SENATE—*Monday, February 7, 1994*

(Legislative day of Tuesday, January 25, 1994)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable HARLAN MATHEWS, a Senator from the State of Tennessee.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

* * * *ye shall know the truth, and the truth shall make you free.*—John 8:32.

Eternal God, "What is truth?" When Pilate asked that question of Jesus, he knew no truth—everything or anything was true—or nothing was true. The temporal Emperor was the only god Rome knew. Life was cheap. Morality was whatever one desired to do. Paganism, barbarianism was the order of the day.

Has western civilization reverted? Have we become a pagan America?

Gracious God of truth and justice, awaken us to our dilemma. We have a Bureau of Standards. We could not do business without a clear understanding of ounces and pounds, inches and feet, pints and gallons, minutes and hours. But we have no standards when it comes to morality and ethics. We have no god—not even a Caesar. We have become a godless, relativistic society.

Help us become what we profess to be—"One nation under God."

We pray in His name who is Incarnate Truth. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 7, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARLAN MATHEWS, a Senator from the State of Tennessee, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. MATHEWS thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order the leadership time is reserved.

SCHOOL-TO-WORK OPPORTUNITIES ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 1361, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1361) to establish a national framework for the development of school-to-work opportunities systems in all States and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Human Resources with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "School-to-Work Opportunities Act of 1993".

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Purposes and congressional intent.
Sec. 4. Definitions.
Sec. 5. Federal administration.

TITLE I—SCHOOL-TO-WORK OPPORTUNITIES BASIC PROGRAM COMPONENTS

Sec. 101. General program requirements.
Sec. 102. Work-based learning component.
Sec. 103. School-based learning component.
Sec. 104. Connecting activities component.

TITLE II—SCHOOL-TO-WORK OPPORTUNITIES SYSTEM DEVELOPMENT AND IMPLEMENTATION GRANTS TO STATES

Subtitle A—State Development Grants

Sec. 201. Purpose.
Sec. 202. State development grants.

Subtitle B—State Implementation Grants

Sec. 211. Purpose.
Sec. 212. State implementation grants.
Sec. 213. Limitation on administrative costs.

TITLE III—FEDERAL IMPLEMENTATION GRANTS TO PARTNERSHIPS

Sec. 301. Purposes.
Sec. 302. Federal implementation grants to partnerships.
Sec. 303. School-to-work opportunities program grants in high poverty areas.

TITLE IV—NATIONAL PROGRAMS

Sec. 401. Research, demonstration, and other projects.
Sec. 402. Performance outcomes and evaluation.
Sec. 403. Training and technical assistance.

TITLE V—GENERAL PROVISIONS

Sec. 501. State request and responsibilities for a waiver of statutory and regulatory requirements.
Sec. 502. Waivers of statutory and regulatory requirements by the Secretary of Education.
Sec. 503. Waivers of statutory and regulatory requirements by the Secretary of Labor.
Sec. 504. Requirements.
Sec. 505. Sanctions.
Sec. 506. Authorization of appropriations.
Sec. 507. Acceptance of gifts, and other matters.
Sec. 508. State authority.
Sec. 509. Construction.
Sec. 510. Effective date.
Sec. 511. Sunset.

SEC. 2. FINDINGS.

Congress finds that—

(1) three-fourths of America's high school students enter the work force without baccalaureate degrees, and many do not possess the academic and entry-level occupational skills necessary to succeed in the changing American workplace;

(2) a substantial number of American youth, especially disadvantaged students, students of diverse racial, ethnic, and cultural backgrounds, and students with disabilities, do not complete school;

(3) unemployment among American youth is intolerably high, and earnings of high school graduates have been falling relative to earnings of persons with more education;

(4) the American workplace is changing in response to heightened international competition and new technologies, and such forces, which are ultimately beneficial to the Nation, are shrinking the demand for and undermining the earning power of unskilled labor;

(5) the United States lacks a comprehensive and coherent system to help its youth acquire the knowledge, skills, abilities, and information about and access to the labor market necessary to make an effective transition from school to career-oriented work or to further education and training;

(6) American students can achieve to high standards, and many learn better and retain more when the students learn in context, rather than in the abstract;

(7) while many American students have part-time jobs, there is infrequent linkage between—

(A) such jobs; and

(B) the career planning or exploration, or the school-based learning, of such students;

(8) the work-based learning approach, which is modeled after the time-honored apprenticeship concept, integrates theoretical instruction with structured on-the-job training, and this approach, combined with school-based learning, can be very effective in engaging student interest, enhancing skill acquisition, developing positive work attitudes, and preparing youth for high-skill, high-wage careers; and

(9) Federal resources currently fund a series of categorical, work-related education and training programs, many of which serve disadvantaged youth, that are not administered as a coherent whole.

SEC. 3. PURPOSES AND CONGRESSIONAL INTENT.

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

(1) establish a national framework within which all States can create statewide School-to-Work Opportunities systems that—

(A) are a part of comprehensive education reform;

(B) are integrated with the State education systems reformed under the Goals 2000: Educate America Act; and

(C) offer opportunities for all students to participate in a performance-based education and training program that will—

(i) enable the students to earn portable credentials;

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

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(ii) prepare the students for first jobs in high-skill, high-wage careers; and

(iii) increase their opportunities for further education, including education in a 4-year college or university;

(2) create a universal, high-quality school-to-work transition system that enables all young Americans to identify and navigate paths to productive and progressively more rewarding roles in the workplace;

(3) utilize workplaces as active learning environments in the educational process by making employers joint partners with educators in providing opportunities for all students to participate in high-quality, work-based learning experiences;

(4) use Federal funds under this Act as venture capital, to underwrite the initial costs of planning and establishing statewide School-to-Work Opportunities systems that will be maintained with other Federal, State, and local resources;

(5) promote the formation of partnerships that are dedicated to linking the worlds of school and work, among secondary schools and postsecondary education institutions, private and public employers, labor organizations, government, community-based organizations, parents, students, State educational agencies, local educational agencies, and training and human service agencies;

(6) help all students attain high academic and occupational standards;

(7) build on and advance a range of promising school-to-work transition programs, such as tech-prep education programs, career academies, school-to-apprenticeship programs, cooperative education programs, youth apprenticeship programs, school-sponsored enterprises, and business-education compacts, that can be developed into programs funded under this Act;

(8) improve the knowledge and skills of youth by integrating academic and occupational learning, integrating school-based and work-based learning, and building effective linkages between secondary and postsecondary education;

(9) motivate all youth, including low-achieving youth, youth who have dropped out of school, and youth with disabilities, to stay in or return to school or a classroom setting and strive to succeed, by providing enriched learning experiences and assistance in obtaining good jobs and continuing their education in postsecondary education institutions;

(10) expose students to a vast array of career opportunities, and facilitate the selection of career majors, based on individual interests, goals, strengths, and abilities; and

(11) further the National Education Goals set forth in title I of the Goals 2000: Educate America Act.

(b) CONGRESSIONAL INTENT.—It is the intent of Congress that the Secretary of Labor and the Secretary of Education jointly administer this Act, in consultation with the Secretary of Commerce, in a flexible manner that—

(1) promotes State and local discretion in establishing and implementing School-to-Work Opportunities systems and programs; and

(2) contributes to reinventing government by—

(A) building on State and local capacity;

(B) eliminating duplication in education and training programs for youth by integrating such programs into one comprehensive system;

(C) maximizing the effective use of resources;

(D) supporting locally established initiatives;

(E) requiring measurable goals for performance; and

(F) offering flexibility in meeting such goals.

SEC. 4. DEFINITIONS.

As used in this Act—

(1) the term "all aspects of the industry" means all aspects of the industry or industry sector a student is preparing to enter, including planning, management, finances, technical and production skills, underlying principles of technology, labor and community issues, health and safety issues, and environmental issues, related to such industry or industry sector;

(2) the term "all students" means students from a broad range of backgrounds and circumstances, including disadvantaged students, students with diverse racial, ethnic, or cultural backgrounds, students with disabilities, students with limited-English proficiency, students who have dropped out of school, and academically talented students;

(3) the term "approved plan" means a School-to-Work Opportunities system plan that is submitted by a State under section 212(a), is determined by the Secretaries to include the program components described in sections 102 through 104 and otherwise meet the requirements of this Act, and is consistent with the improvement plan of the State, if any, under the Goals 2000: Educate America Act;

(4) the term "career major" means a coherent sequence of courses or field of study that prepares a student for a first job and that—

(A) integrates academic and occupational learning, integrates school-based and work-based learning, establishes linkages between secondary and postsecondary education, and prepares students for admission to 2-year or 4-year postsecondary education institutions;

(B) prepares the student for employment in broad occupational clusters or industry sectors;

(C) typically includes at least 2 years of secondary education and at least 1 or 2 years of postsecondary education;

(D) provides the students, to the extent practicable, with strong experience in and understanding of all aspects of the industry the students are planning to enter;

(E) results in the award of—

(i) a high school diploma or its equivalent, such as—

(I) a general equivalency diploma; or

(II) an alternative diploma or certificate for students with disabilities for whom such alternative diploma or certificate is appropriate;

(ii) a certificate or diploma recognizing successful completion of 1 or 2 years of postsecondary education (if appropriate); and

(iii) a skill certificate; and

(F) may lead to further education and training, such as entry into a registered apprenticeship program, or may lead to admission to a 4-year college or university;

(5) the term "employer" includes both public and private employers;

(6) the term "Governor" means the chief executive of a State;

(7) the term "local educational agency" has the meaning given the term in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12));

(8) the term "partnership" means a local entity that—

(A) is responsible for carrying out local School-to-Work Opportunities programs;

(B) consists of employers or employer organizations, public secondary schools and postsecondary educational institutions (or representatives, such as teachers, counselors, and administrators), and labor organizations or nonmanagerial employee representatives; and

(C) may include other entities, such as community-based organizations, national trade associations working at local levels, rehabilitation agencies and organizations, registered apprenticeship agencies, local vocational education entities, proprietary institutions of higher education as defined in section 481(b) of the Higher Education Act of 1965 (20 U.S.C. 1088(b)) (so long as such institutions meet the requirements specified in section 498 of such Act), local government agencies, parent organizations and teacher organizations, vocational student organizations, private industry councils established under section 102 of the Job Training Partnership Act (29 U.S.C. 1512), and Indian tribes, as defined in section 1 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801);

(9) the term "postsecondary education institution" means a public or private institution that is authorized within a State to provide a program of education beyond secondary education, and includes a community college, a technical college, a postsecondary vocational institution, a tribally controlled community college, as defined in section 1 of the Tribally Controlled Community College Assistance Act of 1978, and a 4-year college or university;

(10) the term "registered apprenticeship agency" means the Bureau of Apprenticeship and Training in the Department of Labor or a State apprenticeship agency recognized and approved by the Bureau of Apprenticeship and Training as the appropriate body for State registration or approval of local apprenticeship programs and agreements for Federal purposes;

(11) the term "registered apprenticeship program" means a program registered by a registered apprenticeship agency;

(12) the term "related services" includes the types of services described in section 602(17) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(17));

(13) the term "school site mentor" means a professional employed at a school who is designated as the advocate for a particular student, and who works in consultation with classroom teachers, counselors, related services personnel, and the employer of the student to design and monitor the progress of the School-to-Work Opportunities program of the student;

(14) the term "School-to-Work Opportunities program" means a program that meets the requirements of this Act, other than a program described in section 401(a);

(15) the term "secondary school" has the meaning given the term in section 1201(d) of the Higher Education Act of 1965 (20 U.S.C. 1141(d));

(16) the term "Secretaries" means the Secretary of Education and the Secretary of Labor;

(17) the term "skill certificate" means a portable, industry-recognized credential issued by a School-to-Work Opportunities program under an approved plan, that certifies that a student has mastered skills at levels that are at least as challenging as skill standards endorsed by the National Skill Standards Board established under the National Skill Standards Act of 1993, except that until such skill standards are developed, the term "skill certificate" means a credential issued under a process described in the approved plan of a State;

(18) the term "State" means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico;

(19) the term "State educational agency" has the meaning given the term in section 1471(23) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(23)); and

(20) the term "workplace mentor" means an employee or other individual, approved by the employer at a workplace, who possesses the skills and knowledge to be mastered by a student, and who instructs the student, critiques the performance of the student, challenges the student to perform well, and works in consultation with classroom teachers and the employer of the student.

