company will make available to the Board such information on the operations or activities of the company, and any affiliate of the company, as the Board determines to be appropriate to determine and enforce compliance with this Act; or

"(B) in the case of an application involving a foreign bank, the foreign bank is not subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in the bank's home country.".

(e) CONFORMING AMENDMENTS.—

(1) AFFILIATE DEFINED.—Section 1(b)(13) of the International Banking Act of 1978 (12 U.S.C. 3101(13)) is amended by inserting " 'affiliate,' " after "the terms" the 1st place such term appears.

(2) DEFINITIONS.—Section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101(b)) is amended—

(A) by striking "and" at the end of paragraph (13);

(B) by striking the period at the end of paragraph (14) and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

"(15) the term 'representative office' means any office of a foreign bank which is located in any State and is not a Federal branch, Federal agency, State branch, State agency, or subsidiary of a foreign bank;

"(16) the term 'office' means any branch, agency, or representative office; and

"(17) the term 'State bank supervisor' has the meaning given to such term in section 3 of the Federal Deposit Insurance Act.".

SEC. 203. CONDUCT AND COORDINATION OF EXAMINATIONS.

(a) AUTHORITY OF BOARD TO CONDUCT AND COORDINATE EXAMINATIONS.—Section 7(c) of the International Banking Act of 1978 (12 U.S.C. 3105(b)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) EXAMINATION OF BRANCHES, AGENCIES, AND AFFILIATES.—

"(A) IN GENERAL.—The Board may examine each branch or agency of a foreign bank, each commercial lending company or bank controlled by 1 or more foreign banks or 1 or more foreign companies that control a foreign bank, and other office or affiliate of a foreign bank conducting business in any State.

"(B) COORDINATION OF EXAMINATIONS.—

"(i) IN GENERAL.—The Board shall coordinate examinations under this paragraph with the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and appropriate State bank supervisors to the extent such coordination is possible.

"(ii) SIMULTANEOUS EXAMINATIONS.—The Board may request simultaneous examinations of each office of a foreign bank and each affiliate of such bank operating in the United States.

"(C) ANNUAL ON-SITE EXAMINATION.—Each branch or agency of a foreign bank shall be examined at least once during each 12-month period (beginning on the date the most recent examination of such branch or agency ended) in an on-site examination.

"(D) COST OF EXAMINATIONS.—The cost of any examination under subparagraph (A) shall be assessed against and collected from the foreign bank or the foreign company that controls the foreign bank, as the case may be."; and

(2) in paragraph (2), by inserting "REPORTING REQUIREMENTS.—" before "Each branch".

(b) COORDINATION OF EXAMINATIONS.—Section 4(b) of the International Banking Act of 1978 (12 U.S.C. 3102(b)) is amended by adding at the end thereof the following new sentence: "The Comptroller of the Currency shall coordinate examinations of Federal branches and agencies of foreign banks with examinations conducted by the Board under section 7(c)(1) and, to the extent possible, shall participate in any simultaneous examinations of the United States operations of a foreign bank requested by the Board under such section.".

(c) PARTICIPATION IN COORDINATED EXAMINATIONS.—

(1) IN GENERAL.—Section 10(b) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) EXAMINATION OF INSURED STATE BRANCHES.—The Board of Directors shall—

"(A) coordinate examinations of insured State branches of foreign banks with examinations conducted by the Board of Governors of the Federal Reserve System under section 7(c)(1) of the International Banking Act of 1978; and

"(B) to the extent possible, participate in any simultaneous examination of the United States operations of a foreign bank requested by the Board under such section.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Paragraph (6) of section 10(b) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)) (as so redesignated under paragraph (1) of this subsection) by striking "or (4)" and inserting "(4), or (5)".

SEC. 204. SUPERVISION OF THE REPRESENTATIVE OFFICES OF FOREIGN BANKS.

Section 10 of the International Banking Act of 1978 (12 U.S.C. 3107) is amended to read as follows:

"SEC. 10. REPRESENTATIVE OFFICES.

"(a) PRIOR APPROVAL TO ESTABLISH REPRESENTATIVE OFFICES.—

"(1) IN GENERAL.—No foreign bank may establish a representative office without the prior approval of the Board.

"(2) STANDARDS FOR APPROVAL.—In acting on any application under this paragraph to establish a representative office, the Board shall take into account the standards contained in section 7(d)(2) and may impose any additional requirements that the Board determines to be necessary to carry out the purposes of this Act.

"(b) TERMINATION OF REPRESENTATIVE OFFICES.—The Board may order the termination of the activities of a representative office of a for-

eign bank on the basis of the standards, procedures, and requirements applicable under paragraphs (1), (2), and (3) of section 7(d) with respect to branches and agencies.

"(c) EXAMINATIONS.—The Board may make examinations of each representative office of a foreign bank, the cost of which shall be assessed against and paid by such foreign bank.

"(d) COMPLIANCE WITH STATE LAW.—This Act does not authorize the establishment of a representative office in any State in contravention of State law.".

SEC. 205. REPORTING OF STOCK LOANS.

Section 7(j)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(9)) is amended to read as follows:

"(9) REPORTING OF STOCK LOANS.—

"(A) REPORT REQUIRED.—Any financial institution and any affiliate of any financial institution that has credit outstanding to any person or group of persons which is secured, directly or indirectly, by shares of an insured depository institution shall file a consolidated report with the appropriate Federal banking agency for such insured depository institution if the extensions of credit by the financial institution and such institution's affiliates, in the aggregate, are secured, directly or indirectly, by 25 percent or more of any class of shares of the same insured depository institution.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) FINANCIAL INSTITUTION.—The term 'financial institution' means any insured depository institution and any foreign bank that is subject to the provisions of the Bank Holding Company Act of 1956 by virtue of section 8(a) of the International Banking Act of 1978.

"(ii) CREDIT OUTSTANDING.—The term 'credit outstanding' includes—

"(I) any loan or extension of credit,

"(II) the issuance of a guarantee, acceptance, or letter of credit, including an endorsement or standby letter of credit, and

"(III) any other type of transaction that extends credit or financing to the person or group of persons.

"(iii) GROUP OF PERSONS.—The term 'group of persons' includes any number of persons that the financial institution reasonably believes—

"(I) are acting together, in concert, or with one another to acquire or control shares of the same insured depository institution, including an acquisition of shares of the same insured depository institution at approximately the same time under substantially the same terms; or

"(II) have made, or propose to make, a joint filing under section 13 of the Securities Exchange Act of 1934 regarding ownership of the shares of the same insured depository institution.

"(C) INCLUSION OF SHARES HELD BY THE FINANCIAL INSTITUTION.—Any shares of the insured depository institution held by the financial institution or any of its affiliates as principal shall be included in the calculation of the number of shares in which the financial institution or its affiliates has a security interest for purposes of subparagraph (A).

"(D) REPORT REQUIREMENTS.—

"(i) TIMING OF REPORT.—The report required under this paragraph shall be a consolidated report on behalf of the financial institution and all affiliates of the institution, and shall be filed in writing within 30 days of the date on which the financial institution or any such affiliate first believes that the security for any outstanding credit consists of 25 percent or more of any class of shares of an insured depository institution.

"(ii) CONTENT OF REPORT.—The report under this paragraph shall indicate the number and percentage of shares securing each applicable extension of credit, the identity of the borrower, and the number of shares held as principal by the financial institution and any affiliate of such institution.

"(iii) COPY TO OTHER AGENCIES.—A copy of any report under this paragraph shall be filed with the appropriate Federal banking agency for the financial institution (if other than the agency receiving the report under this paragraph).

"(iv) OTHER INFORMATION.—Each appropriate Federal banking agency may require any additional information necessary to carry out the agency's supervisory responsibilities.

"(E) EXCEPTIONS.—

"(i) EXCEPTION WHERE INFORMATION PROVIDED BY BORROWER.—Notwithstanding subparagraph (A), a financial institution and the affiliates of such institution shall not be required to report a transaction under this paragraph if the person or group of persons referred to in such subparagraph has disclosed the amount borrowed from such institution or affiliate and the security interest of the institution or affiliate to the appropriate Federal banking agency for the insured depository institution in connection with a notice filed under this subsection, an application filed under the Bank Holding Company Act of 1956, section 10 of the Home Owners' Loan Act, or any other application filed with the appropriate Federal banking agency for the insured depository institution as a substitute for a notice under this subsection, such as an application for deposit insurance, membership in the Federal Reserve System, or a national bank charter.

"(ii) EXCEPTION FOR SHARES OWNED FOR MORE THAN 1 YEAR.—Notwithstanding subparagraph (A), a financial institution and any affiliate of such institution shall not be required to report a transaction involving—

"(I) a person or group of persons that has been the owner or owners of record of the stock for a period of 1 year or more; or

"(II) stock issued by a newly chartered bank before the bank's opening.".

SEC. 206. COOPERATION WITH FOREIGN SUPERVISORS.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by adding at the end the following new section:

"SEC. 15. COOPERATION WITH FOREIGN SUPERVISORS.

"(a) DISCLOSURE OF SUPERVISORY INFORMATION TO FOREIGN SUPERVISORS.—Notwithstanding any other provision of law, the Board, Comptroller of the Currency, Federal Deposit Insurance Corporation, and Director of the Office of Thrift Supervision may disclose information obtained in the course of exercising supervisory or examination authority to any foreign bank regulatory or supervisory authority if the Board, Comptroller, Corporation, or Director determines that such disclosure is appropriate and will not prejudice the interests of the United States.

"(b) REQUIREMENT OF CONFIDENTIALITY.—Before making any disclosure of any information to a foreign authority, the Board, Comptroller of the Currency, Federal Deposit Insurance Corporation, and Director of the Office of Thrift Supervision shall obtain, to the extent necessary, the agreement of such foreign authority to maintain the confidentiality of such information to the extent possible under applicable law.".

SEC. 207. APPROVAL REQUIRED FOR ACQUISITION BY FOREIGN BANKS OF SHARES OF UNITED STATES BANKS.

Section 8(a) of the International Banking Act of 1978 (12 U.S.C. 3106(a)) is amended by striking "thereto" and all that follows through the period and inserting "to such provisions.".

SEC. 208. PENALTIES.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by inserting after section 15 (as added by section 206 of this subtitle) the following new section:

"SEC. 16. PENALTIES.

"(a) CIVIL MONEY PENALTY.—

"(1) IN GENERAL.—Any foreign bank, and any office or subsidiary of a foreign bank, that violates, and any individual who participates in a violation of, any provision of this Act, or any regulation prescribed or order issued under this Act, shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation continues.

"(2) ASSESSMENT PROCEDURES.—Any penalty imposed under paragraph (1) may be assessed and collected by the Board or the Comptroller of the Currency in the manner provided in subparagraphs (E), (F), (G), (H), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act for penalties imposed (under such section), and any such assessments shall be subject to the provisions of such section.

"(3) HEARING PROCEDURE.—Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this section.

"(4) DISBURSEMENT.—All penalties collected under authority of this section shall be deposited into the Treasury.

"(5) VIOLATE DEFINED.—For purposes of this section, the term 'violate' includes taking any action (alone or with others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(6) REGULATIONS.—The Board and the Comptroller of the Currency shall each prescribe regulations establishing such procedures as may be necessary to carry out this section.

"(b) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to a foreign bank, or any office or subsidiary of a foreign bank (including a separation caused by the termination of a location in the United States), shall not affect the jurisdiction or authority of the Board or the Comptroller of the Currency to issue any notice or to proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be an institution-affiliated party with respect to such foreign bank or such office or subsidiary of a foreign bank (whether such date occurs on, before, or after the date of the enactment of the Foreign Bank Supervision Enhancement Act of 1991).

"(c) PENALTY FOR FAILURE TO MAKE REPORTS.—

"(1) FIRST TIER.—Any foreign bank, or any office or subsidiary of a foreign bank, that—

"(A) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such error—

"(i) fails to make, submit, or publish such reports or information as may be required under this Act or under regulations prescribed by the Board or the Comptroller of the Currency under this Act, within the period of time specified by the agency; or

"(ii) submits or publishes any false or misleading report or information; or

"(B) inadvertently transmits or publishes any report that is minimally late,

shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false or misleading information is not corrected. The foreign bank, or the office or subsidiary of a foreign bank, shall have the burden of proving that an error was inadvertent and that a report was inadvertently transmitted or published late.

"(2) SECOND TIER.—Any foreign bank, or any office or subsidiary of a foreign bank, that—

"(A) fails to make, submit, or publish such reports or information as may be required under

this Act or under regulations prescribed by the Board or the Comptroller of the Currency pursuant to this Act, within the time period specified by such agency; or

"(B) submits or publishes any false or misleading report or information,

in a manner not described in paragraph (1) shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false or misleading information is not corrected.

"(3) THIRD TIER.—Notwithstanding paragraph (2), if any company knowingly or with reckless disregard for the accuracy of any information or report described in paragraph (2) submits or publishes any false or misleading report or information, the Board or the Comptroller of the Currency may, in the Board's or Comptroller's discretion, assess a penalty of not more than $1,000,000 or 1 percent of total assets of such foreign bank, or such office or subsidiary of a foreign bank, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected.

"(4) ASSESSMENT OF PENALTIES.—Any penalty imposed under paragraph (1), (2), or (3) shall be assessed and collected by the Board or the Comptroller of the Currency in the manner provided in subsection (a)(2) (for penalties imposed under such subsection) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such subsection.

"(5) HEARING PROCEDURE.—Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.".

SEC. 209. POWERS OF AGENCIES RESPECTING APPLICATIONS, EXAMINATIONS, AND OTHER PROCEEDINGS.

Section 13(b) of the International Banking Act of 1978 (12 U.S.C. 3108(b)) is amended—

(1) by striking "(b) In addition to" and inserting "(b) ENFORCEMENT.—

"(1) IN GENERAL.—In addition to";

(2) by adding at the end the following new paragraphs:

"(2) AUTHORITY TO ADMINISTER OATHS; SUBPOENA POWER.—In the course of, or in connection with, an application, examination, investigation, or other proceeding under this Act, the Board, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation, as the case may be, any member of the Board or of the Board of Directors of the Corporation, and any designated representative of the Board, Comptroller, or Corporation (including any person designated to conduct any hearing under this Act) may—

"(A) administer oaths and affirmations and take or cause to be taken depositions; and

"(B) issue, revoke, quash, or modify any subpoena, including any subpoena requiring the attendance and testimony of a witness or any subpoenas duces tecum.

"(3) ADMINISTRATIVE ASPECTS OF SUBPOENAS.—

"(A) ATTENDANCE AND PRODUCTION AT DESIGNATED SITE.—The attendance of any witness and the production of any document pursuant to a subpoena under paragraph (2) may be required at the place designated in the subpoena from any place in any State (as defined in section 3(a)(3) of the Federal Deposit Insurance Act) or other place subject to the jurisdiction of the United States.

"(B) SERVICE OF SUBPOENA.—Service of a subpoena issued under this subsection may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the Board, Comptroller of the Currency, or Federal Deposit Insurance Corporation may by regulation or otherwise provide.

"(C) FEES AND TRAVEL EXPENSES.—Witnesses subpoenaed under this subsection shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States.

"(4) CONTUMACY OR REFUSAL.—

"(A) IN GENERAL.—In the case of contumacy of any person issued a subpoena under this subsection or a refusal by such person to comply with such subpoena, the Board, Comptroller of the Currency, or Federal Deposit Insurance Corporation, or any other party to proceedings in connection with which subpoena was issued may invoke the aid of—

"(i) the United States District Court for the District of Columbia, or

"(ii) any district court of the United States within the jurisdiction of which the proceeding is being conducted or the witness resides or carries on business.

"(B) COURT ORDER.—Any court referred to in subparagraph (A) may issue an order requiring compliance with a subpoena issued under this subsection.

"(5) EXPENSES AND FEES.—Any court having jurisdiction of any proceeding instituted under this subsection may allow any party to such proceeding such reasonable expenses and attorneys' fees as the court deems just and proper.

"(6) CRIMINAL PENALTY.—Any person who willfully fails or refuses to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records in accordance with any subpoena under this subsection shall be fined under title 18, United States Code, imprisoned not more than 1 year, or both. Each day during which any such failure or refusal continues shall be treated as a separate offense.".

SEC. 210. CLARIFICATION OF MANAGERIAL STANDARDS IN BANK HOLDING COMPANY ACT OF 1956.

Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)) (as amended by section 202(d) of this subtitle) is amended by adding at the end the following new paragraph:

"(5) MANAGERIAL RESOURCES.—Consideration of the managerial resources of a company or bank under paragraph (2) shall include consideration of the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or bank.".

Subtitle B—Customer and Consumer Provisions

SEC. 221. PAPERWORK REDUCTION AND IMPROVEMENTS IN ADMINISTRATION OF COMMUNITY REINVESTMENT ACT OF 1977.

(a) REPORT TO CONGRESS.—

(1) IN GENERAL.—Before the end of the 120-day period beginning on the date of the enactment of this Act, each appropriate Federal banking agency shall submit to the Banking, Finance and Urban Affairs Committee of the House of Representatives and the Banking, Housing, and Urban Affairs Committee of the Senate a report containing the following:

(A) Identification of the documentation deemed by each agency to be necessary to properly carry out examinations under the Community Reinvestment Act of 1977.

(B) Recommendations for steps to reduce paperwork required of insured depository institutions in connection with examinations for compliance with the Community Reinvestment Act of 1977.

(C) Recommendations for improvements in the administration and enforcement of the Community Reinvestment Act of 1977.

(2) CONSIDERATIONS.—

(A) ASSET SIZE.—In preparing the recommendations for the report under paragraph (1), the appropriate Federal banking agency shall take into consideration the asset size of insured depository institutions and the administrative resources available to such institutions in developing recommendations for reduction of paperwork.

(B) CONSISTENCY OF RECOMMENDATION WITH PURPOSES OF THE ACT.—The recommendations for reduced paperwork contained in the report under paragraph (1) shall be consistent with the purposes of the Community Reinvestment Act of 1977 and the responsibility of the appropriate Federal banking agency to properly evaluate each insured depository institution performance under the Act.

(b) GAO STUDY AND RECOMMENDATIONS FOR IMPROVEMENTS AND COST SAVINGS.—

(1) REQUIRED.—The Comptroller General of the United States shall conduct a study of the examination processes used by the appropriate Federal banking agencies to evaluate the compliance with the Community Reinvestment Act of 1977.

(2) FACTORS TO BE CONSIDERED.—The study conducted under paragraph (1) shall include the following analyses:

(A) An analysis of the documentation required of insured depository institutions by each appropriate Federal banking agency in carrying out such examinations referred to in paragraph (1).

(B) An analysis of to what extent, if any, such documentation may vary according to the asset size of insured depository institutions.

(C) An analysis of the cost of such documentation based on a representative sample of various insured depository institutions by asset size.

(D) An analysis of the effect of such documentation on the costs to the agency in carrying out an examination under section 804 of the Community Reinvestment Act of 1977.

(E) An analysis of the number of—

(i) applications which have been filed by insured depository institutions which are subject to evaluation under provisions of the Community Reinvestment Act of 1977;

(ii) such applications which have been subject to formal protests;

(iii) such protests which have been granted public hearings by each of the banking agencies; and

(iv) such applications which have been denied on the grounds of unsatisfactory performance under the Community Reinvestment Act of 1977.

(F) An analysis of the time required to process applications subject to evaluation under the Community Reinvestment Act of 1977.

(G) An analysis of the methods utilized by each banking agency in processing protests filed under the Community Reinvestment Act of 1977.

(H) An analysis of the rating systems used by each appropriate Federal banking agency under the Community Reinvestment Act of 1977, together with a detailed description of any inconsistencies between the rating systems used by each such agency and the weight given the ratings in processing and evaluating protests filed under such Act.

(I) An analysis of the factors considered in evaluating the performance of credit card banks and other nontraditional institutions under the Community Reinvestment Act of 1977.

(3) REPORT.—Before the end of the 120-day period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report containing the findings and conclusions made by the Comptroller General in connection with the study required under paragraph (1).

(4) RECOMMENDATIONS.—The report submitted under paragraph (3) shall contain any recommendations for legislative or administrative action the Comptroller General may determine to be appropriate, including any legislative recommendations relating to—

(A) proposals to make administration and enforcement of the the Community Reinvestment

Act of 1977 more effective and consistent with the purposes of the Act; and

(B) proposals to reduce costs associated with examinations under, and the enforcement of, such Act.

(c) DEFINITIONS.—For purposes of this section—

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" has the meaning given to such term in section 3(q) of the Federal Deposit Insurance Act.

(2) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the meaning given to such term in section 3(c)(2) of the Federal Deposit Insurance Act.

SEC. 222. ADDITIONAL FACTOR IN ASSESSING MAJORITY-OWNED INSTITUTION'S RECORD OF MEETING COMMUNITY CREDIT NEEDS.

Section 804 of the Community Reinvestment Act of 1977 (12 U.S.C. 2903) is amended—

(1) by inserting before the first sentence the following: "(a) IN GENERAL.—"; and

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

"(b) MAJORITY-OWNED INSTITUTIONS.—In assessing and taking into account, under subsection (a), the record of a nonminority-owned and nonwomen-owned financial institution, the appropriate Federal financial supervisory agency shall consider and give credit for capital investment, loan participation, and other ventures undertaken by the institution in cooperation with minority- and women-owned financial institutions and low-income credit unions that help meet the credit needs of local communities in which such institutions and credit unions are chartered.".

SEC. 223. ENFORCEMENT OF EQUAL CREDIT OPPORTUNITY ACT.

(a) PATTERN OR PRACTICE.—Section 706(g) of the Equal Credit Opportunity Act (15 U.S.C. 1691e(g)) is amended by adding at the end the following new sentence: "Each agency referred to in paragraphs (1), (2), and (3) of section 704(a) shall refer the matter to the Attorney General whenever the agency has reason to believe that 1 or more creditors has engaged in a pattern or practice of discouraging or denying applications for credit in violation of section 701(a). Each such agency may refer the matter to the Attorney General whenever the agency has reason to believe that 1 or more creditors has violated section 701(a).".

(b) DAMAGES.—Section 706(h) of the Equal Credit Opportunity Act (15 U.S.C. 1691e(h)) is amended by inserting "actual and punitive damages and" after "including".

(c) NOTICE TO HUD.—Section 706 of the Equal Credit Opportunity Act (15 U.S.C. 1691e) is amended by adding at the end the following new subsection:

"(k) NOTICE TO HUD OF VIOLATIONS.—Whenever an agency referred to in paragraph (1), (2), or (3) of section 704(a)—

"(1) has reason to believe, as a result of receiving a consumer complaint, conducting a consumer compliance examination, or otherwise, that a violation of this title has occurred;

"(2) has reason to believe that the alleged violation would be a violation of the Fair Housing Act; and

"(3) does not refer the matter to the Attorney General pursuant to subsection (g),

the agency shall notify the Secretary of Housing and Urban Development of the violation, and shall notify the applicant that the Secretary of Housing and Urban Development has been notified of the alleged violation and that remedies for the violation may be available under the Fair Housing Act.".

SEC. 224. FAIR HOUSING REPORTING.

Effective 1 year after the date of the enactment of this Act, no Federal agency shall require any institution for which the agency is the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))) to prepare, file, or maintain any form for the purpose of collection, analysis, or maintenance of appropriate data to further the purposes of, or to fulfill the requirements of, the Fair Housing Act, other than a form for data collection, analysis, or maintenance prescribed pursuant to the Home Mortgage Disclosure Act.

SEC. 225. REGULATORY BURDEN STUDY.

(a) IN GENERAL.—The Secretary of the Treasury and the head of each appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))) shall each conduct a review of all laws primarily under their respective jurisdictions and all regulations prescribed by them (except with respect to the Internal Revenue Code of 1986, and all regulations, rules, and orders issued thereunder) with respect to such laws to determine whether such laws and regulations adversely affect the capital position and profitability of insured depository institutions.

(b) ADDITIONAL REVIEW REQUIRED.—The review required by subsection (a) shall include an evaluation to determine whether such laws and regulations impose duplicative paperwork and compliance requirements.

(c) REPORT REQUIRED.—Before the end of the 1-year period beginning on the date of the enactment of this Act, the Secretary of the Treasury, and the head of each appropriate Federal banking agency shall each submit a report to the Congress containing—

(1) a description of the laws and regulations that should be revised, simplified, repealed, or rescinded in order to enhance the capitalization and profitability of insured depository institutions without adversely affecting safety and soundness and consumer protection;

(2) to the extent practicable, an analysis of the costs and benefits of such laws and regulations, including those pertaining to corporate applications and filings and other reporting and recordkeeping requirements;

(3) an analysis of the cost impact and effect on safety and soundness of reducing the number of items to be reported on reports of condition of depository institutions with assets of less than $50,000,000; and

(4) an evaluation of the appropriateness of terminating recordkeeping and reporting requirements not directly related to safety and soundness.

SEC. 226. NOTICE OF SAFEGUARD EXCEPTION.

Section 604(f)(2) of the Expedited Funds Availability Act (12 U.S.C. 4003(f)(2)) is amended by inserting after subparagraph (C) the following new subparagraph:

"(D) After a depository institution has provided notice as required under subparagraphs (A), (B), and (C), no further notice shall be required until the earlier of 1 year after notice has been provided or such other time as the exception for which the notice was provided ceases to apply.".

SEC. 227. PROHIBITION ON DECEPTIVE PRACTICES RELATING TO ELECTRONIC FUND TRANSFERS FROM ACCOUNTS.

(a) IN GENERAL.—Section 907 of the Electronic Fund Transfer Act (15 U.S.C. 1693e) is amended by adding at the end the following new subsection:

"(c) PROHIBITION ON CERTAIN DECEPTIVE PRACTICES INVOLVING PREAUTHORIZED TRANSFERS FROM ACCOUNTS.—

"(1) IN GENERAL.—No preauthorized electronic fund transfer, or any other electronic fund transfer, from any consumer's account may be made on the basis of any endorsement, deposit, transfer, or other form of negotiation of any check by the consumer.

"(2) NO PROVISION OF ANY CHECK MAY CONSTITUTE AUTHORIZATION OF CONSUMER.—No provision contained on any check which is received by a receiving depository institution and is endorsed, deposited, transferred, or otherwise negotiated by any consumer may be treated as constituting the authorization of the consumer to make any preauthorized electronic fund transfer, or any other electronic fund transfer, from the consumer's account.

"(3) REGULATIONS.—The Board shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.

"(4) CHECK DEFINED.—For purposes of this subsection, the term 'check' has the meaning given to such term in section 602(7) of the Expedited Funds Availability Act.

"(5) RECEIVING DEPOSITORY INSTITUTION.—For purposes of this subsection, the term 'receiving depository institution' has the meaning given to such term in section 602(20) of the Expedited Funds Availability Act.".

(b) SCOPE OF APPLICATION.—The amendment made by subsection (a) shall apply with respect to any electronic fund transfer on or after the date of the enactment of this Act without regard to the date of the endorsement, deposit, transfer, or other form of negotiation of the check which, but for the enactment of such amendment, would constitute the authorization of the consumer to make any such transfer.

SEC. 228. DEPOSITS AT NONPROPRIETARY AUTOMATED TELLER MACHINES.

(a) IN GENERAL.—Section 603(e) of the Expedited Funds Availability Act (12 U.S.C. 4002(e)) is amended by striking paragraphs (1)(C) and (2).

(b) CONFORMING AMENDMENTS.—The Expedited Funds Availability Act (12 U.S.C. 4001 et seq.) is amended—

(1) in section 603(e) (12 U.S.C. 4002(e))—

(A) by striking the heading for paragraph (1) and inserting the following:

"(1) NONPROPRIETARY ATM.—"; and

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(2) in section 604(a)(2) (12 U.S.C. 4003(a)(2)) by striking "and (2)".

SEC. 229. NOTICE OF BRANCH CLOSURE.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after section 38 (as added by section 131 of this Act) the following new section:

"SEC. 39. NOTICE OF BRANCH CLOSURE.

"(a) NOTICE TO APPROPRIATE FEDERAL BANKING AGENCY.—

"(1) IN GENERAL.—An insured depository institution which proposes to close any branch shall submit a notice of the proposed closing to the appropriate Federal banking agency not later than the first day of the 90-day period ending on the date proposed for the closing.

"(2) CONTENTS OF NOTICE.—A notice under paragraph (1) shall include—

"(A) a detailed statement of the reasons for the decision to close the branch; and

"(B) statistical or other information in support of such reasons.

"(b) NOTICE TO CUSTOMERS.—

"(1) IN GENERAL.—An insured depository institution which proposes to close a branch shall provide notice of the proposed closing to its customers.

"(2) CONTENTS OF NOTICE.—Notice under paragraph (1) shall consist of—

"(A) posting of a notice in a conspicuous manner on the premises of the branch proposed to be closed during not less than the 30-day period ending on the date proposed for that closing; and

"(B) inclusion of a notice in—

"(i) at least one of any regular account statements mailed to customers of the branch proposed to be closed, or

"(ii) in a separate mailing,

by not later than the beginning of the 90-day period ending on the date proposed for that closing.

"(c) ADOPTION OF POLICIES.—

"(1) IN GENERAL.—Each insured depository institution shall adopt policies for closings of branches of the institution.

"(2) CONTENTS OF POLICIES.—Policies adopted under this subsection by an insured depository institution may include, among other matters, the following:

"(A) IDENTIFICATION OF CANDIDATES FOR CLOSING.—A requirement that in identifying branches as candidates for closing, consideration shall be given to profitability and growth potential as indicated by, at a minimum—

"(i) deposit level and mix;

"(ii) loan level and mix;

"(iii) trends in deposits and loans;

"(iv) operating income;

"(v) operating expense and size of staff; and

"(vi) transaction volume and mix;

except that in the case of a closure of an automated teller machine, only clauses (v) and (vi) need be considered.

"(B) MARKET EVALUATION.—A requirement that in evaluating whether to close a branch, the institution shall assess the market demographics of, and the availability of competitive financial services to, the immediate market area of the branch, including assessment of—

"(i) economic trends and forecasts for the immediate market area;

"(ii) the overall coverage of the general market area of the branch, including by other branches of the institution;

"(iii) other financial institutions that serve that general market area, including locations of branches of such other institutions; and

"(iv) except in the case of a closing of an automatic teller machine, general deposit and loan trends—

"(I) at other branches of the depository institution, and

"(II) if available, at locations of competitor depository institutions that serve the general market area of the branch.

"(C) ASSESSMENT OF IMPACT.—A requirement that the following measures shall be taken to assess the impact of any decision to close a branch:

"(i) Determination of whether alternative actions could be taken to improve the profitability of the branch to make it viable on a long-term basis.

"(ii) Forecast the resulting—

"(I) account runoff, and

"(II) operating costs savings, including those resulting from reductions in staff and occupancy costs.

"(iii) Consider the impacts, if any, on surrounding neighborhoods and the actions that can be taken to minimize those impacts, including, at a minimum, by evaluation and financial consideration of other service alternatives for the market area of the branch, including—

"(I) other nearby branches, and

"(II) any appropriate changes in facilities where customers' accounts would be moved.

"(D) REVIEW AND APPROVAL.—Requiring the following reviews and approvals for all proposed branch closings:

"(i) Initiation of any such proposal by the appropriate executive officer responsible for the affected community.

"(ii) Review and approval of any recommendation of such an action by—

"(I) a regional executive officer,

"(II) the appropriate branch group manager,

"(III) the branch officer responsible for compliance with requirements of the Community Reinvestment Act of 1977,

"(IV) the officer of the institution responsible for compliance with requirements of the Community Reinvestment Act of 1977,

"(V) appropriate executive management of the institution, and

"(VI) the Board of Directors of the institution.

"(E) NOTIFICATION TO CUSTOMERS.—Compliance with the following notification procedures for all branch closings:

"(i) Making every effort before the closing to assure that those affected by the closing, including neighborhood and political groups, are given ample and appropriate notice of the proposed closing, including by posting notice of the closing in the branch lobby and at each drive-in and automatic teller machine of the branch at least 30 days before the effective date of the action.

"(ii) Except in the case of a closing of an automatic teller machine, provision of a written notice to all account holders and safe deposit box customers at the branch at least 30 days before the effective date of the action, which includes—

"(I) the effective date of the action,

"(II) the branch to which accounts will be transferred,

"(III) the location of other nearby facilities of the institution, and

"(IV) a telephone number which customers may use to obtain further information about the action.

"(F) DOCUMENTATION.—The following documentation requirements:

"(i) Maintenance of all written analyses and decision approvals related to the closing (including all customer complaints about the closing that are submitted in writing) by the officer of the institution responsible for compliance with requirements of the Community Reinvestment Act of 1977, for a period of at least 2 years after the effective date of the closing.

"(ii) Indication in all written analyses related to the closing of whether the neighborhood surrounding the branch is a low- to moderate-income area.

"(iii) Maintenance by the branch officer responsible for compliance with requirements of the Community Reinvestment Act of 1977 of all customer complaints about the closing that are submitted in writing.

"(3) BRANCH DEFINED.—For purposes of this subsection, the term 'branch' includes an automatic teller machine.".

Subtitle C—Bank Enterprise Act

SEC. 231. SHORT TITLE.

This subtitle may be cited as the "Bank Enterprise Act of 1991".

SEC. 232. REDUCED ASSESSMENT RATE FOR DEPOSITS ATTRIBUTABLE TO LIFELINE ACCOUNTS.

(a) QUALIFICATION OF LIFELINE ACCOUNTS BY FEDERAL RESERVE BOARD.—

(1) IN GENERAL.—The Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation shall establish minimum requirements for accounts providing basic transaction services for consumers at insured depository institutions in order for such accounts to qualify as lifeline accounts for purposes of this section and section 7(b)(10) of the Federal Deposit Insurance Act.

(2) FACTORS TO BE CONSIDERED.—In determining the minimum requirements under paragraph (1) for lifeline accounts at insured depository institutions, the Board and the Corporation shall consider the following factors:

(A) Whether the account is available to provide basic transaction services for individuals who maintain a balance of less than $1,000 or such other amount which the Board may determine to be appropriate.

(B) Whether any service charges or fees to which the account is subject, if any, for routine transactions do not exceed a minimal amount.

(C) Whether any minimum balance or minimum opening requirement to which the account is subject, if any, is not more than a minimal amount.

(D) Whether checks, negotiable orders of withdrawal, or similar instruments for making payments or other transfers to third parties may be drawn on the account.

(E) Whether the depositor is permitted to make more than a minimal number of withdrawals from the account each month by any means described in subparagraph (D) or any other means.

(F) Whether a monthly statement itemizing all transactions for the monthly reporting period is made available to the depositor with respect to such account or a passbook is provided in which all transactions with respect to such account are recorded.

(G) Whether depositors are permitted access to tellers at the institution for conducting transactions with respect to such account.

(H) Whether other account relationships with the institution are required in order to open any such account.

(I) Whether individuals are required to meet any prerequisite which discriminates against low-income individuals in order to open such account.

(J) Such other factors as the Board may determine to be appropriate.

(3) DEFINITIONS.—For purposes of this subsection—

(A) BOARD.—The term "Board" means the Board of Governors of the Federal Reserve System.

(B) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the meaning given to such term in section 3(c)(2) of the Federal Deposit Insurance Act.

(C) LIFELINE ACCOUNT.—The term "lifeline account" means any transaction account (as defined in section 19(b)(1)(C) of the Federal Reserve Act) which meets the minimum requirements established by the Board under this subsection.

(b) REDUCED ASSESSMENT RATES FOR LIFELINE ACCOUNT DEPOSITS.—

(1) REPORTING LIFELINE ACCOUNT DEPOSITS.—Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) (as amended by sections 122 and 141 of this Act) is amended by redesignating paragraphs (6), (7), (8), and (9) as paragraphs (7), (8), (9), and (10), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) LIFELINE ACCOUNT DEPOSITS.—In the reports of condition required to be reported under this subsection, the deposits in lifeline accounts (as defined in section 232(a)(3)(C) of the Bank Enterprise Act of 1991) shall be reported separately.".

(2) ASSESSMENT RATES APPLICABLE TO LIFELINE DEPOSITS.—Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended by redesignating paragraph (10) (as so redesignated by section 103(b) of this Act) as paragraph (11) and by inserting after paragraph (9) the following new paragraph:

"(10) ASSESSMENT RATE FOR LIFELINE ACCOUNT DEPOSITS.—Notwithstanding any other provision of this subsection, that portion of the average assessment base of any insured depository institution which is attributable to deposits in lifeline accounts (as reported in the institution's reports of condition pursuant to subsection (a)(6)) shall be subject to assessment at the assessment rate of ½ the maximum rate.".

(3) ASSESSMENT PROCEDURE.—Section 7(b)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)) is amended—

(A) by striking subclause (II) of clause (i) and inserting the following new subclause:

"(II) such Bank Insurance Fund member's average assessment base for the immediately preceding semiannual period (minus any amount

taken into account under clause (iii) with respect to lifeline account deposits); and''; and

(B) by striking subclause (II) of clause (ii) and inserting the following new subclause:

''(II) such Savings Association Insurance Fund member's average assessment base for the immediately preceding semiannual period (minus any amount taken into account under clause (iii) with respect to lifeline account deposits); and''; and

(C) by adding at the end the following new clause:

''(iii) the semiannual assessment due from any Bank Insurance Fund member or Savings Association Insurance Fund member with respect to lifeline account deposits for any semiannual assessment period shall be the product of—

''(I) ½ the assessment rate applicable with respect to such deposits pursuant to paragraph (10) during that semiannual assessment period; and

''(II) the portion of such member's average assessment base for the immediately preceding semiannual period which is attributable to deposits in lifeline accounts (as reported in the institution's reports of condition pursuant to subsection (a)(6)).''.

(c) AVAILABILITY OF FUNDS.—This section shall not take effect until sufficient funds are determined to be available to compensate the Federal Deposit Insurance Corporation for any losses resulting from reduced assessment rates.

SEC. 233. ASSESSMENT CREDITS FOR QUALIFYING ACTIVITIES RELATING TO DISTRESSED COMMUNITIES.

(a) DETERMINATION OF CREDITS FOR INCREASES IN COMMUNITY ENTERPRISE ACTIVITIES.—

(1) IN GENERAL.—The Community Enterprise Assessment Credit Board established under subsection (d) shall issue guidelines for insured depository institutions eligible under this subsection for any community enterprise assessment credit with respect to any semiannual period. Such guidelines shall—

(A) designate the eligibility requirements for any institution meeting applicable capital standards to receive an assessment credit under section 7(d)(4) of the Federal Deposit Insurance Act; and

(B) determine the community enterprise assessment credit available to any eligible institution under paragraph (3).

(2) QUALIFYING ACTIVITIES.—An insured depository institution shall be eligible for any community enterprise assessment credit for any semiannual period for—

(A) any increase during such period in the amount of new originations of qualified loans and other financial assistance provided for low- and moderate-income persons in distressed communities, or enterprises integrally involved with such neighborhoods, which the Board determines are qualified to be taken into account for purposes of this subsection; and

(B) any increase during such period in the amount of deposits accepted from persons domiciled in the distressed community, at any office of the institution (including any branch) located in any qualified distressed community, and any increase during such period in the amount of new originations of loans and other financial assistance made within that community, except that in no case shall the credit for increased deposits at any institution or branch exceed the credit for increased loan and other financial assistance by the bank or branch in the distressed community.

(3) AMOUNT OF ASSESSMENT CREDIT.—The amount of any community enterprise assessment credit available under section 7(d)(4) for any insured depository institution for any semiannual period shall be the amount which is equal to 5 percent, in the case of an institution which does not meet the community development organization requirements under section 235, and 15 percent, in the case of an institution which meets such requirements, (or any percentage designated under paragraph (5)) of the sum of—

(A) the amounts of assets described in paragraph (2)(A); and

(B) the amounts of deposits, loans, and other extensions of credit described in paragraph (2)(B).

(4) DETERMINATION OF QUALIFIED LOANS AND OTHER FINANCIAL ASSISTANCE.—Except as provided in paragraph (6), the types of loans and other financial assistance which the Board may determine to be qualified to be taken into account under paragraph (2)(A) for purposes of the community enterprise assessment credit, may include the following:

(A) Loans insured or guaranteed by the Secretary of Housing and Urban Development, the Secretary of the Department of Veterans Affairs, the Administrator of the Small Business Administration, and the Secretary of Agriculture.

(B) Loans or financing provided in connection with activities assisted by the Administrator of the Small Business Administration or any small business investment company and investments in small business investment companies.

(C) Loans or financing provided in connection with any neighborhood housing service program assisted under the Neighborhood Reinvestment Corporation Act.

(D) Loans or financing provided in connection with any activities assisted under the community development block grant program under title I of the Housing and Community Development Act of 1974.

(E) Loans or financing provided in connection with activities assisted under title II of the Cranston-Gonzalez National Affordable Housing Act.

(F) Loans or financing provided in connection with a homeownership program assisted under title III of the United States Housing Act of 1937 or subtitle B or C of title IV of the Cranston-Gonzalez National Affordable Housing Act.

(G) Financial assistance provided through community development corporations.

(H) Federal and State programs providing interest rate assistance for homeowners.

(I) Extensions of credit to nonprofit developers or purchasers of low-income housing and small business developments.

(J) In the case of members of any Federal home loan bank, participation in the community investment fund program established by the Federal home loan banks.

(K) Conventional mortgages targeted to low- or moderate-income persons.

(5) ADJUSTMENT OF PERCENTAGE.—The Board may increase or decrease the percentage referred to in paragraph (3) for determining the amount of any community enterprise assessment credit pursuant to such paragraph, except that the percentage established for insured depository institutions which meet the community development organization requirements under section 235 shall not be less than 3 times the amount of the percentage applicable for insured depository institutions which do not meet such requirements.

(6) CERTAIN INVESTMENTS NOT ELIGIBLE TO BE TAKEN INTO ACCOUNT.—Investments by any insured depository institution in loans and securities that are not the result of originations by the institution shall not be taken into account for purposes of determining the amount of any credit pursuant to this subsection.

(b) QUALIFIED DISTRESSED COMMUNITY DEFINED.—

(1) IN GENERAL.—For purposes of this section, the term ''qualified distressed community'' means any neighborhood or community which—

(A) meets the minimum area requirements under paragraph (3) and the eligibility requirements of paragraph (4); and

(B) is designated as a distressed community by any insured depository institution in accordance with paragraph (2) and such designation is not disapproved under such paragraph.

(2) DESIGNATION REQUIREMENTS.—

(A) NOTICE OF DESIGNATION.—

(i) NOTICE TO AGENCY.—Upon designating an area as a qualified distressed community, an insured depository institution shall notify the appropriate Federal banking agency of the designation.

(ii) PUBLIC NOTICE.—Upon the effective date of any designation of an area as a qualified distressed community, an insured depository institution shall publish a notice of such designation in major newspapers and other community publications which serve such area.

(B) AGENCY DUTIES RELATING TO DESIGNATIONS.—

(i) PROVIDING INFORMATION.—At the request of any insured depository institution, the appropriate Federal banking agency shall provide to the institution appropriate information to assist the institution to identify and designate a qualified distressed community.

(ii) PERIOD FOR DISAPPROVAL.—Any notice received by the appropriate Federal banking agency from any insured depository institution under subparagraph (A)(i) shall take effect at the end of the 90-day period beginning on the date such notice is received unless written notice of the approval or disapproval of the application by the agency is provided to the institution before the end of such period.

(3) MINIMUM AREA REQUIREMENTS.—For purposes of this subsection, an area meets the requirements of this paragraph if—

(A) the area is within the jurisdiction of 1 unit of general local government;

(B) the boundary of the area is contiguous; and

(C) the area—

(i) has a population, as determined by the most recent census data available, of not less than—

(I) 4,000, if any portion of such area is located within a metropolitan statistical area (as designated by the Director of the Office of Management and Budget) with a population of 50,000 or more; or

(II) 1,000, in any other case; or

(ii) is entirely within an Indian reservation (as determined by the Secretary of the Interior).

(4) ELIGIBILITY REQUIREMENTS.—For purposes of this subsection, an area meets the requirements of this paragraph if at least 2 of the following criteria are met:

(A) INCOME.—At least 70 percent of the families and unrelated individuals residing in the area have incomes of less than 80 percent of the median income of the area.

(B) POVERTY.—At least 20 percent of the residents residing in the area have incomes which are less than the national poverty level (as determined pursuant to criteria established by the Director of the Office of Management and Budget).

(C) UNEMPLOYMENT.—The unemployment rate for the area is one and one-half times greater than the national average (as determined by the Bureau of Labor Statistic's most recent figures).

(c) ASSESSMENT CREDIT PROVIDED.—

(1) IN GENERAL.—Section 7(d) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)) amended—

(A) by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively; and

(B) by inserting after paragraph (3) the following new paragraphs:

''(4) COMMUNITY ENTERPRISE ASSESSMENT CREDITS.—Notwithstanding paragraphs (2)(A) and (3)(A) and in addition to any assessment credit authorized under paragraph (2)(B) or (3)(B), the Corporation shall allow an assess-

ment credit for any semiannual assessment period to any Bank Insurance Fund member or Savings Association Insurance Fund member satisfying the requirements of the Community Enterprise Assessment Credit Board under section 233(a)(1) of the Bank Enterprise Act of 1991 in the amount determined by such Board through regulation for such period pursuant to such section.

"(5) MAXIMUM AMOUNT OF CREDIT.—The total amount of assessment credits allowed under this subsection (including community enterprise assessment credits pursuant to paragraph (4)) for any insured depository institution for any semiannual period shall not exceed the amount which is equal to 20 percent, in the case of an institution which does not meet the community development organization requirements under section 235 of the Bank Enterprise Act of 1991, and 50 percent, in the case of an institution which meets such requirements, of the assessment imposed on such institution for the semiannual period.".

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 7(d)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)(1)) is amended by inserting "(other than credits allowed pursuant to paragraph (4))" after "amount to be credited".

(B) Subparagraph (B) of section 7(d)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)(1)) is amended by inserting "(taking into account any assessment credit allowed pursuant to paragraph (4))" after "should be reduced".

(d) COMMUNITY ENTERPRISE ASSESSMENT CREDIT BOARD.—

(1) ESTABLISHMENT.—There is hereby established the "Community Enterprise Assessment Credit Board".

(2) NUMBER AND APPOINTMENT.—The Board shall be composed of 5 members as follows:

(A) The Secretary of the Treasury or a designee of the Secretary.

(B) The Secretary of Housing and Urban Development or a designee of the Secretary.

(C) The Chairperson of the Federal Deposit Insurance Corporation or a designee of the Chairperson.

(D) 2 individuals appointed by the President from among individuals who represent community organizations.

(3) TERMS.—

(A) APPOINTED MEMBERS.—Each appointed member shall be appointed for a term of 5 years.

(B) INTERIM APPOINTMENT.—Any member appointed to fill a vacancy occurring before the expiration of the term to which such member's predecessor was appointed shall be appointed only for the remainder of such term.

(C) CONTINUATION OF SERVICE.—Each appointed member may continue to serve after the expiration of the period to which such member was appointed until a successor has been appointed.

(4) CHAIRPERSON.—The Secretary of the Treasury shall serve as the Chairperson of the Board.

(5) NO PAY.—No members of the Commission may receive any pay for service on the Board.

(6) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(7) MEETINGS.—The Board shall meet at the call of the Chairperson or a majority of the Board's members.

(e) DUTIES OF THE BOARD.—

(1) PROCEDURE FOR DETERMINING COMMUNITY ENTERPRISE ASSESSMENT CREDITS.—The Board shall establish procedures for accepting and considering applications by insured depository institutions under subsection (a)(1) for community enterprise assessment credits and making determinations with respect to such applications.

(2) NOTICE TO FDIC.—The Board shall notify the applicant and the Federal Deposit Insurance Corporation of any determination of the Board with respect to any application referred to in paragraph (1) in sufficient time for the Corporation to include the amount of such credit in the computation made for purposes of the notification required under paragraph section 7(d)(1)(B).

(f) AVAILABILITY OF FUNDS.—This section shall not take effect until sufficient funds are determined to be available to compensate the Federal Deposit Insurance Corporation for any losses resulting from the award of community enterprise assessment credits.

(g) DEFINITIONS.—For purposes of this section—

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" has the meaning given to such term in section 3(q) of the Federal Deposit Insurance Act.

(2) BOARD.—The term "Board" means the Community Enterprise Assessment Credit Board established under the amendment made by subsection (d).

(3) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the meaning given to such term in section 3(c)(2) of the Federal Deposit Insurance Act.

SEC. 234. COMMUNITY DEVELOPMENT ORGANIZATIONS.

(a) COMMUNITY DEVELOPMENT ORGANIZATIONS DESCRIBED.—For purposes of this subtitle, any insured depository institution shall be treated as meeting the community development organization requirements of this section if—

(1) the institution—

(A) is a community development bank, or controls any community development bank, which meets the requirements of subsection (b);

(B) controls any community development corporation, or maintains any community development unit within the institution, which meets the requirements of subsection (c);

(C) invests in any community development credit union which meets the requirements established by the National Credit Union Administration Board for community development credit unions; or

(D) invests in a community development organization jointly controlled by two or more institutions;

(2) except in the case of an institution which is a community development bank, the amount of the capital invested, in the form of debt or equity, by the institution in the community development organization referred to in paragraph (1) (or, in the case of any community development unit, the amount which the institution irrevocably makes available to such unit for the purposes described in paragraph (3)) is not less than the greater of—

(A) ½ of 1 percent of the capital, as defined by generally accepted accounting principles, of the institution; or

(B) the sum of the amounts invested in such community development organization; and

(3) the community development organization provides loans for residential mortgages, home improvement, and community development and other financial services, other than financing for the purchase of automobiles or extension of credit under any open-end credit plan (as defined in section 103(i) of the Truth in Lending Act), to low- and moderate-income persons, nonprofit organizations, and small businesses located in qualified distressed communities in a manner consistent with the intent of this subtitle.

(b) COMMUNITY DEVELOPMENT BANK REQUIREMENTS.—A community development bank meets the requirements of this subsection if—

(1) the community development bank has a 15-member advisory board designated as the "Community Investment Board" and consisting entirely of community leaders who—

(A) shall be appointed initially by the board of directors of the community development bank and thereafter by the Community Investment Board from nominations received from the community; and

(B) are appointed for a single term of 2 years, except that, of the initial members appointed to the Community Investment Board, ⅓ shall be appointed for a term of 8 months, ⅓ shall be appointed for a term of 16 months, and ⅓ shall be appointed for a term of 24 months, as designated by the board of directors of the community development bank at the time of the appointment;

(2) ⅓ of the members of the community development bank's board of directors are appointed from among individuals nominated by the Community Investment Board; and

(3) the bylaws of the community development bank require that the board of directors of the bank meet with the Community Investment Board at least once every 3 months.

(c) COMMUNITY DEVELOPMENT CORPORATION REQUIREMENTS.—Any community development corporation, or community development unit within any insured depository institution meets the requirements of this subsection if the corporation or unit provides the same or greater, as determined by the appropriate Federal banking agency, community participation in the activities of such corporation or unit as would be provided by a Community Investment Board under subsection (b) if such corporation or unit were a community development bank.

(d) ADEQUATE DISPERSAL REQUIREMENT.—The appropriate Federal banking agency may approve the establishment of a community development organization under this subtitle only upon finding that the distressed community is not adequately served by an existing community development organization.

(e) DEFINITIONS.—For purposes of this section—

(1) COMMUNITY DEVELOPMENT BANK.—The term "community development bank" means any depository institution (as defined in section 3(c)(1) of the Federal Deposit Insurance Act).

(2) COMMUNITY DEVELOPMENT ORGANIZATION.—The term "community development organization" means any community development bank, community development corporation, community development unit within any insured depository institution, or community development credit union.

(3) LOW- AND MODERATE-INCOME PERSONS.—The term "low- and moderate-income persons" has the meaning given such term in section 102(a)(20) of the Housing and Community Development Act of 1974.

(4) NONPROFIT ORGANIZATION; SMALL BUSINESS.—The terms "nonprofit organization" and "small business" have the meanings given to such terms by regulations which the appropriate Federal banking agency shall prescribe for purposes of this section.

(5) QUALIFIED DISTRESSED COMMUNITY.—The term "qualified distressed community" has the meaning given to such term in section 233(b).

TITLE III—FEDERAL DEPOSIT INSURANCE REFORM

Subtitle A—Activities

SEC. 301. LIMITATIONS ON BROKERED DEPOSITS AND DEPOSIT SOLICITATIONS.

(a) IN GENERAL.—Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f) is amended—

(1) in subsection (c), by striking "an insured depository institution" and inserting "any level 1 or level 2 depository institution";

(2) by striking subsection (e) and inserting the following new subsection:

"(e) ADDITIONAL RESTRICTIONS.—The Corporation may, by regulation or order, impose—

"(1) such additional restrictions on the acceptance of brokered deposits by any troubled institution as the Corporation may determine to be appropriate; and

"(2) such restrictions or limitations as the Corporation may determine to be appropriate on the acceptance, renewal, or rollover of funds obtained, directly or indirectly, through any deposit broker by any insured depository institution which the Corporation determines—

"(A) has suffered a material decline in capital so as to constitute a threat to the institution's solvency;

"(B) has knowingly or willfully violated any cease and desist order issued to the institution by the appropriate Federal banking agency, or any written agreement entered into between the institution and such agency, which relates to the safety or soundness of the institution; or

"(C) has failed to comply with any applicable reporting or notification requirements imposed by the Corporation with respect to the acceptance of brokered deposits by an insured depository institution.";

(3) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and inserting after subsection (e) (as amended by paragraph (2) of this section) the following new subsection:

"(f) DEPOSIT SOLICITATION RESTRICTED.—An insured depository institution which does not meet the institution's applicable minimum capital requirements, or an employee of any such institution, shall not engage, directly or indirectly, in the solicitation of deposits by offering rates of interest (with respect to such deposits) which are significantly higher than the prevailing rates of interest on comparable deposits offered by other insured depository institutions in such institution's normal market areas.";

(4) in paragraph (4)(A) of subsection (g) (as so redesignated by paragraph (3) of this subsection) by striking "exclusively"; and

(5) by striking subsection (h) (as so redesignated by paragraph (3) of this subsection) and inserting the following new subsection:

"(h) TROUBLED INSTITUTION DEFINED.—For purposes of this section, the term 'troubled institution' means any insured depository institution which—

"(1) does not meet the minimum capital requirements applicable with respect to such institution;

"(2) based on the most recent report of condition, report of examination, or inspection of such institution, has been assigned a CAMEL composite rating of 4 or 5 under the Uniform Financial Institutions Rating System or an equivalent rating under a comparable system; or

"(3) has been informed in writing by the appropriate Federal banking agency that, on the basis of the institution's financial condition, the institution has been designated a 'troubled institution' for purposes of this section.".