SEC. 5. FEDERAL ADMINISTRATION.

(a) JOINT ADMINISTRATION.—Notwithstanding the Department of Education Organization Act (20 U.S.C. 3401 et seq.), the General Education Provisions Act (20 U.S.C. 1221 et seq.), the Act

entitled "An Act To Create a Department of Labor", approved March 4, 1913 (29 U.S.C. 551 et seq.), and section 166 of the Job Training Partnership Act (29 U.S.C. 1576), the Secretaries shall jointly provide for the administration of the programs established by this Act. The Secretaries shall jointly issue such uniform procedures, guidelines, and regulations, in accordance with section 553 of title 5, United States Code, as the Secretaries determine to be necessary and appropriate to administer and enforce the provisions of this Act.

(b) REGULATIONS.—Section 431 of the General Education Provisions Act (20 U.S.C. 1232) shall not apply to regulations issued with respect to any programs under this Act.

(c) PLAN.—Within 120 days after the date of enactment of this Act, the Secretaries shall prepare a plan for the joint administration of this Act and submit such plan to the appropriate Committees of Congress for review and comment.

TITLE I—SCHOOL-TO-WORK OPPORTUNITIES BASIC PROGRAM COMPONENTS

SEC. 101. GENERAL PROGRAM REQUIREMENTS.

A School-to-Work Opportunities program under this Act shall—

(1) integrate school-based learning and work-based learning, as provided for in sections 102 and 103, integrate academic and occupational learning, and establish effective linkages between secondary and postsecondary education;

(2) provide participating students with the opportunity to complete career majors;

(3) incorporate the program components provided in sections 102 through 104;

(4) provide participating students, to the extent practicable, with strong experience in and understanding of all aspects of the industry the students are preparing to enter; and

(5) provide all students with equal access to the full range of such program components (including both school- and work-based learning components) and related activities and to recruitment, enrollment, and placement activities.

SEC. 102. WORK-BASED LEARNING COMPONENT.

(a) MANDATORY ACTIVITIES.—The work-based learning component of a School-to-Work Opportunities program shall include—

(1) paid work experience;

(2) a planned program of job training and work experiences (including training related to preemployment and employment skills to be mastered at progressively higher levels) that are coordinated with learning in the school-based learning component described in section 103 and are relevant to the career majors of students and lead to the award of skill certificates;

(3) workplace mentoring; and

(4) instruction in general workplace competencies, including instruction and activities developing positive work attitudes, and employability and participative skills.

(b) PERMISSIBLE ACTIVITIES.—Such component may include such activities as job shadowing, school-sponsored enterprises, or on-the-job training for academic credit.

SEC. 103. SCHOOL-BASED LEARNING COMPONENT.

The school-based learning component of a School-to-Work Opportunities program shall include—

(1) career exploration and counseling, beginning prior to the 11th grade year of the students, in order to help students who may be interested to identify, and select or reconsider, their interests, goals, and career majors;

(2) initial selection by interested students of career majors not later than the beginning of the 11th grade;

(3) a program of study designed to meet academic standards established by the State for all students, including, where applicable, any content standards developed under the Goals 2000: Educate America Act, and to meet the requirements necessary to prepare students for postsecondary education and to earn skill certificates; and

(4) regularly scheduled evaluations involving ongoing consultation and problem solving with students to identify academic strengths and weaknesses, academic progress, workplace knowledge, goals, and the need for additional learning opportunities to master core academic and vocational skills.

SEC. 104. CONNECTING ACTIVITIES COMPONENT.

The connecting activities component of a School-to-Work Opportunities program shall include—

(1) matching students with the work-based learning opportunities of employers;

(2) serving, with respect to each student, as a liaison among the student and the employer, school, teacher, and parent of the student, and, if appropriate, other community partners;

(3) providing technical assistance and services to employers, including small- and medium-sized businesses, and other parties in—

(A) designing work-based learning components described in section 102 and counseling and case management services; and

(B) training teachers, workplace mentors, school site mentors, and counselors;

(4) providing assistance to schools and employers to integrate school-based and work-based learning and integrate academic and occupational learning in the program;

(5)(A) providing assistance to participants who have completed the program in finding an appropriate job, continuing their education, or entering into an additional training program; and

(B) linking the participants with other community services that may be necessary to assure a successful transition from school to work;

(6) collecting and analyzing information regarding post-program outcomes of participants in the School-to-Work Opportunities program, including disadvantaged students, students with diverse racial, ethnic, or cultural backgrounds, students with disabilities, students with limited-English proficiency, students who have dropped out of school, and academically talented students; and

(7) linking youth development activities under this Act with employer and industry strategies for upgrading the skills of their workers.

TITLE II—SCHOOL-TO-WORK OPPORTUNITIES SYSTEM DEVELOPMENT AND IMPLEMENTATION GRANTS TO STATES

Subtitle A—State Development Grants

SEC. 201. PURPOSE.

The purpose of this subtitle is to assist States in planning and developing comprehensive, statewide systems for school-to-work opportunities.

SEC. 202. STATE DEVELOPMENT GRANTS.

(a) IN GENERAL.—

(1) AWARD.—On the application of the Governor on behalf of a State, the Secretaries may award a development grant to the State in such amount as the Secretaries determine to be necessary to enable the State to complete development of a comprehensive, statewide School-to-Work Opportunities system.

(2) AMOUNT.—The amount of a development grant under this subtitle may not exceed $1,000,000 for any fiscal year.

(3) COMPLETION.—The Secretaries may award such grant to complete development initiated with funds awarded under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) or the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

(b) APPLICATION CONTENTS.—To be eligible to receive a grant under subsection (a), a State shall submit an application to the Secretaries that shall—

(1) include a timetable and an estimate of the amount of funding needed to complete the planning and development necessary to implement a comprehensive, statewide School-to-Work Opportunities system, for all students;

(2) describe the manner in which—

(A) the Governor;

(B) the State educational agency;

(C) the State agency officials responsible for job training and employment;

(D) the State agency officials responsible for economic development;

(E) the State agency officials responsible for postsecondary education; and

(F) other appropriate officials,

will collaborate in the planning and development of the statewide School-to-Work Opportunities system;

(3) describe the manner in which the State has obtained and will continue to obtain the active and continued participation, in the planning and development of the statewide School-to-Work Opportunities system, of employers and other interested parties such as locally elected officials, secondary schools and postsecondary educational institutions (or related agencies), business associations, employees, labor organizations or associations of such organizations, teachers, related services personnel, students, parents, community-based organizations, rehabilitation agencies and organizations, registered apprenticeship agencies, vocational educational agencies, vocational student organizations, and human service agencies;

(4) describe the manner in which the State will coordinate planning activities with any local school-to-work programs, including programs that have received a grant under title III, if any;

(5) designate a fiscal agent to receive and be accountable for funds awarded under this subtitle;

(6) include such other information as the Secretaries may require;

(7) provide evidence of the support of the officials and agencies described in paragraph (2) for the application; and

(8) be submitted at such time and in such manner as the Secretaries may require.

(c) STATE DEVELOPMENT ACTIVITIES.—Funds awarded under this section shall be expended by a State only for activities undertaken to develop a statewide School-to-Work Opportunities system, which may include—

(1) identifying or establishing an appropriate State structure to administer the School-to-Work Opportunities system;

(2) identifying secondary and postsecondary school-to-work programs that might be incorporated into the State system;

(3) identifying or establishing broad-based partnerships among employers, labor, education, government, and other community and parent organizations to participate in the design, development, and administration of School-to-Work Opportunities programs;

(4) developing a marketing plan to build consensus and support for School-to-Work Opportunities programs;

(5) promoting the active involvement of business, including small- and medium-sized businesses, in planning, developing, and implementing local School-to-Work Opportunities programs;

(6) identifying ways that local school-to-work programs could be coordinated with the statewide School-to-Work Opportunities system;

(7) supporting local planning and development activities to provide guidance, training, and technical assistance in the development of School-to-Work Opportunities programs;

(8) identifying or establishing mechanisms for providing training and technical assistance to enhance the development of a statewide School-to-Work Opportunities system;

(9) initiating pilot programs for testing key components of the program design of programs under the system;

(10) developing a State process for issuing skill certificates that is, to the extent feasible, consistent with the efforts of the National Skill Standards Board and the skill standards endorsed under the National Skill Standards Act of 1993;

(11) designing challenging curricula, in cooperation with representatives of local partnerships, that take into account the diverse learning needs and abilities of the student population served by the system;

(12) developing a system for labor market analysis and strategic planning for local targeting, of industry sectors or broad occupational clusters, that can provide students with placements in high-skill workplaces;

(13) analyzing the post-high school employment experiences of recent high school graduates and students who have dropped out of school;

(14) preparing the plan described in section 212(b); and

(15) developing a training and technical support system for teachers, employers, mentors, counselors, related services personnel, and other parties.

Subtitle B—State Implementation Grants

SEC. 211. PURPOSE.

The purpose of this subtitle is to assist States in the implementation of comprehensive, statewide School-to-Work Opportunities systems.

SEC. 212. STATE IMPLEMENTATION GRANTS.

(a) IN GENERAL.—

(1) ELIGIBILITY.—On the application of the Governor on behalf of a State, the Secretaries may award, on a competitive basis, a 5-year implementation grant to the State.

(2) APPLICATION.—To be eligible to receive a grant under paragraph (1), a State shall submit an application to the Secretaries that shall—

(A) contain—

(i) a plan for a comprehensive, statewide School-to-Work Opportunities system that meets the requirements of subsection (b);

(ii) a description of the manner in which the State will allocate funds made available through such a grant to local School-to-Work Opportunities partnerships under subsection (g);

(iii) a request, if the State decides to submit such a request, for one or more waivers of certain statutory or regulatory requirements, as provided for under title V;

(iv) a description of the manner in which—

(I) the Governor;

(II) the State educational agency;

(III) the State agency officials responsible for job training and employment;

(IV) the State agency officials responsible for economic development;

(V) the State agency officials responsible for postsecondary education;

(VI) other appropriate officials; and

(VII) the private sector,

collaborated in the development of the application; and

(v) such other information as the Secretaries may require; and

(B) be submitted at such time and in such manner as the Secretaries may require.

(b) CONTENTS OF STATE PLAN.—A State plan referred to in subsection (a)(2)(A)(i) shall—

(1) designate the geographical areas to be served by partnerships that receive grants under subsection (g), which shall, to the extent feasible, reflect local labor market areas;

(2) describe the manner in which the State will stimulate and support local School-to-Work Opportunities programs that meet the requirements of this Act, and the manner in which the statewide School-to-Work Opportunities system will be expanded over time to cover all geographic areas in the State;

(3) describe the procedure by which—

(A) the Governor;

(B) the State educational agency;

(C) the State agency officials responsible for job training and employment;

(D) the State agency officials responsible for economic development;

(E) the State agency officials responsible for postsecondary education; and

(F) other appropriate officials,

will collaborate in the implementation of the statewide School-to-Work Opportunities system;

(4) describe the manner in which the State has obtained and will continue to obtain the active and continued involvement, in the statewide School-to-Work Opportunities system, of employers and other interested parties such as locally elected officials, secondary schools and postsecondary educational institutions (or related agencies), business associations, employees, labor organizations or associations of such organizations, teachers, related services personnel, students, parents, community-based organizations, rehabilitation agencies and organizations, registered apprenticeship agencies, vocational educational agencies, vocational student organizations, State or regional cooperative education associations, and human service agencies;

(5) describe the manner in which the School-to-Work Opportunities system will coordinate with or integrate local school-to-work programs, including programs financed from State and private sources, with funds available from such related Federal programs as programs under the Adult Education Act (20 U.S.C. 1201 et seq.), the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301, et seq.), the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.), the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.), the Goals 2000: Educate America Act, the National Skills Standards Act of 1993, the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), the Job Training Partnership Act (29 U.S.C. 1501 et seq.), the Act of August 16, 1937 (commonly known as the "National Apprenticeship Act"; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.); the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), and the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.);

(6) describe the strategy of the State for providing training for teachers, employers, mentors, counselors, related services personnel, and other parties;

(7) describe the strategy of the State for incorporating project-oriented, experiential learning programs which integrate theory and academic knowledge with hands-on skills and applications into the school curriculum for all students in the State;

(8) describe the resources, including private sector resources, that the State intends to employ in maintaining the School-to-Work Opportunities system when funds under this Act are no longer available;

(9) describe the manner in which the State will ensure effective and meaningful opportunities for all students in the State to participate in School-to-Work Opportunities programs;

(10) describe the goals of the State and the methods the State will use, such as awareness and outreach, to ensure opportunities for young women to participate in School-to-Work Opportunities programs in a manner that leads to employment in high-performance, high-paying jobs, including nontraditional employment;

(11) describe the manner in which the State will ensure opportunities for low-achieving students, students with disabilities, and former students who have dropped out of school, to participate in School-to-Work Opportunities programs;

(12) describe the process of the State for assessing the skills and knowledge required in career majors, and the process for awarding skill certificates that is consistent with the efforts of the National Skill Standards Board and the skill standards endorsed under the National Skill Standards Act of 1993;

(13) describe the manner in which the State will ensure that students participating in the programs are provided, to the greatest extent possible, with flexibility to develop new career goals over time and to change career majors without adverse consequences;

(14) describe the manner in which the State will, to the extent feasible, continue programs funded under section 302 in the statewide School-to-Work Opportunities system;

(15) describe the manner in which local school-to-work programs, including programs funded under section 302, if any, will be integrated into the statewide School-to-Work Opportunities system;

(16) describe the performance standards that the State intends to meet;

(17) designate a fiscal agent to receive and be accountable for funds awarded under this subtitle; and

(18) provide evidence of the support of the officials and agencies described in paragraph (3) for the plan, and their agreement with the plan.

(c) REVIEW OF APPLICATIONS.—In reviewing each application submitted under subsection (a), the Secretaries shall submit the application to a peer review process, determine whether to approve the plan described in subsection (b), and, if such determination is affirmative, further determine whether to take one or more of the following actions:

(1) Award an implementation grant described in subsection (a) to the State submitting the application.

(2) Approve the request of the State, if any, for a waiver in accordance with the procedures set forth in title V.

(3) Inform the State of the opportunity to apply for further development funds under subtitle A, by submitting to the Secretaries an application that includes a timetable and an estimate of the amount of funding needed to complete the planning and development necessary to implement a comprehensive, statewide School-to-Work Opportunities system, except that further development funds may not be awarded to a State that receives an implementation grant under subsection (e).

(d) REVIEW CONSIDERATIONS.—In evaluating an application submitted under subsection (a), the Secretaries shall—

(1) take into consideration the quality of the application, including the replicability, sustainability, and innovation of programs described in the application;

(2) give priority to applications, based on the extent to which the system described in the application would limit administrative costs and increase amounts spent on delivery of services to students enrolled in programs carried out through the system under this Act; and

(3) give priority to applications that describe systems that demonstrate the highest levels of collaboration among appropriate State agencies and officials and the private sector in the planning, development, and implementation of the systems.

(e) GRANT AMOUNT AND DURATION OF GRANT.—

(1) AMOUNT.—The Secretaries shall establish the minimum and maximum amounts available for an implementation grant under subsection (a), and shall determine the actual amount granted to any State under such subsection, based on such criteria as the scope and quality of the plan described in subsection (b) and the number of projected participants in programs carried out through the system.

(2) DURATION.—No State shall be awarded more than one implementation grant.

(f) STATE IMPLEMENTATION ACTIVITIES.—A State shall expend funds awarded through grants under subsection (a) only for activities undertaken to implement the School-to-Work Opportunities system of the State, which may include—

(1) recruiting and providing assistance to employers to provide work-based learning for all students;

(2) conducting outreach activities to promote and support collaboration, in School-to-Work Opportunities programs, by businesses, labor organizations, and other organizations;

(3) providing training for teachers, employers, workplace mentors, school site mentors, counselors, related services personnel, and other parties;

(4) providing labor market information to local partnerships that is useful in determining which high-skill, high-wage occupations are in demand;

(5) designing or adapting model curricula that can be used to integrate academic and occupational learning, school-based and work-based learning, and secondary and postsecondary education, for all students in the State;

(6) designing or adapting model work-based learning programs and identifying best practices for such programs;

(7) conducting outreach activities and providing technical assistance to other States that are developing or implementing School-to-Work Opportunities systems;

(8) reorganizing and streamlining School-to-Work Opportunities systems in the State to facilitate the development of a comprehensive statewide School-to-Work Opportunities system;

(9) identifying ways that existing local school-to-work programs could be integrated with the statewide School-to-Work Opportunities system;

(10) designing career awareness and exploration activities, which may begin as early as the elementary grades, such as job shadowing, job site visits, school visits by individuals in various occupations, and mentoring;

(11) designing and implementing school-sponsored work experiences, such as school-sponsored enterprises and community development projects; and

(12) providing career exploration and awareness services, counseling and mentoring services, college awareness and preparation services, and other services to prepare students for the transition from school to work.

(g) ALLOCATION OF FUNDS TO PARTNERSHIPS.—A State that receives a grant under subsection (a) shall award grants, according to criteria established by the State, to partnerships to carry out local School-to-Work Opportunities programs. In awarding such grants, the State shall use not less than 65 percent of the sums awarded to the State under subsection (a) in the first year in which the State awards such grants, 75 percent of such sums in the second such year, and 85 percent of such sums in each such year thereafter.

(h) STATE SUBGRANTS TO PARTNERSHIPS.—

(1) APPLICATION.—A partnership that seeks a grant to carry out a local School-to-Work Opportunities program, including a program initiated under section 302, shall submit an application to the State that—

(A) describes how the program would include the program components described in sections 102, 103, and 104 and otherwise meet the requirements of this Act;

(B) sets forth measurable program goals and outcomes;

(C) describes the local strategies and timetables of the partnership to provide School-to-Work Opportunities program opportunities for all students in the area served;

(D) provides such other information as the State may require; and

(E) is submitted at such time and in such manner as the State may require.

(2) ALLOWABLE ACTIVITIES.—A partnership shall expend funds awarded through grants under this subsection only for activities undertaken to carry out local School-to-Work Opportunities programs, and such activities may include, for each such program—

(A) recruiting and providing assistance to employers, including small- and medium-size businesses, to provide the work-based learning components described in section 102 in the School-to-Work Opportunities program;

(B) establishing consortia of employers to support the School-to-Work Opportunities program and provide access to jobs related to the career majors of students;

(C) supporting or establishing intermediaries (selected from among the members of the partnership) to perform the activities described in section 104 and to provide assistance to students in obtaining jobs and further education and training;

(D) designing or adapting school curricula that can be used to integrate academic and occupational learning, school-based and work-based learning, and secondary and postsecondary education for all students in the area served;

(E) providing training to work-based and school-based staff on new curricula, student assessments, student guidance, and feedback to the school regarding student performance;

(F) establishing, in schools participating in the School-to-Work Opportunities program, a graduation assistance program to assist at-risk students, low-achieving students, and students with disabilities, in graduating from high school, enrolling in postsecondary education or training, and finding or advancing in jobs;

(G) conducting or obtaining an indepth analysis of the local labor market and the generic and specific skill needs of employers to identify high-demand, high-wage careers to target;

(H) integrating work-based and school-based learning into existing job training programs for youth who have dropped out of school;

(I) establishing or expanding school-to-apprenticeship programs in cooperation with registered apprenticeship agencies and apprenticeship sponsors;

(J) assisting participating employers, including small- and medium-size businesses, to identify and train workplace mentors and to develop work-based learning components;

(K) designing local strategies to provide adequate planning time and staff development activities for teachers, school counselors, related services personnel, and school site mentors;

(L) enhancing linkages between—

(i) after-school, weekend, and summer jobs; and

(ii) opportunities for career exploration and school-based learning; and

(M) providing career exploration and awareness services, counseling and mentoring services, college awareness and preparation services, and other services to prepare students for the transition from school to work.

SEC. 213. LIMITATION ON ADMINISTRATIVE COSTS.

(a) STATE SYSTEM.—A State that receives an implementation grant under section 212 may not use more than 15 percent of the amounts received through the grant for any fiscal year for administrative costs associated with implementing the School-to-Work Opportunities system of the State for such fiscal year.

(b) LOCAL PROGRAM.—A partnership that receives a grant under section 212 may not use more than 15 percent of the amounts received through the grant for any fiscal year for administrative costs associated with carrying out the School-to-Work Opportunities programs of the partnership for such fiscal year.

TITLE III—FEDERAL IMPLEMENTATION GRANTS TO PARTNERSHIPS

SEC. 301. PURPOSES.

The purposes of this title are—

(1) to authorize the Secretaries to award competitive grants to partnerships in States that have not received, or have only recently received, implementation grants under section 212(a), in order to provide funding for communities that have established a sound planning and development base for School-to-Work Opportunities programs and are ready to begin implementing a local School-to-Work Opportunities program; and

(2) to authorize the Secretaries to award competitive grants to implement School-to-Work Opportunities programs in high poverty areas of urban and rural communities to provide support for a comprehensive range of education, training, and support services for youth residing in designated high poverty areas.

SEC. 302. FEDERAL IMPLEMENTATION GRANTS TO PARTNERSHIPS.

(a) IN GENERAL.—The Secretaries may award Federal implementation grants, in accordance with competitive criteria established by the Secretaries, to partnerships in States that have not received an implementation grant under section 212, or are carrying out activities for an initial year of an initial grant under such section, in order to enable the partnerships to begin implementing local School-to-Work Opportunities programs.