(b) CLERICAL AMENDMENT.—The heading for section 29 of the Federal Deposit Insurance Corporation is amended to read as follows:

"SEC. 29. BROKERED DEPOSITS AND DEPOSIT SOLICITATIONS.".

SEC. 302. RISK-BASED ASSESSMENTS.

(a) ASSESSMENT RATES.—

(1) MAXIMUM RATE.—Section 7(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(C)) is amended—

(A) in clause (i), by striking "the greater of 0.15 percent or"; and

(B) by inserting after clause (iii), the following new clause:

"(iv) Until the Corporation establishes a risk-based assessment system pursuant to paragraph (8), the annual assessment rate for Bank Insurance Fund members shall not be less than 0.15 percent.".

(2) USE OF ESTIMATES AND PROJECTIONS.—Section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (C); and

(B) by inserting after subparagraph (A) the following new subparagraph:

"(B) USE OF ESTIMATES AND PROJECTIONS.—

"(i) AUTHORITY TO COMPUTE RATES.—The Corporation may make and use such estimates and projections as may be appropriate for computing assessment rates to be paid by Bank Insurance Fund members and Savings Association Insurance Fund members.

"(ii) AUTHORITY TO SET RATES.—The Corporation may—

"(I) set any assessment rate for Bank Insurance Fund members; and

"(II) after December 31, 1997, set any assessment rate for Savings Association Insurance Fund members.".

(3) REVISION OF ASSESSMENT BASE.—Section 7(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(3)) is amended to read as follows:

"(3) AVERAGE ASSESSMENT BASE.—The average assessment base for any insured depository institution for any semiannual period shall be the average of such depository institution's assessment base for each of the following 2 dates:

"(A) the 1st of the 2 dates falling within such semiannual period for which the depository institution is required to submit reports of condition pursuant to subsection (a)(3) (hereafter in this section referred to as 'reports of condition'); and

"(B) the 2nd of the 2 dates falling within the semiannual period immediately preceding such semiannual period for which the depository institution is required to submit reports of condition.".

(b) RISK-BASED ASSESSMENTS.—Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) (as amended by this section and sections 103(b) and 232(b)(2) of this Act) is amended by redesignating paragraphs (8), (9), (10), and (11) as paragraphs (9), (10), (11), and (12) and by inserting after paragraph (7) (as added by section 103(b) of this Act) the following new paragraph:

"(8) RISK-BASED ASSESSMENTS.—

"(A) IN GENERAL.—Subject to paragraph (1), the Board of Directors shall, by regulation, establish a risk-based assessment system for insured depository institutions.

"(B) RISK-BASED ASSESSMENT SYSTEM DEFINED.—For purposes of this paragraph, the term 'risk-based assessment system' means a system under which the assessment rate determined for each insured depository institution is based on the risk that the institution poses to the appropriate deposit insurance fund.

"(C) PROVISIONS APPLICABLE TO ESTABLISHMENT OF SYSTEM.—In establishing a risk-based assessment system, the Board of Directors may use the following criteria:

"(i) The ratio of capital to assets of the insured depository institution, all members of the appropriate deposit insurance fund, or any group of such members.

"(ii) The activities conducted by the insured depository institution, all members of the appropriate deposit insurance fund, or any group of such members.

"(iii) The assets and liabilities of the insured depository institution, all members of the appropriate deposit insurance fund, or any group of such members.

"(iv) Such other circumstances, conditions, activities or risk factors which the Board of Directors determines to be appropriate.".

(c) REGULATIONS.—

(1) IN GENERAL.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Board of Directors of the Federal Deposit Insurance Corporation shall prescribe the final regulations required by section 7(b)(8) of the Federal Deposit Insurance Act (as added by subsection (b) of this section).

(2) EFFECTIVE DATE.—Such regulations shall take effect before the end of the 12-month period beginning on the date such regulations are published in final form.

(d) MORTGAGE LENDING SAFEGUARDS.—

(1) ANALYSIS.—Before the end of the 12-month period beginning on the date of the enactment of this Act, the Board of Directors of the Federal Deposit Insurance Corporation shall analyze the impact of such system on the following categories of lending:

(A) Single family mortgages.

(B) Single family mortgages located in low- and moderate-income census tracts.

(C) Nonconforming single family mortgages.

(D) Multifamily mortgages.

(E) Construction lending for—

(i) single family homes;

(ii) single family homes located in low- and moderate-income census tracts;

(iii) nonconforming single family homes; and

(iv) multifamily homes.

(F) Small business loans.

(2) REPORT.—Before the issuance of final regulations implementing the risk-based assessment system established pursuant to the amendments made by subsection (b), the Board of Directors of the Federal Deposit Insurance Corporation shall submit to the Congress a report describing the findings of the analysis required under paragraph (1).

(e) PUBLIC HEARING.—Before the issuance of final regulations implementing the risk-based assessment system established pursuant to the amendments made by subsection (b), the Board of Directors of the Federal Deposit Insurance Corporation shall hold at least 1 public hearing regarding that system.

(f) 2-YEAR REVIEW.—Before the end of the 2-year period beginning on the effective date of final regulations implementing the risk-based assessment system established pursuant to the amendments made by subsection (b), the Board of Directors of the Federal Deposit Insurance Corporation shall—

(1) using data collected from examinations of insured depository institutions, analyze the impact of the risk-based assessment system on the categories of lending described in subsection (d)(1); and

(2) submit to the Congress a report on the findings of that analysis, including recommendations for any legislation needed to ensure that the risk-based assessment system does not have an inequitable impact on those categories of lending.

SEC. 303. RESTRICTIONS ON INSURED STATE BANK ACTIVITIES.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 23 the following new section:

"SEC. 24. ACTIVITIES OF INSURED STATE BANKS.

"(a) IN GENERAL.—After the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, an insured State bank may not engage as principal in any type of activity that is not permissible for a national bank unless—

"(1) the Corporation has determined that the activity would pose no significant risk to the appropriate deposit insurance fund; and

"(2) the State bank is, and continues to be, in compliance with applicable capital standards prescribed by the appropriate Federal banking agency.

"(b) INSURANCE UNDERWRITING.—Notwithstanding subsection (a), an insured State bank may not engage in insurance underwriting ex-

cept to the extent that activity is permissible for national banks.

"(c) EQUITY INVESTMENTS BY INSURED STATE BANKS.—

"(1) IN GENERAL.—An insured State bank may not, directly or indirectly, acquire or retain any equity investment of a type that is not permissible for a national bank.

"(2) EXCEPTION FOR CERTAIN SUBSIDIARIES.—Paragraph (1) shall not prohibit an insured State bank from acquiring or retaining an equity investment in a subsidiary of which the insured State bank is a majority owner.

"(3) EXCEPTION FOR QUALIFIED HOUSING PROJECTS.—

"(A) EXCEPTION.—Notwithstanding any other provision of this subsection, an insured State bank may invest as a limited partner in a partnership, the sole purpose of which is direct or indirect investment in the acquisition, rehabilitation, or new construction of a qualified housing project.

"(B) LIMITATION.—The aggregate of the investments of any insured State bank pursuant to this paragraph shall not exceed 2 percent of the total assets of the bank.

"(C) QUALIFIED HOUSING PROJECT DEFINED.—As used in this paragraph—

"(i) QUALIFIED HOUSING PROJECT.—The term 'qualified housing project' means residential real estate that is intended to primarily benefit lower income people throughout the period of the investment.

"(ii) LOWER INCOME.—The term 'lower income' means income that less than or equal to the median income based on statistics from State or Federal sources.

"(4) TRANSITION RULE.—

"(A) IN GENERAL.—The Corporation shall require any insured State bank to divest any equity investment the retention of which is not permissible under this subsection as quickly as can be prudently done, and in any event before the end of the 5-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991.

"(B) TREATMENT OF NONCOMPLIANCE DURING DIVESTMENT.—With respect to any equity investment held by any insured State bank on the date of enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991 which was lawfully acquired before such date, the bank shall be deemed not to be in violation of the prohibition in this subsection on retaining such investment so long as the bank complies with the applicable requirements established by the Corporation for divesting such investments.

"(d) SUBSIDIARIES OF INSURED STATE BANKS.—

"(1) IN GENERAL.—After the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, a subsidiary of an insured State bank may not engage as principal in any type of activity that is not permissible for a subsidiary of a national bank unless—

"(A) the Corporation has determined that the activity poses no significant risk to the appropriate deposit insurance fund; and

"(B) the bank is, and continues to be, in compliance with applicable capital standards prescribed by the appropriate Federal banking agency.

"(2) SECURITIES AND INSURANCE UNDERWRITING PROHIBITED.—

"(A) PROHIBITION.—Notwithstanding paragraph (1) and any provision of the Federal Deposit Insurance Corporation Improvement Act of 1991, no subsidiary of an insured State bank may engage in securities or insurance underwriting except to the extent such activities are permissible for national banks.

"(B) EXCEPTION.—Subparagraph (A) does not apply to a subsidiary of an insured State bank if—

"(i) the insured State bank was required, before June 1, 1991, to provide title insurance as a condition of the bank's initial chartering under State law; and

"(ii) control of the insured State bank has not changed since that date.

"(e) SAVINGS BANK LIFE INSURANCE.—

"(1) IN GENERAL.—No provision of this Act or the Federal Deposit Insurance Corporation Improvement Act of 1991 shall be construed as prohibiting or impairing the sale or underwriting of savings bank life insurance, or the ownership of stock in a savings bank life insurance company, by any insured bank which—

"(A) is located in the Commonwealth of Massachusetts or the State of New York or Connecticut; and

"(B) meets the consumer disclosure requirements under section 18(k) with respect to such insurance.

"(2) FDIC FINDING AND ACTION REGARDING RISK.—

"(A) FINDING.—Before the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, the Corporation shall make a finding whether savings bank life insurance activities of insured banks pose or may pose any significant risk to the insurance fund of which such banks are members.

"(B) ACTIONS.—

"(i) IN GENERAL.—The Corporation shall, pursuant to any finding made under subparagraph (A), take appropriate actions to address any risk that exists or may subsequently develop with respect to insured banks described in paragraph (1)(A).

"(ii) AUTHORIZED ACTIONS.—Actions the Corporation may take under this subparagraph include requiring the modification, suspension, or termination of insurance activities conducted by any insured bank if the Corporation finds that the activities pose a significant risk to any insured bank described in paragraph (1)(A) or to the insurance fund of which such bank is a member.

"(f) CURRENTLY PERMITTED EQUITY INVESTMENTS.—

"(1) IN GENERAL.—An insured State bank shall not acquire or retain, directly or indirectly, any equity investment of a type or in an amount that is not permissible for a national bank.

"(2) EXCEPTION.—Notwithstanding paragraph (1) or any limitation or prohibition otherwise imposed by any provision of law exclusively relating to banks, an insured State bank in a State which permits investments described in paragraph (1) as of September 30, 1991, may invest not more than 10 percent of the bank's total assets in—

"(A) common or preferred stock listed on a national securities exchange (except that not more than 0.5 percent of the bank's total assets may be invested in common or preferred stock of any 1 company); or

"(B) shares of an investment company registered under the Investment Company Act of 1940.

"(3) NOTICE OF PARAGRAPH (2) ACTIVITIES.—An insured State bank may only engage in any investment activity pursuant to paragraph (2) if—

"(A) the insured State bank has filed a 1-time notice with the Corporation of the bank's intent to acquire or retain such investments; and

"(B) pursuant to such notice, the Corporation has not determined, within 60 days of receiving such notice, that acquiring or retaining such investments poses a significant risk to the Bank Insurance Fund.

"(5) DIVESTITURE OF INVESTMENTS.—The Corporation may require divestiture by an insured State bank of any investment permitted under this subsection if the Corporation determines that such investment will have an adverse effect on the safety and soundness of such bank.

"(6) FDIC FINDINGS AND ACTION REGARDING RISK.—

"(A) FINDING.—Before the end of the 1-year period beginning on the date of enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, the Corporation shall make a finding whether such equity investments by insured State banks pose or may pose any significant risk to the insurance fund of which such banks are members.

"(B) ACTIONS.—

"(i) IN GENERAL.—The Corporation shall, pursuant to any finding made under subparagraph (A), take appropriate actions to address any risk that exists or may subsequently develop with respect to insured banks described in paragraph (1).

"(ii) AUTHORIZED ACTIONS.—Actions the Corporation may take under this subparagraph include requiring the modification, suspension, or termination of such equity investments conducted by any insured State bank if the Corporation finds that the activities pose a significant risk to any insured bank described in paragraph (1) or to the insurance fund of which such bank is a member.

"(g) DETERMINATIONS.—The Corporation shall make determinations under this section by regulation or order.

"(h) ACTIVITY DEFINED.—For purposes of this section, the term 'activity' includes acquiring or retaining any investment.

"(i) OTHER AUTHORITY NOT AFFECTED.—This section shall not be construed as limiting the authority of any appropriate Federal banking agency or any State supervisory authority to impose more stringent restrictions.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The 13th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 330) is amended by striking ": Provided, however, That no Federal reserve bank" and inserting ", except that the Board of Governors of the Federal Reserve System may limit the activities of State member banks and subsidiaries of State member banks in a manner consistent with section 24 of the Federal Deposit Insurance Act. No Federal reserve bank".

SEC. 304. RESTRICTIONS ON REAL ESTATE LENDING.

(a) RESTRICTIONS ON REAL ESTATE LENDING ESTABLISHED.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 39 (as added by section 229 of this Act) the following new section:

"SEC. 40. REAL ESTATE LENDING.

"(a) UNIFORM REGULATIONS.—The appropriate Federal banking agencies shall jointly adopt uniform regulations prescribing standards for loans or extensions of credit by insured depository institutions that are—

"(1) secured by liens on, interests in, or liens on interests in unimproved real estate, or

"(2) made for the purpose of financing the construction of a building or buildings or other improvements to real estate.

"(b) STANDARDS.—

"(1) CRITERIA.—In prescribing standards pursuant to subsection (a) for loans or extensions of credit described in such subsection, the agencies shall consider—

"(A) the risk presented to the Bank Insurance Fund or the Savings Association Insurance Fund, as the case may be, by such loans or extensions of credit;

"(B) the safe and sound operation of insured depository institutions; and

"(C) the availability of credit.

"(2) VARIATIONS PERMITTED.—In prescribing the standards referred to in paragraph (1), the agencies may jointly provide for differentiations

among insured depository institutions and among types of loans to such extent and in such manner as may be—

"(A) required by Federal law;

"(B) warranted on the basis of risk to the deposit insurance funds; or

"(C) warranted on the basis of the safety and soundness of the institutions.

"(3) LOAN EVALUATION STANDARD.—No Federal financial regulatory agency shall adversely evaluate an investment or a loan made by a federally insured depository institution, or consider such a loan to be nonperforming, solely because the loan is made to or the investment is in commercial, residential, or industrial property.".

(b) EFFECTIVE DATE.—The regulations prescribed pursuant to the amendment made by subsection (a) shall take effect before the end of the 12-month period beginning on the date of the enactment of this Act.

SEC. 305. CAPITAL STANDARDS AND INTEREST RATE RISK.

(a) IN GENERAL.—The appropriate Federal banking agencies shall develop a system to monitor interest rate risk and to adjust risk-based capital standards to reflect interest rate risk.

(b) IMPLEMENTING REGULATIONS.—In order to implement the system required under subsection (a), the appropriate Federal banking agencies shall prescribe regulations in final form before the end of the 1-year period beginning on the date of the enactment of this Act. Such regulations shall take effect before the end of the 2-year period beginning on such date of enactment.

SEC. 306. TRANSITION RULE.

Section 5(t)(5)(D) of the Home Owners Loan Act (12 U.S.C. 1464(t)(5)(D)) is amended by striking "for a national bank," and inserting "for a national bank or if such impermissible activities were commenced after April 12, 1989, and before August 9, 1989, by a savings association with assets of less than $400,000,000 and were made in residential real estate or land held for development as residential real estate,".

SEC. 307. FDIC BACK-UP ENFORCEMENT AUTHORITY.

Section 8(t) of the Federal Deposit Insurance Act (12 U.S.C. 1818(t)) is amended to read as follows:

"(t) AUTHORITY OF BOARD TO TAKE ENFORCEMENT ACTION AGAINST INSURED DEPOSITORY INSTITUTIONS AND INSTITUTION-AFFILIATED PARTIES.—

"(1) AUTHORITY TO RECOMMEND THAT APPROPRIATE FEDERAL BANKING AGENCY TAKE ENFORCEMENT ACTION.—The Corporation, based on an examination of an insured depository institution by the Corporation or the appropriate Federal banking agency or on other information, may recommend that the appropriate Federal banking agency take any enforcement action authorized under this section or section 7(j) or 18(j) with respect to any insured depository institution or any institution-affiliated party.

"(2) AUTHORITY OF BOARD TO DIRECT ENFORCEMENT ACTION BE TAKEN IF APPROPRIATE FEDERAL BANKING AGENCY FAILS TO FOLLOW RECOMMENDATION.—

"(A) IN GENERAL.—If the appropriate Federal banking agency fails to take the recommended action, or to provide an acceptable plan for addressing the concerns of the Corporation set forth in the Corporation's recommendation, before the end of the 60-day period beginning on the date of the receipt of the formal recommendation from the Corporation, the Board of Directors may direct the Corporation to take such action if the Board of Directors determines that—

"(i) the insured depository institution is in an unsafe or unsound condition;

"(ii) failure to take the recommended action will result in continuance of unsafe or unsound practices in conducting the business of the insured depository institution; or

"(iii) the violation or threatened violation, or threatened practices or omission, or continuation of practices, or omissions may cause, or is likely to cause, a risk of loss to the appropriate insurance fund, or may prejudice the interests of depositors of the institution.

"(B) ENFORCEMENT POWERS.—In the exercise of any authority under this subsection at the direction of the Board of Directors—

"(i) the Corporation shall have the same powers with respect to any insured depository institution and any subsidiary or affiliate of the institution as the appropriate Federal banking agency has with respect to such institution, subsidiary, or affiliate; and

"(ii) the institution and any subsidiary or affiliate of the institution shall have the same duties and obligations with respect to the Corporation as the institution, subsidiary, or affiliate has with respect to the appropriate Federal banking agency.

"(3) EFFECT OF EXIGENT CIRCUMSTANCES.—

"(A) AUTHORITY TO ACT.—Notwithstanding paragraphs (1) and (2), the Board of Directors may direct the Corporation to exercise the Corporation's authority under this subsection before the end of the 60-day period described in paragraph (2)(A) in exigent circumstances after notifying the appropriate Federal banking agency.

"(B) AGREEMENT ON EXIGENT CIRCUMSTANCES.—The Board of Directors shall, by agreement with the other appropriate Federal banking agencies, establish and publish a description of the exigent circumstances under which the Board of Directors may direct the Corporation to act under this subsection without regard to the 60-day period described in paragraph (2)(A).

"(4) REQUESTS FOR FORMAL ACTIONS AND INVESTIGATIONS.—

"(A) SUBMISSION OF REQUESTS.—Whenever a regional office or regional bank of an appropriate Federal banking agency submits a request for a formal investigation or enforcement action, such regional office or regional bank shall concurrently submit the request to the head of the appropriate Federal banking agency and the Corporation.

"(B) AGENCIES REQUIRED TO REPORT ON REQUESTS.—Each appropriate Federal banking agency shall report semiannually to the Corporation the status or disposition of all such requests, including the reasons for the appropriate Federal banking agency's decision to either approve or deny all such requests.

"(5) NONDELEGATION.—The authority of the Board of Directors to make any determination or to direct the Corporation to take any action under this subsection may not be delegated.".

Subtitle B—Coverage

SEC. 311. DEPOSIT AND PASS-THROUGH INSURANCE.

(a) EXCLUSION OF CERTAIN OBLIGATIONS FROM DEPOSIT INSURANCE COVERAGE.—

(1) IN GENERAL.—Section 11(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)) is amended by adding at the end the following new paragraph:

"(8) CERTAIN INVESTMENT CONTRACTS NOT TREATED AS INSURED DEPOSITS.—

"(A) IN GENERAL.—A liability of an insured depository institution shall not be treated as an insured deposit if the liability arises under any insured depository institution investment contract between any insured depository institution and any employee benefit plan which expressly permits benefit-responsive withdrawals or transfers.

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) BENEFIT-RESPONSIVE WITHDRAWALS OR TRANSFERS.—The term 'benefit-responsive withdrawals or transfers' means any withdrawal or transfer of funds (consisting of any portion of the principal and any interest credited at a rate guaranteed by the insured depository institution investment contract) during the period in which any guaranteed rate is in effect, without substantial penalty or adjustment, to pay benefits provided by the employee benefit plan or to permit a plan participant or beneficiary to redirect the investment of his or her account balance.

"(ii) EMPLOYEE BENEFIT PLAN.—The term 'employee benefit plan'—

"(I) has the meaning given to such term in section 3(3) of the Employee Retirement Income Security Act of 1974; and

"(II) includes any plan described in section 401(d) of the Internal Revenue Code of 1986.".

(2) EXCLUSION OF OBLIGATIONS FROM TREATMENT AS DEPOSITS FOR OTHER PURPOSES.—Section 7(b)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(6)) is amended—

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(D) any liability of the insured depository institution which is not treated as an insured deposit pursuant to section 11(a)(8).".

(b) INSURANCE OF DEPOSITS.—

(1) INSURED AMOUNTS PAYABLE.—Section 11(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)) (as amended by subsection (a)(1) of this section) is amended by striking "(a)(1)" and all that follows through paragraph (1) and inserting the following:

"(a) DEPOSIT INSURANCE.—

"(1) INSURED AMOUNTS PAYABLE.—

"(A) IN GENERAL.—The Corporation shall insure the deposits of all insured depository institutions as provided in this Act.

"(B) NET AMOUNT OF INSURED DEPOSIT.—The net amount due to any depositor at an insured depository institution shall not exceed $100,000 as determined in accordance with subparagraphs (C) and (D).

"(C) AGGREGATION OF DEPOSITS.—For the purpose of determining the net amount due to any depositor under subparagraph (B), the Corporation shall aggregate the amounts of all deposits in the insured depository institution which are maintained by a depositor in the same capacity and the same right for the benefit of the depositor either in the name of the depositor or in the name of any other person, other than any amount in a trust fund described in section 7(i)(1).

"(D) COVERAGE ON PRO RATA OR 'PASS-THROUGH' BASIS.—

"(i) IN GENERAL.—Except as provided in clause (ii), for the purpose of determining the amount of insurance due under subparagraph (B), the Corporation shall provide deposit insurance coverage with respect to deposits accepted by any insured depository institution on a pro rata or 'pass-through' basis to a participant in or beneficiary of an employee benefit plan (as defined in section 11(a)(8)(B)(ii)), including any eligible deferred compensation plan described in section 457 of the Internal Revenue Code of 1986.

"(ii) EXCEPTION.—After the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, the Corporation shall not provide insurance coverage on a pro rata or 'pass-through' basis pursuant to clause (i) with respect to deposits accepted by any insured depository institution which, at the time such deposits are accepted, may not accept brokered deposits under section 29.

"(iii) COVERAGE UNDER CERTAIN CIRCUMSTANCES.—Clause (ii) shall not apply with respect to any deposit accepted by an insured

depository institution described in such clause if, at the time the deposit is accepted—

"(I) the institution meets each applicable capital standard; and

"(II) the depositor receives a written statement from the institution that such deposits at such institution are eligible for insurance coverage on a pro rata or 'pass-through' basis.".

(2) CERTAIN RETIREMENT ACCOUNTS.—Section 11(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(3)) is amended to read as follows:

"(3) CERTAIN RETIREMENT ACCOUNTS.—

"(A) IN GENERAL.—Notwithstanding any limitation in this Act relating to the amount of deposit insurance available for the account of any 1 depositor, deposits in an insured depository institution made in connection with—

"(i) any individual retirement account described in section 408(a) of the Internal Revenue Code of 1986;

"(ii) subject to the exception contained in paragraph (1)(D)(ii), any eligible deferred compensation plan described in section 457 of such Code; and

"(iii) any individual account plan defined in section 3(34) of the Employee Retirement Income Security Act, and any plan described in section 401(d) of the Internal Revenue Code of 1986, to the extent that participants and beneficiaries under such plan have the right to direct the investment of assets held in individual accounts maintained on their behalf by the plan,

shall be aggregated and insured in an amount not to exceed $100,000 per participant per insured depository institution.

"(B) AMOUNTS TAKEN INTO ACCOUNT.—For purposes of subparagraph (A), the amount aggregated for insurance coverage under this paragraph shall consist of the present vested and ascertainable interest of each participant under the plan, excluding any remainder interest created by, or as a result of, the plan.".

(3) CERTAIN TRUST FUNDS.—Section 7(i) of the Federal Deposit Insurance Act (12 U.S.C. 1817(i)) is amended to read as follows:

"(i) INSURANCE OF TRUST FUNDS.—

"(1) IN GENERAL.—Trust funds held on deposit by an insured depository institution in a fiduciary capacity as trustee pursuant to any irrevocable trust established pursuant to any statute or written trust agreement shall be insured in an amount not to exceed $100,000 for each trust estate.

"(2) INTERBANK DEPOSITS.—Trust funds described in paragraph (1) which are deposited by the fiduciary depository institution in another insured depository institution shall be similarly insured to the fiduciary depository institution according to the trust estates represented.

"(3) REGULATIONS.—The Board of Directors may prescribe such regulations as may be necessary to clarify the insurance coverage under this subsection and to prescribe the manner of reporting and depositing such trust funds.".

(4) EXPANDED COVERAGE BY REGULATION.—

(A) REVIEW OF COVERAGE.—For the purpose of prescribing regulations, during the 1-year period beginning on the date of the enactment of this Act, the Board of Directors shall review the capacities and rights in which deposit accounts are maintained and for which deposit insurance coverage is provided by the Corporation.

(B) REGULATIONS.— After the end of the 1-year period referred to in subparagraph (A), the Board of Directors may prescribe regulations that provide for separate insurance coverage for the different capacities and rights in which deposit accounts are maintained if a determination is made by the Board of Directors that such separate insurance coverage is consistent with—

(i) the purpose of protecting small depositors and limiting the undue expansion of deposit insurance coverage; and

(ii) the insurance provisions of the Federal Deposit Insurance Act.

(C) DELAYED EFFECTIVE DATE FOR REGULATIONS.—No regulation prescribed under subparagraph (B) may take effect before the 2-year period beginning on the date of the enactment of this Act.

(5) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Section 3(m) of the Federal Deposit Insurance Act (12 U.S.C. 1813(m)) is amended by striking "(m)(1)" and all that follows through paragraph (1) and inserting the following:

"(m) INSURED DEPOSIT.—

"(1) IN GENERAL.—Subject to paragraph (2), the term 'insured deposit' means the net amount due to any depositor for deposits in an insured depository institution as determined under sections 7(i) and 11(a).".

(B) Section 11(a)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(2)(A)) is amended by striking "his deposit shall be insured" and inserting "such depositor shall, for the purpose of determining the amount of insured deposits under this subsection, be deemed a depositor in such custodial capacity separate and distinct from any other officer, employee, or agent of the United States or any public unit referred to in clause (ii), (iii), (iv), or (v) and the deposit of any such depositor shall be insured in an amount not to exceed $100,000 per account".

(C) The 2d subparagraph of section 11(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(2)) is amended by striking "(b)" and inserting "(B)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) and paragraphs (2) and (3) of subsection (b) shall take effect at the end of the 2-year period beginning on the date of the enactment of this Act.

(2) APPLICATION TO TIME DEPOSITS.—

(A) CERTAIN DEPOSITS EXCLUDED.—Except with respect to the amendment referred to in paragraph (3), the amendments made by subsections (a) and (b) shall not apply to any time deposit which—

(i) was made before the date of enactment of this Act; and

(ii) matures after the end of the 2-year period referred to in paragraph (1).

(B) ROLLOVERS AND RENEWALS TREATED AS NEW DEPOSIT.—Any renewal or rollover of a time deposit described in subparagraph (A) after the date of the enactment of this Act shall be treated as a new deposit which is not described in such subparagraph.

(3) EFFECTIVE DATE FOR AMENDMENT RELATING TO CERTAIN EMPLOYEE PLANS.—

(A) Section 11(a)(1)(B) of the Federal Deposit Insurance Act (as amended by subsection (b)(1) of this section) shall take effect on the earlier of—

(i) the date of the enactment of this Act; or

(ii) January 1, 1992.

(B) Section 11(a)(3)(A) of the Federal Deposit Insurance Act (as amended by subsection (b)(2) of this section) shall take effect on the earlier of the dates described in clauses (i) and (ii) of subparagraph (A) with respect to plans described in clause (ii) of such section.

(d) INFORMATIONAL STUDY.—

(1) IN GENERAL.—The Federal Deposit Insurance Corporation, in conjunction with such consultants and technical experts as the Corporation determines to be appropriate, shall conduct a study of the cost and feasibility of tracking the insured and uninsured deposits of any individual and the exposure, under any Act of Congress or any regulation of any appropriate Federal banking agency, of the Federal Government with respect to all insured depository institutions.

(2) ANALYSIS OF COSTS AND BENEFITS.—The study under paragraph (1) shall include detailed, technical analysis of the costs and benefits associated with the least expensive way to implement the system.

(3) SPECIFIC FACTORS TO BE STUDIED.—As part of the study under paragraph (1), the Corporation shall investigate, review, and evaluate—

(A) the data systems that would be required to track deposits in all insured depository institutions;

(B) the reporting burdens of such tracking on individual depository institutions;

(C) the systems which exist or which would be required to be developed to aggregate such data on an accurate basis;

(D) the implications such tracking would have for individual privacy; and

(E) the manner in which systems would be administered and enforced.

(4) FEDERAL RESERVE BOARD SURVEY.—As part of the informational study required under paragraph (1), the Board of Governors of the Federal Reserve System shall conduct, in conjunction with other Federal departments and agencies as necessary, a survey of the ownership of deposits held by individuals including the dollar amount of deposits held, the type of deposit accounts held, and the type of financial institutions in which the deposit accounts are held.

(5) ANALYSIS BY FDIC.—The results of the survey under paragraph (4) shall be provided to the Federal Deposit Insurance Corporation before the end of the 1-year period beginning on the date of the enactment of this Act for analysis and inclusion in the informational study.

(6) REPORT TO CONGRESS.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Federal Deposit Insurance Corporation shall submit to the Congress a report containing a detailed statement of findings made and conclusions drawn from the study conducted under this section, including such recommendations for administrative and legislative action as the Corporation determines to be appropriate.

SEC. 312. FOREIGN DEPOSITS.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 40 (as added by section 304 of this title) the following new section:

"SEC. 41. PAYMENTS ON FOREIGN DEPOSITS PROHIBITED.

"Notwithstanding any other provision of law, the Corporation, the Board of Governors of the Federal Reserve System, the Resolution Trust Corporation, any other agency, department, and instrumentality of the United States, and any corporation owned or controlled by the United States may not, directly or indirectly, make any payment or provide any assistance, guarantee, or transfer under this Act or any other provision of law in connection with any insured depository institution which would have the direct or indirect effect of satisfying, in whole or in part, any claim against the institution for obligations of the institution which would constitute deposits as defined in section 3(l) but for subparagraphs (A) and (B) of section 3(l)(5).".

SEC. 313. PENALTY FOR FALSE ASSESSMENT REPORTS.

(a) INSURED DEPOSITORY INSTITUTIONS.—Section 7(c) of the Federal Deposit Insurance Act (12 U.S.C. 1817(c)) is amended by adding at the end the following new paragraph:

"(5) PENALTY FOR FAILURE TO MAKE ACCURATE CERTIFIED STATEMENT.—

"(A) FIRST TIER.—Any insured depository institution which—

"(i) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error, fails to submit the certified statement under paragraph (1) or (2) within the period of time required under paragraph (1) or (2) or submits a false or misleading certified statement; or

"(ii) submits the statement at a time which is minimally after the time required in such paragraph,

shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false and misleading information is not corrected. The institution shall have the burden of proving that an error was inadvertent or that a statement was inadvertently submitted late.

"(B) SECOND TIER.—Any insured depository institution which fails to submit the certified statement under paragraph (1) or (2) within the period of time required under paragraph (1) or (2) or submits a false or misleading certified statement in a manner not described in subparagraph (A) shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false and misleading information is not corrected.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), if any insured depository institution knowingly or with reckless disregard for the accuracy of any certified statement described in paragraph (1) or (2) submits a false or misleading certified statement under paragraph (1) or (2), the Corporation may assess a penalty of not more than $1,000,000 or not more than 1 percent of the total assets of the institution, whichever is less, per day for each day during which the failure continues or the false or misleading information in such statement is not corrected.

"(D) ASSESSMENT PROCEDURE.—Any penalty imposed under this paragraph shall be assessed and collected by the Corporation in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section.

"(E) HEARING.—Any insured depository institution against which any penalty is assessed under this paragraph shall be afforded an agency hearing if the institution submits a request for such hearing within 20 days after the issuance of the notice of the assessment. Section 8(h) shall apply to any proceeding under this subparagraph.".

(b) INSURED CREDIT UNIONS.—Section 202(d)(2) of the Federal Credit Union Act (12 U.S.C. 1782(d)(2)) is amended to read as follows:

"(2) PENALTY FOR FAILURE TO MAKE ACCURATE CERTIFIED STATEMENT OR TO PAY DEPOSIT OR PREMIUM.—

"(A) FIRST TIER.—Any insured credit union which—

"(i) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error, fails to submit any certified statement under subsection (b)(1) within the period of time required or submits a false or misleading certified statement under such subsection; or

"(ii) submits the statement at a time which is minimally after the time required,

shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false and misleading information is not corrected. The insured credit union shall have the burden of proving that an error was inadvertent or that a statement was inadvertently submitted late.

"(B) SECOND TIER.—Any insured credit union which—

"(i) fails to submit any certified statement under subsection (b)(1) within the period of time required or submits a false or misleading certified statement in a manner not described in subparagraph (A); or

"(ii) fails or refuses to pay any deposit or premium for insurance required under this title,

shall be subject to a penalty of not more than $20,000 for each day during which such failure continues, such false and misleading information is not corrected, or such deposit or premium is not paid.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), if any insured depository institution knowingly or with reckless disregard for the accuracy of any certified statement under subsection (b)(1) or submits a false or misleading certified statement under such subsection, the Corporation may assess a penalty of not more than $1,000,000 or not more than 1 percent of the total assets of the institution, whichever is less, per day for each day during which the failure continues or the false or misleading information in such statement is not corrected.

"(D) ASSESSMENT PROCEDURE.—Any penalty imposed under this paragraph shall be assessed and collected by the Corporation in the manner provided in section 206(k)(2) (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section.

"(E) HEARING.—Any insured depository institution against which any penalty is assessed under this paragraph shall be afforded an agency hearing if the institution submits a request for such hearing within 20 days after the issuance of the notice of the assessment. Section 206(j) shall apply to any proceeding under this subparagraph.

"(F) SPECIAL RULE FOR DISPUTED PAYMENTS.—No penalty may be assessed for the failure of any insured credit union to pay any deposit or premium for insurance if—

"(i) the failure is due to a dispute between the credit union and the Board over the amount of the deposit or premium which is due from the credit union; and

"(ii) the credit union deposits security satisfactory to the Board for payment of the deposit or insurance premium upon final determination of the dispute.".

Subtitle C—Demonstration Project and Studies

SEC. 321. FEASIBILITY STUDY ON AUTHORIZING INSURED AND UNINSURED DEPOSIT ACCOUNTS.

(a) STUDY REQUIRED.—The Federal Deposit Insurance Corporation shall study the feasibility of authorizing insured depository institutions to offer both insured and uninsured deposit accounts to customers.

(b) FACTORS TO CONSIDER.—In conducting the study required under subsection (a), the Corporation shall consider the following factors:

(1) The risk a 2-window deposit system would pose to the deposit insurance system.

(2) The disclosure standards which would be necessary to prevent customer confusion over the insured status of deposits and fraudulent or misleading practices with respect to such insured status.

(3) The extent to which accounting standards would have to be revised or changed.

(4) The manner in which a 2-window deposit plan could be implemented with the least disruption to the stability of, and the confidence of consumers in, the banking system.

(c) REPORT.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Corporation shall submit a report to the Congress containing the Corporation's findings and conclusions with respect to the study under subsection (a) and any recommendations for legislative or administrative action the Corporation may determine to be appropriate.

SEC. 322. PRIVATE REINSURANCE STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Board of Directors of the Federal Deposit Insurance Corporation, in consultation with the Secretary of the Treasury and individuals from the private sector with expertise in private insurance, private reinsurance, depository institutions, or economics, shall conduct a study of the feasibility of establishing a private reinsurance system.

(2) PROJECT.—The study conducted under this subsection shall include a demonstration project consisting of a simulation, by a sample of private reinsurers and insured depository institutions, of the activities required for a private reinsurance system, including—

(A) establishment of a pricing structure for risk-based premiums;

(B) formulation of insurance or reinsurance contracts; and

(C) identification and collection of information necessary to evaluate and monitor the risks in insured depository institutions.

(3) ACTUAL REINSURANCE TRANSACTIONS.—The Federal Deposit Insurance Corporation may engage in actual reinsurance transactions as part of a demonstration project conducted under paragraph (2).

(b) REPORT.—

(1) IN GENERAL.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Federal Deposit Insurance Corporation shall submit to the Congress a report on the study conducted under this section.

(2) CONTENTS.—The report under this subsection shall include—

(A) an analysis and review of the project conducted under subsection (a)(2);

(B) conclusions regarding the feasibility of a private reinsurance system;

(C) recommendations regarding whether—

(i) such a system should be restricted to depository institutions over a certain asset size;

(ii) similar systems are feasible for depository institutions or groups of depository institutions of a lesser asset size; and

(iii) public policy goals can be satisfied by such systems; and

(D) recommendations for administrative and legislative action that may be necessary to establish such systems.

Subtitle D—Credit Unions

SEC. 331. LIQUIDATIONS OF FEDERALLY INSURED STATE CREDIT UNIONS.

(a) AUTHORITY TO LIQUIDATE.—Section 207(a)(1) of the Federal Credit Union Act (12 U.S.C. 1787(a)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (D); and

(2) by inserting after subparagraph (A) the following new subparagraphs:

"(B) APPOINTMENT OF THE BOARD BY THE BOARD.—Notwithstanding any other provision of this Act, any other Federal law, or the law or constitution of any State, the Board may appoint itself as the liquidating agent of any State credit union insured under this title, and close such credit union, if the Board determines that the credit union is insolvent or bankrupt.

"(C) NOTICE AND APPROVAL OF STATE OFFICIAL.—

"(i) IN GENERAL.—The authority conferred by subparagraph (B) with respect to any State credit union shall be exercised only with the written approval of the State official having jurisdiction over such credit union that the grounds specified for such exercise exist.

"(ii) EXCEPTION.—If the approval of the State official having jurisdiction over any State credit union referred to in clause (i) has not been received within 30 days of receipt of notice by the State that the Board has determined such grounds exist, and the Board has responded in writing to the State's written reasons, if any, for withholding approval, then the Board may proceed without State approval only by unanimous vote of the Board.".

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (D) of section 207(a)(1) of the Federal Credit Union Act (12 U.S.C.

1787(a)(1)), as so redesignated by subsection (a) of this section, is amended in the first sentence by striking "(b)" and inserting "(j)".

(2) Section 207(a)(1)(A) of the Federal Credit Union Act (12 U.S.C. 1787(a)(1)(A)) is amended by striking "himself" and inserting "itself".

Subtitle E—FDIC Property Disposition

SEC. 341. FDIC AFFORDABLE HOUSING PROGRAM.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after section 41 (as added by section 512 of this Act) the following new section:

"SEC. 42. FDIC AFFORDABLE HOUSING PROGRAM.

"(a) PURPOSE.—The purpose of this section is to provide homeownership and rental housing opportunities for very low-income, low-income, and moderate-income families.

"(b) LIMITATIONS ON APPLICABILITY OF PROGRAM.—

"(1) DURATION OF PROGRAM.—The provisions of this section shall be effective, subject to the provisions of paragraph (2), only during the 3-year period beginning 180 days after the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991.

"(2) FISCAL LIMITATIONS.—

"(A) IN GENERAL.—During the period in which the provisions of this section are effective (as provided in paragraph (1)), such provisions shall apply only during the period beginning on the commencement date under subparagraph (B) and ending (if applicable) on the termination date under subparagraph (C).

"(B) COMMENCEMENT DATE.—For purposes of this paragraph, the commencement date shall be the day during the period referred to in paragraph (1) on which sufficient amounts are first determined to be available to compensate the Corporation for any losses resulting from the sale of properties under this section. For purposes of this subparagraph, such losses shall be the amount equal to the sum of any affordable housing discounts reasonably anticipated to accrue during the period in which the program under this section is effective. If the determination under the first sentence of this subparagraph is made before the commencement of the period referred to in paragraph (1), the commencement date shall be considered to be the first day of the period referred to in paragraph (1).

"(C) TERMINATION DATE.—For purposes of this paragraph, the termination date shall be the day during the period referred to in paragraph (1) on which the sum of the affordable housing discounts for eligible residential properties transferred under this section by the Corporation first exceeds $30,000,000, as determined by the Corporation.

"(D) OTHER DEFINITIONS.—For purposes of this paragraph—

"(i) the term 'affordable housing discount' means, with respect to any eligible residential property transferred under this section by the Corporation, the difference (if any) between the realizable disposition value of the property and the actual sale price of the property under this section; and

"(ii) the term 'realizable disposition value' means the estimated sale price that the Corporation reasonably would be able to obtain upon the sale of a property by the Corporation under the provisions of this Act, not including this section, and any other applicable laws, as determined by the Corporation taking into consideration such factors as the Corporation considers appropriate, including the actual sale prices of properties disposed of by the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act and the prices of other properties sold under similar programs.

"(3) EXISTING CONTRACTS.—The provisions of this section shall not apply to any eligible residential property that is subject to an agreement entered into by the Corporation before the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991 providing for any other disposition of the property.

"(c) RULES GOVERNING DISPOSITION OF ELIGIBLE SINGLE FAMILY PROPERTIES.—

"(1) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible single family property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property, including but not limited to location, condition, and information relating to the estimated fair market value of the property. Each clearinghouse shall make such information available, upon request, to other public agencies, other nonprofit organizations, and qualifying households. The Corporation shall allow public agencies, nonprofit organizations, and qualifying households reasonable access to eligible single family property for purposes of inspection.

"(2) OFFERS TO SELL SINGLE FAMILY PROPERTIES TO NONPROFIT ORGANIZATIONS, PUBLIC AGENCIES, AND QUALIFYING HOUSEHOLDS.—During the 180-day period beginning on the date on which the Corporation makes an eligible single family property available for sale, the Corporation shall offer to sell the property to—

"(A) qualifying households; or

"(B) public agencies or nonprofit organizations that agree to (i) make the property available for occupancy by and maintain it as affordable for low-income families for the remaining useful life of such property, or (ii) make the property available for purchase by such families.

The restrictions described in clause (i) of subparagraph (B) shall be contained in the deed or other recorded instrument. If, upon the expiration of such 180-day period, no qualifying household, public agency, or nonprofit organization has made a bona fide offer to purchase the property, the Corporation may offer to sell the property to any purchaser. The Corporation shall actively market eligible single family properties for sale to low-income families.

"(3) RECAPTURE OF PROFITS FROM RESALE OF SINGLE FAMILY PROPERTIES.—Except as provided in paragraph (5), if any eligible single family property sold to a qualifying household is resold by the qualifying household during the 2-year period beginning upon initial acquisition by the household, the Corporation shall recapture the percentage provided in paragraph (4) of the amount of any proceeds from the resale that exceeds the sum of (A) the original sale price for the acquisition of the property by the qualifying household, (B) the costs of any improvements to the property made after the date of the acquisition, and (C) any closing costs in connection with the acquisition.

"(4) PERCENTAGE OF PROFIT RECAPTURED.—The percentage of excess proceeds recaptured under paragraph (3) shall be as follows:

"(A) FIRST YEAR.—In the case of any resale occurring during the 1-year period beginning upon initial acquisition by the qualifying household, 75 percent of the amount of such excess proceeds.

"(B) SECOND YEAR.—In the case of any resale occurring during the 1-year period beginning 1 year after initial acquisition by the qualifying household, 50 percent of the amount of such excess proceeds.

"(5) EXCEPTION TO RECAPTURE REQUIREMENT.—The Corporation may in its discretion waive the applicability to any qualifying household of the requirement under paragraph (3) and the requirements relating to residency of a qualifying household under subsections (o)(12)(B) and (C). The Corporation may grant such a waiver only for good cause shown, including any necessary relocation of the qualifying household.".

"(6) EXCEPTION TO AVOID DISPLACEMENT OF EXISTING RESIDENTS.—Notwithstanding the first sentence of paragraph (2), during the 180-day period beginning on the date on which the Corporation makes an eligible single family property available for sale, the Corporation may sell the property to the household residing in the property, but only if (A) such household was residing in the property at the time notice regarding the property was provided to clearinghouses under paragraph (1), (B) such sale is necessary to avoid the displacement of, and unnecessary hardship to, the resident household, and (C) the resident household intends to occupy the property as a principal residence.".

"(d) RULES GOVERNING DISPOSITION OF ELIGIBLE MULTIFAMILY HOUSING PROPERTIES.—

"(1) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible multifamily housing property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property, including but not limited to location, number of units (identified by number of bedrooms), and information relating to the estimated fair market value of the property. Each clearinghouse shall make such information available, upon request, to qualifying multifamily purchasers. The Corporation shall allow qualifying multifamily purchasers reasonable access to eligible multifamily housing properties for purposes of inspection.

"(2) EXPRESSION OF SERIOUS INTEREST.—Qualifying multifamily purchasers may give written notice of serious interest in a property during a period ending 90 days after the time the Corporation provides notice under paragraph (1), or until the Corporation determines that a property is ready for sale, whichever occurs first. The notice of serious interest shall be in such form and include such information as the Corporation may prescribe.

"(3) NOTICE OF READINESS FOR SALE.—Upon determining that a property is ready for sale, the Corporation shall provide written notice to any qualifying multifamily purchaser that has expressed serious interest in the property. Such notice shall specify the minimum terms and conditions for sale of the property.

"(4) OFFERS BY QUALIFYING MULTIFAMILY PURCHASERS.—A qualifying multifamily purchaser receiving notice in accordance with paragraph (3) shall have 45 days (from the date notice is received) to make a bona fide offer to purchase the property. The Corporation shall accept an offer that complies with the terms and conditions established by the Corporation.

"(5) EXTENSION OF RESTRICTED OFFER PERIODS.—The Corporation may provide notice to clearinghouses regarding, and offer for sale under the provisions of paragraphs (1) through (4), any eligible multifamily housing property—

"(A) in which no qualifying multifamily purchaser has expressed serious interest during the period referred to in paragraph (2), or

"(B) for which no qualifying multifamily purchaser has made a bona fide offer before the expiration of the period referred to in paragraph (4),

except that the Corporation may, in the discretion of the Corporation, alter the duration of the periods referred to in paragraphs (2) and (4) in offering any property for sale under this paragraph.

"(6) SALE OF MULTIFAMILY PROPERTIES TO OTHER PURCHASERS.—

"(A) TIMING.—If, upon the expiration of the period referred to in paragraph (2), no qualifying multifamily purchaser has expressed serious interest in a property, the Corporation may offer to sell the property, individually or in combination with other properties, to any purchaser.

"(B) LIMITATION ON COMBINATION SALES.—The Corporation may not sell in combination

with other properties any property for which a qualifying multifamily purchaser has expressed serious interest in purchasing individually.

"(C) EXPIRATION OF OFFER PERIOD.—If, upon the expiration of the period referred to in paragraph (4), no qualifying multifamily purchaser has made an offer to purchase a property, the Corporation may offer to sell the property, individually or in combination with other properties, to any purchaser.

"(7) LOW-INCOME OCCUPANCY REQUIREMENTS.—

"(A) SINGLE BUILDING PROPERTIES.—With respect to any property consisting of a single building or structure purchased by a qualifying multifamily purchaser under paragraph (4)—

"(i) not less than 35 percent of the dwelling units in the building or structure shall be made available for occupancy by and maintained as affordable for low-income families during the remaining useful life of the building or structure in which the units are located; and

"(ii) not less than 20 percent of the dwelling units in the building or structure shall be made available for occupancy by and maintained as affordable for very low-income families during the remaining useful life of the building or structure in which the units are located.

"(B) AGGREGATION REQUIREMENTS FOR MULTISTRUCTURE PURCHASES.—With respect to any purchase under paragraph (4) by a qualifying multifamily purchaser property involving a property consisting of more than one building or structure or involving more than one property as a part of the same negotiation—

"(i) not less than 40 percent of the aggregate number of dwelling units in all of the buildings or structures of the properties purchased shall be made available for occupancy by and maintained as affordable for low-income families during the remaining useful life of the building or structure in which the units are located;

"(ii) not less than 20 percent of the aggregate number of dwelling units in all of the buildings or structures of the properties shall be made available for occupancy by and maintained as affordable for very low-income families during the remaining useful life of the building or structure in which the units are located; and

"(iii) not less than 10 percent of the dwelling units in each separate building or structure of each property purchased shall be made available for occupancy by and maintained as affordable for low-income families during the remaining useful life of the building or structure in which the units are located.

The requirements of this paragraph shall be contained in the deed or other recorded instrument.

"(8) EXEMPTIONS.—

"(A) CONTINUED OCCUPANCY OF CURRENT RESIDENTS.—No purchaser of an eligible multifamily property may terminate the occupancy of any person residing in the property on the date of purchase for purposes of the meeting low-income occupancy requirement applicable to the property under paragraph (7). The purchaser shall be considered to be in compliance with this subsection if each newly vacant dwelling unit is reserved for low-income occupancy until the low-income occupancy requirement is met.

"(B) FINANCIAL INFEASIBILITY.—The Secretary or the State housing finance agency for the State in which an eligible multifamily housing property is located may temporarily reduce the low-income occupancy requirements applicable to the property under paragraph (7), if the Secretary or such agency determines that an owner's compliance with such requirements is no longer financially feasible. The owner of the property shall make a good-faith effort to return low-income occupancy to the level required under paragraph (7), and the Secretary or the State housing finance agency, as appropriate, shall review the reduction annually to determine whether financial infeasibility continues to exist.

"(e) RENT LIMITATIONS.—

"(1) IN GENERAL.—With respect to properties under paragraph (2), rents charged to tenants for units made available for occupancy by very low-income families shall not exceed 30 percent of the income of a family whose income equals 50 percent of the median income for the area, as determined by the Secretary, with adjustment for family size. Rents charged to tenants for units made available for occupancy by low-income families other than very low-income families shall not exceed 30 percent of the income of a family whose income equals 65 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.

"(2) APPLICABILITY.—The rent limitations under this subsection shall apply to any eligible single family property sold pursuant to subsection (c)(2)(B)(i) and to any eligible multifamily housing property sold pursuant to subsection (d).

"(f) PREFERENCES FOR SALES.—

"(1) IN GENERAL.—In selling any eligible multifamily housing property or combinations of eligible residential properties, the Corporation shall give preference, among substantially similar offers, to the offer that would reserve the highest percentage of dwelling units for occupancy or purchase by very low-income and low-income families and would retain such affordability for the longest term.

"(2) MULTISTRUCTURE PURCHASES.—The Corporation shall give preference, among substantially similar offers made under subsection (d)(4) to purchase an eligible multifamily housing property consisting of more than one building or to purchase more than one such property as a part of the same negotiation, to offers made by purchasers who agree to maintain low-income occupancy in each separate building or structure of each such property purchased in compliance with the levels required for properties under subsection (d)(7)(A).

"(3) DEFINITION OF SUBSTANTIALLY SIMILAR OFFERS.—For purposes of this subsection, a given offer to purchase eligible multifamily housing property or combinations of eligible residential properties shall be considered to be substantially similar to another offer if the purchase price under such given offer is not less than 85 percent and not greater than 115 percent of the purchase price under the other offer.

"(g) FINANCING SALES.—

"(1) ASSISTANCE BY CORPORATION.—

"(A) SALE PRICE.—The Corporation may sell eligible single family property to qualifying households, nonprofit organizations, and public agencies without regard to any minimum sale price. The Corporation shall establish a market value for each eligible multifamily housing property and shall sell such property at the net realizable market value, except that the Corporation may agree to sell eligible multifamily housing property at a price below the net realizable market value to the extent necessary to facilitate an expedited sale of the property and enable a public agency or nonprofit organization to comply with the low-income occupancy requirements applicable to such property under subsection (d)(7).

"(B) PURCHASE LOAN.—The Corporation may provide a loan at market interest rates to any purchaser of eligible residential property for all or a portion of the purchase price, which loan shall be secured by a first or second mortgage on the property. The Corporation may provide the loan at below market interest rates to the extent necessary to facilitate an expedited sale of eligible residential property and permit (i) a low-income family to purchase an eligible single family property under subsection (c), or (ii) a public agency or nonprofit organization to comply with the low-income occupancy requirements applicable to the purchase of an eligible residential property under subsection (c) or (d). The Corporation shall provide loans under this subparagraph in a form permitting sale or transfer of the loan to a subsequent holder.

"(2) ASSISTANCE BY HUD.—The Secretary shall take such action as may be necessary to expedite the processing of applications for assistance under section 202 of the Housing Act of 1959, the United States Housing Act of 1937, title IV of the Stewart B. McKinney Homeless Assistance Act, and the National Housing Act to enable any organization or individual to purchase eligible residential property.

"(3) ASSISTANCE BY FMHA.—The Secretary of Agriculture shall take such action as may be necessary to expedite the processing of applications for assistance under title V of the Housing Act of 1949 to enable any organization or individual to purchase eligible residential property.

"(4) EXCEPTION TO DISPOSITION RULES.—Notwithstanding the requirements under paragraphs (1), (2), (3), (4), (6), and (8) of subsection (d), the Corporation may provide for the disposition of eligible multifamily housing properties as necessary to facilitate purchase of such properties for use in connection with section 202 of the Housing Act of 1959.