(b) APPLICATION PROCEDURE.—A partnership that desires to receive or extend a Federal implementation grant under this section shall submit an application to the Secretaries at such time and in such manner as the Secretaries may require. The partnership shall submit the application to the State for review and comment before submitting the application to the Secretaries. The Secretaries shall submit the application to a peer review process.

(c) APPLICATION CONTENTS.—The application described in subsection (b) shall include a plan for local School-to-Work Opportunities programs that—

(1) describes the manner in which the partnership will meet the requirements of this Act;

(2) includes the comments of the State on the plan, if any;

(3) contains information that is consistent with the information required to be submitted as part of a State plan in accordance with paragraphs (4) through (10) of section 212(b);

(4) designates a fiscal agent to receive and be accountable for funds under this section; and

(5) provides such other information as the Secretaries may require.

(d) CONFORMITY WITH APPROVED PLAN.—The Secretaries shall not award a grant under this section to a partnership in a State that has an approved plan unless the Secretaries determine, after consultation with the State, that the plan submitted by the partnership is in accordance with the approved plan.

(e) IMPLEMENTATION ACTIVITIES.—A partnership shall expend funds awarded under this section only for activities undertaken to implement School-to-Work Opportunities programs, which may include the activities specified in section 212(f).

SEC. 303. SCHOOL-TO-WORK OPPORTUNITIES PROGRAM GRANTS IN HIGH POVERTY AREAS.

(a) IN GENERAL.—

(1) AWARD OF GRANTS.—From the funds reserved under section 506(b), the Secretaries are authorized to award grants, in accordance with competitive criteria established by the Secretaries, to partnerships to implement School-to-Work

Opportunities programs that include the program components described in sections 102, 103, and 104 and otherwise meet the requirements of title I, in high poverty areas.

(2) DEFINITION.—For purposes of this subsection, the term "high poverty area" means an urban census tract, the block number area in a nonmetropolitan county, or an Indian reservation (as defined in section 403(9) of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3202(9)), with a poverty rate of 20 percent or more among youth aged 5 to 17, inclusive, as determined by the Bureau of the Census.

(b) APPLICATION PROCEDURE.—A partnership that desires to receive a grant under this section, in addition to any funds received under section 212 or 302, shall submit an application to the Secretaries at such time and in such manner as the Secretaries may require. The partnership shall submit the application to the State for review and comment before submitting the application to the Secretaries. The Secretaries shall submit the application to a peer review process.

(c) APPLICATION CONTENTS.—The application described in subsection (b) shall include a plan for local School-to-Work Opportunities programs that—

(1) describes the manner in which the partnership will meet the requirements of this Act;

(2) includes the comments of the State on the plan, if any;

(3) contains information that is consistent with the information required to be submitted as part of a State plan in accordance with paragraphs (4) through (10) of section 212(b);

(4) designates a fiscal agent to receive and be accountable for funds under this section; and

(5) provides such other information as the Secretaries may require.

(d) CONFORMITY WITH APPROVED PLAN.—The Secretaries shall not award a grant under this section to a partnership in a State that has an approved plan unless the Secretaries determine, after consultation with the State, that the plan submitted by the partnership is in accordance with the approved plan.

(e) IMPLEMENTATION ACTIVITIES.—A partnership shall expend funds awarded under this section only for activities undertaken to implement School-to-Work Opportunities programs, including the activities specified in section 212(h)(2).

(f) USE OF FUNDS.—Funds awarded under this section may be awarded in combination with funds awarded under the Youth Fair Chance Program set forth in part H of title IV of the Job Training Partnership Act (29 U.S.C. 1782 et seq.).

TITLE IV—NATIONAL PROGRAMS

SEC. 401. RESEARCH, DEMONSTRATION, AND OTHER PROJECTS.

(a) IN GENERAL.—With funds reserved under section 506(c), the Secretaries shall conduct research and development projects and establish a program of experimental and demonstration projects, to further the purposes of this Act.

(b) ADDITIONAL USE OF FUNDS.—Funds reserved under section 506(c) may be used for programs or services authorized under any other provision of this Act that are most appropriately administered at the national level and that will operate in, or benefit, more than one State.

SEC. 402. PERFORMANCE OUTCOMES AND EVALUATION.

(a) IN GENERAL.—Using funds reserved under section 506(c), the Secretaries, in collaboration with the States, shall establish a system of performance measures for assessing State and local School-to-Work Opportunities programs regarding—

(1) progress in the development and implementation of State plans described in section 212(b) with respect to programs that include the program components described in sections 102, 103, and 104 and otherwise meet the requirements of title I;

(2) participation in School-to-Work Opportunities programs by employers, schools, and students;

(3) progress in developing and implementing strategies for addressing the needs of all students in the State;

(4) progress in meeting the goals of the State to ensure opportunities for young women to participate in School-to-Work Opportunities programs, including participation in nontraditional employment;

(5) outcomes for students in the programs (including disadvantaged students, students with diverse racial, ethnic, or cultural backgrounds, students with disabilities, students with limited-English proficiency, students who have dropped out of school, and academically talented students), which outcomes shall include—

(A) academic learning gains;

(B) progress in staying in school and attaining—

(i) a high school diploma or its equivalent, such as—

(I) a general equivalency diploma; or

(II) an alternative diploma or certificate for students with disabilities for whom such alternative diploma or certificate is appropriate;

(ii) a skill certificate; and

(iii) a postsecondary degree;

(C) attainment of strong experience in and understanding of all aspects of the industry the students are preparing to enter;

(D) placement and retention in further education or training, particularly in the career major of the student; and

(E) job placement, retention, and earnings, particularly in the career major of the student; and

(6) the extent to which the program has met the needs of employers.

(b) EVALUATION.—Using funds reserved under section 506(c), the Secretaries shall conduct, through grants, contracts, or other arrangements, a national evaluation of School-to-Work Opportunities programs funded under this Act that will track and assess the progress of implementation of State and local School-to-Work Opportunities programs and their effectiveness based on measures such as the measures described in subsection (a).

(c) REPORTS TO THE SECRETARIES.—

(1) IN GENERAL.—Each State shall prepare and submit to the Secretaries periodic reports, at such intervals as the Secretaries may determine, containing information described in paragraphs (1) through (5) of subsection (a).

(2) FEDERAL PROGRAMS.—Each State shall prepare and submit reports to the Secretaries, at such intervals as the Secretaries may determine, containing information on the extent to which Federal programs implemented at the State and local level may be duplicative, outdated, overly restrictive, or otherwise counterproductive to the development of comprehensive statewide School-to-Work Opportunities systems.

(d) REPORT TO THE CONGRESS.—Using funds reserved under section 506(c), not later than 24 months after the date of enactment of this Act, the Secretaries shall submit a report to the Congress on School-to-Work Opportunities programs and shall, at a minimum, include in such report—

(1) information concerning the programs that receive assistance under this Act;

(2) a summary of the information contained in the State reports submitted under subsection (c); and

(3) information regarding the findings and actions taken as a result of any evaluation conducted by the Secretaries.

SEC. 403. TRAINING AND TECHNICAL ASSISTANCE.

(a) PURPOSE.—The Secretaries shall work in cooperation with States, employers and associations of employers, secondary schools and postsecondary education institutions, student and teacher organizations, labor organizations, and community-based organizations, to increase their capacity to develop and implement effective School-to-Work Opportunities programs.

(b) AUTHORIZED ACTIVITIES.—Using funds reserved under section 506(c), the Secretaries shall provide, through grants, contracts, or other arrangements—

(1) training, technical assistance, and other activities that will—

(A) enhance the skills, knowledge, and expertise of the personnel involved in planning and implementing State and local School-to-Work Opportunities programs; and

(B) improve the quality of services provided to individuals served under this Act;

(2) assistance to States and partnerships involved in carrying out School-to-Work Opportunities programs in order to integrate resources available under this Act with resources available under other Federal, State, and local authorities;

(3) assistance to States and such partnerships to recruit employers to provide the work-based learning component, described in section 102, of School-to-Work Opportunities programs; and

(4) assistance to States and such partnerships to design and implement school-sponsored enterprises.

(c) PEER REVIEW.—The Secretaries may use funds reserved under section 506(c) for the peer review of State applications and plans under section 212 and applications under title III.

(d) NETWORKS AND CLEARINGHOUSES.—

(1) ESTABLISHMENT.—To carry out their responsibilities under subsection (b), the Secretaries shall establish, through grants, contracts, or other arrangements, a Clearinghouse and Capacity Building Network (hereafter referred to in this subsection as the "Clearinghouse").

(2) FUNCTIONS.—The Clearinghouse shall—

(A) collect and disseminate information on successful school-to-work programs, and innovative school-based and work-based curricula;

(B) collect and disseminate information on research and evaluation conducted concerning activities carried out through School-to-Work Opportunities programs;

(C) collect and disseminate information that will assist States and partnerships in undertaking labor market analysis, surveys, or other activities related to economic development;

(D) collect and disseminate information on skill certificates, skill standards, and related assessment technologies;

(E) collect and disseminate information on methods for recruiting and building the capacity of employers to provide work-based learning opportunities;

(F) facilitate communication and the exchange of information and ideas among States and partnerships carrying out School-to-Work Opportunities programs; and

(G) carry out such other activities as the Secretaries determine to be appropriate.

(3) COORDINATION.—The Secretaries shall coordinate the activities of the Clearinghouse with the activities of other similar entities to avoid duplication and enhance the sharing of relevant information.

TITLE V—GENERAL PROVISIONS

SEC. 501. STATE REQUEST AND RESPONSIBILITIES FOR A WAIVER OF STATUTORY AND REGULATORY REQUIREMENTS.

(a) STATE REQUEST FOR WAIVER.—A State with an approved plan may, at any point during the development or implementation of a School-to-Work Opportunities program, request a waiver of one or more statutory or regulatory provisions from the Secretaries in order to carry out the purposes of this Act, and such requests for waivers shall be submitted as part of the plan or as amendments to the plan.

(b) PARTNERSHIP REQUEST FOR WAIVER.—A partnership that seeks a waiver of any of the provisions specified in sections 502 and 503 shall submit an application for such waiver to the State, and the State shall determine whether to submit a request for a waiver to the Secretaries, as provided in subsection (a).

(c) WAIVER CRITERIA.—Any such request by the State shall meet the criteria contained in section 502 or 503 and shall specify the provisions or regulations referred to in such sections with respect to which the State seeks a waiver.

(d) SUPPORT BY APPROPRIATE STATE AGENCIES.—In requesting such a waiver, the State shall provide evidence of support for the waiver request by the State agencies or officials with jurisdiction over the provisions or regulations that would be waived.

SEC. 502. WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS BY THE SECRETARY OF EDUCATION.

(a) IN GENERAL.—

(1) WAIVER.—Except as provided in subsection (c), the Secretary of Education may waive any requirement of any provisions specified in subsection (b) or of the regulations issued under such provisions for a State that requests such a waiver—

(A) if, and only to the extent that, the Secretary of Education determines that such requirement impedes the ability of the State or a partnership to carry out the purposes of this Act;

(B) if the State waives, or agrees to waive, similar requirements of State law; and

(C) if the State—

(i) has provided all partnerships that carry out programs under this Act, and local educational agencies participating in such a partnership, in the State with notice and an opportunity to comment on the proposal of the State to seek a waiver; and

(ii) has submitted the comments of the partnerships and local educational agencies to the Secretary of Education.