"(5) BULK ACQUISITIONS UNDER HOME INVESTMENT PARTNERSHIPS ACT.—

"(A) PURCHASE PRICE.—In providing for bulk acquisition of eligible single family properties by participating jurisdictions for inclusion in affordable housing activities under title II of the Cranston-Gonzalez National Affordable Housing Act, the Corporation shall agree to an amount to be paid for acquisition of such properties. The acquisition price shall include discounts for bulk purchase and for holding of the property such that the acquisition price for each property shall not exceed the fair market value of the property, as valued individually.

"(B) EXEMPTIONS.—To the extent necessary to facilitate sale of properties under this paragraph, the requirements of subsections (c), (f), and (g)(1) shall not apply to such transactions and properties involved in such transactions.

"(C) INVENTORIES.—To facilitate acquisitions by such participating jurisdictions, the Corporation shall provide the participating jurisdictions with inventories of eligible single family properties not less than 4 times each year.

"(h) RULES GOVERNING DISPOSITION OF ELIGIBLE CONDOMINIUM PROPERTY.—

"(1) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible condominium property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property. Each clearinghouse shall make such information available, upon request, to purchasers described in subparagraphs (A) through (D) of paragraph (2). The Corporation shall allow such purchasers reasonable access to an eligible condominium property for purposes of inspection.

"(2) OFFERS TO SELL.—During the 180-day period following the date on which the Corporation makes an eligible condominium property available for sale, the Corporation may offer to sell the property, at the discretion of the Corporation, to 1 or more of the following purchasers:

"(A) Qualifying households.

"(B) Nonprofit organizations.

"(C) Public agencies.

"(D) For-profit entities.

"(3) LOW-INCOME OCCUPANCY REQUIREMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any nonprofit organization, public agency, or for-profit entity that pur-

chases an eligible condominium property shall (i) make the property available for occupancy by and maintain it as affordable for low-income families for the remaining useful life of the property, or (ii) make the property available for purchase by such families. The restriction described in clause (i) of the preceding sentence shall be contained in the deed or other recorded instrument.

"(B) MULTIPLE-UNIT PURCHASES.—If any nonprofit organization, public agency, or for-profit entity purchases more than 1 eligible condominium property as a part of the same negotiation or purchase, the Corporation may (in the discretion of the Corporation) waive the requirement under subparagraph (A) and provide instead that not less than 35 percent of all eligible condominium properties purchased shall be (i) made available for occupancy by and maintained as affordable for low-income families for the remaining useful life of the property, or (ii) made available for purchase by such families. The restriction described clause (i) of the preceding sentence shall be contained in the deed or other recorded instrument.

"(C) SALE TO OTHER PURCHASERS.—If, upon the expiration of the 180-day period referred to in paragraph (2), no purchaser described in subparagraphs (A) through (D) of paragraph (2) has made a bona fide offer to purchase the property, the Corporation may offer to sell the property to any other purchaser.

"(i) COORDINATION WITH OTHER PROGRAMS.—

"(1) USE OF SECONDARY MARKET AGENCIES.—In the disposition of eligible residential properties, the Corporation (in consultation with the Secretary) shall explore opportunities to work with secondary market entities to provide housing for low- and moderate-income families.

"(2) CREDIT ENHANCEMENT.—With respect to such properties, the Secretary may, consistent with statutory authorities, work through the Federal Housing Administration, the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and other secondary market entities to develop risk-sharing structures, mortgage insurance, and other credit enhancements to assist in the provision of property ownership, rental, and cooperative housing opportunities for low- and moderate-income families.

"(3) NATIONAL AFFORDABLE HOUSING ACT.—The Corporation shall coordinate the disposition of eligible residential property under this section with appropriate programs and provisions of, and amendments made by, the Cranston-Gonzalez National Affordable Housing Act, including titles II and IV of such Act.

"(j) EXEMPTION FOR CERTAIN TRANSACTIONS WITH INSURED DEPOSITORY INSTITUTIONS.—The provisions of this section shall not apply with respect to any eligible residential property after the date the Corporation enters into a contract to sell such property to an insured depository institution (as defined in section 3), including any sale in connection with a transfer of all or substantially all of the assets of a closed insured depository institution (including such property) to another insured depository institution.

"(k) EXCEPTION FOR SALES TO NONPROFIT ORGANIZATIONS AND PUBLIC AGENCIES.—

"(1) SUSPENSION OF OFFER PERIODS.—With respect to any eligible residential property, the Corporation may (in the discretion of the Corporation) suspend any of the requirements of paragraphs (1) and (2) of subsection (c) and paragraphs (1) through (4) of subsection (d), as applicable, but only to the extent that during the duration of the suspension the Corporation negotiates the sale of the property to a nonprofit organization or public agency. If the property is not sold pursuant to such negotiations, the requirements of any provisions suspended shall apply upon the termination of the suspension. Any time period referred to in such subsections shall toll for the duration of any suspension under this paragraph.

"(2) USE RESTRICTIONS.—Any eligible single family property sold under this subsection shall be made available for occupancy by and maintained as affordable for low-income families for the remaining useful life of the property, or made available for purchase by such families. Eligible multifamily housing properties sold under this subsection shall comply with the low-income occupancy requirements under subsection (d)(7).

"(l) LIABILITY PROVISIONS.—

"(1) IN GENERAL.—The provisions of this section, or any failure by the Corporation to comply with such provisions, may not be used by any person to attack or defeat any title to property after it is conveyed by the Corporation.

"(2) LOW-INCOME OCCUPANCY.—The low-income occupancy requirements under subsections (c) and (d) shall be judicially enforceable against purchasers of property under this section and their successors in interest by affected very low- and low-income families, State housing finance agencies, and any agency, corporation, or authority of the United States. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

"(3) CLEARINGHOUSES.—A clearinghouse shall not be subject to suit for its failure to comply with the requirements of this section.

"(4) CORPORATION.—The Corporation shall not be liable to any depositor, creditor, or shareholder of any insured depository institution for which the Corporation has been appointed receiver, or any claimant against such an institution, because the disposition of assets of the institution under this section affects the amount of return from the assets.

"(m) AFFORDABLE HOUSING PROGRAM OFFICE.—The Corporation shall establish an Affordable Housing Program Office within the Corporation to carry out the provisions of this section and shall dedicate certain staff of the Corporation to the office.

"(n) REPORT.—In the annual report submitted by the Secretary to the Congress under section 8 of the Department of Housing and Urban Development Act, the Secretary shall include a detailed description of any activities under this section, including recommendations for any additional authority the Secretary considers necessary to implement the provisions of this section.

"(o) DEFINITIONS.—For purposes of this section:

"(1) CLEARINGHOUSE.—The term 'clearinghouse' means—

"(A) the State housing finance agency for the State in which an eligible residential property is located;

"(B) the Office of Community Investment (or other comparable division) within the Federal Housing Finance Board; and

"(C) any national nonprofit organizations (including any nonprofit entity established by the corporation established under title IX of the Housing and Community Development Act of 1968) that the Corporation determines has the capacity to act as a clearinghouse for information.

"(2) CORPORATION.—The term 'Corporation' means the Federal Deposit Insurance Corporation acting in its corporate capacity or its capacity as receiver.

"(3) ELIGIBLE CONDOMINIUM PROPERTY.—The term 'eligible condominium property' means a condominium unit, as such term is defined in section 604 of the Housing and Community Development Act of 1980—

"(A) to which such Corporation acquires title; and

"(B) that has an appraised value that does not exceed the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (without regard to any increase of such amount for high cost areas).

"(4) ELIGIBLE MULTIFAMILY HOUSING PROPERTY.—The term 'eligible multifamily housing property' means a property consisting of more than 4 dwelling units—

"(A) to which the Corporation acquires title; and

"(B) that has an appraised value that does not exceed the applicable dollar amount set forth in section 221(d)(3)(ii) of the National Housing Act for elevator-type structures (without regard to any increase of such amount for high-cost areas).

"(5) ELIGIBLE RESIDENTIAL PROPERTY.—The term 'eligible residential property' includes eligible single family properties and eligible multifamily housing properties.

"(6) ELIGIBLE SINGLE FAMILY PROPERTY.—The term 'eligible single family property' means a 1- to 4-family residence (including a manufactured home)—

"(A) to which the Corporation acquires title; and

"(B) that has an appraised value that does not exceed the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (without regard to any increase of such amount for high-cost areas).

"(7) INCOME.—The term 'income' shall have the meaning given the term in section 3(b) of the United States Housing Act of 1937.

"(8) LOW-INCOME FAMILIES.—The term 'low-income families' means families and individuals whose incomes do not exceed 80 percent of the median income of the area involved, as determined by the Secretary, with adjustment for family size.

"(9) NET REALIZABLE MARKET VALUE.—The term 'net realizable market value' means a price below the market value that takes into account (A) any reductions in holding costs resulting from the expedited sale of a property, including foregone real estate taxes, insurance, maintenance costs, security costs, and loss of use of funds, and (B) the avoidance, if applicable, of fees paid to real estate brokers, auctioneers, or other individuals or organizations involved in the sale of property owned by the Corporation.

"(10) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' means a private organization (including a limited equity cooperative)—

"(A) no part of the earnings of which inures to the benefit of any member, shareholder, founder, contributor, or individual; and

"(B) that is approved by the Corporation as to financial responsibility.

"(11) PUBLIC AGENCY.—The term 'public agency' means any Federal, State, local, or other governmental entity, and includes any public housing agency.

"(12) QUALIFYING HOUSEHOLD.—The term 'qualifying household' means a household—

"(A) who intends to occupy eligible single family property as a principal residence;

"(B) who agrees to occupy the property as a principal residence for not less than 12 months (except as provided in subsection (c)(5));

"(C) who certifies in writing that the household intends to occupy the property as a principal residence for not less than 12 months (except as provided in subsection (c)(5)); and

"(D) whose income does not exceed 115 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.

"(13) QUALIFYING MULTIFAMILY PURCHASER.—The term 'qualifying multifamily purchaser' means—

"(A) a public agency;

"(B) a nonprofit organization; or

"(C) a for-profit entity, which makes a commitment (for itself or any related entity) to comply with the low-income occupancy requirements under subsection (d)(7) for any eligible multifamily housing property for which an offer to purchase is made during or after the periods specified under subsection (d).

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

"(15) STATE HOUSING FINANCE AGENCY.—The term 'State housing finance agency' means the public agency, authority, corporation, or other instrumentality of a State that has the authority to provide residential mortgage loan financing throughout the State.

"(16) VERY LOW-INCOME FAMILIES.—The term 'very low-income families' means families and individuals whose incomes do not exceed 50 percent of the median income of the area involved, as determined by the Secretary, with adjustment for family size.".

(b) COORDINATION.—The Federal Deposit Insurance Corporation and the Resolution Trust Corporation shall consult and coordinate with each other in carrying out their respective responsibilities under the affordable housing programs under section 42 of the Federal Deposit Insurance Act and section 21A(c) of the Federal Home Loan Bank Act. Such corporations shall develop any procedures, and may enter into any agreements, necessary to provide for the coordinated, efficient, and effective operation of such programs.

(c) CONFORMING AMENDMENTS.—

(1) FEDERAL DEPOSIT INSURANCE ACT.—Section 11(d) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended—

(A) in paragraph (2)(B), in the matter preceding clause (i), by inserting "(subject to the provisions of section 42)" before the comma; and

(B) in paragraph (2)(E), by inserting "(subject to the provisions of section 42)" before the first comma.

(2) HOUSING ACT OF 1959.—Section 202(h)(2) of the Housing Act of 1959 (12 U.S.C. 1701q(h)(2)), as amended by section 801(a) of the Cranston-Gonzalez National Affordable Housing Act, is amended by inserting "or from the Federal Deposit Insurance Corporation under section 42 of the Federal Deposit Insurance Act" after "Federal Home Loan Bank Act".

TITLE IV—MISCELLANEOUS PROVISIONS

Subtitle A—Payment System Risk Reduction

SEC. 401. FINDINGS AND PURPOSE.

The Congress finds that—

(1) many financial institutions engage daily in thousands of transactions with other financial institutions directly and through clearing organizations;

(2) the efficient processing of such transactions is essential to a smoothly functioning economy;

(3) such transactions can be processed most efficiently if, consistent with applicable contractual terms, obligations among financial institutions are netted;

(4) such netting procedures would reduce the systemic risk within the banking system and financial markets; and

(5) the effectiveness of such netting procedures can be assured only if they are recognized as valid and legally binding in the event of the closing of a financial institution participating in the netting procedures.

SEC. 402. DEFINITIONS.

For purposes of this subtitle—

(1) BROKER OR DEALER.—The term 'broker or dealer' means any company that is registered or licensed under Federal or State law to engage in the business of brokering, underwriting, or dealing in securities in the United States.

(2) CLEARING ORGANIZATION.—The term "clearing organization" means a clearinghouse, clearing association, clearing corporation, or similar organization—

(A) that provides clearing, netting, or settlement services for its members and—

(i) in which all members other than the clearing organization itself are financial institutions or other clearing organizations; or

(ii) which is registered as a clearing agency under the Securities Exchange Act of 1934; or

(B) that performs clearing functions for a contract market designated pursuant to the Commodity Exchange Act.

(3) COVERED CLEARING OBLIGATION.—The term "covered clearing obligation" means an obligation of a member of a clearing organization to make payment to another member of a clearing organization, subject to a netting contract.

(4) COVERED CONTRACTUAL PAYMENT ENTITLEMENT.—The term "covered contractual payment entitlement" means—

(A) an entitlement of a financial institution to receive a payment, subject to a netting contract from another financial institution; and

(B) an entitlement of a member of a clearing organization to receive payment, subject to a netting contract, from another member of a clearing organization of a covered clearing obligation.

(5) COVERED CONTRACTUAL PAYMENT OBLIGATION.—The term "covered contractual payment obligation" means—

(A) an obligation of a financial institution to make payment, subject to a netting contract to another financial institution; and

(B) a covered clearing obligation.

(6) DEPOSITORY INSTITUTION.—The term "depository institution" means—

(A) a depository institution as defined in section 19(b)(1)(A) of the Federal Reserve Act (other than clause (vii));

(B) a branch or agency as defined in section 1(b) of the International Banking Act of 1978;

(C) a corporation chartered under section 25(a) of the Federal Reserve Act; or

(D) a corporation having an agreement or undertaking with the Board of Governors of the Federal Reserve System under section 25 of the Federal Reserve Act.

(7) FAILED FINANCIAL INSTITUTION.—The term "failed financial institution" means a financial institution that—

(A) fails to satisfy a covered contractual payment obligation when due;

(B) has commenced or had commenced against it insolvency, liquidation, reorganization, receivership (including the appointment of a receiver), conservatorship, or similar proceedings; or

(C) has generally ceased to meet its obligations when due.

(8) FAILED MEMBER.—The term "failed member" means any member that—

(A) fails to satisfy a covered clearing obligation when due,

(B) has commenced or had commenced against it insolvency, liquidation, reorganization, receivership (including the appointment of a receiver), conservatorship, or similar proceedings, or

(C) has generally ceased to meet its obligations when due.

(9) FINANCIAL INSTITUTION.—The term "financial institution" means a broker or dealer, a depository institution, a futures commission merchant, or any other institution as determined by the Board of Governors of the Federal Reserve System.

(10) FUTURES COMMISSION MERCHANT.—The term 'futures commission merchant' means a company that is registered or licensed under Federal law to engage in the business of selling futures and options in commodities.

(11) MEMBER.—The term "member" means a member of or participant in a clearing organization, and includes the clearing organization.

(12) NET ENTITLEMENT.—The term "net entitlement" means the amount by which the covered contractual payment entitlements of a financial institution or member exceeds the covered contractual payment obligations of the institution or member after netting under a netting contract.

(13) NET OBLIGATION.—The term "net obligation" means the amount by which the covered contractual payment obligations of a financial institution or member exceeds the covered contractual payment entitlements of the institution or member after netting under a netting contract.

(14) NETTING CONTRACT.—

(A) IN GENERAL.—The term "netting contract"—

(i) means a contract or agreement between 2 or more financial institutions or members, that—

(I) is governed by the laws of the United States, any State, or any political subdivision of any State, and

(II) provides for netting present or future payment obligations or payment entitlements (including liquidation or close-out values relating to the obligations or entitlements) among the parties to the agreement; and

(ii) includes the rules of a clearing organization.

(B) INVALID CONTRACTS NOT INCLUDED.—The term "netting contract" does not include any contract or agreement that is invalid under or precluded by Federal commodities law.

SEC. 403. BILATERAL NETTING.

(a) GENERAL RULE.—Notwithstanding any other provision of law, the covered contractual payment obligations and the covered contractual payment entitlements between any 2 financial institutions shall be netted in accordance with, and subject to the conditions of, the terms of any applicable netting contract.

(b) LIMITATION ON OBLIGATION TO MAKE PAYMENT.—The only obligation, if any, of a financial institution to make payment with respect to covered contractual payment obligations to another financial institution shall be equal to its net obligation to such other financial institution, and no such obligation shall exist if there is no net obligation.

(c) LIMITATION ON RIGHT TO RECEIVE PAYMENT.—The only right, if any, of a financial institution to receive payments with respect to covered contractual payment entitlements from another financial institution shall be equal to its net entitlement with respect to such other financial institution, and no such right shall exist if there is no net entitlement.

(d) PAYMENT OF NET ENTITLEMENT OF FAILED FINANCIAL INSTITUTION.—The net entitlement of any failed financial institution, if any, shall be paid to the failed financial institution in accordance with, and subject to the conditions of, the applicable netting contract.

(e) EFFECTIVENESS NOTWITHSTANDING STATUS AS FINANCIAL INSTITUTION.—This section shall be given effect notwithstanding that a financial institution is a failed financial institution.

SEC. 404. CLEARING ORGANIZATION NETTING.

(a) GENERAL NETTING RULE.—Notwithstanding any other provision of law, the covered contractual payment obligations and covered contractual payment entitlements of a member of a clearing organization to and from all other members of a clearing organization shall be netted in accordance with and subject to the conditions of any applicable netting contract.

(b) LIMITATION OF OBLIGATION TO MAKE PAYMENT.—The only obligation, if any, of a member of a clearing organization to make payment with respect to covered contractual payment obligations arising under a single netting contract

to any other member of a clearing organization shall be equal to its net obligation arising under that netting contract, and no such obligation shall exist if there is no net obligation.

(c) LIMITATION ON RIGHT TO RECEIVE PAYMENT.—The only right, if any, of a member of a clearing organization to receive payment with respect to a covered contractual payment entitlement arising under a single netting contract from other members of a clearing organization shall be equal to its net entitlement arising under that netting contract, and no such right shall exist if there is no net entitlement.

(d) ENTITLEMENT OF FAILED MEMBERS.—The net entitlement, if any, of any failed member of a clearing organization shall be paid to the failed member in accordance with, and subject to the conditions of, the applicable netting contract.

(e) OBLIGATIONS OF FAILED MEMBERS.—The net obligation, if any, of any failed member of a clearing organization shall be determined in accordance with, and subject to the conditions of, the applicable netting contract.

(f) LIMITATION ON CLAIMS FOR ENTITLEMENT.—A failed member of a clearing organization shall have no recognizable claim against any member of a clearing organization for any amount based on such covered contractual payment entitlements other than its net entitlement.

(g) EFFECTIVENESS NOTWITHSTANDING STATUS AS MEMBER.—This section shall be given effect notwithstanding that a member is a failed member.

SEC. 405. PREEMPTION.

No stay, injunction, avoidance, moratorium, or similar proceeding or order, whether issued or granted by a court, administrative agency, or otherwise, shall limit or delay application of otherwise enforceable netting contracts in accordance with sections 403 and 404.

SEC. 406. RELATIONSHIP TO OTHER PAYMENTS SYSTEMS.

This subtitle shall have no effect by implication or otherwise on the validity or legal enforceability of a netting arrangement of any payment system which is not subject to this subtitle.

Subtitle B—Right to Financial Privacy Act of 1978

SEC. 411. AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT OF 1978.

The Right to Financial Privacy Act of 1978 is amended—

(1) in section 1112(f)(2) (12 U.S.C. 3412(f)(2))—

(A) by inserting "for civil actions under section 951 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, or for forfeiture under sections 981 or 982 of title 18, United States Code" after "purposes"; and

(B) by adding at the end the following new sentence: "No agency or department so transferring such records shall be deemed to have waived any privilege applicable to those records under law.";

(2) in section 1113(h)(1)(A) (12 U.S.C. 3413(h)(1)(A)), by striking "the financial institution in possession of such records" and inserting "a financial institution (whether or not such proceeding, investigation, examination, or inspection is also directed at a customer)";

(3) in section 1113(h)(4) (12 U.S.C. 3413(h)(4)) by striking "the financial institution in possession of such records" and inserting "a financial institution (whether or not such proceeding, investigation, examination, or inspection is also directed at a customer)"; and

(4) in section 1113(l) (12 U.S.C. 3413(l)), by adding after paragraph (2) the following new sentence:

"No supervisory agency which transfers any such record under this subsection shall be deemed to have waived any privilege applicable to that record under law.".

Subtitle C—Final Settlement Payment Procedure

SEC. 421. FINAL SETTLEMENT PAYMENT PROCEDURE.

Section 11(d)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended to read as follows:

"(4) RULEMAKING AUTHORITY RELATING TO DETERMINATION OF CLAIMS.—

"(A) IN GENERAL.—The Corporation may prescribe regulations regarding the allowance or disallowance of claims by the receiver and providing for administrative determinations of claims and review of such determination.

"(B) FINAL SETTLEMENT PAYMENT PROCEDURE.—

"(i) IN GENERAL.—In the handling of receiverships of insured depository institutions, to maintain essential liquidity and to prevent financial disruption, the Corporation may, after the declaration of an institution's insolvency, settle all uninsured and unsecured claims on the receivership with a final settlement payment which shall constitute full payment and disposition of the Corporation's obligations to such claimants.

"(ii) FINAL SETTLEMENT PAYMENT.—For purposes of clause (i), a final settlement payment shall be payment of an amount equal to the product of the final settlement payment rate and the amount of the uninsured and unsecured claim on the receivership; and

"(iii) FINAL SETTLEMENT PAYMENT RATE.—For purposes of clause (ii), the final settlement payment rate shall be a percentage rate reflecting an average of the Corporation's receivership recovery experience, determined by the Corporation in such a way that over such time period as the Corporation may deem appropriate, the Corporation in total will receive no more or less than it would have received in total as a general creditor standing in the place of insured depositors in each specific receivership.

"(iv) CORPORATION AUTHORITY.—The Corporation may undertake such supervisory actions and promulgate such regulations as may be necessary to assure that the requirements of this section can be implemented with respect to each insured depository institution in the event of its insolvency.".

Subtitle D—Miscellaneous Committees, Studies, and Reports

SEC. 431. COMMISSION ON THE THRIFT INDUSTRY.

(a) ESTABLISHMENT OF COMMISSION.—There is hereby established a Commission to be known as the Commission on the Thrift Industry (hereinafter in this section referred to as the "Commission").

(b) MEMBERSHIP OF COMMISSION.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 8 members appointed not later than 90 days after the date of the enactment of this Act. The members shall be appointed as follows:

(A) 2 citizens of the United States, appointed by the President.

(B) 2 citizens of the United States, appointed by the President pro tempore of the Senate upon the recommendation of the majority leader of the Senate.

(C) 1 citizen of the United States, appointed by the President pro tempore of the Senate upon the recommendation of the minority leader of the Senate.

(D) 2 citizens of the United States, appointed by the Speaker of the House of Representatives upon the recommendation of the majority leader of the House of Representatives.

(E) 1 citizen of the United States, appointed by the Speaker of the House of Representatives upon the recommendation of the minority leader of the House of Representatives.

(2) ADDITIONAL QUALIFICATIONS.—

(A) IN GENERAL.—Members of the Commission who are appointed under any subparagraph of paragraph (1) other than subparagraph (A) and are not Members of the Congress shall be appointed from among individuals who are specially qualified to serve on the Commission by virtue of their education, training, or experience.

(B) LIMITATION.—Of the total number of the members of the Commission who are described in subparagraph (A), not more than 2 such members may be, at the time of any such member's appointment and during any such member's service on the Commission—

(i) a director, officer, or employee of any Federal or State agency or instrumentality with supervisory or regulatory authority over any savings association;

(ii) a director, officer, employee, or agent of any trade association which represents any savings association; and

(iii) a director, officer, employee, or agent of any consumer organizations.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(4) CHAIRPERSON.—The Commission shall elect a Chairperson from among the members of the Commission.

(5) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(6) VOTING.—Each member of the Commission shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Commission.

(7) VACANCIES.—No vacancy on the Commission shall affect the powers of the Commission and any such vacancy shall be filled in the manner in which the original appointment was made.

(8) COMPENSATION AND EXPENSES.—

(A) NO BASIC PAY.—Except as provided in subparagraph (B), members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(B) PER DIEM AND TRAVEL EXPENSES.—Members of the Commission who are appointed from among private citizens of the United States may be allowed travel expenses, including per diem, in lieu of substance, as authorized by law for persons serving intermittently in the government service to the extent that funds are available for such expenses.

(9) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of the members.

(c) FUNCTIONS OF COMMISSION.—

(1) CONTENTS AND SPECIFIC RECOMMENDATIONS.—The Commission shall conduct an investigation and evaluation of and shall report and make recommendations on the future status of the thrift industry.

(2) ISSUES TO BE CONSIDERED.—Pursuant to its responsibilities under this section the Commission shall consider the following issues:

(A) The continued economic viability of savings associations, including the impact of the regulatory limits on safety and soundness.

(B) Obstacles and issues related to the conversion of savings associations to banks.

(C) The appropriateness and viability of a separate system of depository institutions dedicated to financing housing production.

(D) The appropriate role of community based financial institutions.

(E) The effectiveness and impact of the Qualified Thrift Lender Test.

(F) The status and role of the regional Federal home loan banks.

(G) The commercial ownership of savings associations.

(H) The merger of the Bank Insurance Fund and Savings Association Insurance Fund within the context of savings association conversion to bank status.

(I) The merger of regulators and regulations.

(J) The service provided to low- and moderate-income consumers and neighborhoods.

(K) The impact on the construction and sale of affordable housing.

(3) FINAL REPORT.—

(A) REPORT REQUIRED.—Not later than the end of the 2-year period beginning on the date of the enactment of this Act, the Commission shall submit to the President, the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing and Urban Affairs of the Senate, a final report which contains a detailed statement of the findings and conclusions of the Commission, including such recommendations for administrative and legislative action as the Commission determines to be appropriate.

(B) MAJORITY VOTE.—A recommendation may be made by the Commission to the President and to the Congress only if it is adopted by a majority vote of the members of the Commission.

(C) ADDITIONAL, DISSENTING, AND SUPPLEMENTAL VIEWS.—The report required under subparagraph (A) shall contain any additional, dissenting, or supplemental views of any member of the Commission.

(d) POWERS OF COMMISSION.—

(1) HEARINGS.—The Commission may hold such hearings and sit and act at such times and places as the Commission may find advisable.

(2) RULES AND REGULATIONS.—The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of operations, organizations, and personnel.

(3) ASSISTANCE FROM FEDERAL AGENCIES.—

(A) INFORMATION.—The Commission may request from the head of any Federal agency or instrumentality such information as the Commission may require for the purpose of this section. Each such agency or instrumentality shall furnish such information to the Commission, upon request made by the Chairperson of the Commission.

(B) ADMINISTRATIVE SUPPORT SERVICES AND PERSONNEL.—Upon request of the Chairperson of the Commission, the head of any Federal agency or instrumentality shall, to the extent possible and subject to the discretion of such head—

(i) make any of the facilities and services of such agency or instrumentality available to the Commission; and

(ii) detail any of the personnel of such agency or instrumentality to the Commission, on a nonreimbursable basis, to assist the Commission in carrying out its duties under this section, except that any expenses of the Commission incurred under this clause shall be subject to the limitation on total expenses set forth in subsection (e)(2).

(4) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(5) CONTRACTING.—The Commission may, to such extent and in such amounts as provided in advance in appropriation Acts, enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge its duties under this section, subject to the limitation on total expenses set forth in subsection (e)(2).

(6) STAFF.—

(A) IN GENERAL.—Subject to such rules and regulations as may be adopted by the Commission and the limitation on total expenses set forth in subsection (e)(2), the Chairperson of the Commission may appoint, terminate, and fix the compensation of an executive director and such additional staff as the Chairperson deems advisable to assist the Commission.

(B) PAY RATES.—Individuals appointed under subparagraph (A) may be paid at rates not to exceed a rate equal to the maximum rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code.

(C) CERTAIN PROVISIONS OF TITLE 5, UNITED STATES CODE, NOT APPLICABLE.—Appointments may be made under subparagraph (A) without regard to—

(i) provisions of title 5, United States Code, concerning appointments in the competitive service, and

(ii) provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision of law relating to number, classification, and General Schedule rates.

(7) ADVISORY COMMITTEE.—The Commission shall be considered an advisory committee under the Federal Advisory Committee Act.

(e) EXPENSES OF COMMISSION.—

(1) IN GENERAL.—Any expense of the Commission shall be paid from such funds as may be available to the Secretary of the Treasury.

(2) LIMITATION.—The total expenses of the Commission shall not exceed $500,000.

(3) GAO AUDIT.—Prior to the termination of the Commission pursuant to subsection (f), the Comptroller General of the United States shall conduct an audit of the financial books and record of the Commission to determine that the limitation on expenses under paragraph (2) has not been exceeded, and shall include its determination in an opinion to be included in the report of the Commission.

(f) TERMINATION OF COMMISSION.—The Commission shall cease to exist on the date that is 30 days after the date on which the Commission submits the report required under subsection (c)(3).

SEC. 432. BANK INSURANCE FUND ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is hereby established the Bank Insurance Fund Advisory Committee (hereinafter in this section referred to as the "Committee").

(b) MEMBERSHIP.—The Committee shall consist of 12 members, appointed as follows:

(1) 1 member shall be elected from each administrative district of the Federal Deposit Insurance Corporation (hereinafter in this section referred to as the "Corporation") by banks headquartered in that district from among individuals residing therein who are officers of banks that are Bank Insurance Fund members.

(2) 4 members appointed by the Corporation from among individuals who shall represent the public interest.

(c) VACANCIES.—Any vacancy on the Committee shall be filled in the same manner in which the original appointment was made.

(d) PAY AND EXPENSES.—Members of the Committee shall serve without pay, but each member shall be reimbursed, in such manner as the Corporation shall prescribe by regulation, for expenses incurred in connection with attendance of such members at meetings of the Committee.

(e) TERMS.—Members shall be appointed or elected for terms of 1 year.

(f) AUTHORITY OF THE COMMITTEE.—The Committee may—

(1) select its Chairperson, Vice Chairperson, and Secretary,

(2) adopt methods of procedure,

(3) confer with the Board of Directors on general and specific business conditions and regulatory and other matters affecting banks that are members of the Bank Insurance Fund, and

(4) request information and make recommendations with respect to matters within the jurisdiction of the Corporation and specifically with regard to the sources and uses of funds raised under sections 7 and 14 of the Federal Deposit Insurance Act.

(g) MEETINGS.—The Committee shall meet 4 times each year, and more frequently if requested by the Corporation.

(h) REPORTS.—The Committee shall submit by March 31 of each year a written report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and to the Committee on Banking, Housing, and Urban Affairs of the Senate. Such report shall describe the activities of the Committee for the preceding year and contain such recommendations as the Committee considers appropriate.

(i) PROVISION OF STAFF AND OTHER RESOURCES.—The Corporation shall provide the Committee with the use of such resources, including staff, as the Committee reasonably shall require to carry out its duties, including the preparation and submission of reports to the Congress, under this section.

(j) FEDERAL ADVISORY COMMITTEE ACT DOES NOT APPLY.—The Federal Advisory Committee Act shall not apply to the Committee.

SEC. 433. AMENDMENTS RELATING TO FEDERAL RESERVE BOARD RESERVE REQUIREMENTS.

(a) STUDY ON PAYMENT OF IMPUTED EARNINGS ON STERILE RESERVES TO INSURANCE FUNDS.—The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, and the National Credit Union Administration shall jointly—

(1) conduct a study on the feasibility of assessing Federal Reserve banks an amount equal to the imputed earnings on reserves held at such bank by insured depository institutions under section 19(b) of the Federal Reserve Act; and

(2) assess the likely beneficial and adverse effects such an assessment would have on the Federal reserve banks, the deposit insurance funds, the insured depository institutions, and the Federal payment system, including a comparison of the effects on each such subject of the study.

(b) REPORT TO CONGRESS.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, and the National Credit Union Administration shall jointly submit a report to the Congress on the findings and conclusions made with respect to the study under subsection (a), together with any recommendation for any legislative or administrative action which such agencies may determine to be appropriate.

(c) REPORT OF DISSENTING VIEWS.—Any agency described in subsections (a) and (b) which does not concur in the findings, conclusions, or recommendations referred to in subsection (b) or has additional findings, conclusions, or recommendations which were not included in the report may submit a report to the Congress describing—

(1) the reasons why the agency does not concur in the findings, conclusions, or recommendations referred to in subsection (b); and

(2) such additional findings, conclusions, or recommendations.

SEC. 434. DEPOSITORY INSTITUTIONS REFORM ADVISORY COMMITTEE.

(a) PURPOSE.—The purpose of this section is to establish a committee—

(1) to study the current system of regulation and supervision of financial institutions; and

(2) to make recommendations to—

(A) improve the system's ability to ensure the safe and sound operation of depository institutions; and

(B) minimize losses to the deposit insurance funds.

(b) ESTABLISHMENT.—There is hereby established the Depository Institutions Reform Advisory Committee (hereafter in this section referred to as the "Committee").

(c) MEMBERSHIP.—

(1) APPOINTMENT.—Subject to paragraphs (2) and (3), the Committee shall consist of 16 members as follows:

(A) 4 members of the public appointed by the Speaker of the House of Representatives.

(B) 4 members of the public appointed by the Majority Leader of the Senate.

(C) 8 members of the public appointed by the President, 1 of whom shall be designated by the President to be the Chairperson of the Committee.

(2) QUALIFICATION OF MEMBERS.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), members of the Committee shall be appointed from among individuals who are citizens of the United States and are specially qualified to serve on the Committee by virtue of their education, training, or experience with the depository institutions industry.

(B) INELIGIBILITY OF INDIVIDUALS HOLDING CERTAIN POSITIONS.—No individual may be appointed to the Committee who—

(i) holds any position to which such individual was appointed by the President; or

(ii) is an institution-affiliated party (as defined in section 3 of the Federal Depository Insurance Act) with respect to any depository institution.

(C) CONSUMERS AND ACADEMICS.—At least 2 of the members appointed under paragraph (1)(A), 2 of the members appointed under paragraph (1)(B), and 2 of the members appointed under paragraph (1)(C) shall be appointed from among individuals who are representatives of consumer organizations or who hold teaching positions at postsecondary educational institutions.

(3) POLITICAL AFFILIATION.—Not more than 8 members of the Committee shall be members of the same political party.

(4) PAY AND EXPENSES.—Members of the Committee shall serve without pay but each member of the Committee shall be reimbursed for expenses incurred in connection with attendance of such members at meetings of the Committee.

(5) MEETINGS.—The Committee shall meet, not less frequently than monthly, at the call of the Chairperson or a majority of the members.

(d) RESOURCES AND STAFF.—The Federal Deposit Insurance Corporation shall provide the Committee with all resources, including staff, offices, or equipment, as the Committee may require to carry out its duties.

(e) INFORMATION.—

(1) IN GENERAL.—The Committee may secure directly from any appropriate Federal banking agency or the Securities and Exchange Commission any information that the Committee deems necessary to enable it to carry out this section.

(2) AVAILABILITY UPON REQUEST OF CHAIRPERSON.—Upon request of the Chairperson of the Committee, the head of an appropriate Federal banking agency or of the Securities and Exchange Commission shall furnish the information to the Committee unless specifically prohibited by law.

(f) CONFLICT-OF-INTEREST AND CONFIDENTIALITY GUIDELINES.—The Committee shall prescribe guidelines to avoid—

(1) conflicts of interest with respect to the disclosure to, and use or release by, members of the Committee of any information relating to any depository or other financial institution or appropriate Federal banking agency; and

(2) the release of nonpublic information relating to depository or other financial institutions to which members may have access.

(g) DEFINITIONS.—For purposes of this section, any term used in this section which is defined in section 3 of the Federal Deposit Insurance Act shall have the meaning given such term in such section, except that the term "depository institution" includes any depository institution holding company (as defined in such section).

(h) DUTIES OF THE COMMITTEE.—

(1) IN GENERAL.—The Committee shall study and include in the report required under subsection (i) recommendations for changes in the regulation and supervision of depository institutions in order to ensure their safety and soundness and to minimize losses to the deposit insurance funds.

(2) EVALUATION OF SPECIFIC FACTORS.—The study shall include an evaluation of the ability of the appropriate Federal banking agencies to—

(A) identify risks associated with new or existing complex activities or products of depository institutions;

(B) identify and monitor transactions between a depository institution and its affiliates, and to assess and control potential risks arising from these transactions;

(C) attract and retain supervisory, examiner, and legal staff with the qualifications, training, and experience necessary to ensure safe and sound depository institutions;

(D) detect and control conflicts of interest arising in depository institutions;

(E) anticipate and rapidly respond to changes in the depository institutions environment; and

(F) improve operations by using private contractors to assist with examinations or other aspects of supervision.

(i) FINAL REPORT.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Committee shall submit to the President, each House of Congress, each appropriate Federal banking agency, and the Securities and Exchange Commission a report containing the findings of the Committee and such recommendations as the Committee may determine to be appropriate, including any specific proposal for legislative or administrative action.

(j) TERMINATION.—The Committee shall cease to exist as of the end of the 60-day period beginning on the date on which the Committee submits the final report under subsection (i).

SEC. 435. REPORT ON GOVERNMENT CHECK CASHING.

Before the end of the 1-year period beginning on the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Congress a report on the effects, on insured depository institutions that serve client bases that have a disproportionately high number of persons that receive Federal Government checks, of requiring those institutions to cash those checks.

SEC. 436. PERMANENT AUTHORIZATION OF CREDIT STANDARDS BOARD.

(a) IN GENERAL.—Section 1205 of the Federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1818 note) is amended by adding at the end the following new subsection:

"(f) FEDERAL ADVISORY COMMITTEE ACT DOES NOT APPLY.—The Federal Advisory Committee Act shall not apply with respect to the Committee.".

Subtitle E—Utilization of Private Sector

SEC. 441. UTILIZATION OF PRIVATE SECTOR.

Section 11(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(2)) is amended by adding at the end the following new subparagraph:

"(K) UTILIZATION OF PRIVATE SECTOR.—In carrying out its responsibilities in the management and disposition of assets from insured depository institutions, as conservator, receiver, or in its corporate capacity, the Corporation shall utilize the services of private persons, including real estate and loan portfolio asset management, property management, auction marketing, and brokerage services, if such services are available in the private sector and the Corporation determines utilization of such services is practicable and efficient.".

SEC. 442. REPORTING.

Section 17 of the Federal Deposit Insurance Act (12 U.S.C. 1827) is amended by adding at the end the following new subsection:

"(h) ADDITIONAL REPORTS.—

"(1) In addition to the reports required under subsections (a), (b), and (c), the Corporation shall submit to Congress not later than April 30 and October 31 of each year, a semiannual report on the activities and efforts of the Corporation for the 6-month period ending on the last day of the month prior to the month in which such report is required to be submitted.

"(2) CONTENTS OF REPORT.—Each semiannual report required under this subsection shall include the following information with respect to the Corporation's assets and liabilities and the assets and liabilities of institutions for which the Corporation serves as a conservator or receiver:

"(A) A statement of the total book value of all assets held or managed by the Corporation at the beginning and end of the reporting period.

"(B) A statement of the total book value of such assets which are under contract to be managed by private persons and entities at the beginning and end of the reporting period.

"(C) The number of employees of the Corporation at the beginning and end of the reporting period.

"(D) The total amounts expended on employee wages, salaries, and overhead, during the reporting period which are attributable to—

"(i) contracting with, supervising, or reviewing the performance of private contractors, or

"(ii) managing or disposing of such assets.

"(E) A statement of the total amount expended on private contractors for the management of such assets.

"(F) A statement of the efforts of the Corporation to maximize the efficient utilization of the resources of the private sector during the reporting period and in future reporting periods and a description of the policies and procedures adopted to ensure adequate competition and fair and consistent treatment of qualified third parties seeking to provide services to the Corporation.".

SEC. 443. REQUIREMENT TO MINIMIZE PAYMENTS FOR LEGAL SERVICES.

The Federal Deposit Insurance Corporation and the Resolution Trust Corporation shall adopt and follow procedures with respect to contracts for legal, accounting, and investment banking services to assure that, to the extent reasonably practicable—

(1) the costs of such services are minimized, and

(2) there is a sufficiently representative distribution—

(A) geographically, and

(B) in terms of size of firms providing such service and contracts awarded for such services.

Subtitle F—Emergency Assistance for Rhode Island

SEC. 451. EMERGENCY LOAN GUARANTEE.

(a) IN GENERAL.—

(1) PROVISION FOR GUARANTEE.—Subject to the terms and conditions established by or under this subsection, the Secretary of the Treasury shall guarantee the repayment of any amount not to exceed $180,000,000 borrowed by the State of Rhode Island and Providence Plantations (hereafter in this section referred to as the "State of Rhode Island"), or the Depositors Economic Protection Corporation established by such State, to expedite the repayment of depositors at State-chartered banks and credit unions in receivership in such State and facilitate the resolution of such receiverships.

(2) LOAN COLLATERAL REQUIRED AS CONDITION FOR GUARANTEE.—The Secretary of the Treasury may not guarantee the repayment of any amount under paragraph (1) unless the amount

of any loan for which the guarantee is sought is fully secured as follows:

(A) A first lien on assets held or controlled by the Depositors Economic Protection Corporation and the proceeds from the sale of such assets, are irrevocably pledged to the extent necessary to provide collateral for the guarantee.

(B) If the lien and assets described in subparagraph (A) are insufficient to fully secure the guarantee, then a first lien on any assets held or controlled by the State of Rhode Island or any instrumentality of the State of Rhode Island and the proceeds from the sale of such assets, are irrevocably pledged to the extent necessary to provide collateral for the guarantee.

(C) If the liens and assets described in subparagraphs (A) and (B) are insufficient to fully secure the guarantee, then any revenue from the State sales tax which is dedicated to the Depositors Economic Protection Corporation under the law of the State of Rhode Island in excess of the amount necessary to pay principal and interest on any obligation of the State or the Corporation issued before the date of the loan, is irrevocably dedicated to the extent necessary to provide collateral for the guarantee.

(3) GUARANTEE FEES.—The Secretary may assess and collect with respect to loans guaranteed under this subsection an annual guarantee fee computed daily at a rate which may not exceed one-half of 1 percent of the outstanding principal amount of the guaranteed loan.

(4) PLEDGE OF CERTAIN INCOME FOR REPAYMENT.—The Secretary may not guarantee under this section the repayment of any loan proposed to be made to the Depositors Economic Protection Corporation unless, for each fiscal year of the Depositors Economic Protection Corporation, all rents, issues, profits, products, proceeds, revenues, and other income (including insurance proceeds and condemnation awards) received by the Corporation from, or attributable to, the assets pledged to the United States in accordance with this subsection, in excess of the amount necessary to pay the interest, or principal and interest, on any loan to the Corporation guaranteed under paragraph (1) that is payable in such fiscal year, are irrevocably pledged to be deposited into a sinking fund or defeasance fund maintained by the Corporation and are irrevocably pledged and dedicated to the repayment of the principal of such guaranteed loan in the inverse order of the maturity of such principal installments.

(5) INVESTMENT GRADE RATING.—The Secretary may not guarantee under this section the repayment of any loan proposed to be made to the Depositors Economic Protection Corporation unless—

(A) each such proposed loan has received from a nationally recognized statistical rating organization a rating (for purposes of which the collateral securing the guarantee is considered to be securing the loan) of either the highest investment grade rating or not less than 1 less than the highest investment grade rating; or

(B) if no such rating is issued, the Secretary determines that the collateral securing the guarantee is sufficient so as to pose no risk of loss to the Federal government.

(6) TERMS.—

(A) IN GENERAL.—The guarantee provided for in this subsection shall be with respect to a loan which—

(i) is made not more than 1 year after the date of enactment of this Act;

(ii) will mature not later than 10 years after the date of such loan; and

(iii) is scheduled to be repaid in equal installments of principal during the last 5 years of the repayment term of such loan.

(B) AUTHORITY TO VARY TIME PERIODS.—The Secretary and the duly authorized representative of the State of Rhode Island may, by mutual agreement, modify any durational requirement specified in subparagraph (A).

(7) ADDITIONAL TERMS AND CONDITIONS.—Except as otherwise provided in this subsection, the terms and conditions of any loan guarantee under this section shall be established by mutual agreement of the Secretary of the Treasury and the duly authorized representative of the State of Rhode Island.

(b) APPROPRIATION OF AMOUNTS.—There are hereby appropriated to the Secretary of the Treasury such sums as may be necessary for any fiscal year to meet the obligation of the United States under subsection (a)(1).

Subtitle G—Qualified Thrift Lender Test Improvements

SEC. 461. SHORT TITLE.

This subtitle may be cited as the "Qualified Thrift Lender Reform Act of 1991".

SEC. 462. ADJUSTMENT OF COMPLIANCE PERIODS FOR PURPOSES OF QUALIFIED THRIFT LENDER TEST.

Section 10(m)(1)(B) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(1)(B)) (as in effect on July 1, 1991) is amended to read as follows:

"(B) the savings association's qualified thrift investments continue to equal or exceed 70 percent of the savings association's portfolio assets on a monthly average basis in 9 out of every 12 months.".

SEC. 463. INCREASE IN AMOUNT OF LIQUID ASSETS EXCLUDABLE FROM PORTFOLIO ASSETS.

Section 10(m)(4)(B)(iii) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(B)(iii)) (as in effect on July 1, 1991) is amended by striking "10 percent" and inserting "20 percent".

SEC. 464. ADDITIONAL INVESTMENTS INCLUDED IN DEFINITION OF QUALIFIED THRIFT ASSETS.

Section 10(m)(4)(C) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(C)) (as in effect on July 1, 1991) is amended—

(1) by adding at the end of clause (ii) the following new subclause:

"(VI) Shares of stock issued by any Federal home loan bank."; and

(2) by adding at the end of clause (iii) the following new subclause:

"(VII) Shares of stock issued by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.".

SEC. 465. PRUDENT DIVERSIFICATION OF ASSETS.

(a) IN GENERAL.—Section 10(m)(4)(C)(iii)(VI) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(C)(iii)(VI)) (as in effect on July 1, 1991) is amended by striking "5 percent" and inserting "10 percent".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 10(m)(4)(C)(iv) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(C)(iv)) (as in effect on July 1, 1991) is amended by striking "15 percent" and inserting "20 percent".

SEC. 466. CONSUMER LENDING BY FEDERAL SAVINGS ASSOCIATIONS.

The 2d sentence of section 5(c)(2)(D) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(2)(D)) is amended by striking "30 percent" and inserting "35 percent".

Subtitle H—Prohibition on Entering Secrecy Agreements and Protective Orders

SEC. 471. PROHIBITION ON ENTERING INTO SECRECY AGREEMENTS AND PROTECTIVE ORDERS.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following new subsection:

"(s) PROHIBITION ON ENTERING SECRECY AGREEMENTS AND PROTECTIVE ORDERS.—The Corporation may not enter into any agreement or approve any protective order which prohibits the Corporation from disclosing the terms of any settlement of an administrative or other action for damages or restitution brought by the Corporation in its capacity as conservator or receiver for an insured depository institution.".

Subtitle I—Establishment of Capital Standard Requirement

SEC. 481. CAPITAL STANDARDS.

Federal banking regulatory agencies shall establish minimum capital standards at least equal to the minimum capital requirements under all international accords to which the United States has agreed on capital standards for financial institutions.

Subtitle J—Bank and Thrift Employee Provisions

SEC. 491. CONTINUATION OF HEALTH PLAN COVERAGE IN CASES OF FAILED FINANCIAL INSTITUTIONS.

(a) CONTINUATION COVERAGE.—The Federal Deposit Insurance Corporation—

(1) shall, in its capacity as a successor of a failed depository institution (whether acting directly or through any bridge bank), have the same obligation to provide a group health plan meeting the requirements of section 602 of the Employee Retirement Income Security Act of 1974 (relating to continuation coverage requirements of group health plans) with respect to former employees of such institution as such institution would have had but for its failure, and

(2) shall require that any successor described in subsection (b)(1)(B)(iii) provide a group health plan with respect to former employees of such institution in the same manner as the failed depository institution would have been required to provide but for its failure.

(b) DEFINITIONS.—For purposes of this section—

(1) SUCCESSOR.—An entity is a successor of a failed depository institution during any period if—

(A) such entity holds substantially all of the assets or liabilities of such institution, and

(B) such entity is—

(i) the Federal Deposit Insurance Corporation,

(ii) any bridge bank, or

(iii) an entity that acquires such assets or liabilities from the Federal Deposit Insurance Corporation or a bridge bank.

(2) FAILED DEPOSITORY INSTITUTION.—The term "failed depository institution" means any depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act) for which a receiver has been appointed.

(3) BRIDGE BANK.—The term "bridge bank" has the meaning given such term by section 11(i) of the Federal Deposit Insurance Act.

(c) NO PREMIUM COSTS IMPOSED ON FDIC.—Subsection (a) shall not be construed as requiring the Federal Deposit Insurance Corporation to incur, by reason of this section, any obligation for any premium under any group health plan referred to in such subsection.

(d) EFFECTIVE DATE.—This section shall apply to plan years beginning on or after the date of the enactment of this Act, regardless of whether the qualifying event under section 603 of the Employee Retirement Income Security Act of 1974 occurred before, on, or after such date.

Subtitle K—Severability

SEC. 496. SEVERABILITY.

If any provision of this Act, or any application of any provision of this Act to any person or circumstance, is held invalid, the remainder of the Act, and the application of any remaining provision of the Act to any other person or circumstance, shall not be affected by such holding.

Subtitle L—Sense of the House of Representatives on the Credit Crisis

SEC. 498. CREDIT CRUNCH.

(a) FINDINGS.—The Congress finds that—

(1) during the past year and a half a credit crunch of crisis proportions has taken hold of

the economy and grown increasingly severe, particularly for real estate;

(2) to date the credit crisis has shown no sign of improvement with its effects being felt broadly throughout the Nation as business failures soar, financial institutions weaken, real estate values decline, and State and local property tax bases further erode;

(3) approximately $200,000,000,000 of the nearly $400,000,000,000 in commercial real estate loans now held by commercial banks are coming due within the next 2 years;

(4) banks for a variety of reasons, are reluctant to renew these maturing real estate loans;

(5) both pension funds in the United States, with assets of nearly $2,000,000,000,000, and a stronger and more active secondary market for commercial real estate debt and equity could play a more significant role in providing liquidity and credit to the real estate and banking sectors of the economy;

(6) many regulatory practices encourage banks to reduce their real estate lending without regard to long-term historical risk; and

(7) the stability of real estate has suffered during the past decade first from tax rules that in 1981 stimulated excessive investment in real estate, and then in 1986 when rules were adopted that discourage capital investment in real estate, artificially eroding real estate values.

(b) SENSE OF THE HOUSE OF REPRESENTATIVES.—It is the sense of the House of Representatives that—

(1) immediate and carefully-coordinated action should be taken by the Congress and the President to arrest the credit crisis referred to in subsection (a) and provide a healthy and efficient marketplace that works for owners, lenders, and investors; and

(2) that efforts should be undertaken to explore measures that—

(A) modernize and simplify the rules that apply to pension investment in real estate to remove unnecessary barriers to pension funds seeking to invest in real estate;

(B) strengthen the secondary market for commercial real estate debt and equity by removing arbitrary obstacles to private forms of credit enhancement;

(C) restore balance to the regulatory environment by considering the impact of risk-based capital standards on commercial, multifamily and single-family real estate; ending mark-to-market, liquidation-based, appraisals; encouraging loan renewals; and, fully communicating the supervisory policy to bank examiners in the field; and

(D) rationalize the tax system for real estate owners and operators by modifying the passive loss rules and encouraging loan restructures.

TITLE V—DEPOSITORY INSTITUTION CONVERSIONS

SEC. 501. MERGERS AND ACQUISITIONS OF INSURED DEPOSITORY INSTITUTIONS DURING CONVERSION MORATORIUM.

(a) IN GENERAL.—Section 5(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(3)) is amended to read as follows:

"(3) OPTIONAL CONVERSIONS SUBJECT TO SPECIAL RULES ON DEPOSIT INSURANCE PAYMENTS.—

"(A) CONVERSIONS ALLOWED.—

"(i) IN GENERAL.—Notwithstanding paragraph (2)(A) and subject to the requirements of this paragraph, any insured depository institution may participate in a transaction described in clause (ii), (iii), or (iv) of paragraph (2)(B) with the prior written approval of the responsible agency under section 18(c)(2).

"(ii) HOLDING COMPANY SUBSIDIARIES.—If, in connection with any transaction referred to in clause (i), the acquiring, assuming, or resulting depository institution is a Bank Insurance Fund member which is a subsidiary of a bank holding company, the prior written approval of the Board shall be required for such transaction in addition to the approval of any agency referred to clause (i).

"(B) ASSESSMENTS ON DEPOSITS ATTRIBUTABLE TO FORMER DEPOSITORY INSTITUTION.—

"(i) ASSESSMENTS BY SAIF.—In the case of any acquiring, assuming, or resulting depository institution which is a Bank Insurance Fund member, that portion of the average assessment base of such member for any semiannual period which is equal to the adjusted attributable deposit amount (determined under subparagraph (C) with respect to the transaction) shall—

"(I) be subject to assessment at the assessment rate applicable under section 7 for Savings Association Insurance Fund members;

"(II) not be taken into account for purposes of any assessment under section 7 for Bank Insurance Fund members; and

"(III) be treated as deposits which are insured by the Savings Association Insurance Fund.

"(ii) ASSESSMENTS BY BIF.—In the case of any acquiring, assuming, or resulting depository institution which is a Savings Association Insurance Fund member, that portion of the average assessment base of such member for any semiannual period which is equal to the adjusted attributable deposit amount (determined under subparagraph (C) with respect to the transaction) shall—

"(I) be subject to assessment at the assessment rate applicable under section 7 for Bank Insurance Fund members;

"(II) not be taken into account for purposes of any assessment under section 7 for Savings Association Insurance Fund members; and

"(III) be treated as deposits which are insured by the Bank Insurance Fund.

"(C) DETERMINATION OF ADJUSTED ATTRIBUTABLE DEPOSIT AMOUNT.—The adjusted attributable deposit amount which shall be taken into account for purposes of determining the amount of the assessment under subparagraph (B) for any semiannual period by any acquiring, assuming, or resulting depository institution in connection with a transaction under subparagraph (A) is the amount which is equal to the sum of—

"(i) the amount of any deposits acquired by the institution in connection with the transaction (as determined at the time of such transaction);

"(ii) the total of the amounts determined under clause (iii) for semiannual periods preceding the semiannual period for which the determination is being made under this subparagraph; and

"(iii) the amount by which the sum of the amounts described in clauses (i) and (ii) would have increased during the preceding semiannual period (other than any semiannual period beginning before the date of such transaction) if such increase occurred at a rate equal to the annual rate of growth of deposits of the acquiring, assuming, or resulting depository institution minus the amount of any deposits acquired through the acquisition, in whole or in part, of another insured depository institution.

"(D) DEPOSIT OF ASSESSMENT.—That portion of any assessment under section 7 which—

"(i) is determined in accordance with subparagraph (B)(i) shall be deposited in the Savings Association Insurance Fund; and

"(ii) is determined in accordance with subparagraph (B)(ii) shall be deposited in the Bank Insurance Fund.

"(E) CONDITIONS FOR APPROVAL, GENERALLY.—

"(i) FACTORS TO BE CONSIDERED; APPROVAL PROCESS.—In reviewing any application for a proposed transaction under subparagraph (A), the responsible agency (and, in the event the acquiring, assuming, or resulting depository institution is a Bank Insurance Fund member which is a subsidiary of a bank holding company, the Board) shall follow the procedures and consider the factors set forth in section 18(c).

"(ii) INFORMATION REQUIRED.—An application to engage in any transaction under this paragraph shall contain such information relating to the factors to be considered for approval as the responsible agency or Board may require, by regulation or by specific request, in connection with any particular application.

"(iii) NO TRANSFER OF DEPOSIT INSURANCE PERMITTED.—This paragraph shall not be construed as authorizing transactions which result in the transfer of any insured depository institution's Federal deposit insurance from 1 Federal deposit insurance fund to the other Federal deposit insurance fund.

"(iv) MINIMUM CAPITAL.—The responsible agency, and the appropriate Federal banking agency for any depository institution holding company, shall disapprove any application for any transaction under this paragraph unless each such agency determines that the acquiring, assuming, or resulting depository institution, and any depository institution holding company which controls such institution, will meet all applicable capital requirements upon consummation of the transaction.

"(F) CERTAIN INTERSTATE TRANSACTIONS.—The Board may not approve any transaction under subparagraph (A) in which the acquiring, assuming, or resulting depository institution is a Bank Insurance Fund member which is a subsidiary of a bank holding company unless the Board determines that the transaction would comply with the requirements of section 3(d) of the Bank Holding Company Act of 1956 if, at the time of such transaction, the Savings Association Insurance Fund member involved in such transaction were a State bank which the bank holding company was applying to acquire.

"(G) EXPEDITED APPROVAL OF ACQUISITIONS.—

"(i) IN GENERAL.—Any application by a State nonmember insured bank to acquire another insured depository institution which is required to be filed with the Corporation by subparagraph (A) or any other applicable law or regulation shall be approved or disapproved in writing by the Corporation before the end of the 60-day period beginning on the date such application is filed with the Corporation.

"(ii) EXTENSIONS OF PERIOD.—The period for approval or disapproval referred to in clause (i) may be extended for an additional 30-day period if the Corporation determines that—

"(I) an applicant has not furnished all of the information required to be submitted; or

"(II) in the Corporation's judgment, any material information submitted is substantially inaccurate or incomplete.

"(H) ALLOCATION OF COSTS IN EVENT OF DEFAULT.—If any acquiring, assuming, or resulting depository institution is in default or danger of default at any time before this paragraph ceases to apply, any loss incurred by the Corporation shall be allocated between the Bank Insurance Fund and the Savings Association Insurance Fund, in amounts reflecting the amount of insured deposits of such acquiring, assuming, or resulting depository institution assessed by the Bank Insurance Fund and the Savings Association Insurance Fund, respectively, under subparagraph (B).

"(I) SUBSEQUENT APPROVAL OF CONVERSION TRANSACTION.—This paragraph shall cease to apply if—

"(i) after the end of the 5-year period referred to in paragraph (2)(A), the Corporation approves an application by any acquiring, assuming, or resulting depository institution to treat the transaction described in subparagraph (A) as a conversion transaction; and

"(ii) the acquiring, assuming, or resulting depository institution pays the amount of any exit

and entrance fee assessed by the Corporation under subparagraph (E) of paragraph (2) with respect to such transaction.

"(J) ACQUIRING, ASSUMING, OR RESULTING DEPOSITORY INSTITUTION DEFINED.—For purposes of this paragraph, the term 'acquiring, assuming, or resulting depository institution' means any insured depository institution which—

"(i) results from any transaction described in paragraph (2)(B)(ii) and approved under this paragraph;

"(ii) in connection with a transaction described in paragraph (2)(B)(iii) and approved under this paragraph, assumes any liability to pay deposits of another insured depository institution; or

"(iii) in connection with a transaction described in paragraph (2)(B)(iv) and approved under this paragraph, acquires assets from any insured depository institution in consideration of the assumption of liability for any deposits of such institution.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) to section 5(d)(3)(C) of the Federal Deposit Insurance Act shall apply with respect to semiannual periods beginning after the date of the enactment of this Act.

SEC. 502. MERGERS, CONSOLIDATIONS, AND OTHER ACQUISITIONS AUTHORIZED.

(a) FEDERAL SAVINGS ASSOCIATIONS.—Section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a) is amended by adding at the end the following new subsection:

"(t) MERGERS, CONSOLIDATIONS, AND OTHER ACQUISITIONS AUTHORIZED.—

"(1) IN GENERAL.—Subject to sections 5(d)(3) and 18(c) of the Federal Deposit Insurance Act, any Federal savings association may acquire or be acquired by any insured depository institution.

"(2) EXPEDITED APPROVAL OF ACQUISITIONS.—

"(A) IN GENERAL.—Any application by a savings association to acquire or be acquired by another insured depository institution which is required to be filed with the Director under section 5(d)(3) of the Federal Deposit Insurance Act or any other applicable law or regulation shall be approved or disapproved in writing by the Director before the end of the 60-day period beginning on the date such application is filed with the agency.

"(B) EXTENSION OF PERIOD.—The period for approval or disapproval referred to in subparagraph (A) may be extended for an additional 30-day period if the Director determines that—

"(i) an applicant has not furnished all of the information required to be submitted; or

"(ii) in the Director's judgment, any material information submitted is substantially inaccurate or incomplete.

"(3) ACQUIRE DEFINED.—For purposes of this subsection, the term 'acquire' has the meaning given to such term in section 13(f)(8)(B) of the Federal Deposit Insurance Act.

"(4) REGULATIONS.—

"(A) REQUIRED.—The Director shall prescribe such regulations as may be necessary to carry out paragraph (1).

"(B) EFFECTIVE DATE.—The regulations required under subparagraph (A) shall—

"(i) be prescribed in final form before the end of the 90-day period beginning on the date of the enactment of this subsection; and

"(ii) take effect before the end of the 120-day period beginning on such date.".

(b) NATIONAL BANKS.—Chapter 1 of title LXII of the Revised Statutes of the United States (12 U.S.C. 5133 et seq.) is amended by adding at the end the following new section:

"SEC. 5156A. MERGERS, CONSOLIDATIONS, AND OTHER ACQUISITIONS AUTHORIZED.

"(a) IN GENERAL.—Subject to sections 5(d)(3) and 18(c) of the Federal Deposit Insurance Act, any national bank may acquire or be acquired by any insured depository institution.

"(b) EXPEDITED APPROVAL OF ACQUISITIONS.—

"(1) IN GENERAL.—Any application by a national bank to acquire or be acquired by another insured depository institution which is required to be filed with the Comptroller of the Currency by section 5(d)(3) of the Federal Deposit Insurance Act or any other applicable law or regulation shall be approved or disapproved in writing by the agency before the end of the 60-day period beginning on the date such application is filed with the agency.

"(2) EXTENSIONS OF PERIOD.—The period for approval or disapproval referred to in paragraph (1) may be extended for an additional 30-day period if the Comptroller of the Currency determines that—

"(A) an applicant has not furnished all of the information required to be submitted; or

"(B) in the Comptroller's judgment, any material information submitted is substantially inaccurate or incomplete.

"(c) ACQUIRE DEFINED.—For purposes of this section, the term 'acquire' has the meaning given to such term in section 13(f)(8)(B) of the Federal Deposit Insurance Act.".

SEC. 503. ACQUISITION OF THRIFT INSTITUTIONS BY CERTAIN COMPANIES WHICH CONTROL BANKS AND ARE NOT TREATED AS HOLDING COMPANIES.

(a) IN GENERAL.—Section 4(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)) is amended by adding at the end the following new paragraph:

"(14) SAVINGS ASSOCIATION ACQUISITIONS.—For purposes of paragraph (2)(A), an insured institution is described in this paragraph if control of the insured institution, or more than 5 percent of the shares of the insured institution, is acquired by a company described in paragraph (1) of this subsection in connection with a transaction—

"(A) which involves the insured institution and a bank controlled by the company;

"(B) which is approved under section 5(d)(3) of the Federal Deposit Insurance Act by the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act); and

"(C) in which a bank controlled by such company is the acquiring, assuming, or resulting depository institution (as defined in section 5(d)(3)(I) of the Federal Deposit Insurance Act).".

(b) EXCEPTIONS TO CERTAIN LIMITATIONS ON BANK ACTIVITIES TO FACILITATE ACQUISITIONS.—Section 4(f)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)(3)) is amended by adding at the end the following new subparagraph:

"(D) EXCEPTIONS FOR PARAGRAPH (14) MERGERS.—If any company described in paragraph (1) acquires control of any insured institution, or more than 5 percent of the shares of any insured institution, pursuant to a transaction described in paragraph (14)—

"(i) subparagraph (B)(i) shall not apply so as to prohibit the bank which is the acquiring, assuming, or resulting depository institution (as defined in section 5(d)(3)(I) of the Federal Deposit Insurance Act) in connection with such transaction from engaging in any activity in which the insured institution was engaged before the date of such transaction to the extent that—

"(I) the activity is permissible for bank holding companies under subsection (c)(8); and

"(II) the bank is not both accepting demand deposits that the depositor may withdraw by check or similar means for payment to third parties or others and engaging in the business of making commercial loans as a result of engaging in such activity; and

"(ii) subparagraph (B)(iv) shall not apply to an increase in the assets of the bank controlled by such company as a result of the transaction referred to in paragraph (14) during the 1-year period beginning on the date of such transaction.".

(c) TECHNICAL AMENDMENTS.—Clauses (i) and (ii)(VIII) of section 4(f)(2)(A) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)(2)(A)) are amended by striking "(10) or (12)" and inserting "(10), (12), or (14)".

The CHAIRMAN. No amendment to the substitute is in order.

The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose, and the Speaker pro tempore (Mr. GEPHARDT) having assumed the chair, Mr. CARR, Chairman of the Committee on the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3768) to require the least-cost resolution of insured depository institutions, to improve supervision and examinations, to provide additional resources to the bank insurance fund, and for other purposes, pursuant to House Resolution 289, reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be read a third time and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ARMEY

Mr. ARMEY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. ARMEY. I am, Mr. Speaker, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

□ 1710

The Clerk read as follows:

Mr. ARMEY of Texas moves to recommit the bill, H.R. 3768, to the Committee on Banking, Finance and Urban Affairs with instructions to report the same to the House forthwith with the following amendment: Page 220, line 5, strike "(C) and (D)" and insert "(C), (D), and (E)".

Page 220, strike line 6, and all that follows through line 16, and insert the following new subparagraphs:

"(C) AGGREGATION OF DEPOSITS.—For the purpose of determining the net amount due to any depositor under subparagraph (B), the Corporation shall aggregate the amounts of all deposits in the insured depository institution which are maintained by a depositor or by others for the benefit of the depositor, as follows;

"(i) Deposits registered under the same taxpayer identification number or employer

identification number of one depositor shall be attributed to that depositor.

"(ii) Deposits registered under the taxpayer identification number or employer identification number of more than one depositor shall be attributed equally, unless otherwise specified in the deposit account records, among those depositors.

"(iii) Deposits consisting of a revocable trust or similar account shall be attributed to the settlor or grantor of the deposit account.

"(iv) Deposits maintained by an individual or entity (including an insured depository institution) acting as an agent, custodian, nominee, conservator or in a similar capacity on behalf of a principal (other than an insured depository institution) shall be attributed to such principal.

"(v) Such other attribution to a depositor as the Board of Directors determines by regulation not to be unduly burdensome and costly to calculate; provided that the depositor has control over the deposit account and that such attribution would be consistent with the insurance purposes of this Act.

"(D) DEPOSITOR IDENTIFICATION.—

"(i) IDENTIFICATION NUMBER.—All deposits shall be registered under the taxpayer identification number or employer identification number of each depositor.

"(ii) CONSIDERATION OF ADDITIONAL INFORMATION.—For the purpose of aggregating and attributing deposits the Corporation may consider additional information contained in the records of the insured depository institution or made available by the depositor.

Page 220, line 17, strike "(D)" and insert "(E)".

Page 226, after line 22, insert the following new paragraph (and redesignate subsequent paragraphs accordingly):

(2) AGGREGATION RULES.—Section 11(a)(1)(C) of the Federal Deposit Insurance Act (as amended by subsection (b)(1) of this section) shall take effect on January 1, 1995.

Page 227, line 16, strike "(B)" and insert "(E)".

Mr. ARMEY (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempere [Mr. GEPHARDT]. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempere. The gentleman from Texas [Mr. ARMEY] is recognized for 5 minutes in support of his motion to recommit.

Mr. ARMEY. Mr. Speaker, my motion to recommit is an effort to limit taxpayer exposure to any potential repeat of the savings and loan debacle in banking. My amendment would provide depositors with FDIC coverage of $100,000 and an additional coverage for individual retirement accounts up to $100,000 for every individual depositor per institution.

Mr. Speaker, this is one of the primary recommendations that President Bush sent to the Congress in February.

This reasonable level of protection for depositors would introduce sorely needed market discipline into the banking industry. This will increase substantially within our financial industry by spreading the risk and decreasing taxpayers' exposure to any potential FDIC resolution insofar as this will result in more depositors considering more banks with which to place their deposits. It will encourage more prudent banking practices by both depositors and by bankers.

Mr. Speaker, I encourage my colleagues to join me, to recommit this bill with instructions from the full House to enforce market discipline in our banking system and to protect taxpayers.

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

Mr. ARMEY. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Speaker, I thank the gentleman from Texas [Mr. ARMEY] for yielding.

Mr. Speaker, I am going to vote for the motion to recommit with instructions offered by the gentleman from Texas [Mr. ARMEY]. I would not be honoring my own commitment in this regard if I did not because this is identical to an amendment which I offered and got a vote on; did not get very many votes, not as many as I thought it would; to limit the insurance on deposits to $100,000 per person per institution and $100,000 per person in an individual retirement account.

Mr. ARMEY. The gentleman is correct.

Mr. WYLIE. Mr. Speaker, I think this is an amendment which is designed to protect the small saver, not the rich investor, as I said when I offered the amendment a little earlier. Ninety-seven percent of the American depositors in financial institutions would not be covered by this amendment. It would not be affected by this amendment, and I think that whereas, perhaps, this might not cause failures, the fact that we have these multiple accounts insured, it does help make this hole a little deeper if there are failed institutions.

So, I commend the gentleman from Texas [Mr. ARMEY] for his motion to recommit.

Mr. ARMEY. Mr. Speaker, I thank the gentleman from Ohio [Mr. WYLIE].

Mr. Speaker, just a few minutes ago we heard the distinguished majority leader of the House, the gentleman from Missouri [Mr. GEPHARDT], speaking about the effectiveness of the Federal Deposit Insurance Corporation for these past so many years in protecting this Nation from the dilemma we saw in the 1930's so aptly described by John Kenneth Galbraith in his book "The Great Crash," when Galbraith said at this time, "The fallacy of man is most apparent, for nothing was lost but money," and in order to avoid this kind of dilemma being repeated, we did, in the 1930's, create the Federal Deposit Insurance Corporation to insure the deposits and to assure the security and the sense of security of the small, unsophisticated depositor so that we would not have a repeat of the runs on the bank, and so far, over the years that we have maintained this principle that Federal Deposit Insurance Corporation exists for the purpose of increasing the small unsophisticated depositor and assuring them with a sense of security in the system, it has worked.

Mr. Speaker, in recent years, especially in the savings and loan industry, we have seen, if we take the concept too far, if we insure in large denominations and couple that practice with passthrough accounts and brokered deposits, we can attract speculators into the industry and sloppy, imprudent, undisciplined practices in the industry which can cause the industry's performance to be just exactly what we feared we would see again and hope to avoid with this institution of this deposit insurance.

Let me encourage the Members of the Congress to understand that the purpose of this motion is to restore Federal deposit insurance to what it was intended to be in the first place, insurance for the small depositor and the unsophisticated depositor, insurance that would be broad enough in its impact across this Nation's population, secure enough in its reliability, that the Nation's people would never again need to fear that there would be a run on the banks.

The beauty of the Federal Deposit Insurance Corporation was that, if it were effective, we would never have to use it. We have become so lax in the standards of insurance that we have put ourselves in a position today where we are having to ask for $30 billion for the agency to secure against the risks we have created.

Mr. Speaker, I urge the Members to vote for this security for the American working family.

Mr. GONZALEZ. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Texas [Mr. GONZALEZ] is recognized for 5 minutes in opposition to the motion to recommit.

Mr. GONZALEZ. Mr. Speaker, the truth of the matter is that, when the gentleman from Ohio [Mr. WYLIE] said what he said a while ago, I joined Mr. WYLIE in that amendment he referred to. That has to do with this aggregation, aggregation of accounts. The sorry truth is that we lost in subcommittee, we lost in full committee, and we lost twice on the House floor.

So, Mr. Speaker, if we were to do this now, we would go back and unravel that string, and we would be back where we were just last week and the week before. So, I must vigorously oppose this motion to recommit.

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

Mr. GONZALEZ. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I, too, rise in opposition to this motion to re-

commit, but I have a question that has arisen.

We in some of our States have State-chartered institutions that are allowed by State law under certain municipal sizes to sell insurance. This bill in no way impacts on that; does it?

Mr. GONZALEZ. Absolutely not, no way.

Mr. VOLKMER. Mr. Speaker, I thank the gentleman from Texas [Mr. GONZALEZ] very much.

Mr. GONZALEZ. Also, Mr. Speaker, since the gentleman and one of the ranking members of the committee has been the gentleman we had to contend with when we had the Wylie-Gonzalez amendment, I yield to the gentleman from Kentucky [Mr. HUBBARD].

Mr. HUBBARD. Mr. Speaker, I would say to my friends who continue to bring this before us in Congress time, and time, and time again, and continue to be defeated, that they are persistent in their efforts. As the chairman of the Committee on Banking, Finance and Urban Affairs, the gentleman from Texas [Mr. GONZALEZ], mentioned, those who would limit deposit insurance, those who would cause tomorrow's headlines across the Nation to be "House Cuts Deposit Insurance at Banks and Causes a Run on the Banks," they were defeated in the Subcommittee on Financial Institution Supervision, Regulation and Insurance, and they were defeated in the full Committee on Banking, Finance and Urban Affairs, and they have been defeated on the House floor. The last time we had a rollcall vote on this on the House floor was rollcall 372, and the vote was 153, yes; 264, no. Those Members who voted no on the Wylie amendment October 31 would, I assume, want to again vote no on this motion to recommit offered by the gentleman from Texas [Mr. ARMEY], my friend.

Mr. Speaker, what do the New York Times, the Washington Post, the American Association of Retired People, the U.S. Chamber of Commerce, Comptroller General Charles Bowsher, and almost every major banking group in the country all have in common? The answer is: Each opposes this motion to recommit and opposes new restrictions on existing deposit insurance coverage.

Mr. Speaker, I do not always agree with the Washington Post editorials, and I know that some others do not, but I am going to read one more time what I read on October 31, the first paragraph of the editorial of the Washington Post on this subject.

The average citizen is in no position to know which bank is sound and which is tottering. Notoriously, there have been cases in recent years in which regulators with access to banks' internal accounts have been taken by surprise.

The editorial goes on to say that now, for sure, is not the time to limit deposit insurance, and that has been said by editorials across the Nation in newspapers from California to Maine.

□ 1720

Mr. Speaker, I urge my colleagues to realize that in many communities across this Nation, like in my own district, there is only one bank, and some people do have more than $100,000 in that bank. If they are required to take it elsewhere, they will take it to a canning jar or put it in government bonds or take it to other institutions in other cities. Some may take it to one of these banks in the Northeast that are said to be too big to fail.

I urge my colleagues to think twice about this last-ditch attempt to bring back this issue that has been defeated time and time and time again in recent months. I ask my colleagues to vote no on the motion to recommit. I ask them to vote as they did on October 31, when we soundly defeated the Wylie amendment which has now come back again in the form of the Armey motion to recommit.

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

Mr. GONZALEZ, I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, I want to thank the gentleman for his kind remarks, and I want to thank the gentleman for reminding the Members of our past misjudgment on this issue. I also want to tell the gentleman how pleased I am to give all those Members who voted wrong in the past a chance to atone for that mistake.

Mr. HUBBARD. Mr. Speaker, I know the Members of Congress will be consistent in the defeat of this effort.

The SPEAKER pro tempore (Mr. GEPHARDT). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. ARMEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was refused.

Mr. ARMEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 74, nays 355, answered "present" 1, not voting 4, as follows:

[Roll No. 414]

YEAS—74

Archer	Cox (CA)	Frank (MA)
Armey	Crane	Gingrich
Ballenger	Dannemeyer	Goodling
Bellenson	DeFazio	Green
Bennett	DeLay	Hefley
Bentley	Dornan (CA)	Herger
Burton	Dreier	Houghton
Carper	Durbin	Hughes
Johnson (SD)	Miller (WA)	Solomon
Johnson (TX)	Molinari	Stark
Kanjorski	Morella	Stearns
Kasich	Olin	Studds
Kildee	Penny	Taylor (NC)
Kolbe	Petri	Thomas (CA)
Leach	Ridge	Unsoeld
Lent	Ritter	Walker
Lewis (CA)	Rohrabacher	Walsh
Lipinski	Russo	Weiss
Livingston	Santorum	Weldon
McCandless	Scheuer	Wolf
McCollum	Schumer	Wolpe
McEwen	Sensenbrenner	Wylie
McGrath	Shays	Yates
Miller (CA)	Sikorski	Zimmer
Miller (OH)	Skaggs	

NAYS—355

Abercrombie	Dingell	Hunter
Ackerman	Dixon	Hutto
Alexander	Donnelly	Hyde
Allard	Dooley	Inhofe
Allen	Doolittle	Ireland
Anderson	Dorgan (ND)	Jacobs
Andrews (ME)	Downey	James
Andrews (NJ)	Duncan	Jefferson
Andrews (TX)	Dwyer	Jenkins
Annunzio	Dymally	Johnson (CT)
Anthony	Early	Johnston
Applegate	Eckart	Jones (GA)
Aspin	Edwards (CA)	Jones (NC)
Atkins	Edwards (OK)	Jontz
AuCoin	Edwards (TX)	Kaptur
Bacchus	Emerson	Kennedy
Baker	Engel	Kennelly
Barnard	English	Kleczka
Barrett	Erdreich	Klug
Barton	Espy	Kolter
Bateman	Evans	Kopetski
Bereuter	Ewing	Kostmayer
Berman	Fascell	Kyl
Bevill	Fazio	LaFalce
Bilbray	Feighan	Lagomarsino
Bilirakis	Fields	Lancaster
Blackwell	Fish	Lantos
Bliley	Flake	LaRocco
Boehlert	Foglietta	Laughlin
Boehner	Ford (MI)	Lehman (CA)
Bonior	Ford (TN)	Lehman (FL)
Borski	Franks (CT)	Levin (MI)
Boucher	Frost	Levine (CA)
Boxer	Gallegly	Lewis (FL)
Brewster	Gallo	Lewis (GA)
Broomfield	Gaydos	Lightfoot
Browder	Gejdenson	Lloyd
Brown	Gekas	Long
Bruce	Gephardt	Lowery (CA)
Bryant	Geren	Lowey (NY)
Bunning	Gibbons	Luken
Bustamante	Gilchrest	Machtley
Byron	Gillmor	Manton
Callahan	Gilman	Markey
Camp	Glickman	Marlenee
Campbell (CA)	Gonzalez	Martin
Campbell (CO)	Gordon	Martinez
Cardin	Goss	Matsui
Carr	Gradison	Mavroules
Chandler	Grandy	Mazzoli
Chapman	Guarini	McCloskey
Clay	Gunderson	McCrery
Clement	Hall (OH)	McCurdy
Clinger	Hall (TX)	McDade
Coble	Hamilton	McDermott
Coleman (MO)	Hammerschmidt	McHugh
Coleman (TX)	Hancock	McMillan (NC)
Collins (IL)	Hansen	McMillen (MD)
Collins (MI)	Harris	McNulty
Combest	Hastert	Meyers
Condit	Hatcher	Mfume
Conyers	Hayes (IL)	Michel
Costello	Hayes (LA)	Mineta
Coughlin	Hefner	Mink
Cox (IL)	Henry	Moakley
Coyne	Hertel	Mollohan
Cramer	Hoagland	Montgomery
Cunningham	Hobson	Moody
Darden	Hochbrueckner	Moorhead
Davis	Holloway	Moran
de la Garza	Hopkins	Morrison
DeLauro	Horn	Murphy
Dellums	Horton	Murtha
Derrick	Hoyer	Myers
Dickinson	Hubbard	Nagle
Dicks	Huckaby	Natcher

Neal (MA) Richardson Staggers
Neal (NC) Riggs Stallings
Nichols Rinaldo Stenholm
Nowak Roberts Stokes
Nussle Roe Stump
Oakar Roemer Sundquist
Oberstar Rogers Swett
Obey Ros-Lehtinen Swift
Olver Rose Synar
Ortiz Rostenkowski Tallon
Orton Roth Tanner
Owens (NY) Roukema Tauzin
Owens (UT) Rowland Taylor (MS)
Oxley Roybal Thomas (GA)
Packard Sabo Thomas (WY)
Pallone Sanders Thornton
Panetta Sangmeister Torres
Parker Sarpalius Torricelli
Pastor Savage Towns
Patterson Sawyer Traficant
Paxon Saxton Traxler
Payne (NJ) Schaefer Upton
Payne (VA) Schiff Valentine
Pease Schroeder Vander Jagt
Pelosi Schulze Vento
Perkins Serrano Visclosky
Peterson (FL) Sharp Volkmer
Peterson (MN) Shaw Vucanovich
Pickett Shuster Washington
Pickle Sisisky Waters
Porter Skeen Weber
Poshard Skelton Wheat
Price Slattery Whitten
Pursell Slaughter Williams
Quillen Smith (FL) Wilson
Rahall Smith (IA) Wise
Ramstad Smith (NJ) Wyden
Rangel Smith (OR) Yatron
Ravenel Smith (TX) Young (AK)
Ray Snowe Young (FL)
Reed Solarz Zeliff
Regula Spence
Rhodes Spratt

ANSWERED "PRESENT"—1

Cooper

NOT VOTING—4

Brooks Mrazek
Fawell Waxman

□ 1741

Messrs. BUSTAMANTE, CUNNINGHAM, and JEFFERSON changed their vote from "yea" to "nay."

Mrs. UNSOELD, and Messrs. SIKORSKI, KILDEE, DEFAZIO, SCHUMER, PENNY, SCHEUER, JOHNSON of South Dakota, WEISS, YATES, and SKAGGS changed their vote from "nay" to aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

(Mr. MICHEL asked and was given permission to proceed out of order for 1 minute.)

LEGISLATIVE PROGRAM

Mr. MICHEL. Mr. Speaker, I have asked unanimous consent to speak out of order between the vote on the motion to recommit and the final vote for the purpose of engaging in a colloquy with the distinguished majority leader while we have the full complement of the House here and so that we might get some kind of reading as to how we will be proceeding for the balance of this day, tomorrow, the weekend, et cetera.

I yield to the gentleman from Missouri [Mr. GEPHARDT], my distinguished friend, for some kind of response on how he sees developments unfolding.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding.

As we said yesterday, if this legislation passes today, and of course we hope that it does, that will be the end of business for today.

Tomorrow we will meet at 11 a.m. and take up the conference report, again, on Labor, HHS appropriations, the veto override, and then we will also take up H.R. 2929, the California Desert Protection Act of 1991.

It is my belief that those two pieces of legislation could be finished at around 7 o'clock tomorrow night. We will inform Members as early as possible, probably by the middle of the afternoon tomorrow, whether or not there would be the need for vetoes and session on Saturday or Sunday. Then we can announce the schedule for Monday and Tuesday.

It is, again, our hope that on Monday and Tuesday we can finish the conference on the transportation bill, the conference on the crime bill, and be able to take up and complete legislation on the RTC and on campaign finance.

There will be some other matters that will be up on those days, but it is still our intent and belief that we can be finished with this session of Congress before the Sun comes up on Wednesday morning.

Mr. MICHEL. Mr. Speaker, I thank the distinguished majority leader for that enlightening announcement.

The SPEAKER pro tempore (Mr. DYMALLY). The question is on the passage of the bill.

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

RECORDED VOTE

Mr. SOLOMON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 344, noes 84, answered "present" 1, not voting 5, as follows:

[Roll No. 415]

AYES—344

Abercrombie Bilirakis Clinger
Ackerman Bliley Coble
Alexander Boehlert Coleman (MO)
Allard Boehner Collins (IL)
Allen Bonior Combest
Anderson Borski Conyers
Andrews (TX) Boucher Coughlin
Annunzio Boxer Cox (CA)
Anthony Brewster Cox (IL)
Applegate Broomfield Coyne
Archer Browder Cramer
Aspin Brown Darden
Atkins Bryant Davis
Baker Bunning de la Garza
Ballenger Bustamante DeLauro
Barnard Byron Dellums
Barrett Callahan Derrick
Barton Camp Dickinson
Bateman Campbell (CA) Dicks
Bellenson Campbell (CO) Dingell
Bennett Cardin Dixon
Bereuter Carper Donnelly
Berman Chandler Dooley
Bevill Clay Dornan (CA)
Bilbray Clement Downey
Dreier LaFalce Pursell
Duncan Lagomarsino Quillen
Dymally Lancaster Ramstad
Early Lantos Rangel
Eckart LaRocco Ravenel
Edwards (CA) Leach Ray
Edwards (OK) Lehman (CA) Reed
Edwards (TX) Lehman (FL) Regula
Emerson Lent Rhodes
Engel Levin (MI) Riggs
Erdreich Lewis (CA) Rinaldo
Espy Lewis (FL) Roberts
Ewing Lewis (GA) Roe
Fascell Lightfoot Rogers
Fazio Livingston Ros-Lehtinen
Feighan Lloyd Rose
Fields Long Rostenkowski
Fish Lowery (CA) Roukema
Flake Lowey (NY) Rowland
Foglietta Luken Roybal
Ford (MI) Machtley Sabo
Ford (TN) Manton Sarpalius
Frank (MA) Markey Sawyer
Franks (CT) Martin Saxton
Frost Martinez Schaefer
Gallegly Matsui Scheuer
Gallo Mavroules Schiff
Gejdenson Mazzoli Schroeder
Gekas McCandless Schumer
Gephardt McCloskey Sharp
Geren McCollum Shaw
Gibbons McCrery Shays
Gilchrest McCurdy Shuster
Gillmor McDade Sisisky
Gilman McDermott Skaggs
Gingrich McEwen Skeen
Glickman McGrath Skelton
Gonzalez McHugh Slattery
Goodling McMillan (NC) Slaughter
Gordon McMillen (MD) Smith (FL)
Goss Meyers Smith (IA)
Gradison Mfume Smith (NJ)
Grandy Michel Smith (OR)
Green Miller (OH) Smith (TX)
Hall (OH) Miller (WA) Snowe
Hall (TX) Mineta Solarz
Hamilton Mink Spence
Hammerschmidt Moakley Spratt
Hancock Molinari Staggers
Hansen Mollohan Stallings
Harris Montgomery Stark
Hastert Moorhead Stearns
Hatcher Moran Stenholm
Hefley Morella Stokes
Hefner Morrison Studds
Hoagland Murphy Sundquist
Hobson Murtha Swett
Hochbrueckner Myers Swift
Holloway Nagle Synar
Hopkins Natcher Tanner
Horn Neal (MA) Tauzin
Horton Neal (NC) Taylor (NC)
Houghton Nichols Thomas (CA)
Hoyer Nowak Thomas (GA)
Hubbard Nussle Thomas (WY)
Huckaby Oakar Thornton
Hutto Oberstar Torres
Hyde Olin Torricelli
Inhofe Olver Traxler
Ireland Ortiz Unsoeld
Jacobs Orton Valentine
James Owens (UT) Vander Jagt
Jefferson Oxley Vento
Jenkins Packard Volkmer
Johnson (CT) Panetta Walsh
Johnson (SD) Parker Washington
Johnson (TX) Pastor Weiss
Johnston Patterson Wheat
Jones (GA) Paxon Whitten
Jones (NC) Payne (NJ) Wilson
Kasich Payne (VA) Wise
Kennedy Pease Wolf
Kennelly Pelosi Wolpe
Kildee Penny Wyden
Kleczka Peterson (FL) Wylie
Klug Peterson (MN) Yates
Kolbe Pickett Yatron
Kopetski Pickle Young (AK)
Kostmayer Porter Young (FL)
Kyl Price

NOES—84

Andrews (ME) AuCoin Blackwell
Andrews (NJ) Bacchus Bruce
Armey Bentley Burton

Carr	Hunter	Russo
Chapman	Jontz	Sanders
Coleman (TX)	Kanjorski	Sangmeister
Collins (MI)	Kaptur	Santorum
Condit	Kolter	Savage
Costello	Laughlin	Schulze
Crane	Levine (CA)	Sensenbrenner
Cunningham	Lipinski	Serrano
Dannemeyer	Marlenee	Sikorski
DeFazio	McNulty	Solomon
DeLay	Miller (CA)	Stump
Dorgan (ND)	Moody	Tallon
Durbin	Obey	Taylor (MS)
Dwyer	Owens (NY)	Towns
English	Pallone	Traficant
Evans	Perkins	Upton
Gaydos	Petri	Visclosky
Guarini	Poshard	Vucanovich
Gunderson	Rahall	Walker
Hayes (IL)	Richardson	Waters
Hayes (LA)	Ridge	Weber
Henry	Ritter	Weldon
Herger	Roemer	Williams
Hertel	Rohrabacher	Zeliff
Hughes	Roth	Zimmer

ANSWERED "PRESENT"—1

Cooper

NOT VOTING—5

Brooks	Fawell	Waxman
Doolittle	Mrazek	

□ 1804

The Clerk announced the following pairs;

On this vote:

Mr. Waxman for, with Mr. Doolittle against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 3768, the bill just passed.

The SPEAKER pro tempore (Mr. SERRANO). Is there objection to the request of the gentleman from Texas?

There was no objection.

ORDER OF BUSINESS

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that on the list of special orders for tonight, November 21, 1991, my name be transposed with the majority whip, the gentleman from Michigan [Mr. BONIOR].

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

There was no objection.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO HAVE UNTIL MIDNIGHT, THURSDAY, NOVEMBER 21, 1991, TO FILE REPORTS ON H.R. 3604, GREER SPRING ACQUISITION AND PROTECTION ACT OF 1991, AND H.R. 3245, CHATTAHOOCHEE FOREST PROTECTION ACT OF 1991

Mr. VOLKMER. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may have until 12:00 midnight, Thrusday, November 21, 1991, to file the reports on H.R. 3604, entitled the Greer Spring Acquisition and Protection Act of 1991, and H.R. 3245, entitled the Chattahoochee Forest Protection Act of 1991.

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

There was no objection.

WOMEN'S BUSINESS DEVELOPMENT ACT OF 1991

Mr. LAFALCE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2629) to amend the Small Business Act to assist the development of small business concerns owned and controlled by women, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate Amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Women's Business Development Act of 1991".

SEC. 2. WOMEN'S DEMONSTRATION PROJECTS.

The Small Business Act is amended by adding at the end the following new section:

"SEC. 28. (a) The Administration may provide financial assistance to private organizations to conduct 3-year demonstration projects for the benefit of small business concerns owned and controlled by women. The projects shall provide—

"(1) financial assistance, including training and counseling in how to apply for and secure business credit and investment capital, preparing and presenting financial statements, and managing cash flow and other financial operations of a business concern;

"(2) management assistance, including training and counseling in how to plan, organize, staff, direct, and control each major activity and function of a small business concern; and

"(3) marketing assistance, including training and counseling in identifying and segmenting domestic and international market opportunities, preparing and executing marketing plans, developing pricing strategies, locating contract opportunities, negotiating contracts, and utilizing varying public relations and advertising techniques.

"(b)(1) As a condition of receiving financial assistance authorized by this section, the recipient organization shall agree to obtain, after its application has been approved and notice of award has been issued, cash contributions from non-Federal sources as follows:

"(A) If the project first receives its Federal financial assistance prior to fiscal year 1993, an annual amount that is not less than the amount of the Federal financial assistance provided each year.

"(B) If the project first receives Federal financial assistance in fiscal year 1993, or thereafter, annual amounts equal to—

"(i) in the first year, 1 non-Federal dollar for each 2 Federal dollars;

"(ii) in the second year, 1 non-Federal dollar for each Federal dollar; and

"(iii) in the third and final year, 2 non-Federal dollars for each Federal dollar.

"(2) Up to one-half of the non-Federal matching assistance may be in the form of in-kind contributions which are budget line items only, including but not limited to office equipment and office space.

"(3) The financial assistance authorized pursuant to this section may be made by grant, contract, or cooperative agreement and may contain such provision, as necessary, to provide for payments in lump sum or installments, and in advance or by way of reimbursement. The Administration may disburse up to 25 percent of each year's Federal share awarded to a recipient organization after notice of the award has been issued and before the non-Federal matching funds are obtained.

"(4) If any recipient of assistance under this section fails to obtain the required non-Federal contribution during any year of any project, it shall not be eligible thereafter for advance disbursements under paragraph (3) during the remainder of that project, or for any other project for which it is or may be funded. In addition, prior to approving assistance to such organization for any other projects, the Administration shall specifically determine whether the Administration believes that the recipient will be able to obtain the requisite non-Federal funding and enter a written finding setting forth the reasons for making such determination.

"(c) Each applicant for assistance under this section initially shall submit a 3-year plan on proposed fundraising and training activities, and may receive financial assistance under this section for a maximum of 3 years per site. The Administration shall evaluate and rank applicants in accordance with predetermined selection criteria that shall be stated in terms of relative importance. Such criteria and their relative importance shall be made publicly available and stated in each solicitation for applications made by the Administration. The criteria shall include—

"(1) the experience of the applicant in conducting programs or on-going efforts designed to impart or upgrade the business skills of women business owners or potential owners;

"(2) the present ability of the applicant to commence a demonstration project within a minimum amount of time; and

"(3) the ability of the applicant to provide training and services to a representative number of women who are both socially and economically disadvantaged.

"(d) For purposes of this section, the term 'small business concern' means a small business concern, either start-up or existing, owned and controlled by women, and—

"(1) which is at least 51 percent owned by 1 or more women; and

"(2) the management and daily business operations of which are controlled by 1 or more women.

"(e) There are authorized to be appropriated $4,000,000 for each fiscal year to carry

out the demonstration projects authorized by this section. Notwithstanding any other provision of law, the Administration may use such expedited acquisition methods as it deems appropriate to achieve the purposes of this section, except that it shall ensure that all eligible sources are provided a reasonable opportunity to submit proposals.

"(f) The Administration shall prepare and transmit an annual report, beginning February 1, 1992, to the Committees on Small Business of the Senate and House of Representatives on the effectiveness of all demonstration projects conducted under the authority of this section. Such report shall provide information concerning—

"(1) the number of individuals receiving assistance;

"(2) the number of start-up business concerns formed;

"(3) the gross receipts of assisted concerns;

"(4) increases or decreases in profits of assisted concerns; and

"(5) the employment increases or decreases of assisted concerns.

"(g) The Administration shall not provide financial assistance under this section to any new project after October 1, 1995, except that it may fund projects which commenced prior thereto.".

SEC. 3. ADMINISTRATIVE PROVISION.

Section 8 of the Small Business Act (15 U.S.C. 637) is amended by striking subsection (c) and redesignating subsections (d) through (j) as subsections (c) through (k). Projects funded pursuant to the provisions of former subsection (c) shall be deemed to be funded under and shall be treated as if funded under section 28 of the Small Business Act, as added by section 2.

SEC. 4. PERMANENT AUTHORIZATION OF SMALL LOAN PROGRAM.

Section 7(a)(19)(B) of the Small Business Act (15 U.S.C. 636(a)(19)(B)) is amended by striking "during fiscal years 1989, 1990, and 1991,".

SEC. 5. NATIONAL WOMEN'S BUSINESS COUNCIL.

Subparagraph (G) of section 403(b) of the Women's Business Ownership Act of 1988 (102 Stat. 2695) is amended to read as follows:

"(G) The Chairperson and Vice Chairperson of the council shall be designated by the President and may be either a representative of the public sector or the private sector, except that the Chairperson and Vice Chairperson shall not be from the same sector concurrently. Each shall serve for a maximum term of 2 years. No person may be designated to the same office for 2 consecutive terms, nor may consecutive designees as Chairperson be from the public sector.".

Mr. LAFALCE (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from New York?

Mr. IRELAND. Reserving the right to object, Mr. Speaker, I take this time for the purpose of asking the chairman if he would very quickly explain the differences between the Senate amendment and the House bill.

Mr. LAFALCE. Mr. Speaker, if the gentleman will yield, I would be very glad to explain the Senate amendment.

Mr. IRELAND. Mr. Speaker, I am glad to yield to the gentleman from New York.

Mr. LAFALCE. Mr. Speaker, although technically the Senate amendment struck all after the enacting clause of the House bill, by and large they simply reinserted all of the provisions we had with the exception of two substantive areas.

As passed by the House, the bill would extend a 1988 pilot program under which private organizations may apply to conduct demonstration projects to provide training and counseling to women. These organizations can receive Federal grants providing they obtain an equal amount of financing from the private sector. The Senate amendment would expand the sources of the matching grants the organizations may use to qualify so as to include State and local government funding rather than only private money.

In the second area, as passed by the House, the bill would expand the National Women's Business Council which recommends to the President and the Congress specific ways to support women-owned businesses and help women overcome barriers to full participation in the economic mainstream. Under existing law, the size of the Council is nine members; the bill, as passed by the House, would expand the size by two, with both of the new members being selected by the President, one of whom would be an African-American woman and one of whom shall be a Hispanic woman. The Senate amendment would eliminate the increase in size of this Council.

I believe it is very important that we enact this legislation which also extends the provisions of a program which provides incentives to lenders to provide small loans to women and other entrepreneurs. Especially with the current credit crunch, it is essential that we extend this program which, unfortunately, expired October 1. Both the House bill and the Senate amendment include this extension.

I regret that the Senate did not simply agree to the House bill, but they did not. In the interest of enacting the bill without additional delay, I urge acceptance of the Senate amendments.

Mr. IRELAND. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

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

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LAFALCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material on the Senate amendment to H.R. 2629, which was just agreed to.

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

There was no objection.

MODIFICATION OF APPOINTMENT OF CONFEREES ON H.R. 3371, OMNIBUS CRIME CONTROL ACT OF 1991

The SPEAKER pro tempore. The Chair, on behalf of the Speaker, without objection, appoints the following additional conferees on the bill (H.R. 3371) to control and prevent crime:

Pursuant to the previous order of the House of November 21, 1991, the last paragraph of the appointment of conferees on the bill H.R. 3371 is amended to read as follows:

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 1508, 1719, 1731, 1732, 2320, and 2328 of the House bill, and sections 502, 2901, and 4401 through 4403 of the Senate amendment, and modifications committed to conference: Messrs. ROE, ANDERSON, OBERSTAR, HAMMERSCHMIDT, and INHOFE.

There was no objection.

LOWER INTEREST RATES FOR AMERICAN MADE CARS

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

Mrs. BENTLEY. Mr. Speaker, we have a bit of good news in this Thanksgiving season, and that is that the Bank of Glen Burnie, MD, has instituted a 1-percent rate discount on all of its loans to persons buying new American manufactured cars and trucks, starting Nov. 1, 1991.

According to Rie Almes, executive assistant to senior vice president Stephen G. Boyd, the advertisements announcing the rate discount have generated more calls than the loan department has ever received for new cars.

The ads were placed in the weekly Anne Arundel County Sun edition and the community paper the Maryland Gazette, and have generated calls being handled by 20 people in the bank's 5 locations: Glen Burnie, Severn, Odenton, Crownsville, and Pasadena.

Mr. Speaker, because of the success of this new discount car loan rate, the Bank of Glen Burnie is leaving the duration of the program open-ended, and I suggest to other banks across the country that this is an excellent way to help jump-start a stalled economy.

□ 1810

Support American manufactured products, let us get Americans working again. It does work.

TWENTY-THIRD ANNUAL REPORT OF DEPARTMENT OF TRANSPORTATION, FISCAL YEAR 1989—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. SERRANO) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Energy and Commerce, the Committee on Merchant Marine and Fisheries, and the Committee on Public Works and Transportation.

(For message, see proceedings of the Senate of today, Thursday, November 21, 1991.)

PARLIAMENTARY INQUIRY

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

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. Mr. Speaker, am I correct to assume that under the precedents of the House, no further legislative business can be conducted today and no bills could be brought forward by unanimous consent or by other means?

The SPEAKER pro tempore. The Chair knows of no further legislation at this point. When the Chair is aware of any possible further legislation, it announces the start of the special orders without prejudice to resumption of business.

Mr. WALKER. Mr. Speaker, but I am seeking assurance from the Chair. Typically, when we go to special orders, there will be the assurance to the Members that there will be no more legislative business conducted.

I am seeking that assurance since there has been some rumor that the foreign aid bill would be attempted to be sneaked through the Congress at some point.

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

Mr. WALKER. I yield to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. I thank the gentleman for yielding.

Mr. Speaker, I would just tell the gentleman it is my understanding from speaking to majority staff that there is no intention by the chairman of the Committee on Foreign Affairs, or any other Member, to bring the foreign aid bill forward at this time.

Mr. WALKER. I thank the Chair.

NATIONAL SURFACE TRANSPORTATION BILL IS ON HOLD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. COLEMAN] is recognized for 5 minutes.

Mr. COLEMAN of Missouri. Mr. Speaker, I rise today to speak about the national surface transportation bill that is holed up in conference. My State of Missouri is losing millions of dollars and hundreds of potential jobs because conferees in the Senate and House have reached a stalemate—apparently the other body is insisting upon adoption of their own basic structure as the future national highway plan.

I am gravely concerned about this, because the Senate bill perpetuates the old formula under which donor States—including Missouri—contributed while other States received. The time has come to move into a new phase of transportation policy. Our needs have changed over the last 20 to 30 years, and I firmly believe that our transportation policy—which is at the core of economic development for communities, particularly in rural America—must reflect these changes.

This opportunity to refocus transportation policy and provide for the equitable distribution of trust fund dollars must not be lost. If Congress can't produce a highway bill that is acceptable to over 250 Members of this body, representing the donor States, then it is clear that the process by which we make laws has broken down. We cannot buckle down to the other body's wishes and accept a bad bill just to have a bill.

We cannot afford to let this legislation lapse, costing our country hundreds of thousands of jobs, and go our merry way to have Thanksgiving dinner. Let's get this bill done, but let's put forth a bill that treats States fairly in terms of trust fund dollars.

Since highway construction funds expired September 30, miles of road have not been built or repaired, desperately needed bridges have not been fixed or constructed, and jobs have been lost. The State Highway Department estimates that Missouri, alone, could lose over 4,000 jobs as a result of halting work on 73 million dollars worth of projects because of these delays.

In my district in northwest Missouri, contract bids for a project on a major artery through St. Joseph—a $3.4 million project—have not been let. In Maryville, the request for bids for the first phase of a long-awaited project—a bypass on Highway 71—were scheduled for October. This phase is an $8 million portion of a $16.7 million project. And on one of the most important north-south links in northwest Missouri, bids were to be let in October to replace a bridge over railroad tracks in Livingston County. This is a $3 million project.

These projects in Northwest Missouri are indicative of what is needed all over the State of Missouri—major work on roads and bridges. I supported H.R. 3566 because I wanted to bring Missouri dollars back to Missouri where they are greatly needed for these kinds of projects. Missouri would receive $452 million a year starting in 1992, compared with $250 million that the State received between the year 1987 and 1991.

Let me go over some of the provisions that I voted for in the House-passed version, that make for a fair distribution of trust fund dollars.

We need an apportionment formula based on usage, so if your State's roads are heavily traveled and you have a lot of roads, your State receives money to keep these necessary arteries safe for travel. This makes sense. The House-passed version contains this kind of formula, and I believe it is one of the most important provisions in the bill. We also need a true minimum allocation of 90 percent, based on all apportionments, allocations, and demonstration funds. That way, States are assured a fair and equitable return on their trust fund contributions. This makes sense.

The bill also established a 155,000 mile National Highway System, identifying major strategic roads nationwide—both rural and urban—that promote economic development by linking towns with major transportation hubs and other major cities.

If these provisions are fair and foster the growth of this country, why are there such problems reaching a solution in conference? Is it that the other body does not support fairness? The House passed its version by a vote of 343 to 83. In the other body, an amendment was offered to S. 1204 which would have implemented the same type of apportionment formula as that contained in the House version. The amendment was defeated, but received 41 votes. From these numbers, it is clear that a compromise including this formula would have considerable support in both bodies. Instead of giving in on something as important as how the money will be distributed nationwide, why not let go of those important pork barrel projects?

The House crafted a bill, after many long hours of work, with provisions that treat States fairly. I urge the conferees not to let this hard work be for nought. I urge the 250 Members representing donor States to make their voices heard, and make known that as a bottom line we will not accept anything less than equitably apportioned and allocated funds. Let's stay here until this goal is accomplished.

THE FEDERAL PROGRAM IMPROVEMENT ACT OF 1991

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, today I am introducing with my colleagues, JAKE PICKLE, chairman of the Oversight Subcommittee, BILL ARCHER, ranking Republican of the Ways and Means Committee, DICK SCHULZE, ranking Republican of the Oversight Subcommitte, and members of the Oversight Subcommittee, im-

portant reform legislation, H.R. 3837, The Federal Program Improvement Act of 1991. This legislation is one part of the major oversight initiative project I announced in January of this year to systematically review the efficiency and effectiveness of programs under the jurisdiction of the Committee on Ways and Means.

The Subcommittee on Oversight spent the first session of this Congress investigating administration of the health, trade, tax, and benefit programs for which the committee is responsible. As a result, the subcommittee has developed recommendations that will significantly improve the operations and management of Federal programs under the committee's jurisdiction, as well as address fraud, waste, and abuse that have been identified.

The bill I am introducing today reflects the subcommittee's recommendations for reform. Throughout its review this year, the subcommittee has forwarded the results of its investigations in separate reports to the full Committee on Ways and Means for its consideration. Importantly, these reports have been approved by the subcommittee on a bipartisan basis.

Problems addressed in H.R. 3837 include: mistaken payments of Federal benefits to deceased individuals; erroneous payments of Medicare benefits to individuals having other primary medical insurance; schemes involving the sale of durable medical equipment to Medicare beneficiaries; mismanagement and abuse of Customs' overtime pay laws; and, problems with accounting for and collection of pension premiums by the Pension Benefit Guarantee Corporation.

Mr. Speaker, the American taxpayer must have confidence that the programs and Federal agencies they are supporting with their hard-earned tax dollars are operating efficiently, without waste or abuse. Our citizens deserve no less. The legislation introduced today is one strong step in the direction of assuring the American people that their tax dollars are being well-spent and not squandered.

I think it is important that the subcommittee's recommendations be available in statutory form for the public and the affected agencies to review during the congressional recess. Several of the provisions contained in H.R. 3837 may need to be discussed further, and in greater detail, before final enactment. I am aware of the concerns of various Federal agencies and their employees, and other interested parties, about certain aspects of this package—particularly the subcommittee's recommendations to reform Customs inspector overtime pay and to reform the Medicare laws. I understand that compromises may be developing with respect to the issue of Customs' overtime, and I encourage such efforts. The full Committee will continue to listen to all concerned, with the goal of fine-tuning and improving the package as need be.

Mr. Speaker, I want to publicly commend Subcommittee Chairman PICKLE and all the members of the subcommittee for their cooperative, diligent and responsible oversight effort. I intend to take the subcommittee's bipartisan package of recommendations before the full committee early next year for committee discussion and eventual approval.

□ 1820

TRIBUTE TO HARRY C. HAMM

The SPEAKER pro tempore (Mr. SERRANO). Under a previous order of the House, the gentleman from West Virginia [Mr. MOLLOHAN] is recognized for 5 minutes.

Mr. MOLLOHAN. Mr. Speaker, I rise today to pay tribute to Harry C. Hamm, whose 50-year career with the Wheeling News-Register set a high standard for journalists, and citizens, everywhere.

Long before his retirement in September and his death less than 2 months later, Harry had attained legendary status in his home State of West Virginia and beyond. He was principally known in the newspaper field for his keen eye, his crisp writing and his sound professionalism. Harry Hamm possessed these qualities in abundance, and they served him well.

He began his long and distinguished career with the Ogden Newspapers in 1941, when he joined the News-Register staff as a reporter. Duty called soon after, and Sergeant Hamm served with distinction in the U.S. Army during World War II, earning both the Purple Heart and the Oak Leaf Cluster. After 3 years of service—2 of which were spent in the European Theater of Operations—he returned home to Wheeling and to the News-Register. In 1948, Harry was promoted to city editor of the newspaper. He was named managing editor in 1951, and in 1957 was promoted to editor. In addition, from 1968 until 1975 he served as editor in chief and consultant to other Ogden newspapers.

Mr. Speaker, it would be a great understatement—even an injustice—to describe Harry Hamm's career only by using words such as "editor" or "reporter." He was much, much more. As his own newspaper stated in an editorial published soon after his death:

It is difficult to sum up, in a few words, the life of a man so complex as Harry Hamm. Perhaps it can be accomplished best by saying that he always wanted the best for his family, his community and his profession; that he labored mightily and well to those ends—and that in so many ways, there is proof he succeeded.