(2) ACTION.—The Secretary of Education shall act promptly on any request submitted pursuant to paragraph (1).

(3) TERM.—Each waiver approved pursuant to this subsection shall be for a period not to exceed 5 years, except that the Secretary of Education may extend such period if the Secretary of Education determines that the waiver has been effective in enabling the State or partnership to carry out the purposes of this Act.

(b) INCLUDED PROGRAMS.—The provisions subject to the waiver authority of this section are—

(1) chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.), including the Even Start programs carried out under part B of such chapter (20 U.S.C. 2741 et seq.);

(2) part A of chapter 2 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2921 et seq.);

(3) part A of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2981 et seq.);

(4) part D of title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3121 et seq.);

(5) title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3171 et seq.); and

(6) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

(c) WAIVERS NOT AUTHORIZED.—The Secretary of Education may not waive any statutory or regulatory requirement of the provisions specified in subsection (b) relating to—

(1) the basic purposes or goals of the affected programs under such provisions;

(2) maintenance of effort;

(3) comparability of services;

(4) the equitable participation of students attending private schools;

(5) student and parental participation and involvement;

(6) the distribution of funds to State or to local educational agencies;

(7) the eligibility of an individual for participation in the affected programs;

(8) public health or safety, labor, civil rights, occupational safety and health, or environmental protection; or

(9) prohibitions or restrictions relating to the construction of buildings or facilities.

(d) TERMINATION OF WAIVERS.—The Secretary of Education shall periodically review the performance of any State or partnership for which the Secretary of Education has granted a waiver under this section and shall terminate the waiver under this section if the Secretary determines that the performance of the State, partnership, or local educational agency affected by the waiver has been inadequate to justify a continuation of the waiver, or the State fails to waive similar requirements of State law as required or agreed to in accordance with subsection (a)(1)(B).

SEC. 503. WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS BY THE SECRETARY OF LABOR.

(a) IN GENERAL.—

(1) WAIVER.—Except as provided in subsection (c), the Secretary of Labor may waive any requirement of the Act, or any provisions of the Act, specified in subsection (b) or of the regulations issued under such Act or provisions for a State that requests such a waiver—

(A) if, and only to the extent that, the Secretary of Labor determines that such requirement impedes the ability of the State or a partnership to carry out the purposes of this Act;

(B) if the State waives, or agrees to waive, similar requirements of State law; and

(C) if the State—

(i) has provided all partnerships that carry out programs under this Act in the State with notice and an opportunity to comment on the proposal of the State to seek a waiver; and

(ii) has submitted the comments of the partnerships to the Secretary of Labor.

(2) ACTION.—The Secretary of Labor shall act promptly on any request submitted pursuant to paragraph (1).

(3) TERM.—Each waiver approved pursuant to this subsection shall be for a period not to exceed 5 years, except that the Secretary of Labor may extend such period if the Secretary of Labor determines that the waiver has been effective in enabling the State or partnership to carry out the purposes of this Act.

(b) INCLUDED PROGRAMS.—The Act subject to the waiver authority of this section is the Job Training Partnership Act (29 U.S.C. 1501 et seq.).

(c) WAIVERS NOT AUTHORIZED.—The Secretary of Labor may not waive any statutory or regulatory requirement of the Act, or any provision of the Act, specified in subsection (b) relating to—

(1) the basic purposes or goals of the affected programs under such provisions;

(2) maintenance of effort;

(3) the allocation of funds under the affected programs;

(4) the eligibility of an individual for participation in the affected programs;

(5) public health or safety, labor, civil rights, occupational safety and health, or environmental protection; or

(6) prohibitions or restrictions relating to the construction of buildings or facilities.

(d) TERMINATION OF WAIVERS.—The Secretary of Labor shall periodically review the performance of any State or partnership for which the Secretary of Labor has granted a waiver under this section and shall terminate the waiver under this section if the Secretary determines that the performance of the State or partnership affected by the waiver has been inadequate to justify a continuation of the waiver, or the State fails to waive similar requirements of State law as required or agreed to in accordance with subsection (a)(1)(B).

SEC. 504. REQUIREMENTS.

The following requirements shall apply to School-to-Work Opportunities programs under this Act:

(1) No student participating in such a program shall displace any currently employed worker (including a partial displacement, such as a reduction in the hours of nonovertime work, wages, or employment benefits).

(2) No School-to-Work Opportunities program shall impair existing contracts for services or collective bargaining agreements, and no program under this Act that would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization and employer concerned.

(3) No student shall be employed or fill a position—

(A) when any other individual is on temporary layoff from the participating employer, with the clear possibility of recall, from the same or any substantially equivalent job; or

(B) when the employer has terminated the employment of any regular employee or otherwise reduced the work force of the employer with the intention of filling the vacancy so created with a student.

(4) Students participating in such programs shall be provided with adequate and safe equipment and safe and healthful workplaces in conformity with all health and safety standards of Federal, State, and local law.

(5) Nothing in this Act shall be construed to modify or affect any Federal or State law prohibiting discrimination on the basis of race, religion, color, ethnicity, national origin, gender, age, or disability.

(6) Funds appropriated under authority of this Act shall not be expended for wages of students participating in such programs.

(7) The Secretaries shall establish such other requirements as the Secretaries may determine to be appropriate, in order to ensure that participants in such programs are afforded adequate supervision by skilled adult workers, or to otherwise further the purposes of this Act.

SEC. 505. SANCTIONS.

(a) IN GENERAL.—The Secretaries may terminate or suspend financial assistance, in whole or in part, to a recipient or refuse to extend a grant for a recipient, if the Secretaries determine that the recipient has failed to meet the requirements of this Act, including requirements under section 402(c), or any regulations under this Act, or any approved plan submitted pursuant to this Act. The Secretaries shall provide to the recipient prompt notice of such termination, suspension, or refusal to extend a grant and the opportunity for a hearing within 30 days after such notice.

(b) NONDELEGATION.—The Secretaries shall not delegate any of the functions or authority specified in this section, other than to an officer whose appointment is required to be made by and with the advice and consent of the Senate.

SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Secretaries $300,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 7 succeeding fiscal years to carry out this Act.

(b) HIGH POVERTY AREAS.—Of the amounts appropriated under subsection (a), the Secretaries may reserve up to $30,000,000 for fiscal year

1995, and such sums as may be necessary for each of the succeeding 7 years to carry out section 303, which reserved funds may be used in conjunction with funds available under the Youth Fair Chance Program set forth in part H of title IV of the Job Training Partnership Act (29 U.S.C. 1782 et seq.).

(c) NATIONAL PROGRAMS.—Of the amounts appropriated under subsection (a), the Secretaries may reserve up to $30,000,000 for fiscal year 1995 and such sums as may be necessary for each of the 7 succeeding fiscal years to carry out title IV.

(d) TERRITORIES.—

(1) IN GENERAL.—Of the amounts appropriated for a fiscal year under subsection (a), the Secretaries may reserve up to ¼ of 1 percent to make Federal implementation grants to territories under section 212 on the same basis as the Secretaries make grants to States under such section. The territories shall use funds made available through such grants to implement School-to-Work Opportunities programs in accordance with the requirements applicable to States under subtitle B of title II.

(2) DEFINITION.—As used in this subsection, the term "territory" means the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the Federated States of Micronesia, and the Republic of the Marshall Islands, and includes the Republic of Palau (until the Compact of Free Association is ratified).

(e) NATIVE AMERICAN PROGRAMS.—

(1) RESERVATION.—The Secretaries may reserve up to ¼ of 1 percent of the funds appropriated for any fiscal year under subsection (a) to make Federal implementation grants to appropriate entities under section 212 on the same basis as the Secretaries make grants to States under such section. The territories shall use funds made available through such grants to implement School-to-Work Opportunities programs, for students who are Indians (as defined in section 1(1) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(1)), that involve Bureau funded schools, as defined in section 1139(3) of the Education Amendments of 1978 (25 U.S.C. 2019(3)), in accordance with the requirements applicable to States under subtitle B of title II.

(2) IMPLEMENTATION.—The Secretaries may carry out this subsection through such means as the Secretaries determine to be appropriate, including—

(A) the transfer of funds to the Secretary of the Interior; and

(B) the provision of financial assistance to tribes and Indian organizations, as defined in paragraphs (13) and (7), respectively, of section 1139 of such Act.

(f) AVAILABILITY OF FUNDS.—Funds obligated for any fiscal year for programs authorized under this Act shall remain available until expended.

SEC. 507. ACCEPTANCE OF GIFTS, AND OTHER MATTERS.

The Secretaries are authorized, in carrying out this Act, to accept, purchase, or lease in the name of the Department of Labor or the Department of Education, and employ or dispose of in furtherance of the purposes of this Act, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise, and to accept voluntary and uncompensated services notwithstanding the provisions of section 1342 of title 31, United States Code.

SEC. 508. STATE AUTHORITY.

Nothing in this Act shall be construed to supersede the legal authority, under State law or other applicable law, of any State agency or State public official over programs that are under the jurisdiction of the agency or official.

SEC. 509. CONSTRUCTION.

Nothing in this Act shall be construed to establish a right for any person to bring an action to obtain services under this Act.

SEC. 510. EFFECTIVE DATE.

This Act shall take effect on the date of enactment of this Act.

SEC. 511. SUNSET.

The authority provided by this Act shall terminate on October 1 of the ninth calendar year after the date of enactment of this Act.

The ACTING PRESIDENT pro tempore. There is a 1-hour time agreement on the bill.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask unanimous consent the previous agreement governing the consideration of the bill be modified to permit me to modify the committee substitute on behalf of the majority of the members of the Labor and Human Resources Committee.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KENNEDY. I send the modified substitute to the desk.

The ACTING PRESIDENT pro tempore. The committee substitute is so modified.

The committee amendment, as modified, is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "School-to-Work Opportunities Act of 1994".

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Purposes and congressional intent.
Sec. 4. Definitions.
Sec. 5. Federal administration.

TITLE I—SCHOOL-TO-WORK OPPORTUNITIES BASIC PROGRAM COMPONENTS

Sec. 101. General program requirements.
Sec. 102. Work-based learning component.
Sec. 103. School-based learning component.
Sec. 104. Connecting activities component.

TITLE II—SCHOOL-TO-WORK OPPORTUNITIES SYSTEM DEVELOPMENT AND IMPLEMENTATION GRANTS TO STATES

Subtitle A—State Development Grants

Sec. 201. Purpose.
Sec. 202. State development grants.

Subtitle B—State Implementation Grants

Sec. 211. Purpose.
Sec. 212. State implementation grants.
Sec. 213. Limitation on administrative costs.

TITLE III—FEDERAL IMPLEMENTATION GRANTS TO PARTNERSHIPS

Sec. 301. Purposes.
Sec. 302. Federal implementation grants to partnerships.
Sec. 303. School-to-work opportunities program grants in high poverty areas.

TITLE IV—NATIONAL PROGRAMS

Sec. 401. Research, demonstration, and other projects.
Sec. 402. Performance outcomes and evaluation.
Sec. 403. Training and technical assistance.

TITLE V—GENERAL PROVISIONS

Sec. 501. State request and responsibilities for a waiver of statutory and regulatory requirements.
Sec. 502. Waivers of statutory and regulatory requirements by the Secretary of Education.
Sec. 503. Waivers of statutory and regulatory requirements by the Secretary of Labor.
Sec. 504. Combination of Federal funds for high poverty schools.
Sec. 505. Requirements.
Sec. 506. Sanctions.
Sec. 507. Authorization of appropriations.
Sec. 508. Acceptance of gifts, and other matters.
Sec. 509. State authority.
Sec. 510. Construction.

TITLE VI—OTHER PROGRAMS

Sec. 601. Tech-prep education.

TITLE VII—TECHNICAL PROVISIONS

Sec. 701. Effective date.
Sec. 702. Sunset.

SEC. 2. FINDINGS.

Congress finds that—

(1) three-fourths of America's high school students enter the work force without baccalaureate degrees, and many do not possess the academic and entry-level occupational skills necessary to succeed in the changing American workplace;

(2) a substantial number of American youth, especially disadvantaged students, students of diverse racial, ethnic, and cultural backgrounds, and students with disabilities, do not complete school;

(3) unemployment among American youth is intolerably high, and earnings of high school graduates have been falling relative to earnings of persons with more education;

(4) the American workplace is changing in response to heightened international competition and new technologies, and such forces, which are ultimately beneficial to the Nation, are shrinking the demand for and undermining the earning power of unskilled labor;

(5) the United States lacks a comprehensive and coherent system to help its youth acquire the knowledge, skills, abilities, and information about and access to the labor market necessary to make an effective transition from school to career-oriented work or to further education and training;

(6) American students can achieve to high standards, and many learn better and retain more when the students learn in context, rather than in the abstract;

(7) while many American students have part-time jobs, there is infrequent linkage between—

(A) such jobs; and

(B) the career planning or exploration, or the school-based learning, of such students;

(8) the work-based learning approach, which is modeled after the time-honored apprenticeship concept, integrates theoretical instruction with structured on-the-job training, and this approach, combined with school-based learning, can be very effective in engaging student interest, enhancing skill acquisition, developing positive work attitudes, and preparing youth for high-skill, high-wage careers; and

(9) Federal resources currently fund a series of categorical, work-related education and training programs, many of which serve disadvantaged youth, that are not administered as a coherent whole.

SEC. 3. PURPOSES AND CONGRESSIONAL INTENT.

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

(1) establish a national framework within which all States can create statewide School-to-Work Opportunities systems that—

(A) are a part of comprehensive education reform;

(B) are integrated with the State education systems reformed under the Goals 2000: Educate America Act; and

(C) offer opportunities for all students to participate in a performance-based education and training program that will—

(i) enable the students to earn portable credentials;

(ii) prepare the students for first jobs in high-skill, high-wage careers; and

(iii) increase their opportunities for further education, including education in a 4-year college or university;

(2) create a universal, high-quality school-to-work transition system that enables all young Americans to identify and navigate paths to productive and progressively more rewarding roles in the workplace;

(3) utilize workplaces as active learning environments in the educational process by making employers joint partners with educators in providing opportunities for all students to participate in high-quality, work-based learning experiences;

(4) use Federal funds under this Act as venture capital, to underwrite the initial costs of planning and establishing statewide School-to-Work Opportunities systems that will be maintained with other Federal, State, and local resources;

(5) promote the formation of partnerships that are dedicated to linking the worlds of school and work, among secondary schools and postsecondary education institutions, private and public employers, labor organizations, government, community-based organizations, parents, students, State educational agencies, local educational agencies, and training and human service agencies;

(6) help all students attain high academic and occupational standards;

(7) build on and advance a range of promising school-to-work transition programs, such as tech-prep education programs, career academies, school-to-apprenticeship programs, cooperative education programs, youth apprenticeship programs, school-sponsored enterprises, and business-education compacts, that can be developed into programs funded under this Act;

(8) improve the knowledge and skills of youth by integrating academic and occupational learning, integrating school-based and work-based learning, and building effective linkages between secondary and postsecondary education;

(9) motivate all youth, including low-achieving youth, youth who have dropped out of school, and youth with disabilities, to stay in or return to school or a classroom setting and strive to succeed, by providing enriched learning experiences and assistance in obtaining good jobs and continuing their education in postsecondary education institutions;

(10) expose students to a vast array of career opportunities, and facilitate the selection of career majors, based on individual interests, goals, strengths, and abilities; and

(11) further the National Education Goals set forth in title I of the Goals 2000: Educate America Act.

(b) CONGRESSIONAL INTENT.—It is the intent of Congress that the Secretary of Labor and the Secretary of Education jointly administer this Act, in consultation with the Secretary of Commerce, in a flexible manner that—

(1) promotes State and local discretion in establishing and implementing School-to-Work Opportunities systems and programs; and

(2) contributes to reinventing government by—

(A) building on State and local capacity;

(B) eliminating duplication in education and training programs for youth by integrating such programs into one comprehensive system;

(C) maximizing the effective use of resources;

(D) supporting locally established initiatives;

(E) requiring measurable goals for performance; and

(F) offering flexibility in meeting such goals.

SEC. 4. DEFINITIONS.

As used in this Act—

(1) the term "all aspects of the industry" means all aspects of the industry or industry sector a student is preparing to enter, including planning, management, finances, technical and production skills, underlying principles of technology, labor and community issues, health and safety issues, and environmental issues, related to such industry or industry sector;

(2) the term "all students" means students from a broad range of backgrounds and circumstances, including disadvantaged students, students with diverse racial, ethnic, or cultural backgrounds, students with disabilities, students with limited-English proficiency, students who have dropped out of school, and academically talented students;

(3) the term "approved plan" means a School-to-Work Opportunities system plan that is submitted by a State under section 212(a), is determined by the Secretaries to include the program components described in sections 102 through 104 and otherwise meet the requirements of this Act, and is consistent with the improvement plan of the State, if any, under the Goals 2000: Educate America Act;

(4) the term "career major" means a coherent sequence of courses or field of study that prepares a student for a first job and that—

(A) integrates academic and occupational learning, integrates school-based and work-based learning, establishes linkages between secondary and postsecondary education, and prepares students for admission to 2-year or 4-year postsecondary education institutions;

(B) prepares the student for employment in broad occupational clusters or industry sectors;

(C) typically includes at least 2 years of secondary education and at least 1 or 2 years of postsecondary education;

(D) provides the students, to the extent practicable, with strong experience in and understanding of all aspects of the industry the students are planning to enter;

(E) results in the award of—

(i) a high school diploma or its equivalent, such as—

(I) a general equivalency diploma; or

(II) an alternative diploma or certificate for students with disabilities for whom such alternative diploma or certificate is appropriate;

(ii) a certificate or diploma recognizing successful completion of 1 or 2 years of postsecondary education (if appropriate); and

(iii) a skill certificate; and

(F) may lead to further education and training, such as entry into a registered apprenticeship program, or may lead to admission to a 4-year college or university;

(5) the term "employer" includes both public and private employers;

(6) the term "Governor" means the chief executive of a State;

(7) the term "local educational agency" has the meaning given the term in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12));

(8) the term "partnership" means a local entity that—

(A) is responsible for carrying out local School-to-Work Opportunities programs;

(B) consists of employers or employer organizations, public secondary schools and postsecondary educational institutions (or representatives, such as teachers, counselors, and administrators), and labor organizations or nonmanagerial employee representatives; and

(C) may include other entities, such as community-based organizations, national trade associations working at local levels, rehabilitation agencies and organizations, registered apprenticeship agencies, local vocational education entities, proprietary institutions of higher education as defined in section 481(b) of the Higher Education Act of 1965 (20 U.S.C. 1088(b)) (so long as such institutions meet the requirements specified in section 498 of such Act), local government agencies, parent organizations and teacher organizations, vocational student organizations, private industry councils established under section 102 of the Job Training Partnership Act (29 U.S.C. 1512), and Indian tribes, as defined in section 1 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801);

(9) the term "postsecondary education institution" means a public or private institution that is authorized within a State to provide a program of education beyond secondary education, and includes a community college, a technical college, a postsecondary vocational institution, a tribally controlled community college, as defined in section 1 of the Tribally Controlled Community College Assistance Act of 1978, and a 4-year college or university;

(10) the term "registered apprenticeship agency" means the Bureau of Apprenticeship and Training in the Department of Labor or a State apprenticeship agency recognized and approved by the Bureau of Apprenticeship and Training as the appropriate body for State registration or approval of local apprenticeship programs and agreements for Federal purposes;

(11) the term "registered apprenticeship program" means a program registered by a registered apprenticeship agency;

(12) the term "related services" includes the types of services described in section 602(17) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(17));

(13) the term "school site mentor" means a professional employed at a school who is designated as the advocate for a particular student, and who works in consultation with classroom teachers, counselors, related services personnel, and the employer of the student to design and monitor the progress of the School-to-Work Opportunities program of the student;

(14) the term "School-to-Work Opportunities program" means a program that meets the requirements of this Act, other than a program described in section 401(a);

(15) the term "secondary school" has the meaning given the term in section 1201(d) of the Higher Education Act of 1965 (20 U.S.C. 1141(d));

(16) the term "Secretaries" means the Secretary of Education and the Secretary of Labor;

(17) the term "skill certificate" means a portable, industry-recognized credential issued by a School-to-Work Opportunities program under an approved plan, that certifies that a student has mastered skills at levels that are at least as challenging as skill standards endorsed by the National Skill Standards Board established under the National Skill Standards Act of 1993, except that until such skill standards are developed, the term "skill certificate" means a credential issued under a process described in the approved plan of a State;

(18) the term "State" means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico;

(19) the term "State educational agency" has the meaning given the term in section 1471(23) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(23)); and

(20) the term "workplace mentor" means an employee or other individual, approved by the employer at a workplace, who possesses the skills and knowledge to be mastered by a student, and who instructs the student, critiques the performance of the student, challenges the student to perform well, and works in consultation with classroom teachers and the employer of the student.

SEC. 5. FEDERAL ADMINISTRATION.

(a) JOINT ADMINISTRATION.—Notwithstanding the Department of Education Organization Act (20 U.S.C. 3401 et seq.), the General Education Provisions Act (20 U.S.C. 1221 et seq.), the Act entitled "An Act To Create a Department of Labor", approved March 4, 1913 (29 U.S.C. 551 et seq.), and section 166 of the Job Training Partnership Act (29 U.S.C. 1576), the Secretaries shall jointly provide for the administration of the programs established by this Act. The Secretaries shall jointly issue such uniform procedures, guidelines, and regulations, in accordance with section 553 of title 5, United States Code, as the Secretaries determine to be necessary and appropriate to administer and enforce the provisions of this Act.

(b) REGULATIONS.—Section 431 of the General Education Provisions Act (20 U.S.C. 1232) shall not apply to regulations issued with respect to any programs under this Act.

(c) PLAN.—Within 120 days after the date of enactment of this Act, the Secretaries shall prepare a plan for the joint administration of this Act and submit such plan to the appropriate Committees of Congress for review and comment.

TITLE I—SCHOOL-TO-WORK OPPORTUNITIES BASIC PROGRAM COMPONENTS

SEC. 101. GENERAL PROGRAM REQUIREMENTS.

A School-to-Work Opportunities program under this Act shall—

(1) integrate school-based learning and work-based learning, as provided for in sections 102 and 103, integrate academic and occupational learning, and establish effective linkages between secondary and postsecondary education;

(2) provide participating students with the opportunity to complete career majors;

(3) incorporate the program components provided in sections 102 through 104;

(4) provide participating students, to the extent practicable, with strong experience in and understanding of all aspects of the industry the students are preparing to enter; and

(5) provide all students with equal access to the full range of such program components (including both school- and work-based learning components) and related activities and to recruitment, enrollment, and placement activities.