Mr. Speaker, I know of no one who loved Wheeling more deeply, or who labored more diligently on its behalf, than Harry Hamm. He appreciated Wheeling's rich history, and took a great deal of pride in how the city had evolved. He also had a grand vision for its future—a vision he shared with us all.

Harry played a key role in developing the State's first urban renewal project. He was a steadfast supporter of urban renewal in his community, and served as chairman of the Wheeling Urban Renewal Authority. This was the groundwork for Wheeling 2000—the plan Harry authored to lead his community into the 21st century.

Mr. Speaker, the city of Wheeling, like virtually all of West Virginia, suffered in the 1980's. The decline of the steel and coal industries caused high unemployment, and forced many West Virginians to leave the State. But Harry Hamm's faith in his city and its people did not waver—he saw Wheeling as a city in transition, and set out to develop a blueprint for its future.

His Wheeling 2000 plan generated a renewed sense of optimism in the community. It provided a realistic, orderly approach to economic development; one based upon the city's most valuable resources. And although Harry never sought personal glory for his many achievements, it is important to note that he was honored as a valley visionary in recognition of his work on Wheeling 2000.

Harry also was a tireless and successful supporter of Oglebay Park, of Wheeling Jesuit College and of Wheeling Hospital; he was the driving force behind countless community projects, both large and small.

I personally placed a high value on his friendship, and I greatly admired his integrity, his enthusiasm and his strong devotion to family. He drew great strength from his family: from his remarkable wife, Marry Haddox Hamm, and their wonderful 12 children and 16 grandchildren. As everyone who knew Harry can attest, his family was a constant source of inspiration and pride. And there is no question that those feelings were deeply shared.

Mr. Speaker, while the city of Wheeling has lost one of its strongest and most eloquent voices, the contributions that Harry Hamm made to our community will remain a source of enrichment for years to come. I extend my deepest sympathies to the Hamm family and to Harry's many close friends.

THE FREEDOM OF INFORMATION ACT, THE CONGRESS, AND THE WHITE HOUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia [Mr. WISE] is recognized for 5 minutes.

Mr. WISE. Mr. Speaker, in recent weeks, others have raised the issue of the applicability of the Freedom of Information Act to the Congress, and several Members have introduced bills that would make Congress subject to the FOIA. This is a proposal that has been raised from time to time in the past.

It is not my purpose today to take a position on the basic issue. Rather, I would like to broaden the discussion about the scope of the FOIA to include some other relevant points. In general, I believe that there are three fundamental misconceptions about the FOIA and the Congress that have not been fully recognized in the debate.

The first misconception is that the FOIA covers the entire Federal Government except for the Congress. The truth is that the FOIA

does not apply to parts of the executive, judicial, and legislative branches of Government. Congress did not exempt only itself from the FOIA.

Perhaps the most significant part of the executive branch that is not covered by the FOIA is the Office of the President and the Vice President. These two elected officials and their immediate staffs are not required to accept or respond to FOIA requests. Similarly, elected Members of Congress and their staffs are not covered by the FOIA. In addition, the FOIA does not cover any part of the judicial branch of the Federal Government.

The scope of the FOIA was carefully defined by the Congress to apply to those parts of the Federal Government where it was needed. Extensive hearings held in the 1960's and 1970's demonstrated that executive branch agencies were unwilling to make routine information about their activities available to the public. The FOIA was passed in response to a documented, long-term problem of excessive secrecy in the executive branch. No one has made a similar case for the Congress.

The President and Members of Congress were not made subject to the FOIA. This decision was made in part because of a recognition that elected officials are directly accountable to the public in a way that bureaucrats are not. The judicial branch was not covered either, partly out of recognition of its separate role and need for independence.

Portions of the Executive Office of the President are covered by the FOIA. The Executive Office of the President includes agencies such as the Office of Management and Budget, the Office of the U.S. Trade Representative, and the drug czar, and these agencies are subject to the FOIA. Other offices in the Executive Office of the President whose sole function is to provide advice to the President—or Vice President—were expressly exempted from the FOIA in the 1974 amendments. At the insistence of the President, Congress in 1974 preserved the exemption for the immediate staff and Office of the President and Vice President.

A second misconception is that applying the FOIA to the Congress would actually make more records publicly available. The truth is that applying the FOIA to the Congress would permit both the Congress and the executive branch to withhold from the public some information that is now routinely disclosed. Let me explain this unexpected result.

Standard FOIA principles permit the withholding of predecisional documents for the purpose of protecting advice, recommendation, and opinions which are part of the deliberative, consultative, decisionmaking processes of Government. The fifth exemption of the FOIA covers these types of documents.

Consider how these rules might apply to legislation. A bill as introduced is just a draft which fuels the deliberative, consultative, decisionmaking process of the Congress. Until a bill is voted upon and approved by a committee, by the House, or perhaps even by both Houses of Congress, the bill remains a draft document subject to change. One could argue that bill and amendments are predecisional documents subject to withholding.

I am not suggesting that the Congress would withhold bills in process, just that the authority to do so might exist if the FOIA applied to the Congress. For anyone who wants to test this theory, I suggest that you make a FOIA request at any executive branch agency for a copy of any legislative recommendations that have not yet been approved by the agency head or by OMB. In general, you are likely to find that such a request will be denied on the grounds that the draft bill is a predecisional document.

Applying the FOIA to the Congress could have the perverse effect of permitting the executive branch greater authority to withhold documents. Under exemption 5 in current law, interagency documents can be withheld from the public under certain circumstances. Documents sent by the executive branch to the Congress generally do not qualify as interagency documents because Congress is not an agency under the law. If Congress were defined to be an agency under the FOIA, then a broader range of executive branch documents could fall within the fifth exemption. The net result could be that information that is available today would no longer have to be released.

The third misconception is that the Congress operates in excessive secrecy. The truth is that the Congress is the most open of the three branches of Government. All debate on the floor of both Houses is open to the public. The proceedings of both Houses are televised, and a complete transcript is published immediately upon the conclusion of each day's business. Copies of the CONGRESSIONAL RECORD are widely distributed throughout the country. Even the most sensitive business of congressional committees—the markup of legislation—is usually conducted in open session.

The vast majority of congressional hearings are open to the public and the press. Many are televised. Transcripts of hearings are routinely published and provided to Federal depository libraries and others at no charge. Copies of all bills, resolutions, committee reports, and other House and Senate documents are routinely available upon request.

It is difficult to identify any category of current congressional records that would be more available under the FOIA. What about the much disputed records of the House bank? Those records would be exempt from disclosure under the FOIA's existing exemption covering invasion of personal privacy. Anyone who doubts this conclusion should ask any executive branch agency for any personal financial information of a comparable nature regarding any Federal employee. The request will properly be denied. As a Federal banking agency for a list of delinquent borrowers or check bouncers from banks operated by the Federal Government. That request will also be denied.

Further, may of the congressional records that are available to the public are now provided in response to requests made by telephone. The House Document Room, for example, provides copies of House bills and reports in response to requests made in person, on the telephone, in writing, and by fax.

If FOIA procedures were applied to the distribution of these documents, all requesters could be obliged to make written requests. The Document Room would be entitled to wait 10 days before providing the requested material. In addition, a charge could be imposed on requesters. Today, House materials are distributed at no charge to the public. I know of no Federal agency—including the Office of the President—that provides so many different documents to so many different people in such a convenient manner.

It is useful to contrast the openness of the Congress with the disclosure practices of the Office of the President and the Office of the Vice President. A recent FOIA decision by a Federal district judge offers some insight into the availability of Presidential and Vice Presidential records. The case is Meyer versus Bush, and it was decided about a month ago.

The requester in the case sought access to records created by the Task Force on Regulatory Relief which was chaired during the Reagan administration by Vice President George Bush. The request was denied on the ground that the Vice President's task force was not an agency under the FOIA. The Government would not even search the Vice President's Office for any records responsive to the request.

What is interesting about this case is the argument made on behalf of Vice President George Bush and not the outcome. For 3 years, the Government has been resisting the FOIA request for these records on the grounds that the FOIA did not apply. Whether that legal position is correct is a separate issue. There is, however, no legal principle that prevented the Vice President from releasing those records regardless of the applicability of the FOIA. The records could have been released if President Bush were willing to do so. He was not.

The judge did not accept the Government's legal arguments. The judge found that Vice President's Bush's task force was an agency subject to the FOIA because it had functions beyond providing assistance and advice to the Vice President. This is not a final judgment, and I am sure that the Government will appeal this ruling to the Supreme Court if necessary.

The Council on Competitiveness, chaired by Vice President Quayle, also contends that it too is not subject to the FOIA, and its records are not available to the public. The Council on Competitiveness, the successor to the Task Force on Regulatory Relief, is heavily involved in overseeing the Federal Government's regulatory activities. The Council has been criticized for conducting these activities in secret.

The question about the applicability of the FOIA to the Congress cannot and should not be considered in a vacuum. If we should make the Congress comply with the FOIA, I believe that we must make the President and Vice President subject as well. If we are to alter the FOIA's exemption for elected officials, let us treat all elected officials equally.

We may also need to reconsider the exemption for the judicial branch. A recent article in the Washington Post discussed the effect of a new law that required Federal judges to report on motions and trials that have remained undecided for more than 6 months. The resulting information provided an interesting new window on the activities and performance of judges. I also suspect that some of the judges were embarrassed. My guess is that the effect of this limited amount of sunshine on the courts will be to spur delinquent judges to do

a better job. That has certainly been one of the major benefits from more FOIA disclosures by the executive branch.

Let me turn briefly to another related issue. A few weeks ago, the President offered the observation that the Congress was not subject to the Privacy Act of 1974. This is certainly true, although the President failed to mention that he, the Vice President, their immediate staffs, and the judiciary are not subject to the Privacy Act either. In fact, the FOIA and the Privacy Acts are identical in scope.

The President raised the Privacy Act in the context of using the act to punish leakers. I am not sure, however, that the Privacy Act is an effective deterrent to leaks in the executive branch. First, the criminal penalties under the Privacy Act are misdemeanors with a maximum fine of $5,000. No one who violates the Privacy Act can be sent to jail.

Second, the criminal penalties of the Privacy Act have only been used a few times. I do not know the exact number of people who have been prosecuted in the more than 15 years that the law has been on the books, but it is no more than a handful. How many leaks of personal information came from the executive branch during that time? Of course, any leaks that might have come from the immediate staff of the President would not be subject to criminal sanctions under the Privacy Act because the act does not apply to the office of the President. And apparently, the President has not proposed extending the Privacy Act to his own office.

Third, it is not even clear that a release by the FBI of sensitive personal information from its investigative files would be a violation of the Privacy Act. The FBI has reserved to itself the ability to disclose publicly any information about the subject of an investigation—including appointees to Federal office—without violating the Privacy Act.

Under the Privacy Act, each agency can define permissible disclosures of information—called routine uses—through notices in the Federal Register. If a particular disclosure has been authorized by a routine use, then it is legal under the Privacy Act. The routine uses for any system of records are defined by the agencies. There is no general legal requirement for establishing any particular routine use. It is up to each agency.

The FBI's main investigatory records are maintained in a system called the central records system. This system of records contains information on subjects of investigations, applicants for sensitive positions in the U.S. Government, informants, and others.

Given the sensitivity of the records in this system, I was shocked to learn that a routine use has been established reserving to the FBI the ability to disclose any of the information to the news media and general public where there exists a legitimate public interest. This is as broad and vague a standard for the disclosure of personal information as exists anywhere. It could be used to justify virtually any release of data. If any personal information from the central records system were released by the FBI to the news media, I suspect that the first defense would be that the release did not violate the Privacy Act because FBI had reserved the right to disclose the information.

I am at a loss to explain why the FBI maintains the right to release to the news media all sensitive personal information that it maintains. I wonder if confidential FBI informants would sleep confortably if they were aware that the FBI could disclose their identities without even violating the Privacy Act.

This is certainly a convenient provision just in case anyone at the FBI is ever caught disclosing confidential personal information. If the President is concerned about punishing leakers under the Privacy Act, he should immediately direct the FBI to revise its rules to eliminate the ability of its agents to release to the press sensitive personal information. This change could be implemented through administrative action. No change in the law is needed to accomplish this purpose.

What this illustrates is that the Privacy Act provides little protection against leaks or invasions of privacy. Extending the act to the Congress would not solve the existing problem or provide any additional protection. I have introduced legislation to amend the Privacy Act to make it more effective. I would be happy to work with the President to strengthen privacy laws and to consider extending those laws to the President as well as the Congress.

TRADE AND THE SAD STATE OF THE ECONOMY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut [Mr. GEJDENSON] is recognized for 5 minutes.

Mr. GEJDENSON. Mr. Speaker, when we had our discussion yesterday about the sad state of the economy and the impact it has on many American workers, one of the things that struck me was, if the administration's trade team, and the efforts that have gone on under both this and the Reagan administration, had been a basketball team or a football team on the field or the court, there would have been an investigation to see if they had thrown the game. If it had been a fight, there certainly would have been an investigation because, when we look at the impact on American workers and on American companies of the attitude of this supposed free trade, what it really is, is only free trade when foreigners come to sell here, but it is not free trade when we go to sell over there, and I can give my colleagues one example in my own State, an issue we have been fighting for some time.

The Ferrier Co. in Uncasville, CT, Montville, CT, is a company that makes gauges. It makes some of the best gauges for tachometers for all kinds of engines, pressure gauges, RPM gauges, mile-per-hour gauges, and they were selling to the aftermarket of Japanese engine manufacturers. They have been taken out of that business. They were told, frankly, that the Japanese home company wanted a Japanese product, a Japanese gauge, not that they did not meet the spec, not that they did not meet the price, but they did not want an American-made product, and they found in the assembly plants of the Japanese car makers that the door had been locked, locked to American manufactured products of cars that are supposedly made in the United States.

Mr. Speaker, we end up with a situation where, when we have an opportunity to grow, the administration has not been there for the American worker. When we need to invest into conversion, into diversification, the administration has been an obstacle, and, as we take a look at the economic situation we are in now, with the downturn in the economy, the future problems are not simply whether unemployment continues to grow, or gets a little better. It is that we do not have the number of jobs that we really need, nor do we have the kind of economic growth that will expand the opportunities for our country.

Mr. Speaker, we have a number of other gentleman who have joined with us today to address these economic issues, but it is not just a broad policy discussion that we are all about. What this comes home to is in each of our districts, in each of our hometowns, and across this Nation, workers are losing opportunities because of bad fiscal and monetary policies at times, because of bad budgeting from the White House and because of the fact that, when it came to trade policy, the administration threw the game.

I can remember when I took over the International Economic Policy and Trade Subcommittee and the administration came in to tell us about Europe 92, and they told us it was the best thing since sliced bread, that it is going to be great for American workers, and I asked the question at that time, "If you're in the middle of a sporting event, and it's a tie, and you find that the other side wants to change the rules by which you play with, don't assume they're going to try to make it easier for you to win."

They said, "No, no, this is going to be easier access for our markets."

Mr. Speaker, what has happened is, time and time again, it has closed off American markets. If we now want to sell to the $600 billion public sector in Europe, we have to have a plan to facilitate in Europe. They do not want to buy American products; they want to buy European products.

If we want to have access to their most lucrative markets in power systems and utilities, we have been locked out. A number of American companies have moved their investments out of the United States into Europe.

So when we look at these unemployment numbers, and if we look at some of the charts, maybe, that we have pulled out a while ago on the economy, we see that we have a continuous problem with employment growth. I think that is the real issue here. The unemployment numbers alone are very disheartening for Americans, but when we take a look at this chart, maybe the

chairman of the Committee on the Budget would care to join us, and we have the gentleman from California [Mr. FAZIO] here, and maybe we could go through the chart on the numbers again, because I think it is critically important to take a look at where the job growth has been, and where it has been the most anemic.

Mr. PANETTA. Mr. Speaker, would the gentleman yield?

Mr. GEJDENSON. I am happy to yield to the gentleman from California.

Mr. PANETTA. Mr. Speaker, the chart indicates and tries to track employment growth beginning after World War II, during the Truman administration. If we look at every administration, whether it is Truman or Eisenhower or Kennedy, in the Johnson era there was a 3.9-percent growth in jobs; Nixon, 2.2; Ford, 1.1; Carter, 3.1. In President Reagan's administration it was 2.1. In the Bush administration we have 0.5. If you compare it to other administrations it is clearly the slowest employment growth in the postwar era.

REQUEST FOR EXCHANGE OF SPECIAL ORDER TIME

Mr. GEJDENSON. Mr. Speaker, I ask unanimous consent to exchange my special order time for this evening with that of the gentleman from Missouri [Mr. GEPHARDT] and with that of the gentleman from Indiana [Mr. JONTZ].

The SPEAKER pro tempore (Mr. SERRANO). The Chair will advise that the majority leader has a 60-minute special order. The next gentleman on the list is the gentleman from Indiana [Mr. JONTZ] for 5 minutes.

ECONOMIC GROWTH PLAN FOR AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. JONTZ] is recognized for 5 minutes.

Mr. JONTZ. Mr. Speaker, I rise this evening to take part in this very important discussion of the economy of our Nation. I represent a district in northern Indiana, the Fifth Congressional District of Indiana, that is very typical of the Midwest. It consists of farms and factories, and I wish I could come to the floor this evening to report that everything was in good shape with the economy at home. Regrettably, it is not.

We do have the means here in the Federal Government to help or to hurt the situation, and it bothers me and it bothers my constituents, as so many times there are opportunities we could take to improve the economy at home where we have not done so.

I am very concerned, for instance, about the trade policy of our country. We are now engaged in negotiations with Mexico on a possible free-trade agreement. Just this spring a factory in my district closed in Wabash, IN, United Technologies plant, making wire harnesses, not because there was not a need for those harnesses, but rather because this particular company could manufacture them less expensively in Mexico. So we saw 500-and-some individuals lose their jobs.

My hope is that this country will adopt a trade policy which reflects an understanding that to have a strong economy requires a strong middle class here at home, and that investing in the United States, investing in factories in our Nation's heartland, is a more productive policy in the long run than encouraging investments to go to Mexico.

My distinguished colleague, the gentlewoman from Ohio, MARCY KAPTUR, has invited Carla Hills, our Nation's Trade Representative, to come to the Midwest to see some of the factories that have closed. Mr. Speaker, I recently have extended a similar invitation to Ms. Hills because I believe she should come to the portion of our country, to all parts of our country, that have been adversely affected by our Nation's trade policies in the past, and she should talk to the individuals whose jobs and lives literally were on the line.

My belief is that if we had a trade policy which was focused more on the needs here in our own country to invest, that we would build our economy, and in the long run, we would have a much stronger Nation.

I also represent a great many individuals in the farm sector at home who have seen their share of problems, because of low prices and also because of the drought this year. Later this evening the gentleman from Illinois [Mr. EWING], my colleague, will be having a special order, and he will speak about the need to pass drought-assistance legislation to help some of these family farmers.

In 1988 when we had a drought, we had the benefit of high prices. Today we have low prices on the farm, and I have a lot of farmers that are actually suffering, in worse shape now than they were in 1988. The Federal Government could take positive action to help these farmers. This House has passed a drought-assistance bill, an authorizing bill, and also a dire emergency special appropriations bill that would provide funding to make disaster payments to these family farmers who work hard, and deserve to stay in business, but unfortunately, may not be able to without some help.

I wish there were support from the administration for this disaster package. I hope there will be. The President travels all around the world. He helps people with U.S. tax dollars in other corners of our globe, yet we have people here at home who are suffering on the farm in northern Indiana who deserve help as well. I would hope if we have the funds to send overseas that we will also have the funds to help producers here at home.

Our country is a great country. We have workers in farms, and on the farms, and in the factories, and throughout our Nation, who are extraordinarily productive, yet they do not enjoy the standard of living which they should, given the resources of this country, and their willingness to work hard. It is greatly disturbing to me that in the Congress we make efforts to assist our working families, which oftentimes are frustrated by the policies of the White House.

I would hope that the White House and the Congress could work together on some of these matters, and it is disturbing that we see some good initiatives that are put forward in the Congress halted by a lack of support at the White House. My hope is that in these next few weeks and months, that we will see the attention of our Nation in Washington turn to the problems we are facing with our economy at home.

There is no question we have not enjoyed the sort of economic growth that we should. We have it within our means to make a difference, and I would hope that that challenge would be taken up in Washington so that we can have the sort of economic growth that our working families at home should enjoy.

ECONOMIC GROWTH PLAN FOR AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. FAZIO] is recognized for 60 minutes.

Mr. FAZIO. Mr. Speaker, I would like to engage in continuing dialog with my friend, the gentleman from California [Mr. PANETTA], who was indicating to us some of the statistics that portray very starkly the very slow rate of growth in employment that has occurred during the Bush administration. It really does coincide directly with the slow growth in GNP during the same period of time. In fact, I was looking at some data the other day that showed that President Bush is really the first President in many years to have had an average of below 1 percent GNP growth during the first 3 years of his administration.

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

Mr. FAZIO. I am happy to yield to my friend, to show what impact that has had on job creation.

Mr. PANETTA. Mr. Speaker, I thank the gentleman for yielding. The gentleman is correct, both in terms of productivity as well as in terms of growth, as well as in terms of employment, the administration has had the worst record in the postwar era in terms of achievement. They are all interrelated. Obviously if you do not have the growth, if you do not have the produc-

tivity, clearly you are not going to have the employment.

I might add that today's figure with regard to those applying for unemployment benefits rose to near 500,000, slightly less than 500,000. That is the largest we have seen in quite a while in terms of those applying for extended benefits, and it does indicate that with regard to this employment picture that we are looking at unemployment that is going to continue to remain high or relatively high we estimate, according to our economists, for a 2-year period. That could be devastating to those individuals and to their families and to our economy.

Mr. FAZIO. Mr. Speaker, if my friend would yield, I think it is important we put this in the context of the promises that were being made by this administration. Just over 3 years ago, in August 1988, at the Republican Convention, the President stood and said "My mission is 30 and 8, 30 million jobs in the next 8 years." Of course, we have seen a very, very poor performance by this administration, the poorest performance of any modern administration, of either party.

Mr. President has, of course, seen in the last 3 years only 1.2 million jobs created, and that is really only 4 percent of President Bush's 8-year, 30-million-job-creation goal.

□ 1840

Mr. PANETTA. If the gentleman will yield further, this chart also portrays that promise. Basically it says where are the 30 million new jobs?

We had the promise in January 1989 that we would see 30 million new jobs. That would essentially take us up to this point by 1997. Right now we are going down with regard to that promise at a point of only about 1,500,000 jobs that have been achieved. So the President is falling far short of it.

Again, it is an indication of the fact that the economy, productivity, growth, competitiveness, the ability to be able to get our goods abroad, the ability to be able to have the kind of growth within our economy that produces jobs, it is not there.

Mr. FAZIO. Mr. Speaker, reclaiming my time, to compound this tragedy, with only 38 percent of all unemployed Americans eligible for benefits today, until very recently this President has resisted every effort to provide extended benefits to people who were not employable or not able to find work in this economy, which showed this very weak job creation record.

So the tragedy is not just that the President has promised far more than he is producing, he as not even been willing to own up to that and provide in compensation the extended benefits that would have helped the economy and certainly helped the many millions of Americans who are totally without benefits at the same time their bills continue to pile up.

Mr. PANETTA. Mr. Speaker, if the gentleman will yield further, we have just seen in the period of the last few days the President continuing to blame the situation in the economy on the Congress. I frankly think the American public is probably tired of blame letting on either side at this point because the problem is so serious. But here you have a situation where the Congress basically says we need unemployment compensation for those that are unemployed.

Clearly these numbers reflect the huge numbers of unemployed. Yet, when we passed two versions of the bill, they were vetoed, and we were finally able to get an agreement worked out with the President for a third version that finally was accepted. But it was not as if it was a situation where the President himself had proposed the need to extend unemployment compensation.

Mr. FAZIO. Mr. Speaker, I think it is important we as Democrats get across this fact: we are not simply satisfied to extend unemployment benefits. We need to get the country growing again so that we can create the jobs that will drain our coffers far less, and in fact will help fill them again, help bring additional revenues in to help balance our budget.

We have a policy that I think the gentleman is very much in the forefront of advocating that is going to get the country moving again, a growth policy using both expenditures and tax incentives to move the country in the direction that President Bush says he wants to go in, but which so far he has been absolutely an abysmal failure in moving us in that direction.

Mr. PANETTA. Mr. Speaker, I think that is the key.

VACATING SPECIAL ORDER AND GRANTING SPECIAL ORDER

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent to vacate my 60-minute special order and be recognized for 5 minutes at this time.

The SPEAKER pro tempore (Mr. SERRANO). Is there objection to the request of the gentleman from Missouri?

There was no objection.

ECONOMIC GROWTH PLAN FOR AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. GEPHARDT] is recognized for 5 minutes.

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

Mr. GEPHARDT. I yield to the gentleman from California.

Mr. PANETTA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I think the key is that everyone is asking what can we do in terms of restoring confidence in our economy and Government? What are the key factors? What do we turn to?

The keys are essentially you have to restore growth. We have to restore jobs, we have restore basic fairness to the American society, and we are going to have to restore resources by essentially trying to implement better fiscal discipline in the country.

Obviously, economic growth is going to be produced when you begin to invest in things like education. The President talks about education. He talks about the need for reforms in education. But he never talks about the resources needed to make education better in this country.

So education, the ability to have a fully funded Head Start Program, the ability to have fully funded compensatory education programs. Those are essential to future growth.

The ability to have research and development funds expanded so that we can improve our research and development and begin to expand growth within our economy is essential. The need for an energy plan, a comprehensive energy plan, is essential to a growth strategy for this country. Yet we have not seen that kind of comprehensive energy strategy produced by the President that includes conservation, production, and the development of alternatives.

Lastly, we do need tax incentives, but tax incentives that are targeted, that are paid for, and that develop long-term strength.

Jobs is another area. We definitely need to produce jobs. One of the bills we have is the highway bill. According to the chairman of that bill, if we could pass that highway bill 2 million jobs would be created, the kind of jobs that do help try to restore the situation in our economy.

Mr. GEPHARDT. Mr. Speaker, reclaiming my time, if the chart on growth during the postwar period could be established, I would like to ask the gentleman from California [Mr. PANETTA] about that particular chart.

We have heard a lot about growth packages and ideas for growth. All of us are worried about having the kind of economy where President Kennedy once said, "The rising tide lifts all boats."

I think Democrats have always believed that in order to have the land of opportunity available for all of our people, it has to be a growing economy. That is the kind of economy where new jobs, good paying jobs, are being created.

This chart is instructive when you look and see when the growth really happened. Obviously the highest growth in the postwar period came right after the war, when troops were coming back home, homes were being built, cars were being built. We had 5.2 percent average annual GNP growth in the Truman administration. Then it

was down to 2 percent during Eisenhower, back up to almost 5 percent in those early sixties and the Kennedy years. We had the investment tax credit, we had tax cuts for the middle class.

Of course during the Johnson period we had high growth again at 4.6 percent. It was back down to 2 percent during the Nixon administration, 2.6 percent during the Ford administration, and back up to 3 percent during Democrat Jimmy Carter's administration. We had 2.9 percent during Reagan, and now, of course, the lowest postwar growth that we have ever seen.

Mr. Speaker, I think if we cannot figure out how to deal with this problem, and do it very soon, America as the land of opportunity is going to be a very, very different place.

Now we are in a recession. I doubt that we have even got 0.5 percent. In fact, probably there are negative figures there for growth and for the creation of jobs.

I think the President should have a growth package. I wish he would have had it by now. I hope that he will have one in January.

I believe, as I know the gentleman does, that we need to pass a growth package, and the Congress will take up that growth package. As soon as he has it, we will consider it, and we will try to have it on this floor as soon as humanly possible, because I think the American people are rightfully asking why aren't we having 3 or 4 or 5 percent growth as we did during the Truman, Kennedy, and Johnson administrations.

Mr. PANETTA. Mr. Speaker, if the gentleman will yield further, I think the greatest concern about this chart is that because we are at a 0.5 percent growth rate right now, and we are also at a negative productivity rate for the first time in the postwar era, negative productivity, that to begin to get our economy going again is going to take twice or three times the effort. No matter what you do on the growth front, it is going to take a lot to get us here.

Now, the problem you are having in both productivity and growth is not only unemployment, but people who are working are getting fewer wages. Let me just display that in this next chart.

Mr. Speaker, you are looking here at real average hourly earnings for nonfarm payroll workers. We again begin in 1981. You can just track hourly earnings of individuals, and you can see where they are headed right now. They are headed down, again for the first time in the postwar era, where individuals, in terms of their income, are bringing home less.

That is impacting on them and their families, and it is impacting obviously on our economy.

When the President says go out and buy a house or go out and buy a car, he has to ask these workers where are they going to find the money to do that? Where are they going to find the money to do that, when in fact they are earning less than they were in the early 1980's.

Mr. FAZIO. Mr. Speaker, if the gentleman will yield, I think it is very important to point out real consumer spending per capita during the Bush administration has not increased at all. In fact, you can see that with the average hourly earnings declining, people are having to spend their savings in some cases in order to be able to keep consumer spending at an even level.

You can see why our retail establishments are struggling, why so many elements of our economy, certainly the housing industry is stagnant or, in some cases, even declining in assessed valuation. It is because the consumer is not able to spend because he is not earning, not seeing the kind of income increases that we saw historically in the post-World War II era.

□ 1850

This administration has the worst rate of any administration since World War II in terms of real consumer spending. And that is why so many of our small businesses in this country are hurting so badly, that they are going into bankruptcy.

Mr. GEPHARDT. Mr. Speaker, I know that our time has expired. I would simply say that the gentlemen from California have been leading the effort to get our country moving in the right direction. We will be taking up the budget early next year, and I hope we can continue this discussion in the nights ahead so that we can begin trying to lay out, formulate plans that we can get a package of legislation done early next year to move these lines in a different direction, getting growth going in the United States again.

HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes.

Mr. OWENS of New York. Mr. Speaker, I would like to begin with good news. The United States Coast Guard today transferred more than 1,400 Haitian refugees from Coast Guard cutters to the area around the United States Naval Base at Guantánamo Bay, Cuba, to enable the Coast Guard cutters to continue rescue operations.

The State Department announced that 858 Haitians were transferred to the Navy vessel *Tortuga* in Guantánamo Bay, and 572 were being sent out to the base itself.

That leaves 380 Haitians still on cutters. This is good news because it represents a more humane approach to the problem of assisting those Haitians who are so desperate that they are risking their lives to flee the terror of the military government, illegal military government, of Haiti.

I think it is good news that our Government has ceased a policy of returning these refugees, political refugees, to Haiti. More than 500 have been returned already, but as a result of a court order, they have stopped returning the refugees and have started behaving like a more human democratic government.

We have begun to apply the same standards to the Haitians that we have always applied to refugees seeking to escape terror and persecution.

The policy of the United States Government is the primary reason we have the continuing turmoil in Haiti. If only we would support the democratically elected government of President Aristide, we would not have had the problem of having to accommodate thousands of Haitians attempting to flee terror and persecution. If only we had supported the man who was elected by 70 percent of the voters, we would not have a problem.

But we do have a problem. I am happy to report that we have begun to deal with that problem in a more humane way.

Mr. Speaker, at this point I yield to the gentleman from New Jersey [Mr. PAYNE] for his comments on the subject.

Mr. PAYNE of New Jersey. Mr. Speaker, let me thank the gentleman from New York [Mr. OWENS] for taking a special order tonight to dramatize the plight of people who are attempting to speak out against injustice and attempting to leave a place of persecution but who, as they have left harshness, have been treated the same way in their plight.

Mr. Speaker. I speak with a sense of outrage for the action of my Government in the treatment of Haitian refugees. For the United States, who in the past had vigorously opposed the involuntary repatriation of Vietnamese boat people by Hong Kong, to now turn our back on our suffering neighbors in Haiti, is truly an embarrassment.

I also speak to the American people in the hope that a better understanding of Haiti will bring about a wave of reaction against this inhumane and barbaric act.

Haiti is one of the most densely populated countries in the world where 10 percent of the people take home more than 70 percent of the per capita income.

These are the same 10 percent who are standing behind the unlawful expulsion of democratically elected President Aristide by the military.

Haiti is a country where 40 percent of the children are dead by the age of five. Where 20 million trees are lost each year for fuel consumption, and 10 percent of the topsoil washes into the Caribbean each year.

One may ask, "How did Haiti become such a basket case?" Let us look at history.

With World War II, the President of Haiti asked our President Roosevelt how his small country could be of assistance in this war for the salvation of mankind. Roosevelt said that the United States had suffered a loss of rubber sources through the Japanese invasion of Southeast Asia. He then asked Haiti to convert its agricultural economy to the production of trees and plants that produce latex.

Agreeing to this challenge, the mahogany trees and other forest plants indigenous to the island came down to make way for the Firestone plantations. The experimental plants to produce latex were planted, but were not successful. The Haitian Minister of Agriculture told his President that if this policy did not stop he would be sacrificing the future of his country. The President did not take his advice, and the Minister resigned his position and never served in government again.

There were other sacrifices Haiti made for our country. In our Revolutionary War there was a voluntary battalion of 1550 French Haitian volunteers that fought in the battle of Savannah. In that battalion was a black unit called a company of color.

One corporal by the name of Henri Christophe helped repel three charges from the British, was finally wounded, and returned to Haiti where he became one of the famous leaders in Haiti's slave revolt for its own independence.

This slave revolt against Napolean's best regiments also stopped the French strategy for reclaiming their military foothold in the Western Hemisphere and dominating the North American Continent through the Louisiana Territory because they could not reestablish their position in Haiti.

Haiti was then a threat to the institution of slavery in the southern part of the United States.

Haiti trained and armed Simon Bolivar so he could free South America.

This is part of the reason for the compassion of the Organization of American States to help Haiti and offer sanctuary for fleeing refugees in Venezuela, Honduras, Belize, Trinidad, and Tobago.

And yet in the face of these offers Mr. Bush's administration stated that "the absence of a sufficient safe haven option" demands that the United States Coast Guard and Navy return the refugees back to Haiti to head off threats of a mass exodus.

What Mr. Bush is really worried about is another exodus similar to the early 1980's when Haitians were treated in a different manner than Cubans. The Cubans were welcome because they were fleeing a wornout communism, while the Haitians were fleeing for their lives from a murderous dictatorship.

Cubans received preferential treatment for permanent residence status, while Haitians received Krome Prison in Florida where families were separated. Husbands from wives and brothers from sisters. Males and females were divided like in the early slave days.

Now the office of the U.N. High Commissioner for Refugees has found the courage to speak out against this current violation of the Geneva Convention, where refugees with a recognized fear of persecution are being forced to return without even normal due process guarantees.

Where is America's sense of fairness and compassion? Let us help them in their time of need like they did for us. Have we forgotten what is inscribed on the Statute of Liberty?

I quote:

Give me your tired, your poor, your huddled masses yearning to breath free, the wretched refuse of your teeming shore. Send these, the homeless, tempest-tost to me. I lift my lamp beside the golden door.

Or, do we remember the Willie Horton's, the David Duke's, and others who are beginning to symbolize our new domestic order.

It is inconceivable to me to think that any career diplomat, or State Department official who has dedicated his or her life in service to others could order such a unhumanitarian action without orders from the White House.

Therefore, I call on President George Bush to personally explain this inhuman, racist action to the American people. So far his explanation falls far short of explaining our humanitarian responsibility, or the difference in treatment of people of color.

I challenge George Herbert Walker Bush to come to my district and explain his reasoning to the many Haitian groups I have to, or to the black, white, Hispanic, and Asian constituents that have been in touch with my office.

□ 1900

Once again, Mr. Speaker, I am happy that the Government has temporarily reconsidered its policy. But I am giving my statement here tonight because I am hoping that they will not rethink it as they did yesterday, sending out an executive order that appeared in the paper today, but then before noon rescinding it.

So in this ball of confusion I am asking that our Government do the right thing, the humane thing.

Once again, I appreciate the gentleman from New York taking the time in this special order and for allowing me time to express myself.

Mr. OWENS of New York. Mr. Speaker, I thank the gentleman from New Jersey, and appreciate very much some very important background information he gave us about the long-term relationship between the United States and Haiti.

The United States and Haiti have always had a close relationship. Unfortunately, Haiti has usually been the victim in this relationship. No other country is allowed to establish a base of influence in Haiti. We would not allow the French, for example, who speak the same language as most Haitians, to establish a base of influence. Our country has always jealously guarded its prerogative and insisted that Haiti follow certain kinds of lines of development that we set down.

What has happened in Haiti over the years has been very much influenced by the government in power in the United States. Nothing really takes place of a significant nature in Haiti that is not, in some way, influenced by what happens here.

That includes military coups. When the military, which is trained by the U.S. Government, which is paid for by the U.S. Government, when they decide to stage a coup, they either stage it in complicity with the U.S. Government or because they have received certain signals from the U.S. Government. The present dilemma, the present problem with respect to President Aristide is directly related to the kinds of signals that the State Department and the U.S. spokesmen sent with respect to the Aristide government. Criticisms of Aristide, condemnations of his so-called human rights policy, disapproval of his economic policies, foot-dragging by our Government were all signals that were sent to the Haitian military. They felt they had an opportunity. They moved because they thought they would receive the approval of the U.S. Government.

After the military takeover, after the bandits and the thugs with guns had marched through the streets and randomly shot down citizens, after they had forced Aristide out by gunpoint, our Government began to speak with a forked tongue. On the one hand they joined the other countries of the Organization of American States in condemning the military takeover. On the other hand, they criticized Aristide for his human rights record, and they made remarks which indicated that they did not approve of this method of governing. They wanted him to be more conciliatory toward the opposition.

Here we have the irony of a President who is elected with a little more than 50 percent of the vote lecturing to a President who was elected with 70 percent of the vote and telling him that he should be more conciliatory toward the opposition, while the same President of the United States has just completed his 24th veto, has just vetoed a 24th bill passed by the Congress of the United States and exults in that victory. Does this seem to be a man who believes in working with the opposition? Twenty-four vetoes. He has never lost a veto since he was elected, and he lectures to

the President of Haiti that he should be more conciliatory toward his opposition, and he uses the fact that the President has not been conciliatory toward his opposition as a rationale for not being more forceful in insisting that Aristide be returned to power.

That is the wrong signal to send to the military bandits. The thugs with guns feel that they can hold out forever as long as the United States is speaking with a forked tongue.

Then we have the phenomenon of Haitians who were so desperate, and only very desperate people would brave the elements and brave the waves of the ocean in order to escape in boats that are rickety, very poorly put together, risking their lives, only very desperate people would dare attempt to get to the mainland of the United States in this manner. So obviously they are desperate, obviously they are fleeing political persecution. Yet our Government insists that they are economic refugees and they are leaving the country only because they want to seek better conditions economically.

How do we explain the fact that during the time shortly after the election of President Aristide, the number of people who were interdicted, picked up in boats by the U.S. Coast Guard, went down almost to zero, that despite the economic conditions, despite the fact that nothing had changed for the average Haitian with the election of Aristide except the fact that they had a democratically elected government, and they had hoped for the first time that there would be a new deal for them, and they stopped seeking to escape? The military government of Haiti has shot people down in the streets at random because they wanted to make a point. They wanted to cower the population.

One person who was killed was a constituent of mine who happened to be in Haiti because he was operating a business that was set up shortly after President Aristide was elected. By accident, misidentification, he was identified wrongly, he was hauled out of his bed, beaten by soldiers and killed on the way supposedly to the hospital. This is just one example. There were 300 cases of such murders admitted by the official news agency in Haiti. We have sources that make it clear that more than 1,000 people have been killed this way. People are forced to leave their houses and sleep in the bushes in order to escape the terror of the soldiers at night. Certain towns have been marked, and soldiers come through in order to cower the population, and just shoot people at random. So there is a reign of terror, and people are seeking to escape that reign of terror, and we have instituted an inhumane policy until recently.

As a result of the objections that have been raised on the floor of this House, as a result of hearings held by the gentleman from Kentucky [Mr. MAZZOLI], and as a result of the press finally beginning to expose what was going on, we have good news to report today: a more humane policy has been instituted, and we are happy to hear that. But is is very important that we take another step to guarantee safe haven of all of the Haitian refugees here in this country.

Mr. Speaker, I yield to the gentleman from Detroit [Mr. CONYERS] for a statement on this matter.

□ 1910

Mr. CONYERS. Mr. Speaker, first of all, let me say that the gentleman from New York [Mr. OWENS] has been a stellar leader in this matter. I was able to sit in on the hearings of the Subcommittee on Immigration and was very impressed by the gentleman's leadership, and in calling this special order tonight as well.

Let me be very brief. The question is what can the wealthiest Nation in the world do to help the 6 million inhabitants of the poorest nation in to world? I would like to make some suggestions.

The first is that we suspend the only migrant interdiction treaty that exists between the United States and any other country in the world. That is the one that was entered into by our country and the former dictator, Mr. Duvalier, in which they gave us permission to pick up those in their own waters who were attempting to leave. I think that is a very important first step.

There are other considerations that are very important. I would like to suggest them to the gentleman from New York and to the subcommittee chairman, the gentleman from Kentucky [Mr. MAZZOLI] who is also on the floor.

First, staying the deportation of Haitians who are currently under orders to be deported from the United States.

Second, processing refugee applications in Haiti.

Third, granting temporary protected status to Haitians in the United States.

Fourth, processing all Haitians interdicted at sea as asylum claimants.

Now, the reality of the legislative process is that there is a great likelihood that in the next few days, the Congress will have concluded its work and the gentleman's measure that he hopes to bring before this body, and my own measure, which would not have a date, but would limit the entry of granting asylum to claimants, would probably not be able to go into effect.

So I come here with the suggestion that an emergency of this kind requires a response that meets the emergency. The only way that this tragedy can be contained and eliminated, is that that conference at Cartagena, at that conference at which President Aristide will be there with the military meeting in conference with the military junta that has illegally deposed him, is that it be made clear there that this country unequivocally backs the return of President Aristide to his post as the first democratically elected Haitian President in its history, and that this not be words only, that this be a support that would be additionally backed up by the Organization of American States, and that it be made clear that nothing less should come out of that conference than an agreement on the specific return and the conditions of return of President Aristide to his rightful place as the President of his country.

Now, the reason that I threw out these other suggestions is because I am now down to this. The only way that we can get the immigration of Haitians who are now caught not only by the junta whose economy is totally destroyed, but they are also in the grips of a blockade that has been instituted. So we are talking about people choosing between a possible death in leaky boats that will be pushed wherever the wind sends them, and in which a certain number of them are doomed to death on the high seas trying to escape, or merely starving to death or being a victim of the random violence that now occurs there.

So to me we need to fashion a result that meets this emergency, and the only way, I will say to the gentleman from New York and the gentleman from Kentucky, that that can happen is that it be made clear through the OAS, the Caribbean nations, through any constellation, including the United States, that we support our friends.

Now, we send nonmilitary aid and military aid to friendly nations throughout the world. This is no time to be hung up on immigration technicalites where this is a situation unlike any that we have faced in modern history.

So I am urging that we consider supporting the immediate return of President Aristide, and that nothing less should be accepted in the conference at Cartagena that is taking place. We must get this President back into office. We must say that the most democratic event that has occurred will be completely supported, not merely through a diplomatic statement, but that we must support the return of Aristide immediately to his country, and that will halt the flow.

Quite frankly, in my examination of the problem, nothing else will. We are caught between the impossible circumstances of either opening the doors even in a suggested proposal of far more Haitians, and that number will grow if we do not act quickly, attempting to get over here by any means necessary, or that we try through a process of a time date, a fine line in which we say that everybody up to this date can stay and obtain asylum, but everybody after this date cannot.

Between those extremes of MAZZOLI and CONYERS is the return of the President with the full support of the OAS, the Caribbean nations, and the country that has an obligation to help make sure that Haiti turns around from the tragic political and economic history that is theirs, and of which we all here have some measure of responsibility.

Mr. Speaker, I thank the gentleman from yielding to me.

Mr. MAZZOLI. Mr. Speaker, will the gentleman from New York yield?

Mr. OWENS of New York. I am happy to yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, I appreciate my friend, the gentleman from New York, yielding to me.

I wish to commend the gentleman who had the interest and showed important sympathy in calling this special order, and my friend, the gentleman from Michigan, my next seatmate in the Judiciary Committee, for their outstanding testimony yesterday when we had the hearings and for their really strong support for the people who are the victims of this tug of war.

As I said earlier, in the well in a 1-minute speech, there is a human tragedy unfolding in the waters off Florida, and that human tragedy is the fact that you have something like 1,800 people aboard Navy ships, and you have to salute the work that the Coast Guard is doing taking care of the people, rescuing them from the peril at sea, but they are there in what I later called in the same 1 minute a kind of watery limbo, because thankfully, the Federal judge has said these people will not be repatriated or deported, whatever you said, back to Haiti; but that is where the order ends and the people stay aboard the ships or they are debarked momentarily at Guantanamo Bay Naval Base or someplace. Some few hundred, I think, are being sent to Venezuela for safekeeping for the moment, but those are only palliatives. These are only Band-Aids. Those are only momentary reliefs from the pain. They do not get to the heart of the problem.

As the gentleman said, I had a bill which I dropped in today which reinstates the Federal court order in statutory law which says there will be no more deportations. It also suggests that there be a temporary protective status under the 1990 Immigration Act applied to all these Haitians so that they are given an opportunity to work.

□ 1920

They are given, again, safe haven, they are given food, shelter, and protection.

The other part of my bill says that there will be 2,000 refugee numbers given to the Haitians who do qualify as refugees—and not all will, because some are economic migrants, and, as I said yesterday, some are trying to better themselves for their families, looking at the other side or the hill and seeing what the other side of the hill looks like—but the fact is that those who do qualify as refugees, who have a lively and well-founded fear of persecution for race, religion, social order, or political persuasion for their home country Haiti, would under this bill be granted an opportunity to get a visa number.

So this is a good bill. The gentleman's bill is a great bill.

The fact of the matter, is, time is of the essence. To flesh out the record, I called the White House again today, as I did yesterday, to see if there was some way the gentleman from New York [Mr. RANGEL] and I might sit down with the President, talk with the President, have a conference call with the President or one of his aides and see if there were not some Executive way—because, as the gentleman knows, the quickest way to solve this problem is by that Executive pen, just as the President by Executive pen can veto bills that takes years to work here on the Hill—the Executive pen can cut through all the redtape that has taken years and years to build up.

Mr. CONYERS. May I ask the gentleman if he has considered the recommendation of inviting President Aristide to come before his committee to hear the other side, the complete side of this tragedy? Not only that, I have been thinking about the Democratic caucus inviting the Republican caucus to join with us in having President Aristide come back from Cartagena to bring us up to date on this.

Mr. Speaker, I commend the gentleman for the bill he has introduced. The bill that I have here that I am not going to introduce, because I am afraid it would have a misconstrued effect in Haiti and that there would be a misinterpretation about what we are actually doing, I think again that unless we return Aristide at the earliest possible moment, that this tragedy is not susceptible to a legislative solution. Plus, the humanitarian aid that must come in the wake of the junta's devastating control over it for this period of time that they have ousted the President.

Now, it should start here, and I applaud the gentleman, the chairman of the Subcommittee on Immigration, joining us in this debate because he knows we consider him to be a friend of ours and that his concern is deep and his compassion is wise.

Mr. OWENS of New York. I think the gentleman has made some very important concrete, practical suggestions. I would also like to applaud the fact that the chairman of the subcommittee most responsible for immigration matters has taken the leadership in the past few days. Not only has he introduced legislation but he has concerned meetings with representatives of the administration, he has called hearings. I want to, on behalf of the second largest concentration of Haitian-Americans in the country, offer him my thanks and their thanks for the initiative that he has taken.

I do hope that before we adjourn we will move expeditiously to deal with the legislation that has been introduced today. I applaud the gentleman for his efforts.

Mr. MAZZOLI. I thank the gentleman very much for his compliments. They certainly are very warmly received.

The Haitian people whom I have met, some of whom were with us yesterday, are warm and very generous and decent people, just charming people to be around.

So it is a pleasure to be of some help.

Certainly, the gentleman's intention is to move the bill as quickly as it can be moved. I recognize the problem. I recognize the fact that there is a difference of opinion on whether this bill should pass, whether if it were to pass it would act, as my friend said, as maybe a misstatement of what realistically is available to the people for Haiti.

But I just cannot leave this place without having tried something to help people in that first category.

As the gentleman remembers, we talked yesterday about the two tiers, the first tier here, the tier of people who are in the emergency situation; on the boats, on the cutters, floating around in that watery limbo.

The second tier, of course, is the problem, economic, political, to solve the sending problem, the push factor that pushes the people away from their own home country.

I just do not know that we cannot try to do something for these people even though we recognize that every solution is fallible, every solution has some element that may not fit correctly into the puzzle.

I certainly join the gentleman in suggesting that President Aristide—I believe he was elected by 57 percent of the vote in the election.

Mr. CONYERS. Eighty-seven percent.

Mr. OWENS of New York. No, it was 70 percent.

Mr. MAZZOLI. He was freely elected in a democratic election, the first one in many years.

If I am not mistaken, both of the gentlemen could correct my recollection, but it seems to me during the time that President Aristide was in office, 7 or 8 months, I believe that the out-migration movement from Haiti had virtually dropped to zero.

Mr. OWENS of New York. Almost down to zero, those people who were leaving and trying to get to the mainland of the United States went down to zero.

Mr. MAZZOLI. Let me propound this question to the gentleman: I do not

think poverty was cured in Haiti in that 7 months.

Mr. OWENS of New York. Nothing happened in Haiti except the election of a democratic government, which obviously gave the people of Haiti hope and a new sense of a future.

Mr. MAZZOLI. The gentleman said that yesterday. The only change—the topography in Haiti remained the same, they had the same square meters of land, same number of people. The one thing that they did not have earlier in the elections was hope. When that hope was extinguished, the people began their journey, their sojourn began again.

So we have to do something more concrete. The gentleman is right; until the free government is reestablished, this problem will not end. But I think in the meantime we need to do something, and I hope this, or something, will be there.

Mr. CONYERS. Let me point out that there is a way that we can restore hope, in addition to any legislative process. That is to make it clear that we understand that it was the election of this President that brought hope and the way the hope will be restored is the return of the President.

I have no idea what the agenda is in Cartegena, but the fact of the matter is that until the President is returned, hope will continue to disappear and dissipate out of that nation.

More and more people will risk their lives, some losing them, in an attempt to get over here.

So, with all deference to the legislative process, in this emergency I am hoping that more people will pick up the banner and that we get President Aristide over here. If there is something missing in the analysis, that he be restored as quickly as possible, with the support of the OAS, the Caribbean Governments, and this Government making it clear—making it clearer that we want him back in power, then we will see the end of this watery limbo that the gentleman so accurately described that will not not only be ending but will be continuing to get worse as the economic circumstances worsen in Haiti.

Mr. MAZZOLI. The gentleman brought up earlier the question of the embargo. I think both gentlemen yesterday accurately pointed out that the targets of the embargo, which would be perhaps the people who supported the junta, the takeover coup, are not really very much affected by the embargo. Basically speaking, they have theirs and they are not really too seriously discommoded by this embargo.

But who are put at risk? Who are deprived of water, electricity, food, shelter, jobs? It is the very people that we are talking about today, whose brothers and sisters are on those cutters in the Windward Passage. In effect, the embargo ought to be reexamined. That is one thing that the President——

Mr. OWENS of New York. If I may explain to the gentleman, I represent large numbers of Haitian-Americans, and we have communication lines into Haiti. They think it is very important that the embargo continue, and that the embargo was undertaken because it sends a message that there is real concern.

It sends a message that the outside world does disapprove, and the majority of the Haitian people have suffered for a long, long time and do not find the degree of suffering has increased so much as a result of the embargo. They would like to see the kind of solution that is being recommended here, and I think most Members of Congress agree the best solution is to return Aristide to power.

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Mr. Speaker, there is not much disagreement in the Congress. The problem is with the administration, and the fact is that they have double-talked on this situation, and, while they themselves have endorsed the principle of returning Aristide to power and agreed to support the position of the OAS, they made comments on the side, and even the President himself has criticized Aristide in ways which have strengthened the resolve of the junta to hold out. Until we end the duplicity and talk with one voice, speak with one voice from the United States, I think we are going to have trouble with the military government cooperating with the return of Aristide to power. That would solve all the problems on a long-term basis. The immediate problem we still have.

As I said before, I congratulate the gentleman from Kentucky [Mr. MAZZOLI] for his speedy action, and I think that pressure has been brought to bear by the Congress, which has led the media to take an interest in the problem and has also led to the improvised solution that the administration has developed becoming more humane and making more sense.

Mr. CONYERS. Mr. Speaker, if the gentleman will yield, I am glad to know that there is more support for our proposal than I have heard in the Congress. I know of members of the Congressional Black Caucus, and I know of several Members on the Subcommittee on Immigration that do more than give lipservice to the return of President Aristide. But there is a difference between hoping that and accomplishing that President Aristide be returned and taking the definitive action that will ensure his return.

Now I am not talking about a theoretical change of heart from the junta. I am talking about the junta getting a message. I do not have any idea how many Members of Congress the junta thinks wants Aristide returned. They certainly have not gotten the message from the President of the United States, and it seems that within that ambit there is a role for the Congress to make itself more clearly heard, and that is the virtue of this special order which the gentleman from New York [Mr. OWENS] has taken and which, to me, not enough Members of Congress had the opportunity to participate in.

Mr. Speaker, I think it is far from clear, in my judgment, if I had to say how many Members of Congress are willing to back my proposal of getting this issued raised at Cartagena. I do not know what the count would be, and I think that, until we address that as forcefully as we can, as the gentlemen here in this special order have, that we will be grappling. We will be doing the best we can, but the legislative solution now takes a back seat to giving the kind of impetus to the executive branch that will lead them to give the signals to the Organization of American States, to the Caribbean Association of Countries, and to that conference going on in Colombia right now. That is where we might be able to work a solution that will make all of our legislation at least temporarily unnecessary.

Mr. Speaker, I thank the gentleman from New York [Mr. OWENS] for allowing me to make this contribution.

Mr. OWENS of New York. Mr. Speaker, I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, there are a couple of things the gentleman from Michigan [Mr. CONYERS] has just said that I thought were worthy of note, and that is the idea of trying to bring influence, political, moral, and otherwise, on the participants, whether OAS or Caribbean Basin or whatever, in trying to make sure they support the return of the freely elected President, and two things strike me.