SEC. 102. WORK-BASED LEARNING COMPONENT.

(a) MANDATORY ACTIVITIES.—The work-based learning component of a School-to-Work Opportunities program shall include—

(1) paid work experience;

(2) a planned program of job training and work experiences (including training related to preemployment and employment skills to be mastered at progressively higher levels) that are coordinated with learning in the school-based learning component described in section 103 and are relevant to the career majors of students and lead to the award of skill certificates;

(3) workplace mentoring; and

(4) instruction in general workplace competencies, including instruction and activities developing positive work attitudes, and employability and participative skills.

(b) PERMISSIBLE ACTIVITIES.—Such component may include such activities as job shadowing, school-sponsored enterprises, or on-the-job training for academic credit.

SEC. 103. SCHOOL-BASED LEARNING COMPONENT.

The school-based learning component of a School-to-Work Opportunities program shall include—

(1) career exploration and counseling, beginning prior to the 11th grade year of the students, in order to help students who may be interested to identify, and select or reconsider, their interests, goals, and career majors;

(2) initial selection by interested students of career majors not later than the beginning of the 11th grade;

(3) a program of study designed to meet academic standards established by the State for all students, including, where applicable, any content standards developed under the Goals 2000: Educate America Act, and to meet the requirements necessary to prepare students for postsecondary education and to earn skill certificates; and

(4) regularly scheduled evaluations involving ongoing consultation and problem solving with students to identify academic strengths and weaknesses, academic progress, workplace knowledge, goals, and the need for additional learning opportunities to master core academic and vocational skills.

SEC. 104. CONNECTING ACTIVITIES COMPONENT.

The connecting activities component of a School-to-Work Opportunities program shall include—

(1) matching students with the work-based learning opportunities of employers;

(2) serving, with respect to each student, as a liaison among the student and the employer, school, teacher, school administrator, and parent of the student, and, if appropriate, other community partners;

(3) providing technical assistance and services to employers, including small- and medium-sized businesses, and other parties in—

(A) designing work-based learning components described in section 102 and counseling and case management services; and

(B) training teachers, workplace mentors, school site mentors, and counselors;

(4) providing assistance to schools and employers to integrate school-based and work-based learning and integrate academic and occupational learning in the program;

(5) encouraging the active participation of employers, in cooperation with local education officials, in the implementation of local activities described in section 102, 103, or this section;

(6)(A) providing assistance to participants who have completed the program in finding an appropriate job, continuing their education, or entering into an additional training program; and

(B) linking the participants with other community services that may be necessary to assure a successful transition from school to work;

(7) collecting and analyzing information regarding post-program outcomes of participants in the School-to-Work Opportunities program, including disadvantaged students, students with diverse racial, ethnic, or cultural backgrounds, students with disabilities, students with limited-English proficiency, students who have dropped out of school, and academically talented students; and

(8) linking youth development activities under this Act with employer and industry strategies for upgrading the skills of their workers.

TITLE II—SCHOOL-TO-WORK OPPORTUNITIES SYSTEM DEVELOPMENT AND IMPLEMENTATION GRANTS TO STATES

Subtitle A—State Development Grants

SEC. 201. PURPOSE.

The purpose of this subtitle is to assist States in planning and developing comprehensive, statewide systems for school-to-work opportunities.

SEC. 202. STATE DEVELOPMENT GRANTS.

(a) IN GENERAL.—

(1) AWARD.—On the application of the Governor on behalf of a State, the Secretaries may award a development grant to the State in such amount as the Secretaries determine to be necessary to enable the State to complete development of a comprehensive, statewide School-to-Work Opportunities system.

(2) AMOUNT.—The amount of a development grant under this subtitle may not exceed $1,000,000 for any fiscal year.

(3) COMPLETION.—The Secretaries may award such grant to complete development initiated with funds awarded under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) or the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

(b) APPLICATION CONTENTS.—To be eligible to receive a grant under subsection (a), a State shall submit an application to the Secretaries that shall—

(1) include a timetable and an estimate of the amount of funding needed to complete the planning and development necessary to implement a comprehensive, statewide School-to-Work Opportunities system, for all students;

(2) describe the manner in which—

(A) the Governor;

(B) the State educational agency;

(C) the State agency officials responsible for job training and employment;

(D) the State agency officials responsible for economic development;

(E) the State agency officials responsible for postsecondary education;

(F) representatives of the private sector; and

(G) other appropriate officials,

will collaborate in the planning and development of the statewide School-to-Work Opportunities system;

(3) describe the manner in which the State has obtained and will continue to obtain the active and continued participation, in the planning and development of the statewide School-to-Work Opportunities system, of employers and other interested parties such as locally elected officials, secondary schools and postsecondary educational institutions (or related agencies), business associations, employees, labor organizations or associa-

tions of such organizations, teachers, related services personnel, students, parents, community-based organizations, clergy, rehabilitation agencies and organizations, registered apprenticeship agencies, vocational educational agencies, vocational student organizations, and human service agencies;

(4) describe the manner in which the State will coordinate planning activities with any local school-to-work programs, including programs that have received a grant under title III, if any;

(5) designate a fiscal agent to receive and be accountable for funds awarded under this subtitle;

(6) include such other information as the Secretaries may require; and

(7) be submitted at such time and in such manner as the Secretaries may require.

(c) STATE DEVELOPMENT ACTIVITIES.—Funds awarded under this section shall be expended by a State only for activities undertaken to develop a statewide School-to-Work Opportunities system, which may include—

(1) identifying or establishing an appropriate State structure to administer the School-to-Work Opportunities system;

(2) identifying secondary and postsecondary school-to-work programs that might be incorporated into the State system;

(3) identifying or establishing broad-based partnerships among employers, labor, education, government, and other community and parent organizations to participate in the design, development, and administration of School-to-Work Opportunities programs;

(4) developing a marketing plan to build consensus and support for School-to-Work Opportunities programs;

(5) promoting the active involvement of business, including small- and medium-sized businesses, in planning, developing, and implementing local School-to-Work Opportunities programs;

(6) identifying ways that local school-to-work programs could be coordinated with the statewide School-to-Work Opportunities system;

(7) supporting local planning and development activities to provide guidance, training, and technical assistance in the development of School-to-Work Opportunities programs;

(8) identifying or establishing mechanisms for providing training and technical assistance to enhance the development of a statewide School-to-Work Opportunities system;

(9) initiating pilot programs for testing key components of the program design of programs under the system;

(10) developing a State process for issuing skill certificates that is, to the extent feasible, consistent with the efforts of the National Skill Standards Board and the skill standards endorsed under the National Skill Standards Act of 1993;

(11) designing challenging curricula, in cooperation with representatives of local partnerships, that take into account the diverse learning needs and abilities of the student population served by the system;

(12) developing a system for labor market analysis and strategic planning for local targeting, of industry sectors or broad occupational clusters, that can provide students with placements in high-skill workplaces;

(13) analyzing the post-high school employment experiences of recent high school graduates and students who have dropped out of school;

(14) preparing the plan described in section 212(b); and

(15) developing a training and technical support system for teachers, employers, mentors, counselors, related services personnel, and other parties.

Subtitle B—State Implementation Grants

SEC. 211. PURPOSE.

The purpose of this subtitle is to assist States in the implementation of comprehensive, statewide School-to-Work Opportunities systems.

SEC. 212. STATE IMPLEMENTATION GRANTS.

(a) IN GENERAL.—

(1) ELIGIBILITY.—On the application of the Governor on behalf of a State, the Secretaries may award, on a competitive basis, a 5-year implementation grant to the State.

(2) APPLICATION.—To be eligible to receive a grant under paragraph (1), a State shall submit an application to the Secretaries that shall—

(A) contain—

(i) a plan for a comprehensive, statewide School-to-Work Opportunities system that meets the requirements of subsection (b);

(ii) a description of the manner in which the State will allocate funds made available through such a grant to local School-to-Work Opportunities partnerships under subsection (g);

(iii) a request, if the State decides to submit such a request, for one or more waivers of certain statutory or regulatory requirements, as provided for under title V;

(iv) a description of the manner in which—

(I) the Governor;

(II) the State educational agency;

(III) the State agency officials responsible for job training and employment;

(IV) the State agency officials responsible for economic development;

(V) the State agency officials responsible for postsecondary education;

(VI) other appropriate officials; and

(VII) the private sector,

collaborated in the development of the application; and

(v) such other information as the Secretaries may require; and

(B) be submitted at such time and in such manner as the Secretaries may require.

(b) CONTENTS OF STATE PLAN.—A State plan referred to in subsection (a)(2)(A)(i) shall—

(1) designate the geographical areas, including urban and rural areas, to be served by partnerships that receive grants under subsection (g), which shall, to the extent feasible, reflect local labor market areas;

(2) describe the manner in which the State will stimulate and support local School-to-Work Opportunities programs that meet the requirements of this Act, and the manner in which the statewide School-to-Work Opportunities system will be expanded over time to cover all geographic areas in the State;

(3) describe the procedure by which—

(A) the Governor;

(B) the State educational agency;

(C) the State agency officials responsible for job training and employment;

(D) the State agency officials responsible for economic development;

(E) the State agency officials responsible for postsecondary education;

(F) representatives of the private sector; and

(G) other appropriate officials,

will collaborate in the implementation of the statewide School-to-Work Opportunities system;

(4) describe the manner in which the State has obtained and will continue to obtain the active and continued involvement, in the statewide School-to-Work Opportunities system, of employers and other interested parties such as locally elected officials, secondary schools and postsecondary educational institutions (or related agencies), business associations, employees, labor organizations or associations of such organizations, teachers, related services personnel, students, parents, community-based organizations, clergy, rehabilitation agencies and organizations, registered apprenticeship agencies, vocational educational agencies, vocational student organizations, State or regional cooperative education associations, and human service agencies;

(5) describe the manner in which the School-to-Work Opportunities system will coordinate with or integrate local school-to-work programs, including programs financed from State and private sources, with funds available from such related Federal programs as programs under the Adult Education Act (20 U.S.C. 1201 et seq.), the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301, et seq.), the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.), the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.), the Goals 2000: Educate America Act, the National Skills Standards Act of 1993, the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), the Job Training Partnership Act (29 U.S.C. 1501 et seq.), the Act of August 16, 1937 (commonly known as the "National Apprenticeship Act"; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.); the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), and the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.);

(6) describe the strategy of the State for providing training for teachers, employers, mentors, counselors, related services personnel, and other parties;

(7) describe the strategy of the State for incorporating project-oriented, experiential learning programs which integrate theory and academic knowledge with hands-on skills and applications into the school curriculum for all students in the State;

(8) describe the resources, including private sector resources, that the State intends to employ in maintaining the School-to-Work Opportunities system when funds under this Act are no longer available;

(9) describe the manner in which the State will ensure effective and meaningful opportunities for all students in the State to participate in School-to-Work Opportunities programs;

(10) describe the goals of the State and the methods the State will use, such as awareness and outreach, to ensure opportunities for young women to participate in School-to-Work Opportunities programs in a manner that leads to employment in high-performance, high-paying jobs, including nontraditional employment;

(11) describe the manner in which the State will ensure opportunities for low-achieving students, students with disabilities, and former students who have dropped out of school, to participate in School-to-Work Opportunities programs;

(12) describe the process of the State for assessing the skills and knowledge required in career majors, and the process for awarding skill certificates that is consistent with the efforts of the National Skill Standards Board and the skill standards endorsed under the National Skill Standards Act of 1993;

(13) describe the manner in which the State will ensure that students participating in the programs are provided, to the greatest extent possible, with flexibility to develop

new career goals over time and to change career majors without adverse consequences;

(14) describe the manner in which the State will, to the extent feasible, continue programs funded under section 302 in the statewide School-to-Work Opportunities system;

(15) describe the manner in which local school-to-work programs, including programs funded under section 302, if any, will be integrated into the statewide School-to-Work Opportunities system;

(16) describe the performance standards that the State intends to meet; and

(17) designate a fiscal agent to receive and be accountable for funds awarded under this subtitle.