One is, of course, the fact that Secretary Baker is a very able man and very hard-working and very talented, and it is possible that somehow he might be able to, or someone from the State Department at a high level could be able, to be present in those meetings or perhaps be involved somehow with them. That would obviously raise the stakes, would raise the tension point, the boiling point, if my colleagues will, and I think it would be constructive.

Mr. Speaker, I believe everyone in the Chamber salutes the President for the moral leadership which he showed during Desert Storm, the way that he was able to rally nations that had never been in the same tent together, at least in recent time, and he was able to work, somehow, a common cause with all these disparate nations and disparate groups. It strikes me that somehow maybe the President, and I realize how intensely busy and difficult these days are, but maybe somehow he could try to rally the same kind of support within these regions, the hemisphere nations, on behalf of the simple

proposition that at least the people in such extreme situations, the people who are in such difficult situations currently, the ones on the boats, the few that are still on the land; it just seems like something very, very quick could be done for those, and then to try to move to a more substantive conclusion.

Mr. Speaker, I thank the gentleman from New York [Mr. OWENS]. I appreciate his taking this special order.

Mr. OWENS of New York. Mr. Speaker, I thank the gentleman from Kentucky [Mr. MAZZOLI] for his leadership on this matter, and I thank the gentleman from Michigan [Mr. CONYERS] for the concrete suggestions that he made, and I hope in the next few days we can, in addition to all the efforts that have been undertaken to date, seek to increase the pressure and the exposure of this problem by undertaking some of the suggestions made by the gentleman from Michigan.

The Haitian National Assembly today reversed its earlier decision not to meet with Aristide at Cartagena to negotiate his return to Haiti. Six to eight members of the Parliament will be going as a delegation to meet with Aristide tomorrow, and the talks will be mediated by OAS Representative Decampo. Aristide says that if he is reinstated, he is also prepared to make concessions, including naming a new Prime Minister and inviting the opposition into his government.

Mr. Speaker, that is a good note to close on, but I do fear that, given the nature of the military junta, given the desperate tactics that they have undertaken to date, given the fact that an element that is never mentioned here is the fact that the military often is involved with drug running and they receive a considerable amount of income from running drugs, they seek to desperately hold on to power for that reason. Given all these factors, these talks may not go well. We may need to continue to apply the maximum amount of pressure from Congress that we possibly can apply to the administration so that our administration will take a stronger and clearer stand.

Mr. Speaker, the key to the resolution of this matter is in the White House and the State Department. If they send a clear message to the military bandits in Haiti that we will not tolerate the depositing of a duly elected President any longer, I think that we will resolve this matter. The policies of the United States Government are the most influential factor in determining what happens in Haiti. We can change this tragic situation by insisting that the rightfully elected government be returned to power.

Mrs. LOWEY of New York. Mr. Speaker, I rise to join my colleagues in calling on the administration in the strongest possible terms to reverse itself and provide sanctuary to Haitians who are fleeing that island nation for safety. The military coup which stole from the people of Haiti the democracy they have sought for decades is illegitimate; it is immoral; it is cruel. The people of Haiti are suffering economically, but also through the loss of liberties.

Immediately after the coup, I came to the well of the House and called on the administration to move aggressively to return President Aristide to office. I commend the fact that the administration has worked with other nations in the hemisphere to isolate the harsh regime which has taken power. The measures which have been taken against Haiti are harsh, there can be no doubt about that. But strong action is necessary if we are to restore to the Haitian people the freedom and democracy they have given so much to secure.

It is clear that those who have stolen control of that nation have no concern for their own people. I have a very good friend from that nation, and she tells me that it has been weeks since she has been able to reach her mother. Furthermore, whenever she has been successful in contacting a friend or relative in Haiti, they have repeatedly said, "I cannot talk. I cannot talk. I may be hurt." From those messages, there can be no question at all about what this regime is up to. Today, repression and violence have once again taken over Haitian society. The Haitian people live in fear.

To have heard the administration say that they could not permit those who are fleeing to have temporary asylum here because they are fleeing economic, not political repression leaves me wondering if our State Department has made any attempt at all to understand what is happening to the Haitian people. I call on them to look, to listen to the Haitian people and to realize that they want democracy and freedom.

Many of the Haitian people are being imprisoned in their own land. Why? Because they want to live in freedom. After decades of totalitarian rule, Americans praised their resolve in successfully holding the elections which led to President Aristide's election. Now, we have a responsibility to stand with the Haitian people. To work to restore their freedoms, and, in the meantime, to adopt policies which provide the Haitian people help and safe haven.

Mr. TOWNS. Mr. Speaker, I want to thank the gentleman from New York for bringing this important issue before us today on the current United States immigration policy toward Haitian refugees.

As you are well aware, Mr. Speaker, for the last 10 years, this Congress has had under review United States immigration policy toward Haitians. During that time period, the Congressional Black Caucus hoped that various policy and legal changes would provide equitable treatment for Haitians who fled to our shores seeking refuge. Tragically, regardless of the administration in the White House or the laws on the books Haitians have continually faced discriminatory treatment.

The 1980 Refugee Act established a uniform standard for refugees and political asylees: "a well-founded fear of persecution * * *" We removed the requirement that you had to be from a Communist country in order to be admitted as a refugee into the United States. Yet, despite this change in our refugee law, Haitians still found themselves denied due process and jailed in Federal prisons around the country while Cuban refugees were welcomed into Miami. Even with the government's designation of "Cuban-Haitian entrant" status, Haitians still found themselves without the same benefits as Cubans with this same status.

It was certainly our hope and expectation that the election of President Jean-Bertrand Aristide would bring democracy and social justice to Haiti and thus end the necessity of Haitians to flee their homeland. During the first months of President Aristide's term of office, we in fact saw fewer Haitian boat people. The recent military coup has again increased the flow of Haitian refugees. In other instances, where there has been civil strife, we have permitted the nationals of those countries to enter the United States and be processed for political asylum or to be given the temporary status of extended voluntary departure. We have done this for Poles, Nicaraguans, Lebanese, and most recently Palestinians from Kuwait. We even permitted Ethiopians to remain here under extended voluntary departure for a short time before an effort was made to revoke their status in 1981.

The case of Ethiopians illustrates the problem currently faced by Haitians. Despite the continuing political conflict in Ethiopia, the previous administration sought to revoke extended-voluntary-departure status for Ethiopians. No one ever gave an explanation for this change in policy. It was only through the bipartisan efforts of Congressional Black Caucus members and our former colleague, current HUD Secretary, Jack Kemp, that Ethiopians were able to retain the protection of extended voluntary departure.

Was it a mere coincidence that Ethiopians, black refugees, were targeted for this change in policy? Is it a coincidence today, that Haitians, another group of black refugees, are being denied even temporary protection until the political situation in Haiti is resolved? Even the so-called regional solution to disperse some 500 Haitians to other countries, in the Caribbean and Latin America, is unprecedented and has been established exclusively for Haitians.

Unfortunately, Mr. Speaker, we do not have a coincidence. Our refugee and asylum policy continues to be driven not by equity but by the skin color of the refugees involved. It is only with black refugees that we seem committed to a policy of return despite the political conditions in their home countries. This policy toward Haitians is particularly disturbing in light of the imminent negotiations which are expected between President Aristide and the Haitian Parliament for his return to Haiti. I would ask the administration: What is the big rush? Given the deteriorating political conditions in Haiti, I am at a loss as to why our Government believed that the Haitian Red Cross was able to offer protection to the Haitians who were returned. Hopefully, yesterday's court order, to halt the repatriation process, will allow time for the administration to develop a more humane response to the current political crisis in Haiti.

Finally, Mr. Speaker, the one bright spot in this whole affair has been the bipartisan opposition to the administration's policy. I would hope that this Congress will move quickly on

legislation introduced by Congressmen MAZZOLI and RANGEL to halt this repatriation policy.

Mr. DELLUMS. Mr. Speaker, it is with pleasure that I join my colleague, Mr. OWENS, the distinguished gentleman from New York to condemn the actions of the administration regarding the ongoing forcible return of Haitian refuges into a volatile and dangerous situation. This policy is unthinkable.

If United States policy can be changed to afford refugees of other islands, countries and situations entry into the United States, why not Haitians? The capriciousness of immigration restrictions is matched with a reluctance to assist in achieving peace, justice, and tranquility.

Have we traveled back to 1980? The people of Haiti clearly were saying then, we can't live under Duvalier. Yet the United States did nothing to assist. Since the overthrow of both Papa Doc and Baby Doc Duvalier, two successive administrations have maintained the status quo through the support and recognition of several repressive military regimes.

In 1991 the people elected a President. A coup has taken place and another military government is illegally in power. The United States through sins of commission and omission, has allowed history to not only repeat itself, but also to grow and replicate itself.

When is the United States going to stop treating Haiti like the Invisible Man of the region and recognize the legitimate hopes and aspirations of a people for a democratic existence?

When is the United States going to develop a foreign policy that does more than give minuscule aid to a country in dire economic and developmental need? Haiti must be allowed to expand and diversify its economy.

Now is the time for the United States to assume responsibility and reassess its priorities. The current situation is too serious to deserve anything but a concerted and sustained initiative to forge a long term policy approach that addresses the root cause and not just the symptoms of what ails Haiti. The problems will not be rectified until the United States recognizes the legitimate concerns of the Haitian people and concretely assists in the reinstatement of President Aristide.

I join my colleagues in continuing to address this issue and to press for substantive change in United States policy toward Haiti.

GENERAL LEAVE

Mr. OWENS of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on Haiti, the subject of my special order tonight.

The SPEAKER pro tempore (Mr. SERRANO). Is there objection to the request of the gentleman from New York?

There was no objection.

REQUEST FOR EXCHANGE OF SPECIAL ORDER TIME

Mr. EWING. Mr. Speaker, I ask unanimous consent to exchange my time on my special order time this evening for that of the gentleman from California [Mr. RIGGS].

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

There was no objection.

SUPPLEMENTAL APPROPRIATIONS LEGISLATION TO HELP MIDWEST DROUGHT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. EWING] is recognized for 60 minutes.

Mr. EWING. Mr. Speaker, I have taken out this special order to bring to the attention of my colleagues an issue which most of us have not heard much about but which is critically important to thousands of families in the Midwest and throughout the country. That issue is the drought which has ravaged crops this year and the supplemental appropriations legislation working its way through Congress which contains $1.75 billion in much-needed relief for those who have been hard hit by drought and other natural disasters. As we enter the final days and hours of the first session of this Congress, I want to call on my colleagues and the administration to ensure that drought relief is delivered to those who desperately need it before we go home for the holidays. We cannot let this important measure fall by the wayside in the rush to get home for Thanksgiving. We owe it to the innocent victims of natural disasters.

The country has seen an unusually high level of natural disasters in the last 2 years—drought, flooding, freezing, and fires. While I would like to particularly emphasize the agricultural drought which has hit the Midwest and my congressional district, the disaster relief contained in the supplemental bill is important throughout the country and in scores of congressional districts. In fact, in the last year the President has declared disasters in 33 States all over the country. The Secretary of Agriculture has declared disasters in nearly every State.

In Illinois the drought of 1991 has devastated wheat, soybean, and corn crops. In most areas farmers saw only a few inches of rain all summer, and some farmers had absolutely no rain during the critical growing season. As a result, many are facing major crop losses this year and some are facing total losses. I know too many farmers who have simply plowed under this year's crop, finding it cheaper to abandon what little marketable crops they have. I've brought to the floor some photos which clearly demonstrate what thousands of farmers have to show for their efforts this year. The corn in these photos is completely useless. This summer I toured several farms throughout my 125-mile long district where producers showed me endless fields filled with corn like this.

Our State of Illinois consists of 102 counties. The Federal Government has declared 86 of those counties disaster areas for corn and soybean crops. Eighty-nine of our counties have been declared disaster areas for winter wheat crops. Every county in my east-central Illinois district has been declared a disaster area. In fact, nearly every county in the northern half of our State will suffer corn crop losses of at least 30 percent.

Now the economic experts will tell my colleagues that nationwide crop production is on the low side of average this year. But what they won't tell you is that this year's Midwest drought has been spotty. Some farmers are producing average yields, but those who have been hit by drought have been hit hard, as the photos I've displayed indicate. During the summer I toured many corn fields full of corn which looked like this. Farmers with regular production will not benefit from drought relief. Only those with major losses such as this will receive any assistance. For those hit by the drought, this legislation will not just be helpful, it will save many from going out of business altogether.

This year's drought is particularly devastating because it comes on the heels of a decade-long series of droughts. We can all remember the major wipeout of crops in 1988 and the media attention generated at that time. But agricultural producers also faced widespread disaster years in 1980 and 1983. Many of the victims of these drought years are still trying to recover from the income losses incurred during those years, and for a lot of them this year will be the last straw unless disaster assistance is passed by Congress. As a matter of fact, a farmer called my office just yesterday and said that he has been advised to file for bankruptcy if this drought relief package is not cleared by Congress. I have heard stories like this time and time again in the last several months.

In addition to income loss due to the destruction of their crops, the prices producers receive are depressed this year. In 1988, farmers with a product to sell could count on higher prices to soften the blow. This year they do not have that good fortune. Prices are at extremely low levels.

As farmers go out of business because of this series of droughts in the last 10 years, the decline in the number of farms in America will be further accelerated. A failure by this Congress to provide some assistance to those hard hit by the drought will mean that a lot more small, family farmers will go out of business in 1992. That is a fact. The economic problems in the Corn Belt has and will affect our agribusinesses and yes every merchant on Main Street U.S.A. Many of these small business may also be forced out of business.

Thousands of farmers going out of business will not only hurt their families, but I believe it will hurt our Na-

tion's economy as a whole. Farmers going out of business will not only swell the ranks of the unemployed, but the move toward fewer farms could drive up the cost of agricultural products in the long run.

Also particularly hard hit are the younger farmers who have been struggling to get started in their careers. I do not exaggerate the facts when I tell my colleagues that, because of consistent droughts throughout the last decade, we may be losing an entire generation of farmers. This, in the long run, will have a strong impact on our national economy, which is quite dependent upon our agriculture sector.

The supplemental appropriations legislation which contains drought relief funds has been languishing in the Congress for over 4 months. In that time, those impacted by agriculture disasters throughout the country have been on an emotional roller coaster as this on-again, off-again legislation has moved through the legislative process at an incredibly slow pace. As we enter the final days and hours of this session of Congress, the time has come for us to act. We would be neglecting our responsibilities if we went home for the holidays without taking some decisive action on this issue. Just as we felt the need to pass an unemployment benefits extension in order to get checks to the unemployed before Thanksgiving, we ought to be able to deliver relief for natural disasters before Christmas.

There has been a great deal of concern both in Congress and the administration about the cost of the drought relief appropriation. The dire emergency supplemental bill passed by the House on October 29 and being considered in the other body this week contains $1.75 billion for agriculture-related disaster assistance, including the drought. I do not stand here to tell my colleagues that this is not a significant amount of money. It is.

I am a fiscal conservative and do not take new spending lightly. In fact, I consider it my top priority while I'm in Congress to help reduce the level of Government spending and erase the Federal deficit. I am a strong supporter of a constitutional amendment to require a balanced Federal budget. I am also a strong supporter of the line-item veto and this week will introduce my own line-item veto legislation which would give the President the same power our Illinois Governor has to reduce spending. In all the years I served in the Illinois legislature I was one of the most ardent fiscal conservatives, and I plan to continue that philosophy in Congress.

Having said that, I tell my colleague that I do strongly support efforts to offset the costs of drought relief with cuts elsewhere in the budget. If it can be done, this legislation should be passed without violating the principles of last year's budget agreement and without increasing the deficit. However it is financed, I hope that the leadership of Congress and the administration will work together to make this critical relief a reality.

The message I hope my colleagues will receive from this special order is that drought relief is critically needed, and it is desperately needed before Congress adjourns for the holidays. I urge the administration, the congressional leadership, and all of my colleagues to support drought relief contained in the dire emergency supplemental appropriations legislation.

FARM BUREAU SURVEY SHOWS CROP DAMAGE

Irreversible drought damage to the Illinois corn crop in both northern and southern Illinois was reported in a county-by-county assessment of crop damage conducted last weekend by the Illinois Farm Bureau.

The largest area of crop damage in the state lies north and east of Interstate 74, which runs from Danville to Rock Island. Thirty-three of thirty-five counties in the region report corn yield losses of 30% or more in all or portions of the county, said Illinois Farm Bureau president John White.

Corn crop damage in northern counties is more severe in the eastern part of the region, with yield reductions exceeding 50% in portions of Livingston, Kankakee, Ford and Iroquois counties and along the Wisconsin borders in McHenry and Lake counties.

An area of southern Illinois roughly south of a line from Vandalia to Robinson also reports yield losses on corn exceeding 30% of a normal crop. As in northern Illinois, corn crop conditions are worse in the eastern part of this region.

White called the IFB damage assessment a "subjective survey" which can be used by county, state and federal officials to provide focal points for drought assistance efforts. He noted that even within these stressed areas, farmers report large variability in expected yields, with isolated pockets of more normal yields in intensely dry areas, and patches of crop damage in areas which have generally received more moisture.

White said the IFB survey showed that a change to a wetter weather pattern is needed to prevent the areas of damage to the soybean crop from becoming even larger than the area of crop damage.

IFB's assessment of the soybean crop showed farmers in more than a dozen central and southern Illinois counties expected final soybean yields to be cut by a larger percentage than corn unless the weather patterns change dramatically.

"The area of drought impact expanded after permanently damaging corn yields," White said. "Soybeans are known for drought resistance. But our members report serious damage to soybean plants has already been inflicted in the driest areas and yield potential has been cut across the state."

White said the impact of this year's drought on the net income of some Illinois farmers will be more severe than the drought year of 1988. "Because of weak demand and good crops elsewhere, Illinois farmers experiencing yield losses face cash prices for corn and soybean 15 to 30 percent below prices in August 1990. Farmer income is price times yield, both of which are suffering this year.

White also noted that reduced crops of corn and soybeans in southern Illinois follow damage to the wheat crop caused by adverse weather in June. Average wheat yields across the state were cut by 50% from excellent yields in 1989. Wheat producers also faced price reductions for poor quality grain.

[From the Chicago Tribune, Aug. 12, 1991]

RAINS TOO LATE TO WATER DOWN CROP DAMAGE

(By George Gunset)

Last week's rain put a damper on surging grain prices but probably came too late to prevent extensive crop damage from the drought that hit dead center in the Corn Belt this summer.

The drought's toll won't be added up until after the fall harvest but will include shrinking farm income, more farm failures, hard times for businesses dependent on farmer spending and a small impact on consumer food prices.

Though the rain will help the soybean crop, which was at its most critical growth stage, corn damage was beyond repair.

How badly the crops have been hurt will be outlined from field surveys for the first time Monday, when the Agriculture Department makes its August projections for corn and soybean harvests. Private forecasters have trimmed 700 million to more than 1 billion bushels off the corn crop and more than 200 million bushels from the expected soybean crop.

Crop damage has brought calls for government help. Agriculture Secretary Edward Madigan told a press conference last week that he is willing to negotiate a disaster relief plan when Congress returns from vacation next month. The Bush administration has opposed a pending bill that would provide $1.75 billion for disaster relief payments to farmers.

Even in one of the worst-hit areas, Madigan's old congressional district in east central Illinois, not every farmer is seeking relief from Washington.

"I've had two lean years out of the last four, but I had 19 pretty good ones before that," said Bob Fitzpatrick, a corn and soybean grower from Custer Park who farms 1,400 acres in Will and Kankakee Counties.

"This is a high-risk business," he said. "I made a management decision last spring not to take out federal crop insurance. I'm not crying now or going hat in hand to ask for a bailout."

Officials of the Federal Crop Insurance Corp, said they don't have 1991 totals but have been told by private insurers that coverage will be down from 1990. In Illinois, farmers took out insurance on 3.5 million acres of corn last year, compared with 4.9 million in 1989 and 1.2 million in the drought year of 1988.

Soybean figures were 1.9 million acres in 1990, 2.9 million in 1989 and 840,000 for 1988.

"It's like wrecking your car, then running to Allstate to take out a policy," said Cliff Lorick, an agency spokesman.

"A local insurance agent told me that farmers who had been carrying crop insurance for the previous two years saw the nice rains in April and decided they could avoid the expense of premiums," said Bob Dyer, manager of the Kankakee Farm Bureau.

Fitzpatrick, who can weather another bad year, acknowledges that younger farmers and those with burdensome debt loads will find it difficult to survive a severe drought so soon after the much more widespread one in 1988.

"Even good managers are going to be forced out of business because of this drought," said Dyer.

In Kankakee County, one of the worst hit in Illinois, a Corn Growers Association field

survey by five teams last Monday put the average corn yield about half of normal at 61 bushels and acre and soybeans at a minuscule 13 bushels, less than a third of normal.

"The soybean number was surprising, but rains could help increase the yield," said Fitzpatrick. "In some of my fields, though I'm always hopeful, I know it won't pay to run the combine."

The national picture is sure to be worse than the "trendline" forecast by the USDA. Based on historic trends and planted acreage, the department estimated corn production at 8.27 billion bushels, or 120.2 bushels an acre, before the drought. For soybeans, the department's trendline estimates projected at 1.97 billion bushel harvest, or an average yield of 33.6 bushels.

A survey of 20 grain analysts by Commodity News Service late last week produced an average estimate of 7.44 billion bushels for corn and a range of 7.15 billion to 7.75 billion. For soybeans, the range was 1.69 billion to 1.87 billion with an average estimate of 1.82 billion.

Meanwhile, a survey of 2,500 grain elevator managers, processors and dealers by private grain analyst Conrad Leslie indicated a 1991 corn harvest of 7.39 billion bushels and a national average yield of 109.5 bushels an acre. Leslie's survey forecast a soybean crop of 1.82 billion and yield of 31.3 bushels.

For 1990, U.S. farmers produced 7.93 billion bushels of corn and 1.92 billion bushels of soybeans. The records were 8.87 billion for corn in 1985 and 2.26 billion for soybeans in 1979.

Leslie, head of the Leslie Analytical Organization, said the reduced corn crop plus anticipated higher consumption implies a drop in supplies to 865 million bushels at the end of next August.

That would be the lowest crop inventory since 723 million bushels in 1984, which followed the drought year of 1983. Surpluses of 4.2 billion bushels cushioned the effect of the 1988 drought, but stocks at the end of the current marketing year Aug. 31 are expected to total only 1.47 billion.

The effects of the drought on the agricultural economy can be seen in projections for Indiana, the state suffering the most damage. Leslie estimated that the state's corn production will fall to 472 million bushels from 703 million in 1990, and soybean output will decline to 139 million bushels from 171 million a year ago.

Purdue University agricultural economist Bill Uhrig said at the end of July that Indiana farm incomes will be significantly lower than last year. He estimated the 1991 corn receipts would be down $300 million and soybeans by $80 million from 1990 levels.

"In addition, hog receipts was estimated to be down $70 million before the drought," he said. "With milk prices and other commodity prices down, Indiana hog farm income could be as low as that experienced in 1988."

Uhrig said that "all Hoosier farmers will be affected by the low crop production caused by the drought. The loss in crop income may range from $30 to $50 per acre to a complete loss."

The drought's final impact will be felt in the general economy. Uhrig noted that each dollar generated on the farm creates about $3 of additional purchases as it moves to manufacturers.

Joe Uhl, also a Purdue agricultural economist, pointed out that the impact on consumers will not be as severe as that at the farm level. "To get a 1 percent rise in the consumer price index, food prices must rise 6 percent. And to get a 6 percent increase in food prices, farm prices must rise 20 percent overall."

□ 1950

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

Mr. EWING. I am happy to yield to my fellow colleague from Illinois.

Mr. BRUCE. Mr. Speaker, I am happy to join the gentleman from Illinois [Mr. EWING] in his plea that we handle very quickly and expeditiously the emergency supplemental that will bring relief to farmers throughout the Midwest, particularly in the State of Illinois. I want to thank the gentleman for giving me this opportunity to speak on this important subject, and rise today to ask that there be prompt action on H.R. 3454.

In July of this year I had a chance to return to my district in central Illinois and visit farms that had been really affected by a crippling drought this year. As I walked through very parched fields, I was left with an image of absolute crop failure. So severe were some of those losses in northern Vermilion County and Champaign County, that reductions of crop yields of up to 50 percent were not unusual.

A 400-acre farm in Vermilion County averaged a pitiful 7 bushels per acre of corn. A young farm wife and mother visiting Washington this summer brought me some of the corn that they were producing in that part of the State. A normal year it would be as big around as your wrist and 12 to 14 inches long. Ears like this is what I found when I walked around in fields in Vermilion County.

The 1991 crop is a disaster compared to any earlier crop. It does not stretch the imagination to know the hurt that is going on in central Illinois and in areas of the State and areas of the Nation where farmers are getting these kinds of yields.

The farmers of my district, the farmers of Illinois, the farmers of this Nation provide the best food supply to the world. They are the world's providers. They do it at a very economical cost.

American consumers spend about 11.8 percent of their disposable income on food. We provide, the Congress in joint operation with the President, assistance to the Kurdish rebels, to those who have suffered in the monsoons in Bangladesh. In their times of devastation we have reached out.

Today we have added Russia to that list. It appears without help Russia will, in fact, run out of food this winter. It is commendable that this Congress and the President and our farmers are willing to share their bounty with people around the world in times of distress.

But we can ill afford to let our own source of bounty, America's farm families, stand alone in their times of distress. It is now time to take care of the people who produce the food that we send to those other countries. The people who have helped those who are hurting around the world are now hurting themselves. It is time to take care of some of our own.

As the gentleman from Illinois [Mr. EWING] has indicated, we are trying to conclude this Congress and go home for Thanksgiving. We will celebrate at tables at grandmothers' homes and mothers' and fathers' homes around this Nation a celebration of our bounty that we have produced.

Let us not forget as we celebrate this Thanksgiving the very great farm families in this Nation who have provided the food for our tables who are suffering this year. We ought not adjourn this Congress without acting on the urgent supplemental to give those people belief in our system and belief in our farm economy.

Mr. EWING. Mr. Speaker, reclaiming my time, I am extremely pleased that the gentleman from Illinois [Mr. BRUCE] could join me here tonight. I would just ask the gentleman, I have prepared a chart here at the well with some of the corn samples that came probably from counties that we share on the borders of our districts in Ford and Iroquois, Vermilion, McLean, and Livingston Counties.

I would ask the gentleman if those represent some of the examples that you have seen?

Mr. BRUCE. Mr. Speaker, if the gentleman will yield, these are certainly very typical of what I found. These representations are certainly horrible examples of a good corn crop. They are very small ears. You have compared one to about the size of a can of Pepsi. That is about what I have in my hand. A normal ear would be much larger than that, almost as big around as that Pepsi can, and as long as two Pepsi or Coke cans stacked one on top of the other.

That represents for Illinois farmers, disaster. This disaster relief legislation certainly ought to be passed, because this tells us bad things have happened in Illinois agriculture.

Mr. EWING. Mr. Speaker, I found—and I do not know if the gentleman found the same thing—that this just was not an isolated ear, but we had fields of this, piles of this.

Mr. BRUCE. Mr. Speaker, if the gentleman will yield further, as I mentioned, I had one 400-acre farm in Vermilion county, a large corn-producing county, where the average yield was 7 bushels of corn per acre. Mr. Speaker, this is just a guess, but I would say the average yield in that county would normally run about 145 bushels countywide, 145 bushels per acre. That has been reduced to 7 bushels per acre on a 400-acre farm in that county.

Mr. EWING. Mr. Speaker, reclaiming my time, I understand that some of these crops where they sometimes cut them for silage, because of the chemi-

cals used and the fertilizers they were unable to even harvest them for silage. The reason is because when the crop is suffering under drought situations, it takes the chemicals up into the plant and makes it toxic to the livestock. So they could not even cut it for silage or for feed.

Mr. BRUCE. Mr. Speaker, in many areas farmers trying to salvage a crop, when cornfields are so low, will chop the stalk up to feed livestock and create silage. The stalks were so dry and brittle they had not filled out at all and many farmers, after they started to chop the silage, just gave up. The quality was low, the protein content was very low, and the uptake of chemicals by the plant trying to survive was such that it would not have been, in some instances, a healthy feed for the animals.

So not only did they lose the corn crop, but they lost any possibility of using that stalk as feed for their livestock.

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

Mr. EWING. I yield to the gentleman from Indiana.

Mr. ROEMER. Mr. Speaker, I would just like to say, first of all, I salute both gentlemen for their interest and leadership in bringing this plight of the farmers throughout the Midwest to the attention of the Nation and hopefully to the Secretary of Agriculture and the attention of the President and the Senate. I salute and commend both of you.

I would like to say that this drought is not particular or specific just to Illinois. My farmers in Indiana have been going through a particularly difficult time this summer and fall.

The gentlemen from Illinois talk about the examples in Illinois, about way reduced bushels per acre. Many of my farmers, Dwight Ennis, Jim Whitmore, Tom Bradford, were the other day talking to me about 10 and 20 bushels per acre, when they were getting 120 last year and the year before.

□ 2000

Devastating to our middle class and family farmers throughout the country, just devastating.

As we go on to celebrate Thanksgiving, as we look, as the gentlemen were just talking about, to helping out the Soviets, both with a free market system and democracy. If we want to continue to sell them grain, beans or corn or wheat in the future, we have to have our middle-class farmers vibrant, alive, and healthy to be able to help in this spreading of democracy around the world.

So I would like to salute both of you for your interest, join in your efforts here tonight to try to get help for our farmers, who, when we walk through a cornfield, usually it is towering above you and now these days, as the gentlemen both know, it brushes up against your knees, in addition to seeing the tiny production that we are seeing, usually smaller than a can of Pepsi.

I join in the efforts to bring this to the attention of the Senate and the administration, and I hope we act quickly. I have enjoyed working with both of the distinguished gentlemen from Illinois, Mr. BRUCE and Mr. EWING, in trying to get the Nation's attention and the administration's attention on this.

Mr. Speaker, I would first like to recognize the fine leadership of Congressman EWING and our colleagues in bringing this important issue to the attention of Congress and our Nation today.

Mr. Speaker, a lot of pressure was put on Congress last week to quickly pass an extension of unemployment benefits so that many of our consitutents would have needed unemployment benefits in time for Thanksgiving. I supported that measure.

I stand here tonight to bring your attention to another group whose Thanksgiving will be less than plentiful if we do not pass the dire emergency supplemental appropriations conference report by the time we adjourn this year, America's farmers. This is not the first holiday that will be less than celebratory for farmers in my district.

The drought that hit Indiana last summer made the Fourth of July a time of worry and prayer for rain, Labor Day a time of distress and disappointment over the loss of crops, and the Halloween season a time of anxiety and frustration over how to repay operating loans coming due.

Now, as we quickly approach the most uniquely American holiday, Thanksgiving, we are poised to deny the very people who provide our holiday bounty the same for their families.

Mr. Speaker, in my home in the Third Congressional District of Indiana, several farmers are not faced only with the problems caused by the drought. The drought was an agonizing addition to a host of obstacles. For example, Mr. Dwight Annis of North Liberty, in addition to getting less than 30 percent of last year's yield, is still trying to get money from the owners of a failed elevator that held his grain under a deferred pricing plan. And Jim Whitmer of North Liberty is grappling with low dairy prices and scarce hay to feed his cows while getting only 15 to 20 bushels an acre.

It is my hope that the bill the other body's Appropriations Committee favorably reported last week, which is expected to be passed by that body in the next few days, will be put on a "fast track" in the House so that a conference report can be approved before we leave for the upcoming recess.

While the administration turns out empty pockets at this request for $1.75 billion in critical aid for American farmers, they miraculously claimed to have $2.5 billion in those same packets to extend agricultural credit to the Soviet Union this winter. Though certain technological and humanitarian aid to the Soviets may be in our country's best interest, I believe that a foreign aid program of this magnitude ignores a domestic crisis that will have lasting ramifications.

Mr. Speaker, it is time that the administration stop turning its back on the American family farmer. We must support the people at home whose hard work in the valleys and fields of America's farm belt is the backbone of our quality of life.

SENATE PANEL ADDS ITS STAMP TO 'DIRE EMERGENCY' BILL

More than two weeks after the House approved a "dire emergency" spending bill that lawmakers said was desperately needed by farmers, ranchers and disaster-struck communities around the country, Senate appropriators sprang into action Nov. 15, approving a nearly identical bill that sets up a showdown with the White House.

On a 26-3 vote, the Senate Appropriations Committee approved a $7.6 billion bill for fiscal 1992 that has been languishing in Congress since July. The full Senate was expected to take it up early the week of Nov. 18.

Senate appropriations had publicly exhibited no urgency about the bill until the night before the markup, but their leisurely pace seemed like legislative lightning compared with that of the House, which had held the bill for four months before finally approving it Oct. 29.

The problem all along has been strenuous White House objections to the size of the bill, which triggered a veto threat in July when House appropriators had just begun to consider the measure. Negotiations with the administration went nowhere, and the House finally passed a $7.5 billion measure.

Senate appropriators had been widely expected to pare the bill to meet administration objections, but they threw their House colleagues a legislative curveball. Ignoring the House-passed bill, they picked up a dormant measure sent to the Senate earlier in the year (HJ Res 157), stripped it and built their own version of the emergency spending bill in the shell.

That allowed the Senate committee to drop controversial House-passed language that would have changed the way presidential candidates can get money from the taxpayer checkoff fund, a provision that risked a sure veto. "I didn't want it on our bill," said Appropriations Chairman Robert C. Byrd, D-W.Va., who added that the provision would have opened the way for tax amendments and would have provoked "a sure filibuster" on the Senate floor.

Senators did the unexpected when it came to the bill's size. Instead of scaling it back, they accepted virtually everything the House passed and added a little military spending of their own, turning the $7.5 billion House version into a $7.6 billion Senate measure. Sen. Thad Cochran, R-Miss., a committee member and a chief supporter of the farm aid provision, said the House had "sort of set the Senate up to be the heavy" by raising expectations that senators would cut the bill down to size.

Instead, most participants now expect the bill to be cut down in a House-Senate conference committee, where the White House will be a key negotiator.

WHERE THE FUNDS ARE

As approved by Senate Appropriations, the bill includes about $3.5 billion in mop-up costs for Operation Desert Shield/Desert Storm, $1.75 billion for crop-loss assistance to farmers and ranchers, $943 million to enable the Federal Emergency Management Agency (FEMA) to help communities hit by fires, floods, and other disasters, $1.4 billion for three children's assistance programs, and smaller sums for other priorities.

The Senate panel also included a provision to bar military sales to Saudi Arabia and

Kuwait until the countries pay an estimated $3.29 billion still owed the United States for expenses connected with the gulf war.

The key dispute between Congress and the administration is over how to pay for the measure. The White House wants to designate the Pentagon money and a small fraction of the FEMA money as emergency spending, which would exempt it from caps set in the budget law. All the rest would have to be paid for by cutting spending in other programs.

The House flatly rejected the offset idea, however, insisting that the entire bill be designated emergency spending. Under budget rules, both Congress and the president must jointly designate emergency spending. The administration has indicated that it would veto the House bill.

In the Senate, Byrd added a twist of his own, including language that would block spending of any of the money unless the president declared it an emergency at the time he signed the bill. That would prevent Bush from signing the measure, spending the money and then ordering an across-the-board spending cut in other domestic programs to pay for it—something he could do with the House bill.

But the language would open the way for Bush to selectively designate emergency items in the bill, letting the others expire for lack of funds.

Brock Adams, D-Wash., complained that that approach would effectively give the president a line-item veto. "He can take items and say, 'This one is funded and this one is not,'" Adams said. He added that Byrd's language was precisely what doomed Congress' first attempt to pass an extension of unemployment benefits in August. That bill stipulated that the benefits would be funded only if the president declared an emergency, which allowed Bush to sign the bill but not implement the benefits.

Byrd insisted that he was "the granddaddy of all opponents to the line-item veto." But he also signaled that he did not expect the bill to go to the White House in that form. "I am hopeful that additional amounts for FEMA and crop losses will be declared an emergency by the White House," he said.

It has been expected for months that a compromise would eventually include more emergency money than the administration wanted for FEMA and some, but not all, of the farm aid Congress has demanded. Much or all of the children's aid added in the House is expected to drop out of the bill.

Mr. EWING. Mr. Speaker, I find that the drought has not only affected farmers but agribusiness people, people who run elevators and seed companies and fertilizer. And every business on Main Street, U.S.A., whether it is in Illinois or Indiana, without some money to sustain these farmers, they are not the only ones going out of business.

I would ask the gentleman, has he found that?

Mr. ROEMER. Mr. Speaker, if the gentleman will continue to yield, the spin-off in Indiana for ancillary and directly-connected jobs and employment and revenue are unbelievably connected to the health of our economy in the Hoosier State. We are seeing all kinds of pain and suffering across our sectors because of the drought in northern Indiana and through the State of Indiana.

Also, as the gentleman from Illinois knows, 80 percent of our growth right now in our economy is coming from exports. Much of that, a lot of that is coming from our agriculture industry and agribusiness.

So we are not just talking about our farmers and our middle class families and the health of these farmers to help spread democracy, to help feed our people, to help get food in our grocery stores. We are talking about the direct spinoffs to the State economies in both Illinois and Indiana and around the country, a very, very important point to articulate.

I am glad the gentleman from Illinois brought that up.

Mr. EWING. Mr. Speaker, it is my fear that when we look at a roomful of some of our farmers in our district, we see a lot of gray hair. We do not see a lot of young men and women who are in there in the farming business. But those that are most apt to be hurt by the failure of this Congress to act and the administration to approve a crop disaster bill will be those young people who we will need to depend on in the years to come.

Does the gentleman find that?

Mr. ROEMER. Mr. Speaker, we are talking about passing on the American dream. We are talking about a family that has been successful in farming for generations, now wanting to pass this on to a young son or daughter. And when the young son or daughter sees the type of problems that their parents are experiencing in working with the Government or that the Government is not paying attention to them when they have gone through this severe and devastating drought, I think it makes it very difficult then for a young person to say, I want to go into this kind of business and spend the next 50 years here.

I just had a town meeting in a backyard of a farmhouse, not too long ago, where many of the farmers were saying, "Tim, why should we pass this on to our young people with these kinds of problems?"

I would just like to also say, too, in terms of this drought, as the gentleman from Illinois was talking about so emphatically earlier in his remarks, that this drought has affected all types of farmers. We can go from one side of a corner to another in the same county in the same city and see that while one farmer might be doing fairly well, another farmer is completely wiped out from their production the year before.

It is down 30, 40, 50, 60 percent. So I would just like to say to the gentleman from Illinois that we do have to preserve this dream for our young people, whether they choose to be a farmer, whether they want to go to college, whether a middle-class family wants to pursue a dream of being a scientist or whatever, these options have to be available. And too oftentimes now with these kinds of problems, we are seeing too many of our young people being discouraged from taking over the middle-class family farm.

Mr. EWING. Mr. Speaker, I would like to thank both the gentleman from Indiana [Mr. ROEMER] and the gentleman from Illinois [Mr. BRUCE] for joining me tonight on what I think is certainly a very, very important issue.

I would say in closing that we do have a very serious problem. I address that to the Congress and to the administration. We have low yields. We have terribly low prices for what little was produced. We have a disaster of major proportions in the Corn Belt of the Midwest, in Indiana and Illinois.

We are going to lose a lot of farmers. They are going out of business, and we are going to lose a lot of agribusinesses who supported those farm businesses.

I propose a question to this Congress and to the administration: Who will we look to to produce our food if we allow this disaster to overtake us?

In addition, we will lose a way of life which we have cherished in this Nation, a way of life which we have held out as the traditions and the values which we emulate. It is something we cannot allow to happen.

I thank both gentlemen for helping.

Mr. SANGMEISTER. Mr. Speaker, let me first commend my good friend and neighbor, Congressman TOM EWING, for scheduling this special order. Since being elected in July, Congressman EWING has established himself as a true friend of agriculture and, more importantly, a defender of the American farmer. His efforts on behalf of the agriculture community are sincerely appreciated.

When we discuss the dire need for drought assistance to our Nation's farmers, we are not talking about a bailout or another Government check for the farmers. Although I've heard such callous statements, anyone who has seen the damage this disaster has caused would agree that such cliches are a disservice to the hard-working men and women in the farming community. What we are talking about today, Mr. Speaker, are human lives. We are talking about a way of life that constitutes the backbone of our Nation's economy. Ultimately, we are talking about an obligation our Government has to assist those who, through no fault of their own, stand to lose all they have worked to accumulate.

Back in Illinois, Mr. EWING's district and my own encompass the northern and north-central parts of the State and, as I am sure my colleague would agree, contain some of the best farmland in the Nation. I am also certain he would agree this area has had its share of natural disasters in the last 10 years or so. Our districts have been ravaged with drought over the last decade—in 1980, 1983, 1988, and again this past summer.

This year's drought, which devastated my district, did not receive the same attention as the 1988 drought due in large part to its scattered pattern. Throughout the Midwest—and the Nation for that matter—there was a spattering of severe drought areas. One county may have had normal or near-normal rainfall

while a neighboring county went literally months without even a drop. I submit that this is the most devious characteristic of the drought, because it tainted Americans' perception of the problem and trivialized the need for aid.

I recognize that this drought was not on the same scale as the one we experienced in 1988. It was not as serious a problem nationwide. But, just because it did not reach the networks' 6 o'clock news every night does not mean it, or the people it has devastated, should be ignored. There is an emergency here, Mr. Speaker. A dire emergency that a majority of my colleagues in the House have acknowledged. We have approved an authorization and, last month, an appropriation to bring much needed aid to these farmers, farmers who cannot pay their mortgages or put food on the table, let alone save for retirement or their childrens' educations. A dire emergency is almost an understatement when looking at the potential damage to the thousands of families whose livelihoods hang in the balance.

When I was home in July, I visited some farms in my district to see firsthand the damage the drought had brought. The corn had no ears, the beans sagged at my ankles, and the ground was so dry you could lose a yardstick in its cracks. It was a dramatic showing. However, Mr. Speaker, the real tragedy was not found in the field, it was found in the faces and words of the farmers who gathered around me to hear what Washington was going to do to help them. These farmers were nervous and they were disillusioned. Here they were, many worse off than in 1988, and I had to tell them the administration did not consider their situation an emergency. Congress had just passed the authorization for drought aid, and I had to tell them that the chance of getting them a check was clouded by a veto threat. I had to explain that, yes, aid was given to assist the Kurds and the people of Bangladesh, but somehow, their situation did not merit similar attention. With 30 years of public service under my belt, this was not a shining moment.

Since that day in July, this Congress has made great strides toward making drought aid a reality. It may have taken 4 months, but a supplemental appropriation which included drought aid was approved by this body and was to be taken up by the Senate today. This should bring a sigh of relief from farmers and lawmakers alike, but we are still left wringing our hands over a veto threat. I hope this special order will raise awareness of the problem, and inspire the courage needed to stand up for America. I challenge the administration to take a step back and look at what happened to the farmers in my district this summer. Then tell me there is no emergency.

Once again, I thank my colleague, Congressman EWING, for calling this special order. I vow my continued support for this aid and submit that the farmers of this Nation deserve no less.

GENERAL LEAVE

Mr. EWING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore (Mr. SERRANO). Is there objection to the request of the gentleman from Illinois?

There was no objection.

THE BCCI DEBACLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. RIGGS] is recognized for 60 minutes.

Mr. RIGGS. Mr. Speaker, I rise tonight on a subject of very real importance to our Government and certainly to all of my colleagues, a subject that is very timely indeed, given the fact that this House today, after several previous futile efforts, passed a bank reform bill to recapitalize the bank insurance fund and at the same time impose on the American banking industry regulatory standards, one of which is standards that came out of the Committee on Banking, Finance and Urban Affairs hearing on the BCCI debacle.

I would tell my colleagues that the standards that we contained in today's bill regulating foreign interests in the United States will hopefully prevent a recurrence of the situation I am going to describe in some detail tonight.

My special order is specifically focused on BCCI, the Bank of Commerce and Credit International, and what our Federal Government has done or has not done with respect to investigating what has come to be known as the largest criminal organization, largest organized criminal fraud in the history of the world.

It is a story replete with examples of lost leads and very, very costly efforts on the part of our Government in terms of both protecting the American taxpayer and also, and probably just as importantly, in terms of restoring American consumer confidence and faith in our financial institutions here in the Nation, so critically important to this body enjoying rather the public support necessary to enact meaningful regulatory legislation with respect to both the banking industry and the thrift industry, but also critically important in terms of jump starting our economy and getting the economic engine going again so that we really can promise our constituents back home a period of sustained prosperity and economic growth that will hopefully lead to job creation and also promote investment and savings in American businesses.

□ 2010

Mr. Speaker, on July 5, 1991, bank regulators seized the offices of Bank of Credit and Commerce International in the United States, Europe, and other parts of the world. The closures have been followed up with enforcement proceedings against the BCCI parent company or holding company, BCCI Holdings of Luxemburg and subsidiary banks for violation of United States banking laws. These closings have also been followed by racketeering charges brought by the U.S. attorney in Tampa, as well as an indictment by a New York grand jury for defrauding BCCI depositors, falsifying bank reports to hide money laundering, and various multimillion-dollar larcenies.

On September 10, of this year, shortly after we returned from our summer recess, the full House Banking, Finance and Urban Affairs Committee began hearings on the BCCI affair, concentrating on the illegal, secret takeovers of First American Bank right here in the District of Columbia, the National Bank of Georgia, CenTrust Savings Bank of Miami, FL, and Independence Bank of Encino, CA, in southern California. We heard evidence, strong evidence that BCCI secretly and systematically infiltrated the U.S. banking system while our banking regulators and law enforcement personnel in the Federal Government ignored or just plain overlooked numerous warnings.

The Banking Committee quickly moved on to other matters because we had, when we came back in September, pending before us the very, very vexing and troublesome issues of bank reform and recapitalizing the bank insurance fund, as we did earlier today on this floor, and pumping millions more into the savings and loan industry, as we will be contemplating doing here within the remaining few days of this session. When we moved on from BCCI we did it, I hope, with the understanding that we will revisit that subject at a future date. It is one that I am terribly interested in, and frankly I am joined by just a handful of my colleagues in actively pursuing this in the U.S. Congress. I can tell my colleagues looking in and our visitors here tonight that others of my colleagues share my concerns such as the gentleman from New York [Mr. SCHUMER], who has been actively pursuing this matter through his Judiciary Committee subcommittee, as well as Senator KERRY in the other body. I certainly hope that we will be diligently and painstakingly pursuing this matter further, because I am personnally not satisfied in the least that we have even scratched the surface of the BCCI affair to date. I have written to the Banking Committee chairman, Mr. GONZALEZ, asking that we look further into the involvement of two principals in the First American takeover here, again in the District of Columbia, Robert Altman and Clark Clifford.

I am disturbed by revelations of the very close financial and personal ties between Bank of America and BCCI. I have requested that the committee probe further, that it review all of the documents that have been obtained on B of A, all of the internal documents

obtained pursuant to a subpoena issued by the Banking Committee, and we as a committee look deeper into the links between Bank of America and BCCI at a future hearing.

Recently, we have seen a flurry of legal activity. The Justice Department has filed new indictments in Florida, and a California grand jury has leveled charges. In New York State, the Manhattan district attorney continues to pursue the case, and overseas regulators in France, Great Britain, and the Cayman Islands are investigating widespread fraud, money laundering, and illegal stock manipulations. Clearly, BCCI, as we used to know it, is on the run. But I do not take much satisfaction from that fact.

I want to go back, and I have a chart here that I will be referring to as I move into my special order, but I would like to go back and really talk a little bit about BCCI, again, the largest criminal organization in the history of the world, which left in the wake of its failure earlier this year a decade of criminal activity and outright thievery. BCCI was founded in 1973, and early on it gained a reputation for shading dealings. Yet, despite continued evidence that it was in fact a widespread organized criminal operation, and information that it had infiltrated the American banking community, it had been operating, or had been prior to its takeover or shutdown, it had been operating in the United States for almost 10 years under the cover of its illegally owned American banks. And despite the fact that it was criminally indicted for money laundering in 1988, a number of this country's most prestigious banks, including the Bank of America, Security Pacific, and the Bank of New York continued corresponding relationships which offered unlimited opportunities for BCCI and its criminal customers to hide their illegal and ill-begotten funds.

Too often in the past we have thought of white collar crime as a relatively harmless activity. The bright guys occasionally get caught, and sometimes actually go to jail, but nobody really gets hurt, and the money damage is so spread out that the average citizen does not feel the pain. I am here tonight to say that in the case of BCCI and in the case of the savings and loan scandal that myth is rapidly dissipating. We all know that this Government is going to be financially saddled for generations to come because of the $500 billion-plus cost of the savings and loan bailout. And we are all awakening to the toll in terms of the lost public faith in government officials who turned a blind eye and who in fact in some cases personally benefited, and in financial institutions in general.

The BCCI scandal takes financial chicanery to a whole other and new dimension. The damage BCCI has done to thousands of people is immeasurable, and in fact has continuing international consequences. The most obvious victims of BCCI are the thousands of customers around the world who have lost approximately $12 billion in deposits. Some of those customers are very close here to home. Just in today's Washington Post in their business section they ran an article indicating that First American Bank here of Washington, DC, as I have mentioned earlier, as we have come to know now which was illegally owned by the Arab investors behind BCCI, lost $1 billion during its fall quarter and had a drop in terms of total assets of 12.3 percent. Clearly that institution is on the financial ropes as a result of its infiltration by BCCI.

The most obvious victims, as I have mentioned, are the depositors. But we can count those who are affected by the $1 billion drug deals financed by BCCI as victims of their activities as well, both those who are tragically addicted to the drugs of cocaine and heroin, and the victims of violent crimes perpetrated by desperate drug users and rival criminal gangs.

BCCI, the Bank of Criminals and Corruption International, was in reality a full-service bank for drug traffickers. It financed the drug transactions of Latin American drug cartels, laundered dirty money, and made it possible for drug traffickers to invest in legitimate businesses.

Add to the list of victims innocent, ordinary people living in unstable regions of the world where BCCI financed arms deals for militaristic and radical regimes, and promoted terrorism by extension. BCCI financed the purchase, sale, and delivery of illegal arms to Saddam Hussein. It assisted a Pakistani arms dealer via letters of credit and monetary transfers in smuggling weapons to Iran. It facilitated arms deals to Arab terrorist organizations, and it may have even formed a network, and this is almost mind-boggling, to purchase components for the construction of a nuclear device in Pakistan, a so-called Islamic bomb that would turn the Fundamentalist Islamic government of Pakistan into a regional superpower.

□ 2020

BCCI as it turns out was the favored bank of some of the world's major league thugs, including in addition to Saddam Hussein, Manuel Noriega, and Ferdinand Marcos. The friendly and accommodating bankers of BCCI helped these dictators loot their treasuries by developing numerous complicated transactions involving the use of shell companies that obscured the dictator's selfish intent and allowed them, frankly, to hide money away in secret accouts.

In Third World countries, the basics of survival are enough food, clean water, and sanitation. I wonder what kind of suffering resulted when government moneys were redirected by BCCI into these strong men's secret accounts?

Robert Morganthau, the Manhattan district attorney who is diligently prosecuting a case against BCCI and who has accused the Justice Department of noncooperation, even obstructionism in the matter, says, and I quote:

> The BCCI was operated as a corrupt criminal organization throughout its entire 19-year history. It systemmatically falsified its records. It knowingly allowed itself to be used to launder the illegal income of drug sellers and other criminals and it paid bribes and kickbacks to government officials.

And those are officials perhaps of our Government as well.

> The corporate structure of BCCI was set up to evade the national and international banking laws so that its corrupt practices would be unsupervised and remain undiscovered and the defendant systematically falsified the capital structure of BCCI to make it appear as though it was a solvent profitable bank secured by the backing of wealthy businessmen from the Middle East.

Mr. Morganthau continues:

> In fact, much of the bank's capitalization and assets were fictitious and its backing illusionary. The defendants created the appearance of respectability by persuading world leaders to appear with them and defrauded thousands of depositors, both small and large, who relied on that appearance of respectability.

BCCI worked hard to earn the appearance of respectability. In this country, as is well documented, it courted and contributed to some of the Nation's leading politicians, going so far as to contribute $8 million and office space to former President Carter's favorite charity. Other beneficiaries of BCCI's largess through its subsidiaries and operatives included Bert Lance, former Secretary of the Treasury in the Carter administration; Andrew Young, former Ambassador to the United Nation; and John Connelly, former Secretary of the Treasury, all officially honorable men, all men certainly with influence close to the centers of power.

Respectability. Last September I sat in the Banking Committee hearing room and listened to Robert Altman and Clark Clifford, two very respected members of the Washington establishment who were top First American officers, deny participating in or even knowing about the BCCI takeover of their bank.

I was struck with the deference that many members of the committee displayed to these men, even after being presented with evidence that shredded whatever credibility that they may have with respect to their repeated denials of culpability.

Robert Altman and especially Clark Clifford are both respectable men, the kind of men other respectable men and women are reluctant to question. It is

especially disturbing that Mr. Clifford, the former Secretary of Defense and adviser to numerous Presidents, appears to be implicated in the illegal takeover of First American Bank.

It is more disturbing, however, that there is little interest here in official Washington in examining Mr. Clifford and Mr. Altman's role further, even after it was suggested to the Banking Committee that Mr. Clifford may have perjured himself for the committee on the basis of testimony that he had submitted earlier to the Federal grand jury here in Washington investigating the failure of BCCI of Washington.

Mr. Clifford was paid only $50,000 annually for his chairmanship of First American, yet he and Mr. Altman collected millions as attorneys representing BCCI from 1978 to 1990, and by representing First American, and according to published reports took home several other million dollars made—now get this, by selling stock in the First American Bank that they were able to purchase with a 100-percent nonrecourse loan made by a BCCI subsidiary in the Cayman Islands.

Mr. Clifford repeatedly told the Federal Reserve in 1981 that no relationship existed then or would exist in the future between First American Bank and BCCI. The Fed apparently was satisfied with his claim that the bank was owned by Middle East investors, and despite repeated warnings from many sources, never probed deeper.

It was not until this year that overwhelming evidence from Morganthau persuaded the Federal Reserve that First American Bank of Washington, DC, was in reality a BCCI subsidiary.

Mr. Clifford, now at 84 years of age and certainly deserving of a great deal of respect and even gratitude from the Nation for his service to this Nation, says that he was duped. He says, "If the Federal Reserve was duped, then so was I."

That remark brings the blame full circle, for bank regulators say today that they trusted Mr. Clifford's repeated assurances that BCCI was not the invisible hand behind First American Bank.

Mr. Clifford was too respectable, he was too honorable a man to repeatedly over the years mislead Federal banking regulators about the true ownership of First American Bank of Washington.

Last September the Banking Committee also heard that Bank of America, one of the Nation's largest and most respected banking institutions, a bank with its headquarters in San Francisco, CA, not far from my First Congressional District on the north coast of California, had a prominent role in the whole BCCI affair. Bank of America was a founding investor of BCCI, at one time owning I think close to 40 percent of the stock in BCCI, but it sold off its shares in BCCI by the early 1980's because of, according to senior officials of Bank of America because of management misgivings about BCCI's loose lending practices and lack of internal controls.

Bank of America, however, in selling off their interest made a very hefty profit, I think in the neighborhood of 600 percent on its original investment of $5 million, and continued a corresponding bank relationship with BCCI until the day that BCCI was shut down.

During the 1980's, more than a billion dollars a day at times flowed into Bank of America accounts from BCCI. In fact, in at least two instances Bank of America acted as a middleman, a broker, if you will, for financial transactions between B and L, an Italian Government-owned bank that had a branch in Atlanta, GA, that had dealings with Saddam Hussein and the Iraqis, and BCCI.

Did Bank of America ever question whether this money that was flowing into their institution, money that frankly may have helped to prop up Bank of America during the 1980's when it, too, experienced financial troubles. Did they ever question whether or not any of those funds were laundered? If they did, did they care, did they let on to anyone in terms of Federal law enforcement officials or Federal banking regulators regarding their suspicions?

In my mind, the BCCI debacle has conjured up a terrible vision of hundreds of powerful and influential people, immaculate in their dress, impeccable in their manners, who sit at their vast desks under the gilded motto reading, "See no evil, hear no evil, speak no evil."

But such an attitude really offers no explanation why it took so long for Federal authorities to rein in this rogue bank.

I believe that if we look deeper at the clues that are continuing to surface, we will find more than one explanation. At least seven Federal agencies have a long history of involvement in the BCCI affair. They are the Federal Reserve, the Internal Revenue Service, the Treasury Department, U.S. Customs, the Drug Enforcement Administration, the Central Intelligence Agency, and the U.S. Department of Justice.

Let us take a glimpse at the record of lost leads, disregarded data, and conflicting personal policy and political interests that too often characterize the Federal effort to rein in this rogue bank.

The Federal Reserve has general oversight responsibilities for the Nation's banks. The Fed this year finally got tough on BCCI, issuing a cease and desist order and proposing a $200 million fine against BCCI for evading U.S. banking rules in clandestinely taking over First American, but this was after 19 years of lax supervision on the affairs of First American Bank.

One explanation, of course, is the political juice that flowed from the distinguished Mr. Clifford. The Fed Chairman, Alan Greenspan at the time, noted that he had socialized with Mr. Clifford and to his credit abstained from voting on the cease and desist order.

The Wall Street Journal, however, informs us that, "Many more meaningful links between the Fed, BCCI, and First American existed."

Michael Bradford, for example, was a Fed attorney who monitored the role of the Arab investors who bought into First American. Those Arab investors turned out to be frontmen, or as we heard them described in the committee, nominees and surrogates for BCCI.

Mr. Bradford left the Fed in 1989 and joined the law firm of Jones, Day, Reavis & Pogue, where he labored on issues concerning BCCI's interest in the bank holding company.

□ 2030

Two of the former Fed attorneys in important oversight positions also joined law firms which represented First American.

Robert Mannion was the Fed's general counsel who presided over the 1981 hearings in which BCCI was prohibited from becoming involved with First American.

Then there is Baldwin Tuttle, who worked in the Fed's general counsel's office, left it in 1977, and then as a private attorney helped Mr. Altman and Mr. Clifford obtain approval for the Arab investors, who again turned out to be the BCCI nominees to buy into First American.

When your former associates go to work for a bank that you are regulating, is it easier then to ignore the warning signs?

Would you, like William Rybuck, the Fed's director of bank supervision, ignore an IRS agent's revelation in 1988 that undercover agents had recorded a BCCI official boasting that BCCI secretly controlled First American, as alleged by Agent David Burris?

For all the work of individual agents, the IRS cannot escape blame completely in this matter, for BCCI's illegal activities go on and on and on.

In 1986 the IRS refused to begin a criminal investigation of BCCI despite persistent requests by the criminal investigation division, which had acquired information about BCCI's criminal activities. In 1984 former BCCI employee Aziz Rehman provided IRS agents information about deposits to a nonexistent BCCI branch in Nassau, the Bahamas, and his role as a courier of cash deposits for customers and other banks.

Mr. Speaker, based on this information, the IRS special agent recommended that the IRS launch an undercover operation, but it was denied three times by upper echelon officials.

Also in 1986, the IRS received a referral from the DEA on a large-scale heroin trafficker, Satter Nadjmehchi. Meeting with an undercover DEA agent and a BCCI official, Nadjmehchi bragged about concealing and laundering money "at a foreign bank." The IRS issued a $9.5 million jeopardy assessment against his property, but did not follow up with a criminal investigation.

Again in 1986, the Government of India provided the IRS with documents showing that BCCI accounts in a number of countries were being utilized for a multimillion-dollar money laundering scheme. India's request was handled as "a request for law enforcement assistance" but was not pursued, and there was no further followup.

In Washington in 1987, the IRS received a criminal referral from the Federal Reserve, concerning suspect cash transactions and irregular activities in BCCI Miami and Atlantic accounts.

In St. Louis, in 1988, the IRS established that Jerry Lee Harvey used BCCI accounts in Panama and the Cayman Island as part of a $60 million money laundering scheme.

The next year the IRS participated in an investigation and conviction of a million dollar plus money laundering scheme by a heroin dealer who used BCCI accounts in New York and Hong Kong.

The IRS has identified 15 separate matters in its files involving BCCI, 10 of which have been referred for criminal investigation.

I can only ask why the IRS did not pursue the early leads? Why did no one notice a pattern? The explanation, of course, is as always that the IRS had limited resources. Middle-class taxpayers who have been hounded by the IRS might take exception at that explanation.

BCCI's involvement in international drug trafficking was common knowledge within the Drug Enforcement Administration. In Washington, a DEA review of its own files has revealed 125 cases that have been identified as being related to BCCI. Most cases are undercover money laundering storefront operations which led to warrants to seize BCCI bank accounts containing suspected drug proceeds. In other words, it's common knowledge among DEA agents all over the country that BCCI is the narcotraffickers bank of choice.

The House Banking Committee has in its possession three classified reports prepared by the Central Intelligence Agency concerning illegal activities by BCCI in the 1980's.

The first report accused BCCI of manipulating international markets for certificates of deposits. The report asserted that in May 1985, BCCI bribed a key financial firm to publish false and misleading quotations to buy and sell certificates of deposit.

In September 1986, the CIA detailed BCCI's involvement in providing financial services to drug traffickers. The report was circulated to Treasury, State, and Commerce Department more than 2 years before BCCI was indicted for money laundering in Tampa, FL.

Finally, a 1989 CIA memo was distributed to several law enforcement agencies, stating, "BCCI is still trying to attract Colombians who want to launder narcodollars in Panama."

And recently, acting CIA Director James Kerr testified before a Senate panel that between 1983 and 1985 the CIA had circulated several hundred reports to Government agencies outlining BCCI's illegal activities.

In a 1985 report, according to Kerr, the CIA told the Treasury Department that BCCI secretly owned First American Bank. Treasury did not follow up on the information.

The CIA appears to have been doing its job, gathering international intelligence information and distributing it to Federal agencies. Clearly, the CIA recognized BCCI as a rogue bank. Unfortunately, it appears that the rogue had some uses for the CIA. The agency used BCCI banking facilities to transfer funds to support a number of secret operations, including the support of Afghan resistance through BCCI Pakistan. It was not until 1989 that the CIA closed its accounts. Of more concern is a published report that BCCI investigators believe that the CIA used BCCI accounts to stash away funds to illegally support the Contras in Nicaragua, in contravention of the will of this body.

So it is troubling to read that in October of this year a U.S. Customs officer wrote to Senator JOHN KERRY, chairman of the Senate Subcommittee on Terrorism, Narcotics and International Operations that in a 1988 inquiry "tons of documents were reviewed * * * and the CIA put a halt to certain investigative leads."

The first successes against BCCI's criminal enterprise was conducted by the U.S. Customs Service. From 1986 to 1988 Customs ran an undercover operation in which agents masqueraded as drug sellers eager to launder the proceeds of their endeavors. The undercover agents chose BCCI Miami branches to deposit funds that were then wired to Panama. After some time, the agents were approached by BCCI officials who told them that they knew what they were doing, and would be caught if they did not use more sophisticated methods. BCCI officials devised for the undercover agents of the U.S. Customs Service a complex series of transactions that rendered the deposits untraceable. BCCI was rewarded by larger deposits, and the agents continued to gain confidence with the bankers and, in turn, were rewarded with valuable information—which they secretly taped—about the scope of BCCI's illegal activities.

Operation C-Chase, as the undercover operation was known, came to an end in 1988 in a widely publicized bust. Unfortunately, someone apparently leaked out information that the bust was coming down and a number of drug lords withdrew millions of dollars from their accounts at BCCI just prior to the bust.

In 1989, BCCI worked out a plea bargain with U.S. attorneys and was fined $14 million. Five bank executives, implicated by the undercover operation were subsequently convicted.

There were other problems with C-Chase besides the apparent tipoff to BCCI's customers. Officials in the Customs Service have complained that inadequate resources were available to carry the BCCI prosecutions to the highest levels and furthest extent of the law. Field agents were frustrated that within 1 month of identifying high-level bank officials directly involved in money laundering schemes, top Customs officials decided to prematurely terminate the operation. In a rush to prosecute, important evidence, including hundreds of hours of tapes and boxes of documents were only quickly reviewed.

The Justice Department's involvement with BCCI began as early as 1978. From 1978 to 1981, Kidder Peabody & Co. registered itself with the Justice Department as a foreign agent. The company disclosed on registration forms that they were aiding BCCI, Agha Hassan Abedi—BCCI's founder—and three related corporations in connection with offers to purchase Financial General Bankshares, the predecessor to First American Bank. This was the first explicit warning to the Federal Government that BCCI was behind the takeover of First American, and this has been reported in media publications such as the Wall Street Journal.

□ 2040

The Justice Department failed to bring an indictment against Jordanian arms merchant and coffee smuggler Munther Bilbeisi, one of BCCI Miami's largest customers until August 1981, despite repeated warnings about Bilbeisi's activities from several sources.

The Customs Service learned in 1983 that Bilbeisi was using fraudulent bills of lading and cargo manifests to illegally smuggle coffee. Later Federal prosecutors were warned by attorneys representing Lloyds of London, which was perusing an insurance fraud case against Bilbeisi, that Bilbeisi had repeatedly violated customs laws from 1983 to 1986.

Bilbesi now faces charges of tax evasion. The statute of limitations has expired on most coffee smuggling matters. This comes after the Federal Reserve notified the IRS of suspicious deposits of money and checks into the ac-

counts of Florida offices of BCCI. After deposit, the funds were wired to Panama.

Again we have a breakdown of communication between Federal agencies.

The Justice Department is the central investigator of the BCCI case. They should serve as a clearinghouse of all information about BCCI's affairs and lead in the prosecution of the case. However, according to several officials from other Government agencies, the Justice Department has repeatedly dropped leads, failed to zealously go after higher-ups and associated officials and have even blocked inquiries by other departments and withheld information.

Time magazine recently reported that Justice investigators and prosecutors have told reporters that higher-ups at the Justice Department stymied the progress of lower-level investigators telling those investigators that "the case is political." Federal attorneys and agents are frustrated by an official line that says on the one hand spare no resources and go forward, and on the other hand, a molasses-like response from Washington to their requests.

During his nomination hearings very recently in the Senate before the Senate Judiciary Committee, William Barr, the new Attorney General, reacting to congressional criticism promised to press forward in the BCCI prosecution, and I certainly hope that would be the case, because at this juncture it is apparent that the Nation's top law enforcement agency has fumbled the ball, or, even worse yet, been sidelined in the investigation of the biggest criminal organization in history. I think similar things can be said about the other agencies involved in the case.

Pick your reason: inter- and intra-Department rivalries, incompetence, lack of resources, misjudgments, fear of upsetting confidential criminal investigations. Or is there, as some suggest large-scale influence buying, complicity in criminal activities or a desire to coverup illegal or covert operations?

Whatever the reason, I believe that the people of this country have the right to know just what happened and why, and the true extent and involvement of officials of the Federal Government in the whole BCCI affair, both the contributing causes to the affair, as well as any subsequent efforts to cover up the true magnitude of this large-scale criminal enterprise.

What kind of trust can we put in the Government of this country to protect our national security which increasingly depends on the stability of both the American and international financial system, if the biggest criminal enterprise in the history of the world has not been properly investigated and prosecuted by our Government?

For this reason I am preparing legislation that would create an outside counsel, totally independent of the executive and legislative branch of the Government with the powers to subpoena witnesses and documents and with access to a Federal grand jury to conduct a thorough investigation into the behavior of past and present Government officials. It's time that Congress takes an aggressive stance on uncovering what so long was hidden in the bowels of the Federal bureaucracy.

Let us trust the American people with the truth. Let us bring forward this information. Let us see with the light of day. Let us assess blame where blame should be assessed. Let us hold those in Government, in both elective and appointed capacities, responsible for their actions where those actions contributed to this incredible financial scandal, which again is costing the American people and those who put their faith and confidence in BCCI around the globe dearly. Let us look at this situation as we should look at all matters of this nature, with unblinking eyes, uncover the truth, and let us learn from this experience. Let us insist on full accountability and full enforcement of the law with respect to both civil and criminal penalties for those involved, and, if we have not gone far enough with respect to the bank bill that we just passed, let us further remedy the situation by passing into law those regulations necessary to prevent a recurrence of this incredible scandal.

NATIONAL TELECOMMUNICATIONS POLICIES

The SPEAKER pro tempore. (Mr. SERRANO). Under a previous order of the House, the gentleman from Tennessee [Mr. COOPER] is recognized for 60 minutes.

Mr. COOPER. Mr. Speaker, I come before the House tonight with my distinguished colleagues, the gentleman from Colorado [Mr. SCHAEFER], a Republican, and the gentleman from California [Mr. LANTOS], a Democrat, to talk about a really very technical matter, but a matter that affects the lives, the working habits and the entertainment habits, of the vast majority of American people in coming years. This debate has to do with something as simple and as taken for granted as the average home or business telephone, but this debate encompasses a wide array of future-oriented information services, those services which can be transmitted over a telephone line in addition to regular telephone calls, services, information services of the future, electronic publishing, things of that type, which will literally transform the way the average American works and plays.

Mr. Speaker, this is a debate which could well be the most heavily lobbied issue in this Congress. The economic forces on each side of this debate are huge and gigantic because the future market is so large. One estimate puts it at approximately $100 billion of new market potential that this telecommunications market provides.

Mr. Speaker, many Members of this House have been very confused by an issue of this technicality. Many members of the general public are confused by an issue of this technicality. So, I thought that we would take time tonight to try to explain some of the considerations involved.

To be brief, Mr. Speaker, these issues involved primarily how we are going to set national telecommunications policies regarding the telephone, what uses the telephone can be put to in the future, the diversity of our information sources over that phone, the affordability of those services and the enhanced productivity of the American workers as a result. It also has to do with the way we, as Americans, deal with monopoly corporations, corporations which enjoy an exclusive franchise in a particular region of our country, corporations which, with the Government's blessings, are able to send us monthly bills for just about whatever amount they want to send us.

□ 2050

To be sure, these corporations are regulated, but sometimes the regulations fall short. Sometimes these corporations are able to outfox, outsmart, outgun our regulators, whether those regulators are the Federal Communications Commission at the Federal level or the various State regulatory bodies.

This is a debate which will not, by any means, be concluded in this calendar year, but it should be concluded early in the next calendar year as Members of Congress from all over this great Nation meet with their newspaper publishers back home during the Thanksgiving and Christmas recess, as we hear from the various Bell executives and their lobbying organizations which are very outspoken on this legislation, and as the Nation itself makes up its mind on these important, but technical, issues.

I have the great privilege of serving on the Committee on Energy and Commerce in the House, which has jurisdiction over these issues. I wish all of my colleagues could have the privilege of hearing the testimony of the witnesses and exploring these issues. Unfortunately, most of my colleagues will only bear the brunt of one of the most massive lobbying campaigns in modern times.

One of the first victims of the Bell lobbying effort, I am afraid, is the gentleman from Colorado, Mr. DAN SCHAEFER, my good friend and colleague. He was brave enough to be a primary sponsor of the legislation. We joined hands across the aisle to promote the American public interest, and for doing so Mr. SCHAEFER was criticized and at-

tacked in ways that I think are probably new to American politics.

Mr. SCHAEFER. Mr. Speaker, would the gentleman yield?

Mr. COOPER. I would be happy to yield at this time to my good friend and colleague, Mr. SCHAEFER, so that he can explain some of what went on in his home State of Colorado.

Mr. SCHAEFER. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, considering H.R. 3515 was introduced just more than a month ago, it has certainly received a good deal of attention. And while as sponsors of the legislation we would like to take sole responsibility for familiarizing other Members with the issue, we can't honestly do so. Much of the credit rightly goes to the Bell operating companies.

Unfortunately, the RBOCS have chosen not to focus on the substance of the bill, but to use it as an opportunity to break new ground in the area of special-interest lobbying. Many in Washington and in my district are now aware of the harshly worded letters, radio ads, and 1-800 numbers targeted against the sponsors of the legislation. While I believe these heavy-handed tactics set a dangerous precedent and are worthy of congressional attention in their own right, we can't let lobbying become the issue. To do so would only give it wholly undeserved legitimacy.

I would like to use my time tonight to discuss the issue of Bell Co. entry into information services in the appropriate manner—on its merits. To dismiss it simply as a battle between the RBOCS and the newspapers is to grossly understate its importance and reach. The manner in which this matter is resolved will fundamentally change the way Americans receive their information. It is just that critical.

For that reason, it is an issue that should rightfully be decided by the people through their Representatives in Congress. The Bell companies once strongly shared this philosophy, until a recent court decision came down in their favor. Now they want Congress to stay out of their affairs.

But court decisions don't change the fact that it is the role of Congress to set policy. It is our responsibility to make difficult decisions, even if our actions incur the wrath of special interest groups. For regardless of the size and strength of the Bell companies, one segment of our constituencies has them vastly outnumbered—the telephone ratepayers.

It was on behalf of this large, yet unorganized group, that I joined Mr. COOPER and three other Energy and Commerce Committee colleagues in sponsoring H.R. 3515, the Telecommunications Act of 1991. This legislation, contrary to its characterization by the RBOCS, permits the Bells to enter the vast majority—an estimated 95 percent—of the information services market. Only in those areas where a particular company—like US West—has monopoly control of local telephone service would a limited and temporary prohibition on entry apply.

The reason for this stipulation is simple: Allowing those who firmly control information access to the home and control content as well is setting up a system ripe for abuse. Information service providers, many of which are small businesses, are fully dependent on local telephone service to deliver their product to customers. It would be unfair to now require these companies to compete with the very entities—the phone companies—on which their services rely.

The current marketplace reality is this: If a consumer is unhappy with a telephone he or she just purchased, there are countless others from which to choose. Or if long-distance service isn't satisfactory, he or she can opt for another. But if a business or consumer is displeased with local telephone service, there is nowhere else to go.

H.R. 3515 aims to change that. In the everchanging telecommunications marketplace, we just don't accept that a monopoly on local telephone service is an unfortunate fact of life. Our legislation knocks down many of the barriers which currently exist to competition in the local telephone exchange. There is simply no better protection for consumers than competition.

The Bells can't have it both ways. They can't expect to aggressively pursue entry into other lines of business while clinging dearly to their monopoly at the local exchange. American businesses and telephone consumers can only be protected if marketplace forces are allowed to work in each segment of the telecommunications industry. Until that point, restrictions on the RBOCS must be retained.

The effect of Bell Co. entry into information services will impact each of us. We all have a large stake in ensuring that the information we receive comes from a wide variety of sources. This fundamental right can best be guaranteed by structurally separating those who generate the information from those who hold a monopoly on its transmission. H.R. 3515 does just that.

Support for our legislation is by no means limited to the newspaper publishers, as the RBOCS would like to believe. A range of information service providers—like Prodigy, for instance—have added their name to the bill. But perhaps more important, consumer groups including the Consumer Federation of America have also endorsed the measure. Their only incentive is mine as well: to protect the telephone ratepayers from the abuses of a monopoly.

Mr. Speaker, let's set the record straight: H.R. 3515, not unrestricted Bell entry into information services, is the procompetition, proconsumer approach. But members shouldn't take our word for it, or that of the Bell companies. They should take the time to read the legislation.

□ 2100

Mr. COOPER. Mr. Speaker, I thank the gentleman for his excellent statement and for yielding back.

As the gentleman from Colorado [Mr. SCHAEFER] correctly points out, we are very proud to have the support of the Consumer Federation of America, an unbiased and objective consumer group, that speaks on behalf of the vast majority of Americans who just want affordable quality telephone service.

As the gentleman also points out, by no means are the publishers of newspapers our only supporters. There are countless businesses across this country, large and small, who want to be able to compete with Bell telephone companies on a fair basis, on the proverbial level playing field, and not to have the competition be unfair, the deck stacked against them. They just want a fair chance to compete.

To give the Speaker and the Members of this House and members of the general public a small sampling of the interests involved, most of the broadcasters of this country seem to be sympathetic with the goals of our legislation. Many of the cable television operators seem to be as well. I have certainly been a critic of their local monopolies.

Prodigy and CompuServe are two of the information services that are available today and which I think deserve a chance to grow and prosper and thrive and improve. Companies such as Dow Jones and Dun & Bradstreet are just some of the companies that have a nationwide interest in transferring information on an objective and fair basis to the average consumer.

There are a number of other companies that do not have household names, but are represented in most of the small and medium-sized cities of this country. Burglar-alarm companies, paging and answering-machine companies, even the local florist shops.

Mr. SCHAEFER. Mr. Speaker, if the gentleman will yield further, as the gentleman knows, the realtors in this country, which are certainly small businesses that rely so much on the phone and have had so many problems in the past with them, is another good example, as I know the gentleman knows.

Mr. COOPER. Mr. Speaker, reclaiming my time, the gentleman is exactly right. Virtually all businesses today rely on some form of telecommunications to conduct their business in a more efficient and cost-effective manner. They have a stake in the outcome of this legislation.

Mr. Speaker, another of our colleagues has joined us, the gentleman from California [Mr. LANTOS], who is

not only a noted expert in defending consumer rights, but human rights in general.

Mr. Speaker, we would like to hear from our colleague concerning his experiences with dealing with this issue in his home State of California.

I yield now to the gentleman from California [Mr. LANTOS].

Mr. LANTOS. Mr. Speaker, I want to thank my distinguished friend and colleague for yielding. I am very proud to stand with my two colleagues, the distinguished Republican gentleman from Colorado [Mr. SCHAEFER] and the distinguished Democrat colleague from Tennessee [Mr. COOPER], because this surely is a nonpartisan crusade that we are engaged in.

I would like to deal with two entirely separate issues very briefly. First I would like to say a few words about the substance of this legislation, which I have studied as a professional economist, I believe one of the three professional economists in this body.

Second, I would like to deal briefly with the absolutely gutter-level lobbying tactics of what we used to call Baby Bells, but what should be properly called Bully Bells.

With huge sums of money and little regard for the public interest, the Nation's seven powerful regional phone monopolies are waging an expensive, outrageous campaign to turn 7 years of sound telecommunications policy on its head.

Supposedly cut down to size in the 1984 breakup of American Telephone & Telegraph Co., the local phone monopolies are grown, regrouped and greedy—bent on controlling not only the wire running into your home, but the information it carries.

In this quest, as in others, they will let nothing—even the interests of consumers and the vitality of a free press—stand in their way.

My distinguished colleague from Tennessee [Mr. COOPER] mentioned that the Consumer Federation of America, the organization representing American consumers, is on our side in this battle.

The target of the Bully Bells is clear: the $9 billion-a-year market in electronic information services offering everything from news, information and stock quotes to medical advice, beach reports and home shopping.

To hear them tell it, this is a duel of the titans: the so-called Baby Bells up against newspapers and other current providers of information services. Don't believe a word of it.

This isn't a battle of corporate giants. It's a David versus Goliath struggle over whether the phone company gets a green light to invade our lives to a degree never before imagined. With their heavyhanded tactics, the Bells have shown themselves to be what they've always been: not babies to be coddled, but bullies to be feared.

There are 15,000 information services in this country, offered by hundreds of suppliers. The telephone has become the gateway to a whole new world of electronic services—not because of the Bells, but because of the competition that has flourished while protected from their predatory behavior.

Since 1984, the Bells have been barred from this field—and for good reason.

For one thing, they hold an unfair advantage so long as their competitors must rely on Bell lines to deliver their services.

Let me digress for a minute. Mr. Speaker, just visualize an airport, where all of the airport gates and the control tower are owned by one airline. Just imagine for the sake of my argument that TWA owns all of the gates and TWA owns the entire control tower. All of the air traffic controllers are employees of TWA.

Now, I ask the question: Do you think United and American and all the other carriers will get the same access to the gates? Do you think they will get the same priority when they want to land or take off?

Not at all. If such a preposterous situation were to exist at an American airport, where many airlines compete but the facilities that they commonly used are not owned by any one of them, the American people would rise up in outrage and disgust and would say, "This kind of monopoly must not be allowed."

Mr. Speaker, that is exactly the kind of monopoly that the Bells wish to achieve.

Mr. Speaker, their profits, of course, are guaranteed from their local phone monopolies, and these profits can be used, if we allow this new situation to prevail, to finance new expensive information services, forcing average ratepayers to pick up the tab.

If the Bells have their way, a vital element of our society and economy—the electronic lifeline into virtually every home and office—could be in the hands of what U.S. District Judge Harold Greene decried as "a few dominant, collaborate conglomerates."

What would be the consequences? At the mercy of the Bells, consumers could look forward to higher prices and less freedom of choice. Average telephone customers could wind up bankrolling the development of dazzling new voice, video or computer services that they don't need or—worse yet—can't even afford.

If the Bells are allowed to set the terms for competition in information services, the consumer will suffer. And if anyone doubts their readiness to exploit their Government granted monopolies to the fullest, just look at their record since 1984—billions of dollars in overcharges and abuses—and the strong arming they've unleashed to prevent their greed from being restrained.

Mr. Speaker, my office has been flooded with phone calls, letters and telegrams in an orchestrated drive by the Bells to head off legislation that would have them trade fair competition in local phone service for open competition in information services.

But my office has been flooded even more by my outraged constituents, who see this as a greedy power grab by the Bully Bells.

□ 2110

The Telecommunications Act of 1991, which I am proud to cosponsor, would hurt no one. And it would help all Americans. Every communications business in the United States would enjoy greater freedom. Bell and non-Bell firms alike would be able to branch out into fields they had sought for years. They would be allowed to grow and to prosper, but in a way that safeguards the public interest.

The sad truth, Mr. Speaker, is that the Bully Bells have no interest in equality. With millions of dollars to spend, they are pressuring Congress in a disgusting manner to let them have their way. Two of them, Pacific Telesis and Southwest Bell, have hit the airways with radio ads attacking those of us standing up for consumers. Another, U.S. West, rigged up special toll-free lines to inundate us with angry calls.

Do not be fooled. The ads and frenzied phone calls are not the signs of a public groundswell, but they are the signs of slick, expensive lobbying that the gentleman and I, as telephone users, are paying for. It is an affront to consumers and a threat to something even more compelling: the future freedom of the press.

If the Bells begin offering news and advertising over their phone lines, our local home town newspapers, deprived of revenues and readership, could be among the first casualties. Another would be consumer choice. The phone could supplant the newspaper and other independent providers as a major source of our daily diet of information, whether it is sports scores, help wanted ads or weather reports.

This is not a debate, Mr. Speaker, over market access. It is a debate over market control. It is a question of having the chance to decide how and where we get the news and information so crucial to our daily lives.

This country was built on the principles of diversity and a free press. As we begin to realize the exciting full potential of the information age, I do not want to see more American towns become media monopoly towns, much less slaves to the Bully Bells.

Let me, in conclusion, Mr. Speaker, just spend a minute or so on the pressure tactics used by the Bell operating companies. With their deep pockets, with their unlimited funds, they are buying tens of thousands of dollars of advertising time to denounce individ-

ual Members of Congress to whom even they have to refer to as proconsumer. The ads running in northern California refer to me as TOM LANTOS, the proconsumer Congressman. And they are trying to terrorize our colleagues so that they will not have the guts to cosponsor this legislation.

Mr. Speaker, I ask, where will this lead? If a piece of legislation is introduced in any field, if the giant monopolies then go on the airways to personally attack Members of Congress who have the courage to sponsor this legislation, what kind of a chilling impact will such corporate monopoly arrogance have on the work of this body and the other body?

We had better nip this in the bud.

I was enormously gratified, Mr. Speaker, that since the Bells have begun this campaign of vilification, these Mafia tactics of terrorism, colleagues who disagreed with me on the substance of the legislation have expressed their outrage at these tactics.

The Bells, as they have so often done in the past, have overreached themselves. Their greed knows no end. They have attempted to intimidate Members of Congress from sponsoring a piece of legislation supported by the Consumer Federation of America and providing for a level playing field in the field of information. The American people will not stand for it.

The Bells can have all the money they want. We do not have any money to buy ads against them. We do not have to. The American people are intelligent enough to understand that what is at stake here is their freedom of choice and the free press that has been the cornerstone of this society.

Mr. COOPER. Mr. Speaker, I thank my good friend for his brilliant statement. He has used his customary eloquence to highlight the important features of this debate.

I think all members of the public should find his explanation, as they would the explanation of the gentleman from Colorado, extremely useful in understanding the contours of this debate.

I would like to add to the gentleman's list of Bell operating companies that have run these ads the names of Bell South and Bell Atlantic. Soon all of them will be running these ads attacking Congressmen.

I agree with the gentleman, probably in the hope of intimidating other Members of Congress not to sponsor the legislation.

It is hard to believe that in an America 1991 we would see such tactics of intimidation, and to be sure the publishers are working hard on the other side and the other companies are working hard, and I do not claim that the publishers have entirely clean hands, but I cannot recall in modern or old-fashioned American politics tactics of this type ever being used, such as the ones being used by the Bell operating companies.

Mr. LANTOS. Mr. Speaker, if the gentleman would continue to yield, I have never in the many years that I have been following political and public events seen a spectacle as disgusting as this one. As a matter of fact, when a piece of legislation is introduced, and this is a very complex piece of legislation which is going to work its way slowly through the laborious labyrinth of the legislative process. It will take months, who knows how long to get it through committee, get it through the House, get it through a Senate committee, get it to the Senate floor.

Presumably what will emerge will be two different pieces of legislation. There will be a conference committee. Hopefully it can work out a compromise. It goes back to the Senate. It goes back to the House. Another vote, then to the President. Then the possibility of a veto.

These people, the Bully Bells, have declared nuclear war the day after the legislation was announced. If we listen to them, Mr. Speaker, we get the feeling that this is the all-consuming public issue in America today. The Bully Bells have not bought radio time to discuss the plight of the homeless. They did not buy radio time to talk about affordable housing. They did not buy radio time to deal with unemployment or the tragedy that is unfolding with crack babies and the million other problems of our society.

They bought time to promote their own greed. They are shoving their own selfish interests onto the minds of the American people, and they can do it with their deep pockets.

Mr. COOPER. Mr. Speaker, I thank the gentleman. I appreciate his outstanding eloquence.

I would like to take a moment, with the gentleman's permission, to detail some of the elements of the bill. These are some specifics that perhaps may go beyond the patience of the listening public, specifics which I think should nonetheless be explained because the Bells are making two primary attacks on our legislation: No. 1, they are saying that our bill, H.R. 3515, keeps them out of information services.

One of the Bell executives has gone so far as to say that our bill gives them zero.

The other attack is that somehow we are protecting other businesses from fair Bell competition. If colleagues read our bill, and unfortunately very few Members have, they will discover that our bill allows, as the gentleman from Colorado noted, allows the Bell operating companies into 90 or 95 percent of information services tomorrow afternoon, if they want in. We want them in the business as competitors. We just do not want them to gouge the ratepayers or to cripple or discriminate against their competitors.

□ 2120

To understand this portion of the bill let me turn to these maps, and I have colored them by myself, so they are probably not as professional as perhaps they should be. We allow the Bell operating companies into noncontent information services immediately with only a separate subsidiary, separate accounting requirement. Separate subsidiaries are no big deal. Separate accounting is necessary so we can catch the Bells if they cheat. And as the gentleman from California so ably pointed out, the Bells have been cheating on an unfortunately regular basis ever since the breakup of AT&T in 1984.

It is hard to read the Wall Street Journal for a month or more without seeing yet another article on how they have, for example, taken ratepayer money, hard-earned monthly telephone bill money and use it, for example, for lobbying purposes illegally. Or they have taken for-profit subsidiaries, a furniture subsidiary, for example, and overpriced the furniture in hopes of mixing up their accounting in a way that regulators cannot unravel it, and making excess profits in that fashion. There are a variety of means, generally very technical and complicated by which they have managed to abuse the consumer's interests.

So our bill allows then into noncontent information services nationwide, from California, to Maine, to Florida, to Alaska and Hawaii tomorrow afternoon if they want in. These noncontent services are services in which the Bells would not actually own the information that traveled over the telephone, but they would process it, for example, with all manner of data processing activities, whether it is accounting, or inventory management, or point of sale transactions, or credit card verification, a whole host of business transactions that are extremely lucrative, extremely important for our economy. And we want the Bells into this business.

I would also include services such as voice storage and messaging, protocol conversion, a lot of services like that which may sound technical but are very important for the functioning of our economy, and we let the Bells in, as the green color hopefully symbolizes, nationwide tomorrow afternoon.

The more controversial area of the bill has come in the area of content-based services. These are services in which the Bells would own some or all of the information that is transferred across the telephone wire. These are services more like electronic yellow pages, stock quotes, sports scores, databases of various types, whether it is compilation of newspapers or information. We would allow the Bells really into most of the country outsides of their own service area, to be sure, and inside their own service area if they have a unique advantage in providing

the service and that service can be provided without harming their own ratepayers.

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

Mr. COOPER. I am happy to yield to the gentleman from Colorado.

Mr. SCHAEFER. We incorporated, as the gentleman knows, a waiver, and the gentleman, of course, being from a rural area, if indeed no one else could provide this particular type of service, they can apply for a waiver to the FCC and get it.

Mr. COOPER. Exactly. In other words, if the Bells do have the key to the future, as their advertising claims, what we say is let them use it to open the door. We do not deny them an opportunity to offer a service to any American. It is important to realize though that I think even the Bells do not believe their own advertising. They do not think they have the key to the future. They know that they are just trying to expand their monopoly into a new area and make even more money. And we are not against the Bells making money. We want to them to be rich, prosperous, happy companies, but we do want consumer rights to be protected in the meantime, and competitors' rights to be protected.

So let us take the example of say Bell Atlantic here in this area of Washington, DC. Let us take the example of a newspaper such as the Washington Post. How would our bill affect Bell Atlantic and the Washington Post? Let us assume the worst case, that Bell Atlantic cannot prove that it has a unique advantage in offering a needed service, and cannot prove that it will not be harming ratepayers. We would not keep them out of the business. We would not put a red light on, we would put more of a yellow light on the area so that they would be delayed in offering that service until they did not have a 100-percent monopoly, but until that monopoly was, say, only 90 percent.

The Bells are falsely making the claim on our bill that by so doing we would somehow be protecting the newspapers or other businesses in the area. Wrong. Our bill would not only allow it, but would encourage every other Bell in the United States, Bell South, NYNEX, Ameritech, Southwestern Bell, Pac-Tel to compete against any and all businesses in this area with full vigor. So to us it is an approach that encourages competition. No business in America will face less competition as a result of this bill. Every business will face more competition because they will at least be facing six additional Bell operating companies if not all seven.

So I would like to use arrows to illustrate the situation with a U.S. West coming into the area, a Bell South coming into this area, as it should be, in order to promote competition, in order to challenge publications such as the Washington Post with the competition that they should be facing. This is just a small illustration of some of the misunderstandings that are created as a result of folks who do not take the time or the effort to read and understand the legislation.

There is another section of the bill that is even more poorly understood, because the Bells do not want to talk about it at all. That is the part of the bill that affects local competition, competition when we are calling a friend across town. It is that business when you pick up your phone just to make what we would view as a regular telephone call.

Today when you sign up for your phone you have only one choice in this area, and it would be C&P Telephone. They are a fine company, but I think a better system would offer the consumer choice, alternatives so that if they did not like C&P Telephone they could pick another company, another provider of service, and that competition under the great, free enterprise. capitalist system would generate cheaper, more affordable telephone rates and better service. So our bill would open up, and the FCC, to its credit, today initiated a proceeding to try to really emulate some features of our legislation to promote local competition. The Bells do not like to talk about this because they come from a parentage, the old AT&T, which did not even want us to have the right to pick our own phones in our own homes or businesses. It was not until 1968 in America that we even had the right to choose our own type of telephone in our own homes or businesses, primarily because AT&T, the old AT&T fought us every step of the way.

It was not until 1984, as the gentleman from California pointed out, that we had the right to even choose our own long distance company. Now thankfully there is MCI, Sprint and 140 other companies who offer competitive long distance services that have done what? Driven down long distance costs 40 percent, and improved service as a result of competition. All we want today is competition in the local exchange, the last element of telephone service other than information services competition so that we can have cheaper, more affordable service and better service.

So these are elements of our bill that may sound technical to the uninitiated, but are extremely important if we are going to lay the groundwork for a progressive and advanced telecommunications future for our Nation. I hope our colleagues will focus on some of these details and realize how misleading some of the Bell advertising is.

Not only is our position the proconsumer position, our position is the procompetition position. There is no other bill introduced in either the House or the Senate that addresses competition in the local exchange. There is no other bill that I am aware of in either the House or the Senate that encourages at least six if not seven of the Bell operating companies to compete against existing business in America. We have the procompetition approach, and I think that is something that we should be very proud of.

Mr. SCHAEFER. If the gentleman will yield, I would just like to say to my good friend from California, [Mr. LANTOS] what an eloquent statement he just finished making on the tactics that have been used in this particular endeavor of the RBOC's. I guess I was probably the first to incur the wrath of U.S. West on this, and I do not know whether they just were out forward on it or not, but now I do know that other Members, including the two gentlemen here have had that, and as has been mentioned, so have a number of others.

□ 2130

The one thing that it has done that has awakened many Members, as the gentleman so appropriately stated, asking me and probably asking the gentleman from Tennessee [Mr. COOPER] and the gentleman from California [Mr. LANTOS] as well, what is in this bill? What is going on?

As the gentleman from Tennessee [Mr. COOPER] stated, it is a difficult one for the man and woman on the street to understand. It is not an easy black and white issue. It is one of these that we feel needs an explanation, and the purpose, of course, of us doing this tonight is to explain to those who are watching tonight what exactly we are trying to do for the consumers of this country.

Mr. Speaker, I would like to ask my colleague, the gentleman from Tennessee, we have had a series of questions that come up from time to time, and knowing that the gentleman represents a rather rural area in Tennessee, one of the question was, "Well, what steps have we taken to protect the customers of basic telephone service in rural America?"

If the gentleman would like to have his people know what the answer to that is, I think it would be advantageous.

Mr. COOPER. Absolutely. Many of our colleagues are concerned, as they should be, about protecting the rights of all Americans rural Americans, included, and preserving at least the quality of phone service they have before they risk losing or in any way harming that service.

As the gentleman well knows, we tried to talk with representatives of every rural telephone group in America that we could find, whether independent, privately owned telephone companies, whether cooperative telephone companies, so that we could find out their real interests and wishes with

this bill and we tried to work with them very carefully to craft the different solutions.

For example, we have a universal service element in this bill so that in case there were any jeopardy or any danger to the universal service features of today's telephone system, we could preserve the universal service, because the universal service is an absolutely vital goal of any sensible national telecommunications policy.

We also preserve the ability of State regulators to regulate the type and quality of service in smaller communities.

We also set up planning guidelines so that as the new telecommunications networks of the future are designed, they will not be designed thinking only of urban consumers. They will be designed thinking also of rural customers.

We will have a seat at that table, as we should have.

There are many other features, primarily technical in the bill, in which we have tried to work with rural interests. We intend to keep on with that process, to continue the dialog so that we will also be sensitive to their concerns, so that as I say, no American need fear a deterioration in service quality, that Americans can only look forward to improved service hopefully at cheaper rates.

Mr. SCHAEFER. Mr. Speaker, if the gentleman will yield further, I would like to bring up one other point. The gentleman alluded to this.

Two things that they have been hitting on very hard is to try to say this is anticonsumer and anticompetitive. This is what the message is that is coming out.

I know the gentleman from Tennessee [Mr. COOPER] and the gentleman from California [Mr. LANTOS] would not be on this bill, nor I, if this were truly the message that we were trying to put into law.

One of the questions again many times that I have got from my constituents when I have been out in Colorado, they ask, one of the purposes of the bill is to encourage competition in the local exchange, but they ask, "Won't that lead to higher basic telephone rates as it becomes harder to maintain the current subsidy in an increasingly competitive environment?"

As the gentleman stated, universal service element was part of this. Would the gentleman care to expound on that just a little bit more, because this is the one thing I want to make sure that we get out. This is not going to raise rates, more likely to lower them.

Mr. COOPER. Absolutely, as the gentleman knows, the experience we have already had with long-distance competition has proven that when you have real competition, you get dramatically lower rates and improved service. We can expect the same at the local level if we just have the willingness to try it.

We do not accept as a group the defeatist attitude that you have to rely on monopolies, State-sanctioned monopolies to provide service. We believe in the American way, the free enterprise system, the capitalist system of competition in as many aspects of our lives as possible, so that consumers can choose, so that companies can compete on a fair basis so that we can drive prices down and we can drive the quality of service up. That is our intention in this legislation, and I have challenged people at hearings and other public events if they have a disagreement with our language or a concern, if they have an improvement, come to us to show us ways that we can improve our bill, because this is not a perfect bill. It can be improved and we are soliciting ways in which we can better achieve our intentions, better accomplish our goals.

I think through this open process we will be able to design an even better bill next year when the real markup process begins, when the real committee voting process begins.

The universal service element that we have already included in our bill is an important step toward assuring that telephone bills do not go up for any American and that quality service is preserved for all Americans.

It is a relatively technical concept that is best understood by telephone company executives, but the bottom line is we want telephone service, quality telephone service available to all Americans every day. That is the goal and we are working very hard to try to achieve that goal.

The telephone is not a luxury, as the gentleman knows. The telephone is an absolute necessity, and not just the old-fashioned telephone that can just relay telephone calls, the modern telephone that can also relay information services, possibly even including television is also an important part of American life and we need to work as hard as we can to try to assure as many advanced information services as possible.

Mr. SCHAEFER. I might just add on to that point, particularly those people who are bedridden, who are disabled, who are blind, numerous types of individuals who rely on that basic telephone service and we are not going to get the support of the Consumer Federation of America on a piece of legislation like this if it is going to raise rates or if it is going to be anticompetitive. We are not going to get that.

Mr. COOPER. The gentleman raises an important point. The Bell's have made very strong claims on their own behalf that they are the ones who are more prohandicapped than we are. That is a false claim. They have made the claim, which is also false, that they somehow represent more of the consumer interests. If you look at their track record, however, if you look at the history, if you look at the specifics, you can prove dramatic Bell shortcomings in these regards. For example, serving the handicapped. I ask the chairman of one of the great Bell operating companies what his company had done to offer more services to the handicapped, how many waivers he had applied for from the Justice Department or Judge Green in order to serve the handicapped. Of course, he had no answer in the hearing, but in a written response that I received weeks later, the first sentence of it was, "We have applied for no waivers to serve the handicapped"—none, zero.

Another great Bell operating company in this Nation, I asked them as long as 2 years ago to come to me with any requests they had for better service for the handicapped and I would be anxious to support their request for a waiver so that they could provide whatever service for the handicapped they wished. I am still waiting for them to come to me.

Apart from service to the handicapped, there is another important consumer area that the Bell's have neglected terribly. The Bell's have been empowered for several years now to offer a service called an Information Gateway. That is a single number that a telephone customer could dial so that they could access the 15,000 information services that are available in America today, a local number so that they could call and have a window on the world.

Well, there are seven Bell operating companies. Two chose never to offer an Information Gateway regardless of the demand, and it is my impression that even the gentleman's own company in California neglected to offer the service even to the host of advanced users that the gentleman has in his State, in Silicone Valley and all the other high-technology industries in the gentleman's State.

Mr. LANTOS. Correct.

Mr. COOPER. Two that had offered the Information Gateway decided they did not want to pursue it, so they took it down even though they were disappointing thousands and thousands of their customers who wanted to use that service. So if the Bell's claim they are really for an information future, we should ask them why they did not do more with the powers they have today to provide us with a better future. But unfortunately, too many of the companies have chosen not to offer us the information future that should have already been available to us today.

Even in those areas where the Bell's still have a gateway, remember the Bell's are multi-State companies, and I know of no Bell that has a gateway in every State in its service area. Oftentimes they will choose one favorite

State that gets the gateway. The other States have to take the leftovers. They have to make the long-distance calls. They do not have a gateway of their own, so they can access the information feature that we should have available to us today.

□ 2140

Mr. LANTOS. If my colleague will yield, first of all I want to commend the gentleman on his extremely knowledgeable and lucid presentation. I would like to pick up on one point my friend from Tennessee made.

We are not frozen into every last sentence of this piece of legislation. This is an enormously complex piece of legislation which we approach with a degree of openmindedness that we wish the telephone companies had approached it with.

We would be happy to reason together, we would be happy to look at amendments and modifications and improvements. Goodness knows we do not claim that this piece of legislation is perfect. But it is so contrary to the spirit of comity and the spirit of compromise which are the hallmarks of a democratic system, to see the operating Bell companies declare nuclear war the day after a complex piece of legislation is introduced.

So I hope the Bell operating companies have listened to the distinguished principal author of this legislation. We do not claim that this legislation is perfect. There are probably many features of it that can be improved upon, other features that could be modified or eliminated. But that has to take place in a free give-and-take of reasoned men and women arguing about the public good, not monopolistic, deep-pocket giants unleashing simplistic radio ads on the airwaves paid for by the users of telephone services. That is really what the issue has now become because we certainly are ready to debate the merits of this bill and to recognize that there are features that obviously can be improved upon.

Where I do not think we can compromise is tolerating the tactics of the gutter, which has characterized the operating Bells' attack on Members of Congress who had the audacity to propose legislation that the operating Bell companies did not think is in their own commercial interest.

I want to thank my friend for yielding.

Mr. COOPER. Mr. Speaker, I thank the gentleman so much because no one can say it better than the gentleman expresses it.

I yield to the gentleman from Colorado.

Mr. SCHAEFER. In conclusion, I think no one who is on this particular piece of legislation or who helped draft it has or had a big vendetta against the telephone companies.

Mr. COOPER. The gentleman is correct.

Mr. LANTOS. Yes.

Mr. SCHAEFER. They provide a great service, they will provide more in the future, and I know that it certainly was not my intent, nor the intent of the two gentlemen here, and I do not think anyone else—and I want to make that point—that we did not get into this to blindside anybody. We just felt that when that restriction was lifted, we had to have a little bit of competition continue within this country.

I do not look in the future of holding any vendetta, but I agree with my friend from California that the tactics that have been used are only defeating their longrun goal, and that is not the way it should be. I appreciate being here with the gentleman from Tennessee and the gentleman from California.

Mr. COOPER. The gentleman is so right. We have nothing against the Bells. In fact, our bill gives them more dramatic business opportunities than they have ever had before, with the sole exception of a court decision issued on October 6 and confirmed by the circuit court October 30, which, as a result of 20-year-old antitrust litigation only, happened to unleash them without any consumer safeguards, without any safeguards for business competitors, into the whole range of information services that most sensible Members of Congress realize is too great a privilege. We do not seek to deny them that privilege; we only seek to make sure that consumer interests and competitors' interests are preserved while they are expanding their franchises. That is our goal, and as the gentleman so ably said, we seek improvements to our legislation, we seek better ways with which we could implement our intent.

There is a vendetta against no one. We hope, certainly, that in America 1991 we can set a democratic example for the world in terms of the high quality of our debate, not in the low level of the debate or the scurrilousness of the advertisements or the oversimplistic approaches that have been used so far in this debate.

So I would challenge all parties to the debate to hone their arguments, to understand the merits so that they can give America what it deserves, the best possible telecommunications future.

I thank the gentlemen so much for participating with me tonight. I appreciate their bravery in this issue because it is not easy to face a barrage of negative advertising a full year before the election from not only deep pockets but probably unlimited pockets.

So I appreciate the gentlemen, the Davids standing up to the Goliaths. I think, as in the biblical story, we are going to win this fight.

I thank the gentlemen.

REMOVAL OF NAME OF MEMBER AS COSPONSOR, AND ADDITION OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 342

Mr. FALEOMAVAEGA. Mr. Speaker, I ask unanimous consent to remove the name of the gentleman from North Carolina, Mr. ALEX MCMILLAN, as cosponsor of a bill that I introduced recently as House Joint Resolution 342 and, instead, add the name of the gentleman from Maryland, THOMAS C. MCMILLEN as a cosponsor of my bill.

Mr. Speaker, I apologize to the gentleman from North Carolina for this oversight, an inadvertent mistake made by my office staff.

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

There was no objection.

A CONCURRENT RESOLUTION TO EXPRESS THE SENSE OF CONGRESS TO RECOGNIZE CONCERNS OF PACIFIC NATIONS AND CALL UPON THE GOVERNMENT OF FRANCE TO CEASE ITS NUCLEAR TESTS IN FRENCH POLYNESIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from American Samoa [Mr. FALEOMAVAEGA] is recognized for 60 minutes.

Mr. FALEOMAVAEGA. Mr. Speaker, I request that it be reflected in the Journal of the House that I have two separate and unrelated issues that I want to take up in my special order this evening, and I will address my colleagues accordingly to each of the subject matters.

Mr. Speaker, I want to take this opportunity to thank the distinguished gentleman from New York [Mr. SOLARZ], who also serves as chairman of the House Foreign Affairs Subcommittee on Asia-Pacific, for his tremendous leadership and concern for the countries and peoples from throughout the Asia-Pacific region of the world. More specifically, Mr. Speaker, I commend the gentleman from New York [Mr. SOLARZ] for his assistance in drafting this concurrent resolution, along with the gentleman from the territory of Guam [Mr. BLAZ], both of whom have graciously offered to cosponsor this resolution.

Mr. Speaker, this resolution may not have the attention of our national leaders and press, but I am gratified by the fact that at least I have an opportunity to share with my House colleagues the concerns expressed in this resolution.

Mr. Speaker, this resolution first recognizes that the Government of France has been conducting nuclear testings since 1966, in the South Pacific, and continues to do so despite public announcements and declarations issued by many South Pacific nations—espe-

cially through the South Pacific Forum organization, comprised of some 16 island nations—even to the United Nations General Assembly—to stop the underwater nuclear tests in French Polynesia.

Mr. Speaker, I want to make it crystal clear that this legislation is not offered to embarrass the leaders and the good people of France.

Mr. Speaker, the concern expressed by the several island nations over French nuclear testing is the impact nuclear contamination provides for the region's marine environment. Our own country conducted similar nuclear tests both in the atmosphere as well as underwater in the Pacific. It is obvious that the reason we no longer conduct tests in the Pacific Ocean is because of the harm we've caused the marine environment and the hundreds of innocent Micronesian men, women, and children who were severely subjected to nuclear contamination.

Mr. Speaker, why must these Pacific Islanders be made subjects or specimens for experimentation by our most upright and upstanding Western democracies of the world? Where is the conscience and moral fiber amongst our own leaders and the leaders of France to resolve this serious environmental spectacle? No one in France would ever entertain the thought of conducting nuclear tests underground or even within the exclusive economic zone of France, but the Polynesian inhabitants of these little islands in French Polynesia—and the islands themselves—are made the sacrificial lambs for a practice that can easily be resolved, and that is, why not conduct joint underground tests with our own country?

Mr. Speaker, approximately 130 nuclear detonations have taken place since France first conducted its tests in 1966.

Obviously, France's nuclear testing programs have proven enormously beneficial to France's nuclear capability—and perhaps even to enhance its commercial nuclear industry, which now ranks probably among the top five countries that export and sell nuclear reactors to other industrialized and Third World countries.

Mr. Speaker, I submit, if and when France does decide to stop its nuclear testing program—it will and may well be said to all those who live in the vast Pacific Ocean, and someone who may say that the marine environment in the Pacific Ocean is no longer fit for human consumption and habitation—attributed primarily to these underwater nuclear tests—to be said simply, too long and a little too late.

Mr. Speaker, I want to share with my colleagues certain articles that relate to this proposed legislation.

HOUSE CON. RES. —

Whereas the Government of France has been conducting nuclear tests in the atolls of Moruroa and Fangataufa in French Polynesia since 1966;

Whereas these tests have included more than 130 underground nuclear tests;

Whereas there is considerable concern among the countries of the South Pacific about the possibility of radioactive contamination in the region as a result of these underground tests;

Whereas the members of the South Pacific Forum agreed at the Forum's annual meeting in July 1991 to "give consideration to an expanded programme of opposition to France's nuclear testing in the region";

Whereas despite French claims that its nuclear testing program is absolutely safe, there is some scientific evidence to suggest both that some radioactive leakage has already occurred at the testing site and that additional, more serious leakage might occur in the next 10 to 100 years;

Whereas there is also concern in the region that the Moruroa atoll is in danger of disintegration as a result of the testing program; and

Whereas the Government of France would have the option of using United States nuclear testing facilities if it gave up testing in the South Pacific: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the United States should recognize the concerns of the people of the South Pacific and call upon the Government of France to cease all nuclear testing at Moruroa and Fangataufa Atolls.

[From Greenpeace, March-April, 1991]

EXPLODING THE GREAT SECRET

(By Judy Christrup)

Arguments in favor of nuclear testing usually revolve around fighting and deterring war. The rationale goes something like this: Design, build, and test weapons with long-term nightmarish destructive capabilities, and everyone will be too scared to use them. Hawks and doves have been debating the logic of this nuclear deterrence theory for decades.

But there is a growing constituency that is largely ignored in the arms debate. Over the four-decade span that makes up the nuclear age, thousands of people have seen their communities destroyed and their health jeopardized by weapons production and testing itself—from the extraction of uranium in underground mines, to the refinement of nuclear fuels in the factory, to the explosion of nuclear bombs underground. One such group inhabits the islands claimed by the French in the Pacific, where France conducts underground nuclear tests.

Testimony: "It was during drilling work that I got contaminated. I was working in a little hole trying to dismantle an old pipe. I wasn't careful enough and got splashed by some water that had been left in the hole. It was mainly my hair that got wet as I wasn't wearing any protective gear on my head. I tried to wash it but it was difficult to get the stuff out. When I went into the decontamination chamber all the alarms went off. I washed my hair three times but it was still radioactive. . . . So a specialist had to use some special product to decontaminate me."—Manutahi. Worked as a welder on Moruroa from 1965 until 1980, when he became sick with pulmonary disease.

It may be argued that the lives lost over the past 45 years are a small price to pay for nuclear deterrence. A full-blown nuclear war would undoubtedly be far more deadly. Unfortunately, those suffering the consequences of radiation poisoning do not do so as willing martyrs for the greater good. They are simply not told.

The pattern of secrecy, arrogance, and neglect of workers and residents has been repeated around the world, from the Navajo miners of Utah to the displaced Nenets of Novaya Zemlya and the irradiated Australian aborigines of Maralinga.

Testimony: "When the military first arrived and explained what was going to happen, lots of very important people came to the atoll to talk to us. The admiral came and told us that there was no danger and that nuclear bombs were good. He came with a man who was said to be a professor and was introduced to us as one of the greatest scientists in the world. This man's knowledge could not be argued with. The admiral compared him to a fabulous pearl. This man also said there were no dangers for us."—Hiro. Lived on Tureia, 78 miles north of Moruroa, from 1928 to 1986.

The casualties of the French nuclear testing program are Polynesians. Their ancestors—inhabitants of 130 islands and atolls called Te Ao Maohi—remained free of European influence until the late 18th century, when traders, whalers, and missionaries settled on the islands, bringing fatal diseases and paving the way for colonization. French Admiral Dupetit-Thousards convinced his country that Tahiti would make a good penal colony, and so the French government made the island a protectorate in 1842. In 1880, Tahiti became a French colony—French Oceana. Those who resisted colonization, like Tahitian Queen Pomare, were subdued by threats of bombardment and deportation to New Caledonia (the Melanesian colony that became the penal colony instead of Tahiti).

When France chose its Polynesian colonies as nuclear test sites in 1962, the islanders again resisted. The 30-member elected Territorial Assembly objected to the plan, but was ignored. The French governor of Polynesia wrote to the head of the assembly, saying, "I should like to repeat my assurances here, in the name of the Republic, that all necessary measures are being taken to guarantee that the population will not suffer in the slightest degree from the scheduled experiments." France finally decided to conduct the bulk of its testing program on the tiny atoll of Moruroa, which means "the great secret" in a local dialect.

France's Prime Minister General Charles de Gaulle was enthusiastic and single-minded about his country's nuclear testing program. When France exploded its first nuclear bomb (in Algeria) his cable message read, "Hurrah for France! Since this morning she is stronger and more proud than ever!" After one successful atmospheric test on Moruroa, de Gaulle was scheduled to witness the next explosion on September 10, 1966, from the cruiser *De Grasse*. The test was postponed because the wind was blowing toward inhabited islands to the west. But after a day of waiting, de Gaulle's patience wore thin, and he ordered the bomb to be detonated. Monitoring stations operated by the New Zealand National Radiation Laboratory detected heavy radioactive fallout in the Cook Islands, Niue, Samoa, Tonga, Fiji, and Tuvala.

Testimony: "Instead of drifting away, the mushroom cloud drifted over the boats. It started to rain and everyone was ordered below deck. However, a group of Polynesians who were playing the guitar on deck and were a little bit drunk from the free drinks offered after every 'successful' test, did not understand what was happening and remained on deck. . . . After the rain stopped,

the whole boat had to be washed and scrubbed down."—Edwin Haoa. Worked on Moruroa as leader of team monitoring radioactive contamination after the explosions.

De Gaulle's enthusiasm for nuclear testing reflected both the French elite's embarrassment over their rapid defeat in World War II and their vision of a militarily independent nation that could act as a counterweight to the belligerent superpowers. As Paris-based journalist Diana Johnstone put it, "It could be argued that what all post-1940 French leaders have striven to restore is not so much la grandeur as le pouvoir: the power to master the nation's fate and keep it from falling to pieces." But France's desire for le pouvoir, like that of other colonialist nations, served to obliterate the self-sufficiency and cultures of other peoples.

Testimony: "When I was offered the posting to Mangareva, I was promised a beautiful island, nice people, and no problems. However, the situation had changed with the arrival of the legionnaires. They had become the 'kings' of the island because they had money and alcohol. They got women by getting husbands or fathers drunk, or by buying them off. Some of the local men had gone to work on Moruroa, which made it 'easier' for the legionnaires."—Roland. A gendarme who lived in Mangareva from 1963 to 1968.

Even the most simple aspect of Polynesian life, a diet of fresh fish, has become impossible because of ciguatera fish poisoning. An article appearing in the January 28, 1989, issue of the scientific journal The Lancet reports that increased incidents of ciguatera "are related largely to miliary activities that disturb coral reef ecology." The researcher, Dr. Tilman A. Ruff, found that ciguatera outbreaks in Micronesia, Melanesia, and Polynesia occurred after World War II battles, nuclear testing, shipping activities, dumping, and construction by the United States, Great Britain, and France.

Testimony: "What I saw was no longer recognizable as a human being. Basinas could not talk and his whole body was black and suppurating. He had pains in his joints and he was still scratching and pulling his skin off. Usually, patients who arrived at the hospital sick from eating fish got sent straight to Tahiti and dismissed, but it was probably not possible with Basinas because he was so sick."—Tehiura. Worked as a docker at Moruroa from 1963 to 1968.

France has always maintained that its nuclear tests are perfectly safe. Yet the French government stopped publishing health statistics of French Polynesians in 1963, just after the testing program began. It has relied on anecdotal evidence and public relations stunts to prove that safety concerns are unfounded. In 1970, French Defense Minister Michel Debre tried to blunt criticism by swimming in the lagoon at Moruroa six hours after an atmospheric test. This sort of demonstration continued, even after testing was moved underground in 1974.

Testimony: "While I was working there, politicians and journalists came to check out rumors about the contamination of the atoll and the lagoon. To prove everything was safe, the military brass would go swimming in the lagoon. But afterwards they took showers in special containers. Later I had to go and clean up the containers and I noticed they used special soaps or creams. There were tubes containing a yellow liquid which were never used in the normal showers."—Ruta. Has worked on Moruroa and Tahiti since 1976.

As time went on, it became increasingly difficult to keep unflattering news about the testing program from reaching the public News of two accidents in 1979 and a typhoon in 1981 leaked out. The first accident—the explosion of a plutonium-contaminated bunker—killed two workers and injured three. The second occurred when a bomb got stuck halfway down a test shaft and was detonated anyway. The explosion—measuring 6.3 on the Richter scale—caused a million-cubic-meter piece of the atoll to drop into the ocean, which in turn caused a tidal wave. The French authorities denied any connection between the tidal wave and the explosion.

Testimony: "After the explosion, people with special protective gear had to enter the bunker and pour cement over the whole container. They were only allowed to stay in there for a short time as the whole place was full of plutonium and other radioactive substances. Rene Vilette's remains—or what were thought to be his remains—were found three days later and sent to France in the form of a concrete block."—Tama. Began working at Moruroa in the 1960s as an office worker.

The typhoon hit on the night of March 11-12 1981. Fearing for their safety, civilian technicians leaked the news to the French press. The storm swept radioactive waste, including 10 to 20 kilograms of plutonium, off the north beach of the atoll. According to the technicians, who were members of the CFTD trade union, the plutonium had been spilled on the beach during "security tests" from 1966 to 1974, then covered in asphalt. The powerful winds peeled off the asphalt and flung the plutonium into the lagoon.

GREENPEACE INVESTIGATION FINDS RADIOACTIVE CONTAMINATION

This time, it was not for a protest, but simply to take scientific samples. Nevertheless the *Rainbow Warrior's* December visit to the Pacific atoll of Moruroa, where France explodes nuclear bombs, was met with military force. Evidence of the environmental effects of the nuclear testing program, rumored to be destroying the foundations of the atoll and contaminating the ocean with radioactivity, is hard to get: The French government actively discourages impartial investigations. So when Greenpeace asked last summer if researchers could come and take a few water samples near the atoll, France refused. Greenpeace went anyway.

On December 11, trailing a plankton net, the *Rainbow Warrior* skirted the 12-mile territorial limit around Moruroa. Samples collected were found to contain Cesium-134 and Cobalt-60—both artificial radionuclides produced by nuclear tests. When confronted with the data, French authorities stonewalled, refusing to discuss the results with Greenpeace scientists. "After our alarming initial findings, we felt we had no choice but to go into the lagoon itself to sample for radioactivity," says Stephanie Mills, a campaigner aboard the *Rainbow Warrior.*

Ignoring the warnings from the French warships that shadowed the *Rainbow Warrior,* a team of five volunteers boarded an inflatable and crossed into French territory, towing a plankton net a 3 to 4 knots. After an hour of tense waiting, 40 masked French commandos aboard inflatables arrested the team, holding them for three hours before releasing them. A few hours later, the team entered the exclusionary zone a second time and were once again arrested. "Although our inflatables were returned to the *Warrior,* we were taken to Moruroa and held incommunicado for three days, guarded night and day by French legionnaires," recalls Mills. The seizure unleashed outcry by Greenpeace activists around the world, with demonstrators unfurling protest banners in front of French Consulates in Vancouver, San Francisco, Sydney, Auckland, and across the rose windows of Norte Dame Cathedral in Paris.—Diane Feeney

Testimony: "People came out of their houses when it was over and we saw that boats had been lifted onto the rocks and that all sorts of barrels were floating around. The waves had washed them out of the repository where they had been buried. It was hard work to retrieve them and store them away again, this time in the blockhouse. We were not told they contained radioactive materials."—Ruta.

In 1982, the French Defense Ministry finally gave in to demands by Pacific and French politicians for an independent investigation of the "radiological state" of Moruroa. But the team—handpicked by French Defense Minister Charles Hernu—was not given complete access to the atoll. Because the team was not allowed to take any measurements or visit the test sites, its visit amounted to nothing more than a helicopter tour. The scientists were forced to rely on French military data, so their results, published in The Tazieff Report, were immediately disputed. The 1984 Report of a New Zealand, Australian, and Papua New Guinea Scientific Mission to Moruroa Atoll (otherwise know as The Atkinson Report) was similarly limited. Nonetheless France used a shortened version of the report to defend the nuclear testing program.

One of The Atkinson Report's more dubious findings is that "cancer statistics for the region do not support any suggestions of elevated rates for tumor sites which might be associated with excessive exposure to radioactive fallout." It would have been impossible for the statistics to reflect elevated cancer rates because a death certification system was not resumed until 1983, and then only under pressure form the World Health Organization. And all the health data that allegedly support this conclusion were supplied by the French military. Professor Robert Beaglehole, an epidemiologist at the Auckland University Medical School wrote, "The French Polynesian health statistics have been of such poor quality that it appears the authorities were not seriously monitoring the health of the population."

Testimony: "All the handicapped children on the island were born after the testing started. There are also a lot of cross-eyed people. Soon after the tests begin, the women were sent to Tahiti to give birth. The reason given for this was that supposedly the facilities on Manareva were not set up to handle births. This is nonsense because in 1959 and 1963 there was no infirmary at all and everybody gave birth at home as they had always done. . . . The fact that there were no facilities was just an excuse used so that if anything went wrong they could just hush it up in the hospital in Tahiti."—Robert. Lives on the Gambier Islands, southeast of Moruroa.

The most recent scientific expedition to Moruroa was in 1987, when Captain Jacques-Yves Cousteau visited the island. Cousteau described severe fissuring, underwater slides, sinking, and accelerated aging of the atoll. He also noted radioactive Cesium-134 in the lagoon. Norm Buske, a scientist with SEARCH Technical Services reexamined Cousteau's data, and released a report last year. His calculations suggest that the atoll is far less efficient at holding in radioactive isotopes than the French assert. Buske tried to get permission to visit the atoll himself to

collect new samples, but his request was never answered. When he approached the atoll with the *Rainbow Warrior* crew in December 1990, he was arrested by French commandos.

Testimony: "Since the tests went underground there are fissures all over the place. I'm sure these fissures prove that the tests are dangerous, but no one warns the workers of this when they first arrive. In some areas we had to wear badges to measure the degree of radiation we were exposed to and we had annual medical checkups but we never got any feedback."—Philippe. Worked on Moruroa from 1971 to 1985.

The testimonies in this article are taken from the Greenpeace book Testimonies. The interviews were conducted in 1987 by Dr. Andy Biedermann, a Swiss doctor and former crew member of the *Rainbow Warrior*. The names of the people interviewed were changed to protect them from official repercussions.

HEARING ON H.R. 3127, TO ESTABLISH A NATIONAL NATIVE AMERICAN UNIVERSITY

Mr. FALEOMAVAEGA. Mr. Speaker, tomorrow morning I will be privileged to chair a hearing that will consider the provisions of H.R. 3127, which is a bill that will hopefully, establish a "National Native American University."

Mr. Speaker, I introduced this bill purposely to raise our Nation's conscience again—to remind us all of the plight of our native American community when it comes to education. I realize our national media, and even many of our leaders, never seem to pay much attention to problems affecting native Americans. But that is all right, endurance must also be worth something. While I have heard it said that black Americans have learned to overcome, native American Indians have learned to endure.

As early as 1621, the East India School was set up by colonists and included American Indians in the student body. Indian students were expected to embrace Christianity and embark upon the work of conversion. The school closed in 1622, after an Indian uprising.

In the founding documents of Harvard, Dartmouth, and William and Mary Colleges in the 17th and 18th centuries, the goal of educating Indians was clearly stated. However, the intentions were never realized as the founders had expected.

The 1816 Civilization Act provided Federal funds for religious groups to promote Christianization and education among tribes.

In 1879, an Army captain named Richard Henry Pratt was granted the use of an Army barracks in Pennsylvania by Congress. Pratt founded the Carlisle Indian School where 200 Indian children and young adults from the West were trained for academic and vocational learning and socialization. At Carlisle, traditional Indian language and dress were not permissible. In his memoirs, Pratt wrote:

I believe in immersing the Indians in our civilization and when we get them under, holding them there until they are thoroughly soaked.

By the turn of the century, there were 25 boarding schools. Discipline was harsh, student manual labor was essential because of limited Federal funding, and the quality of education was frequently very poor. Dropout rates were high, and even the students that graduated, found little work on their reservations in vocations for which they were trained.

In 1928, the Meriam Report charged that Government-run boarding schools were not providing skills relevant to Indians, curricula was too uniform, white culture was stressed, and tribal cultural differences were ignored. The report attacked vocational training that often closed rather than opened doors. Within 5 years of the report, 12 boarding schools either closed or changed to daytime schools.

In 1934, the Indian Reorganization Act passed, and the pace of Indian reform quickened under Indian Commissioner John Collier. Collier argued "Indian societies, whether ancient, regenerated or created anew, must be given status, responsibility and power." Commitments were made by the Roosevelt administration for Indian self-governance and to support cultural pluralism. However, the Depression of the 1930's limited the funding for innovative programs and slowed the reform movement.

World War II changed the funding priorities for Indian programs and in the post-war era Congress discussed the need for getting out of the "Indian business." The 1950's were a time when Congress terminated several tribes and ended the Federal trust responsibility.

The era of Indian self-determination began in the late 1960's. A new emphasis was placed on the preservation of tribal sovereignty and culture.

In the field of higher education, the first tribally controlled community college was founded on the Navajo Reservation in 1968. The Navajo initiative was no doubt the impetus for the 1978 Tribally Controlled Community College Assistance Act. Today there are 25 tribal community colleges in the United States.

There are also currently approximately 85 organized Indian studies programs in non-Indian colleges and universities across the country; however, close to 90 percent of the native American students who enter such programs eventually drop out.

In general, the idea of a national Indian university granting undergraduate and graduate degrees to native Americans is not new. For example, in 1911, an Indian named August Breuninger proposed the creation of an Indian university that would focus on culture and be connected to an Indian museum:

A university for Indians is the greatest step that we educated Indians could make in uniting our people . . . It would eliminate the general conception—that an Indian consists of only feathers and paint. It would single us out—as really progressive Indians. It would give us a better influence with the rising generation, by setting out our character in such a conspicuous manner as to be . . . observed and imitated by them.

Mr. Speaker, over the years I have always been a strong advocate of education and its importance to any society. I have always held the belief that there are three fundamental stages in the educational process, and they are: elementary/intermediate, secondary, and postsecondary levels. Without question I have always believed that the elementary/intermediate level is most important, for the obvious reason that this is where a child begins to learn the alphabet, the three R's, if you will; and if children miss the fundamentals or are not taught properly, the basics, their pursuit of higher education obviously becomes more difficult, if not, almost impossible to achieve.

Mr. Speaker, while I recognize the problems attending the entire spectrum of congressional efforts to provide decent educational opportunities to our native American citizens, I still believe the establishment of a national university for our native American community will enhance their opportunities to obtain a full college-university level of education.

Mr. Speaker, I am greatly encouraged by the fact that there are currently 24 tribally operated community colleges set up primarily to serve our native American communities throughout the country. These colleges will play a tremendously important role—as they will be the major players by establishing linkages, and continuation of a native American youth's dreams and aspirations to obtain a university-level training at this National University for Native Americans.

Mr. Speaker, it is important that our National Government and native American leaders everywhere, be conscious of the fact that we need to address the needs of native Americans in education on all three levels, as I have mentioned earlier.

Mr. Speaker, it is my hope that this bill will draw greater attention to the tribulations and the plight of native Americans when it comes to education. Some critics have said why a university when we cannot even resolve the serious problems native American Indians now face even in the elementary level of education? Mr. Speaker, there is no reason why we cannot attack the problems of Indian education on all three levels. To suggest that we wait until one level is resolved will be like waiting for another 100 years. We can no longer wait. We are talking about generations of native Americans who will be lost if we don't address their problems now. Mr. Speaker, Rome was not built in a day. The native American community certainly does not want handouts, but many are forced

into economic dependence on Federal subsidies, because of the many inconsistent and simply bad policies the Federal Government has imposed upon them over the years.

Mr. Speaker, the native Americans do not want to continue to eat the fish we give them. They only want opportunities to learn how to fish so they can also become economically independent like all other Americans. It is my sincere hope that perhaps a national university for native Americans will provide that forum to sustain a unique culture, and at the same time, present them with the necessary tools to become good and honorable fishermen and women, and to contribute substantially to the economic, political, and social needs, of our great Nation.

□ 2200

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. COLEMAN of Missouri) to revise and extend their remarks and include extraneous material:)

Mr. DREIER of California, for 60 minutes, today and November 22, 23, 24, 25, 26, and 27.

Mr. COLEMAN of Missouri, for 5 minutes, today.

Mr. BOEHLERT, for 5 minutes, today.

Mr. KASICH, for 5 minutes, on November 22.

Mr. WALKER, for 60 minutes, today.

Mr. MCEWEN, for 60 minutes, on November 22.

(The following Members (at the request of Mr. GEJDENSON) to revise and extend their remarks and include extraneous material:)

Mr. WOLPE, for 5 minutes, today.

Mr. MOLLOHAN, for 5 minutes, today.

Mr. LIPINSKI, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. WISE, for 5 minutes, today.

Mr. FAZIO, for 60 minutes, on November 25.

Mr. FALEOMAVAEGA, for 60 minutes, today.

Mr. GEJDENSON, for 5 minutes, today.

Mr. JONTZ, for 5 minutes, today.

Mr. FAZIO, for 5 minutes, today.

Mr. ATKINS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. COLEMAN of Missouri) and to include extraneous matter:)

Mr. LEWIS of California.

Mr. PETRI.

Mr. BUNNING.

Mr. SCHULZE.

Mr. GOODLING in three instances.

Mrs. ROUKEMA.

Mr. GUNDERSON.

Mr. SANTORUM.

Mr. DAVIS.

Mr. SHAYS.

Mr. HUNTER.

Mr. PORTER in two instances.

Mr. ROHRABACHER.

Mr. RITTER.

Mrs. MORELLA.

Mr. FRANKS of Connecticut in three instances.

Mr. JAMES in two instances.

Mr. LAGOMARSINO.

Mr. RIGGS.

Mr. SPENCE.

Mr. GEKAS.

(The following Members (at the request of Mr. GEJDENSON) and to include extraneous matter:)

Mrs. LLOYD.

Mr. BONIOR.

Mr. STARK in two instances.

Mrs. MINK.

Mr. GORDON.

Mr. ASPIN.

Mr. SERRANO.

Mr. OBERSTAR.

Mr. BOUCHER.

Mr. KOSTMAYER.

Mr. LUKEN.

Mr. STOKES.

Mr. WILLIAMS in two instances.

Mr. SWETT.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2038. An act to authorize appropriations for fiscal year 1992 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes;

H.R. 2270. An act amending certain provisions of title 5, United States Code, relating to the Senior Executive Service;

H.R. 3394. An act to amend the Indian Self-Determination and Education Assistance Act;

H.R. 3624. An act to amend the Tariff Act of 1930 to provide appropriate procedures for the appointment of the Chairman of the United States International Trade Commission;

H.J. Res. 130. Joint resolution designating January 1, 1992, as "National Ellis Island Day"; and

H.J. Res. 327. Joint resolution designating 1992, as the "Year of the Gulf of Mexico."

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1563. An act to authorize appropriations to carry out the National Sea Grant College Program Act, and for other purposes; and

S. 1568. An act to amend the act incorporating The American Legion so as to redefine eligibility for membership therein.

ADJOURNMENT

Mr. FALEOMAVAEGA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 2 minutes p.m.), under its previous order, the House adjourned until tomorrow, Friday, November 22, 1991, at 11 a.m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CLAY: Committee on Post Office and Civil Service. H.R. 2586. A bill to amend title 31, United States Code, to allow the General Accounting Office to procure the services of additional experts and consultants; to permit the Comptroller General to enter into agreements with other Federal agencies relating to health care for employees serving abroad and their dependents; to exclude temporarily certain positions from the GS–15 pay limitation which would otherwise apply; and for other purposes. (Rept. 102–343). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 3012. A bill to amend the Wild and Scenic Rivers Act by designating the White Clay Creek in Delaware and Pennsylvania for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes (Rept. 102–344). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 3245. A bill to designate certain National Forest System lands in the State of Georgia as wilderness, and for other purposes; with an amendment (Rept. 102–345, Pt. 1). Ordered to be printed.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 3604. A bill to direct acquisitions within the Eleven Point Wild and Scenic River, to establish the Greer Spring Special Management Area in Missouri and for other purposes; with an amendment (Rept. 102–346, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. PICKLE (for himself, Mr. ROSTENKOWSKI, Mr. ARCHER, Mr. SCHULZE, Mr. ANTHONY, Mr. FORD of Tennessee, Mr. RANGEL, Mr. JACOBS, Mr. JENKINS, Mr. RUSSO, Mr. SHAW, Mr. SUNDQUIST, Mr. BUNNING, and Mr. THOMAS of California):

H.R. 3837. A bill to make certain changes to improve the administration of the Medicare Program, to reform customs overtime pay practices, to prevent the payment of Federal benefits to deceased individuals, and to require reports on employers with underfunded pension plans; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. PICKLE (for himself, Mr. SCHULZE, Mr. ARCHER, Mr. ANTHONY, Mr. FORD of Tennessee, Mr. RANGEL, Mr. JACOBS, Mr. JENKINS, Mr. RUSSO, Mr. SHAW, Mr. SUNDQUIST, and Mr. BUNNING):

H.R. 3838. A bill to amend the Internal Revenue Code of 1986 to provide additional safeguards to protect taxpayers' rights; to the Committee on Ways and Means.

By Mr. NATCHER:

H.R. 3839. A bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1992, and for other purposes; to the Committee on Appropriations.

By Mr. HOYER:

H.R. 3840. A bill to authorize a foreign assistance program to protect the rain forests in developing countries, to provide duty-free treatment for products that are certified to be produced through sustainable use of the rain forests, and for other purposes; jointly, to the Committees on Foreign Affairs and Ways and Means.

By Mr. WYDEN (for himself, Mr. CHANDLER, Mr. AUCOIN, Mr. THOMAS of Georgia, Mr. CALLAHAN, Mr. BAKER, Mr. KOPETSKI, Mr. SPRATT, Mr. WILSON, Mr. EMERSON, Mr. HUCKABY, Mr. NATCHER, Mr. OBERSTAR, Mr. DEFAZIO, Mr. MORRISON, Mrs. LLOYD, Mr. SWIFT, Mr. SMITH of Oregon, Mrs. UNSOELD, Mr. JONTZ, and Mr. CHAPMAN):

H.R. 3841. A bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities; to the Committee on Ways and Means.

By Mr. JONES of North Carolina (for himself, Mr. DAVIS, Mr. STUDDS, Mr. HUGHES, Mr. TAUZIN, Mr. HUBBARD, and Mr. HERTEL):

H.R. 3482. A bill to extend the territorial sea and the contiguous zone of the United States, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries, Foreign Affairs, and the Judiciary.

By Mr. CHANDLER (for himself, Mr. GUARINI, Mr. GOODLING, Mrs. SCHROEDER, Mr. SCHIFF, Mr. COLEMAN of Missouri, Mr. PETRI, Mrs. ROUKEMA, Mr. ARMEY, Mr. FAWELL, Mr. BARRETT, Mr. GRANDY, Mr. SANTORUM, Mrs. JOHNSON of Connecticut, and Mr. PARKER):

H.R. 3843. A bill to amend the Employee Retirement Income Security Act of 1974 and title 11, United States Code, to protect the single-employer plan termination insurance program by clarifying the status of claims of the Pension Benefit Guaranty Corporation and the treatment of pension plans in bankruptcy proceedings, and for other purposes; jointly, to the Committees on the Judiciary, Education and Labor, and Ways and Means.

By Mr. MAZZOLI (for himself, Mr. SCHUMER, Mr. BERMAN, Mr. BRYANT, Mr. KOPETSKI, Mr. CONYERS, Mr. FRANK of Massachusetts, Mr. LEHMAN of Florida, Mr. RANGEL, Mr. OWENS of New York, and Ms. WATERS):

H.R. 3844. A bill to assure the protection of Haitians in the United States or in United States custody pending the resumption of democratic rule in Haiti; to the Committee on the Judiciary.

By Mr. DEFAZIO (for himself, Mr. AUCOIN, Mr. MCDERMOTT, Mr. BROWN, Mr. KOPETSKI, and Mr. WYDEN):

H.R. 3845. A bill to terminate the military assistance pipeline for El Salvador; jointly, to the Committees on Foreign Affairs and Appropriations.

By Mr. FOGLIETTA:

H.R. 3846. A bill to authorize the Secretary of Health and Human Services to award a grant for the purpose of constructing a medical research facility at the Children's Hospital of Philadelphia, and for other purposes; to the Committee on Energy and Commerce.

By Mr. GUNDERSON:

H.R. 3847. A bill to amend the Securities Exchange Act of 1934 to impose certain restrictions on the conduct of hostile takeovers by foreign-based persons, and for other purposes; to the Committee on Energy and Commerce.

By Mr. HALL of Texas (for himself, Mr. BROWN, Mr. WALKER, Mr. SENSENBRENNER, Mr. BACCHUS, Mr. CRAMER, Mr. ROHRABACHER, Mr. TRAFICANT, Mr. HAYES of Louisiana, Mr. VOLKMER, Mr. PACKARD, Mr. SMITH of Texas, and Mr. LEWIS of Florida):

H.R. 3848. A bill to encourage the growth and development of commercial space activities in the United States, and for other purposes; jointly, to the Committees on Science, Space, and Technology and Armed Services.

By Mr. HASTERT (for himself, Mr. EMERSON, Mr. RAMSTAD, Mr. HORTON, Mr. JEFFERSON, Mr. EWING, Mr. KLUG, Mr. SANDERS, Mr. PERKINS, Mr. BLAZ, Mr. POSHARD, Mr. FALEOMAVAEGA, Mr. KOSTMAYER, Mr. SANGMEISTER, Mr. WILLIAMS, and Mr. UPTON):

H.R. 3849. A bill to grant a Federal charter to VietNow; to the Committee on the Judiciary.

By Mr. HATCHER (for himself, Mr. MARLENEE, Mr. VOLKMER, Mr. KOPETSKI, Mr. BOEHNER, Mr. ENGLISH, Mr. ROBERTS, Mr. HUCKABY, Mr. EMERSON, Mr. STENHOLM, Mr. MORRISON, Mr. TALLON, Mr. GUNDERSON, Mr. PENNY, Mr. LEWIS of Florida, Mr. STALLINGS, Mr. SMITH of Oregon, Mr. NAGLE, Mr. COMBEST, Mr. CAMPBELL of Colorado, Mr. HERGER, Mr. ESPY, Mr. WALSH, Mr. SARPALIUS, Mr. CAMP, Mr. PETERSON of Minnesota, Mr. ALLARD, Mr. BARRETT, Mr. NUSSLE, Mr. EWING, and Mr. RAY):

H.R. 3850. A bill entitled, the Federal-State Pesticide Regulation Partnership Act of 1991; to the Committee on Agriculture.

By Mr. HOAGLAND:

H.R. 3851. A bill to amend title XVIII of the Social Security Act to provide for coverage of annual preventive examinations under part B of the Medicare Program; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. HOAGLAND (for himself, Mr. LEACH, and Mr. ORTON):

H.R. 3852. A bill to establish the Peace and Prosperity Commission to review United States economic policies toward the former Soviet Union; jointly, to the Committees on Foreign Affairs, Ways and Means, and Banking, Finance and Urban Affairs.

By Mr. KANJORSKI:

H.R. 3853. A bill to provide a framework for national economic revitalization, to provide additional resources to the Bank Insurance Fund, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. KOSTMAYER:

H.R. 3854. A bill to amend the Solid Waste Disposal Act to require the regulation of produced water from oil and gas exploration, development, and production, and for other purposes; to the Committee on Energy and Commerce.

H.R. 3855. A bill to amend the Clean Air Act to require existing incinerators to comply with EPA regulations under section 129 within 6 months after promulgation, and for other purposes; to the Committee on Energy and Commerce.

H.R. 3856. A bill to amend the Mineral Leasing Act with respect to the administration of certain oil and gas rights, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MCMILLAN of North Carolina:

H.R. 3857. A bill to provide for medical injury compensation reform for health care provided under the Social Security Act and other Federal health programs, to amend the Internal Revenue Code of 1986 to implement like reforms in employer-provided health plans, and for other purposes; jointly, to the Committees on the Judiciary, Ways and Means, and Energy and Commerce.

By Mrs. MINK:

H.R. 3858. A bill to amend part A of title IV of the Social Security Act to require States to continue aid to families with dependent children during the first month of employment of the recipient; to the Committee on Ways and Means.

By Mr. MRAZEK:

H.R. 3859. A bill to amend the Internal Revenue Code of 1986 to reduce the tax on capital gains of individuals; to the Committee on Ways and Means.

By Mr. SCHUMER (for himself and Mr. TORRES):

H.R. 3860. A bill to amend the Truth in Lending Act to require additional disclosures with respect to credit card accounts, to require a study of the competitiveness of the credit card industry, to authorize the President to establish a cap on consumer credit card interest rates, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs and Rules.

By Mr. TORRICELLI:

H.R. 3861. A bill to provide demonstration grants to secondary schools for the purpose of extending the length of the academic year at such schools; to the Committee on Education and Labor.

By Mr. WILLIAMS:

H.R. 3862. A bill to authorize the Secretary of the Interior, in cooperation with the Secretary of Energy, to allocate Pick-Sloan Missouri River Basin Program project pumping power to non-Federal irrigation projects in the State of Montana, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. WILLIAMS (for himself and Mr. CLAY):

H.R. 3863. A bill to amend the National Labor Relations Act with respect to the right to organize of certain security personnel; to the Committee on Education and Labor.

By Mr. BOUCHER (for himself, Mr. TAUZIN, Mr. SYNAR, Mr. THOMAS of Wyoming, Mr. BRUCE, Mr. SLATTERY, Mr. SPRATT, Mr. COOPER, Mr. SANDERS, Mr. MONTGOMERY, Mr. KOPETSKI, Mr. SCHEUER, Mr. PAYNE of Virginia, and Mr. STAGGERS):

H.R. 3864. A bill to amend chapter 1 of title 17, United States Code, to enable satellite distributors to sue satellite carriers for unlawful discrimination; to the Committee on the Judiciary.

By Mr. BONIOR:

H.J. Res. 378. Joint resolution designating the last week of September 1992, and the last week of each September thereafter, as "National Senior Softball Week"; to the Committee on Post Office and Civil Service.

By Mr. FRANKS of Connecticut:

H.J. Res. 379. Joint resolution proposing an amendment to the Constitution of the United States authorizing the President to veto an item of appropriation in any act or resolution containing such an item; to the Committee on the Judiciary.

By Mr. FALEOMAVAEGA (for himself, Mr. SOLARZ, and Mr. BLAZ):

H. Con. Res. 243. Concurrent resolution expressing the sense of the Congress that the United States should recognize the concerns of the people of the South Pacific and call upon the Government of France to cease all nuclear testing at Moruroa and Fangataufa Atolls; to the Committee on Foreign Affairs.

By Mr. FOGLIETTA:

H. Con. Res. 244. Concurrent resolution to encourage peace and reunification on the Korean Peninsula; to the Committee on Foreign Affairs.

By Mr. VISCLOSKY:

H. Con. Res. 245. Concurrent resolution urging all parties in Yugoslavia to cease further use of force and engage fully and in good faith in negotiations on the future of Yugoslavia; to the Committee on Foreign Affairs.

By Mr. WAXMAN (for himself, Mr. GEPHARDT, Mr. DINGELL, Mr. WYDEN, Mr. SIKORSKI, Mr. CONYERS, Mr. FORD of Michigan, Mr. BROWN, Mr. BERMAN, Mr. DOWNEY, Mr. ESPY, Mrs. KENNELLY, Mr. LEWIS of Georgia, Mr. MCDERMOTT, Mr. MATSUI, Mr. OBEY, Mr. OLVER, Mr. ROSE, Mr. RUSSO, Mr. SANDERS, Mr. SCHUMER, Mr. TORRES, Mr. WEISS, Mr. PANETTA, Mr. OWENS of Utah, and Mr. MORAN):

H. Con. Res. 246. Concurrent resolution expressing the sense of Congress with respect to the relation of trade agreements to health, safety, labor, and environmental laws of the United States; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. HUGHES (for himself, Mr. SAXTON, and Mr. ANDREWS of New Jersey):

H. Res. 291. Resolution relating to elimination of perquisites for Members of the House of Representatives and amending the Rules of the House of Representatives to establish additional conditions for official committee travel expenses; to the Committee on Rules.

MEMORIALS

Under the clause 4 of rule XXII,

318. The SPEAKER presented a memorial of the Legislature of the State of California, relative to the Iraq-Kuwait war; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 73: Mr. KOSTMAYER, Mr. HYDE, Mr. THOMAS of Wyoming, Mr. STALLINGS, Mr. MRAZEK, Mr. BOEHLERT, and Mr. HERGER.

H.R. 134: Mr. RAMSTAD and Mr. FISH.

H.R. 298: Mr. MILLER of Washington.

H.R. 371: Mr. ROWLAND.

H.R. 423: Mr. BROWN.

H.R. 606: Mr. WILSON and Mr. WALSH.

H.R. 769: Mr. SMITH of Florida.

H.R. 791: Mr. ENGEL.

H.R. 830: Mr. COLEMAN of Texas.

H.R. 999: Mr. JOHNSON of South Dakota and Mr. STUMP.

H.R. 1067: Mr. MCDERMOTT, Mr. OLIN, and Mr. FIELDS.

H.R. 1069: Mr. SOLOMON.

H.R. 1245: Ms. NORTON, Mr. HENRY, Mr. PASTOR, Mr. BILBRAY, and Mr. GRANDY.

H.R. 1300: Mr. KOLTER.

H.R. 1430: Mr. BUSTAMANTE and Mr. PASTOR.

H.R. 1466: Mr. MARKEY and Mr. PETERSON of Florida.

H.R. 1515: Mr. MCNULTY, Mr. PETERSON of Florida, Mr. RAMSTAD, Mr. GEREN of Texas, Mrs. LLOYD, Mr OBEY, and Mr. ENGLISH.

H.R. 1527: Mr. SPRATT and Mr. KOLTER.

H.R. 1544: Mr. COLEMAN of Texas.

H.R. 1566: Mr. VENTO, Mr. HAMMERSCHMIDT, and Mr. SWETT.

H.R. 1665: Mr. BONIOR.

H.R. 1681: Ms. PELOSI and Mr. LEWIS of Florida.

H.R. 1771: Mr. BAKER and Mr. BURTON of Indiana.

H.R. 1916: Mrs. MORELLA.

H.R. 2089: Mr. GONZALEZ.

H.R. 2149: Mr. ROSE and Mr. DOOLITTLE.

H.R. 2202: Mr. ROHRABACHER.

H.R. 2232: Mr. ANTHONY.

H.R. 2236: Mr. JONES of North Carolina.

H.R. 2550: Mr. FISH.

H.R. 2600: Mr. HERTEL.

H.R. 2661: Mr. JOHNSON of South Dakota and Mr. MACHTLEY.

H.R. 2766: Mr. UPTON, Mr. JONES of North Carolina, Mr. MCCOLLUM, and Mr. DORNAN of California.

H.R. 2872: Mr. SANTORUM, Mr. DE LUGO, Mr ROHRABACHER, Mr. LEWIS of Georgia, Mr. SAVAGE, Mr. HYDE, and Mr. HAYES of Illinois.

H.R. 2880: Mr. ACKERMAN, Mr. COX of Illinois, Mr. PAYNE of New Jersey, Mr. JACOBS, Mr. HOCHBRUECKNER, and Mr. COYNE.

H.R. 2894: Mr. FROST.

H.R. 2898: Mr. DOWNEY, Mr. PICKETT, and Mr. WHEAT.

H.R. 2943: Mr. HASTERT.

H.R. 3121: Mr. RAMSTAD and Mr. GILCHREST.

H.R. 3130: Mr. YOUNG of Alaska.

H.R. 3138: Mr. ENGEL.

H.R. 3146: Mrs. MEYERS of Kansas.

H.R. 3170: Mr. UPTON.

H.R. 3176: Mr. FROST.

H.R. 3198: Mr. HUTTO, Mr. PICKETT, Mr. CLINGER, Mr. VANDER JAGT, Mr. HUNTER, Mr. ZELIFF, Mr. DELAY, Mr. SMITH of Oregon, Mr. QUILLEN, Mr. TANNER, Mr. MILLER of Ohio, Mr. OXLEY, Mr. SPENCE, Mr. BILIRAKIS, Mr. EDWARDS of Texas, Mr. NICHOLS, and Mr. GILLMOR.

H.R. 3216: Mr. JEFFERSON, Mr. MFUME, Mrs. LLOYD, and Mr. DOOLITTLE.

H.R. 3222: Mr. RANGEL, Ms. PELOSI, Mr. HOCHBRUECKNER, Mr. KOPETSKI, Mr. LEWIS of Florida, Mr. GEJDENSON, Mr. PETERSON of Minnesota, Mr. QUILLEN, Mrs. BYRON, and Mr. LANTOS.

H.R. 3357: Mr. HORTON, Mr. SPRATT, Mr. MCCOLLUM, Mr. BLAZ, Mr. DE LA GARZA, Mr. FRANKS of Connecticut, Mr. LAGOMARSINO, Mr. JEFFERSON, Mr. SOLOMON, Mr. WILSON, Mr. TOWNS, Mr. SANDERS, Mrs. JOHNSON of Connecticut, Mr. ZELIFF, Mr. EVANS, Mr. SCHAEFER, Mr. DOOLITTLE, Mr. SANTORUM, and Mr. DEFAZIO.

H.R. 3376: Mr. SOLOMON.

H.R. 3395: Mr. GILLMOR, Mr. MACHTLEY, Mr. LANCASTER, and Mr. CHAPMAN.

H.R. 3444: Mr. EVANS.

H.R. 3463: Mr. CONDIT.

H.R. 3515: Mrs. LLOYD, Mr. NEAL of Massachusetts, Mr. POSHARD, Mr. SARPALIUS, Mr. ALEXANDER, Mr. PENNY, and Mr. ANTHONY.

H.R. 3518: Mr. RIGGS, Mr. ROHRABACHER, Mr. SMITH of Florida, Mr. COX of California, Mr. SHAYS, and Mr. STEARNS.

H.R. 3553: Mr. STUDDS, Mr. KOSTMAYER, and Mr. DYMALLY.

H.R. 3554: Mr. KOSTMAYER, Mr. TORRES, Mr. DWYER of New Jersey, Mr. RANGEL, and Mr. JONTZ.

H.R. 3627: Mr. SMITH of Iowa, Mr. DICKINSON, Mr. FROST, Mr. JEFFERSON, Mr. COSTELLO, Ms. NORTON, Mr. HANSEN, Mr. STOKES, Mr. GILLMOR, Mr. MCHUGH, Mr. JACOBS, Mr. BILBRAY, Mr. LAUGHLIN, Mrs. BYRON, Mr. TALLON, Mr. SARPALIUS, Mr. GEREN of Texas, Mrs. LLOYD, Mr. TANNER, Mr. KOSTMAYER, Mr. CONDIT, Mr. HOPKINS, Mr. STENHOLM, Mr. TAUZIN, Mr. TAYLOR of Mississippi, Mr. EARLY, Mr. PICKETT, Mr. SCHUMER, Mr. BREWSTER, Mr. ENGLISH, Mr. VOLKMER, Mr. EDWARDS of Oklahoma, Mr. BONIOR, Mr. GEPHARDT, Mr. KANJORSKI, Mr. PICKLE, Mr. THOMAS of California, Mr. DONNELLY, Mr. CALLAHAN, Mr. SHARP, Mr. BARNARD, Mr. DINGELL, Mr. SLATTERY, Mr. BENNETT, Mr. FLAKE, Mr. LEWIS of Georgia, Mr. LAROCCO, Mr. TORRES, Mr. HOLLOWAY, Mrs. PATTERSON, Mr. BROWDER, Mr. JONES of Georgia, Mr. DARDEN, Mr. JENKINS, Mr. MARTINEZ, MR. WOLPE, Mr. QUILLEN, Mr. MORAN, Mr. KLECZKA, Mr. PAXON, Mr. ANNUNZIO, Mr. ALLEN, Mr. WALKER, Mr. JOHNSON of Texas, Mr. MCMILLAN of North Carolina, and Mr. BAKER.

H.R. 3639: Mr. DWYER of New Jersey and Mr. ZIMMER.

H.R. 3645: Mr. DE LUGO.

H.R. 3669: Mr. FOGLIETTA, Mr. WAXMAN, Mr. DWYER of New Jersey, Ms. NORTON, and Mr. MARTINEZ.

H.R. 3678: Mr. BURTON of Indiana and Mr. HERGER.

H.R. 3681: Mr. QUILLEN, Mrs. LOWEY of New York, Mr. FROST, Mr. ALEXANDER, Mr. SPRATT, and Mr. DYMALLY.

H.R. 3702: Mr. BOUCHER and Mr. DEFAZIO.

H.R. 3734: Mr. COX of California.

H.R. 3736: Mr. COSTELLO, Mr. RAHALL, Mr. HENRY, Mr. JONTZ, Mr. HUBBARD, Mr. MCNULTY, and Mr. FISH.

H.R. 3740: Mrs. LOWEY of New York and Mr. DICKINSON.

H.R. 3744: Mr. TAUZIN, Mr. PARKER, Mr. UPTON, Mr. GALLEGLY, Mr. HUNTER, Mr. SMITH of New Jersey, Mr. GUNDERSON, Mr. DANNEMEYER, Mr. LENT, Mr. HASTERT, Mr. MCCRERY, Mr. HOBSON, Mr. SAXTON, Mr. HANSEN, Mr. INHOFE, Mr. MOORHEAD, Mr. HEFLEY, Mr. BURTON of Indiana, Mr. HYDE, Mr. HORTON, Mr. LIGHTFOOT, Mr. YOUNG of Alaska, and Mr. BUNNING.

H.R. 3750: Mr. DOWNEY.

H.R. 3770: Mr. GOODLING, Mr. GOSS, Mr. MOORHEAD, Mr. BEREUTER, Mr. OXLEY, Mr. FAWELL, Mr. KOLBE, and Mr. GALLEGLY.

H.R. 3816: Mrs. LLOYD, Mr. IRELAND, Mr. CALLAHAN, Mr. ZIMMER, Mr. RAVENEL, Mr. WYLIE, Mr. PETRI, Mrs. JOHNSON of Connecticut, Mr. FIELDS, Mr. CARR, Mr. GUARINI, Mr. ANNUNZIO, and Mr. VANDER JAGT.

H.R. 3822: Mr. HERGER and Mr. FIELDS.

H.J. Res. 28: Mr. SANTORUM.

H.J. Res. 293: Mr. LEHMAN of California, Mr. HOYER, Mr. BALLENGER, Mr. BEVILL, Mr. DOOLITTLE, Mr. FLAKE, Mr. BOEHLERT, Mr. MANTON, Mr. PAYNE of Virginia, Mr. REGULA, Mr. VANDER JAGT, Mr. SMITH of New Jersey, Mr. DAVIS, Mr. PAYNE of New Jersey, Mr. DWYER of New Jersey, and Mr. HOUGHTON.

H.J. Res. 300: Mr. CRAMER.

H.J. Res. 316: Mr. HOYER.

H.J. Res. 369: Mr. FRANK of Massachusetts, Mr. ROGERS, Mr. HUGHES, Mr. TAUZIN, Mr. ATKINS, and Mr. JONTZ.

H.J. Res. 372: Mr. MANTON, Mr. MACHTLEY, Mr. BALLENGER, Mr. SUNDQUIST, and Mr. HUGHES.

H.J. Res. 376: Mr. WEISS, Mr. HORTON, Mr. JOHNSTON of Florida, Mr. KOSTMAYER, Mr.

MATSUI, Mr. MFUME, Mr. LEVINE of California, Mrs. MORELLA, Mr. LEVIN of Michigan, Mr. SAWYER, Mr. KENNEDY, Mrs. UNSOELD, Mr. MILLER of California, Mr. PAYNE of New Jersey, Ms. NORTON, Mrs. BOXER, Mr. MARKEY, Ms. PELOSI, Mr. TRAFICANT, Mr. DELLUMS, Mr. DYMALLY, Mr. DE LUGO, Mr. SCHEUER, Mr. STUDDS, Mr. FOGLIETTA, Mr. FRANK of Massachusetts, Mr. WOLPE, Mr. YATES, Mr. MRAZEK, Mr. FASCELL, Mr. ACKERMAN, Mr. MCNULTY, Mr. OWENS of Utah, Mr. SWIFT, Mr. BERMAN, Mr. MCMILLEN of Maryland, Mr. DIXON, Mr. SKEEN, Mr. TOWNS, Mr. FEIGHAN, Mr. KOLTER, Mr. ROWLAND, Mr. DARDEN, Mr. OLVER, Mr. DURBIN, Mr. BARNARD, Mr. BOUCHER, Mr. WISE, Mr. TORRES, Mrs. LOWEY of New York, Mr. KOPETSKI, Mr. PANETTA, Mr. LAROCCO, Mr. EDWARDS of California, Mr. SABO, Mr. PRICE, Mr. SCHUMER, Mr. SIKORSKI, Mrs. COLLINS of Michigan, Mr. NATCHER, Mr. WALSH, Mr. AUCOIN, Mr. BONIOR, Mr. BRYANT, Mr. CLEMENT, Mr. COSTELLO, Ms. DELAURO, Mr. DORGAN of North Dakota, Mr. DOWNEY, Mr. FALEOMAVAEGA, Mr. HOYER, Mr. FAZIO, Mr. HALL of Ohio, Mr. ECKART, Mr. HASTERT, Mr. HAYES of Illinois, Mr. HEFNER, Mrs. KENNELLY, Mr. KANJORSKI, Mr. JONES of Georgia, Mr. KILDEE, Mr. LEHMAN of California, Mr. LEWIS of Georgia, Mr. PASTOR, Ms. OAKAR, Mr. MILLER of Washington, Mrs. MINK, Mr. MORRISON, Mr. PICKLE, Mr. PORTER, Mr. RICHARDSON, Mr. RHODES, Mr. ROSE, Mr. SAVAGE, Ms. SLAUGHTER of New York, Mr. SMITH of Florida, Mr. STOKES, Mr. TRAXLER, Ms. WATERS, Mr. WHEAT, Mr. WYDEN, Mr. SKAGGS, Mr. PERKINS, Mr. SHAYS, Mr. ABERCROMBIE, Mr. RUSSO, Mr. COX of Illinois, Mr. MOODY, Mr. GLICKMAN, Mr. DEFAZIO, Mr. WASHINGTON, Mr. MINETA, Mr. BURTON of Indiana, Mr. GUARINI, Mr. MOAKLEY, Mr. DWYER of New Jersey, Mr. MARTINEZ, Mr. LEHMAN of Florida, Mr. ANDERSON, Mr. ANDREWS of Texas, Mr. ANDREWS of New Jersey, Mr. ANTHONY, Mr. ATKINS, Mr. BENNETT, Mr. BROWN, Mr. BRUCE, Mr. CARDIN, Mr. CARPER, Mr. COLEMAN of Texas, Mr. CONYERS, Mr. COYNE, Mr. DICKS, Mr. DONNELLY, Mr. ENGEL, Mr. ERDREICH, Mr. ESPY, Mr. FLAKE, Mr. FORD of Michigan, Mr. FROST, Mr. GEJDENSON, Mr. GEREN of Texas, Mr. GIBBONS, Mr. GREEN of New York, Mr. HAMILTON, Mr. JACOBS, Mrs. JOHNSON of Connecticut, Mr. JOHNSON of South Dakota, Ms. KAPTUR, Mr. KLUG, Mr. LEWIS of California, Mr. MCCLOSKEY, Mr. MCGRATH, Mr. MCHUGH, Mr. MAVROULES, Mr. MAZZOLI, Mrs. MEYERS of Kansas, Mr. MORAN, Mr. MURPHY, Mr. PETERSON of Florida, Mr. POSHARD, Mr. RANGEL, Mr. SHARP, Mr. SMITH of Iowa, Ms. SNOWE, Mr. SPRATT, Mr. STARK, Mr. TANNER, Mr. VENTO, Mr. WILSON, Mr. SANDERS, Mr. FUSTER, Mr. JONTZ, Mr. BLACKWELL, Mr. WAXMAN, Mr. CLAY, Mr. GRADISON, Mr. BROWDER, Mr. HUBBARD, Mr. MCCANDLESS, Mr. PICKETT, Mr. HOAGLAND, Mr. HOBSON, Mr. HOUGHTON, Mr. BEILENSON, Mr. BILBRAY, Mr. BOEHLERT, Mr. BROOMFIELD, Mr. CARR, Mr. CONDIT, Mr. DELAY, Mr. FORD of Tennessee, Mr. GEPHARDT, Mr. GONZALEZ, Mr. GRANDY, Mr. HARRIS, Mr. HENRY, Mr. HANSEN, Mr. HUGHES, Mr. HYDE, Mr. JEFFERSON, Mr. JENKINS, Mr. KLECZKA, Mr. LAFALCE, Ms. MOLINARI, Mr. MURTHA, Mr. NEAL of Massachusetts, Mr. NEAL of North Carolina, Mr. OBERSTAR, Mr. ORTIZ, Mrs. PATTERSON, Mr. REED, Mr. ROHRABACHER, Mr. SARPALIUS, Mr. ROYBAL, Mr. SCHULZE, Mr. SERRANO, Mr. STAGGERS, Mr. TAUZIN, Mr. STENHOLM, Mr. THOMAS of California, Mr. UPTON, and Mr. VISCLOSKY.

H. Con. Res. 145: Mr. DEFAZIO and Mr. CAMPBELL of California.

H. Con. Res. 211: Mr. ANDERSON and Mr. KILDEE.

H. Con. Res. 218: Mr. RITTER.

H. Con. Res. 232: Mr. GUARINI, Mr. TORRES, Mr. FUSTER, Mr. HENRY, Mr. TOWNS, Mrs. MORELLA, and Mr. EVANS.

H. Con. Res. 235: Mr. BONIOR and Mr. CONDIT.

H. Con. Res. 236: Mr. MCNULTY, Mr. LEWIS of Florida, Mr. EDWARDS of Oklahoma, Mrs. MEYERS of Kansas, Mr. MARTINEZ, Mr. POSHARD, Mr. FRANKS of Connecticut, Mr. HANCOCK, and Mrs. LLOYD.

H. Con. Res. 240; Mr. EMERSON, Mr. EVANS, Mr. FAWELL, Mr. FUSTER, Mr. GILMAN, Mr. MCNULTY, Mrs. MEYERS of Kansas, Mrs. MORELLA, Mr. STARK, Mr. TOWNS, and Mr. TRAFICANT.

H. Res. 107: Mr. SANTORUM.

H. Res. 129: Mr. COX of California, Mr. MATSUI, Mr. GEJDENSON, Mr. CRANE, and Mr. MRAZEK.

H. Res. 152: Mr. PARKER.

H. Res. 233: Mr. SWETT and Mr. ECKART.

H. Res. 234: Mrs. JOHNSON of Connecticut, Mr. GUARINI, Mrs. MORELLA, Mr. OWENS of Utah, and Mr. BROOMFIELD.

H. Res. 257: Mr. KILDEE, Mr. GILCHREST, and Ms. NORTON.

H. Res. 263: Mr. FAWELL.

H. Res. 284: Mr. TRAXLER, Mr. ATKINS, Mrs. BYRON, Mr. COSTELLO, Mr. DE LA GARZA, Mr. HALL of Texas, Mr. HORTON, Mr. KOPETSKI, Mr. PRICE, and Mr. SYNAR.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolution as follows:

[Omitted from the Record of October 23, 1991]

H.R. 1790: Mr. ERDREICH.

[Submitted November 21, 1991]

H.J. Res. 342: Mr. MCMILLAN of North Carolina.