(c) REVIEW OF APPLICATIONS.—In reviewing each application submitted under subsection (a), the Secretaries shall submit the application to a peer review process, determine whether to approve the plan described in subsection (b), and, if such determination is affirmative, further determine whether to take one or more of the following actions:

(1) Award an implementation grant described in subsection (a) to the State submitting the application.

(2) Approve the request of the State, if any, for a waiver in accordance with the procedures set forth in title V.

(3) Inform the State of the opportunity to apply for further development funds under subtitle A, by submitting to the Secretaries an application that includes a timetable and an estimate of the amount of funding needed to complete the planning and development necessary to implement a comprehensive, statewide School-to-Work Opportunities system, except that further development funds may not be awarded to a State that receives an implementation grant under subsection (e).

(d) REVIEW CONSIDERATIONS.—In evaluating an application submitted under subsection (a), the Secretaries shall—

(1) take into consideration the quality of the application, including the replicability, sustainability, and innovation of programs described in the application;

(2) give priority to applications, based on the extent to which the system described in the application would limit administrative costs and increase amounts spent on delivery of services to students enrolled in programs carried out through the system under this Act; and

(3) give priority to applications that describe the highest levels of—

(A) concurrence with the plan for the system; and

(B) collaboration in the development and implementation of the system;

by appropriate State agencies and officials and the private sector.

(e) GRANT AMOUNT AND DURATION OF GRANT.—

(1) AMOUNT.—The Secretaries shall establish the minimum and maximum amounts available for an implementation grant under subsection (a), and shall determine the actual amount granted to any State under such subsection, based on such criteria as the scope and quality of the plan described in subsection (b) and the number of projected participants in programs carried out through the system.

(2) DURATION.—No State shall be awarded more than one implementation grant.

(f) STATE IMPLEMENTATION ACTIVITIES.—A State shall expend funds awarded through grants under subsection (a) only for activities undertaken to implement the School-to-Work Opportunities system of the State, which may include—

(1) recruiting and providing assistance to employers to provide work-based learning for all students;

(2) conducting outreach activities to promote and support collaboration, in School-to-Work Opportunities programs, by businesses, labor organizations, and other organizations;

(3) providing training for teachers, employers, workplace mentors, school site mentors, counselors, related services personnel, and other parties;

(4) providing labor market information to local partnerships that is useful in determining which high-skill, high-wage occupations are in demand;

(5) designing or adapting model curricula that can be used to integrate academic and occupational learning, school-based and work-based learning, and secondary and postsecondary education, for all students in the State;

(6) designing or adapting model work-based learning programs and identifying best practices for such programs;

(7) conducting outreach activities and providing technical assistance to other States that are developing or implementing School-to-Work Opportunities systems;

(8) reorganizing and streamlining School-to-Work Opportunities systems in the State to facilitate the development of a comprehensive statewide School-to-Work Opportunities system;

(9) identifying ways that existing local school-to-work programs could be integrated with the statewide School-to-Work Opportunities system;

(10) designing career awareness and exploration activities, which may begin as early as the elementary grades, such as job shadowing, job site visits, school visits by individuals in various occupations, and mentoring;

(11) designing and implementing school-sponsored work experiences, such as school-sponsored enterprises and community development projects; and

(12) providing career exploration and awareness services, counseling and mentoring services, college awareness and preparation services, and other services to prepare students for the transition from school to work.

(g) ALLOCATION OF FUNDS TO PARTNERSHIPS.—A State that receives a grant under subsection (a) shall award grants, according to criteria established by the State, to partnerships to carry out local School-to-Work Opportunities programs. In awarding such grants, the State shall use not less than 65 percent of the sums awarded to the State under subsection (a) in the first year in which the State awards such grants, 75 percent of such sums in the second such year, and 85 percent of such sums in each such year thereafter.

(h) STATE SUBGRANTS TO PARTNERSHIPS.—

(1) APPLICATION.—A partnership that seeks a grant to carry out a local School-to-Work Opportunities program, including a program initiated under section 302, shall submit an application to the State that—

(A) describes how the program would include the program components described in sections 102, 103, and 104 and otherwise meet the requirements of this Act;

(B) sets forth measurable program goals and outcomes;

(C) describes the local strategies and timetables of the partnership to provide School-to-Work Opportunities program opportunities for all students in the area served;

(D) describes the process that will be used to ensure employer involvement in the development and implementation of the School-to-Work Opportunities program;

(E) provides such other information as the State may require; and

(F) is submitted at such time and in such manner as the State may require.

(2) ALLOWABLE ACTIVITIES.—A partnership shall expend funds awarded through grants under this subsection only for activities undertaken to carry out local School-to-Work Opportunities programs, and such activities may include, for each such program—

(A) recruiting and providing assistance to employers, including small- and medium-size businesses, to provide the work-based learning components described in section 102 in the School-to-Work Opportunities program;

(B) establishing consortia of employers to support the School-to-Work Opportunities program and provide access to jobs related to the career majors of students;

(C) supporting or establishing intermediaries (selected from among the members of the partnership) to perform the activities described in section 104 and to provide assistance to students in obtaining jobs and further education and training;

(D) designing or adapting school curricula that can be used to integrate academic and occupational learning, school-based and work-based learning, and secondary and postsecondary education for all students in the area served;

(E) providing training to work-based and school-based staff on new curricula, student assessments, student guidance, and feedback to the school regarding student performance;

(F) establishing, in schools participating in the School-to-Work Opportunities program, a graduation assistance program to assist at-risk students, low-achieving students, and students with disabilities, in graduating from high school, enrolling in postsecondary education or training, and finding or advancing in jobs;

(G) conducting or obtaining an indepth analysis of the local labor market and the generic and specific skill needs of employers to identify high-demand, high-wage careers to target;

(H) integrating work-based and school-based learning into existing job training programs for youth who have dropped out of school;

(I) establishing or expanding school-to-apprenticeship programs in cooperation with registered apprenticeship agencies and apprenticeship sponsors;

(J) assisting participating employers, including small- and medium-size businesses, to identify and train workplace mentors and to develop work-based learning components;

(K) designing local strategies to provide adequate planning time and staff development activities for teachers, school counselors, related services personnel, and school site mentors;

(L) enhancing linkages between—

(i) after-school, weekend, and summer jobs; and

(ii) opportunities for career exploration and school-based learning; and

(M) providing career exploration and awareness services, counseling and mentoring services, college awareness and preparation services, and other services to prepare students for the transition from school to work.

SEC. 213. LIMITATION ON ADMINISTRATIVE COSTS.

(a) STATE SYSTEM.—A State that receives an implementation grant under section 212 may not use more than 15 percent of the amounts received through the grant for any

fiscal year for administrative costs associated with implementing the School-to-Work Opportunities system of the State for such fiscal year.

(b) LOCAL PROGRAM.—A partnership that receives a grant under section 212 may not use more than 15 percent of the amounts received through the grant for any fiscal year for administrative costs associated with carrying out the School-to-Work Opportunities programs of the partnership for such fiscal year.

TITLE III—FEDERAL IMPLEMENTATION GRANTS TO PARTNERSHIPS

SEC. 301. PURPOSES.

The purposes of this title are—

(1) to authorize the Secretaries to award competitive grants to partnerships in States that have not received, or have only recently received, implementation grants under section 212(a), in order to provide funding for communities that have established a sound planning and development base for School-to-Work Opportunities programs and are ready to begin implementing a local School-to-Work Opportunities program; and

(2) to authorize the Secretaries to award competitive grants to implement School-to-Work Opportunities programs in high poverty areas of urban and rural communities to provide support for a comprehensive range of education, training, and support services for youth residing in designated high poverty areas.

SEC. 302. FEDERAL IMPLEMENTATION GRANTS TO PARTNERSHIPS.

(a) IN GENERAL.—The Secretaries may award Federal implementation grants, in accordance with competitive criteria established by the Secretaries, to partnerships in States that have not received an implementation grant under section 212, or are carrying out activities for an initial year of an initial grant under such section, in order to enable the partnerships to begin implementing local School-to-Work Opportunities programs. A partnership may not receive funds under this section for any fiscal year subsequent to such initial fiscal year.

(b) APPLICATION PROCEDURE.—A partnership that desires to receive or extend a Federal implementation grant under this section shall submit an application to the Secretaries at such time and in such manner as the Secretaries may require. The partnership shall submit the application to the State for review and comment before submitting the application to the Secretaries. The Secretaries shall submit the application to a peer review process.

(c) APPLICATION CONTENTS.—The application described in subsection (b) shall include a plan for local School-to-Work Opportunities programs that—

(1) describes the manner in which the partnership will meet the requirements of this Act;

(2) includes the comments of the State on the plan, if any;

(3) contains information that is consistent with the information required to be submitted as part of a State plan in accordance with paragraphs (4) through (10) of section 212(b);

(4) designates a fiscal agent to receive and be accountable for funds under this section; and

(5) provides such other information as the Secretaries may require.

(d) CONFORMITY WITH APPROVED PLAN.—The Secretaries shall not award a grant under this section to a partnership in a State that has an approved plan unless the Secretaries determine, after consultation with the State, that the plan submitted by the partnership is in accordance with the approved plan.

(e) IMPLEMENTATION ACTIVITIES.—A partnership shall expend funds awarded under this section only for activities undertaken to implement School-to-Work Opportunities programs, which may include the activities specified in section 212(f).

SEC. 303. SCHOOL-TO-WORK OPPORTUNITIES PROGRAM GRANTS IN HIGH POVERTY AREAS.

(a) IN GENERAL.—

(1) AWARD OF GRANTS.—From the funds reserved under section 507(b), the Secretaries are authorized to award grants, in accordance with competitive criteria established by the Secretaries, to partnerships to implement School-to-Work Opportunities programs that include the program components described in sections 102, 103, and 104 and otherwise meet the requirements of title I, in high poverty areas.

(2) DEFINITION.—For purposes of this subsection, the term "high poverty area" means an urban census tract, the block number area in a nonmetropolitan county, or an Indian reservation (as defined in section 403(9) of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3202(9)), with a poverty rate of 20 percent or more among youth aged 5 to 17, inclusive, as determined by the Bureau of the Census.

(b) APPLICATION PROCEDURE.—A partnership that desires to receive a grant under this section, in addition to any funds received under section 212 or 302, shall submit an application to the Secretaries at such time and in such manner as the Secretaries may require. The partnership shall submit the application to the State for review and comment before submitting the application to the Secretaries. The Secretaries shall submit the application to a peer review process.

(c) APPLICATION CONTENTS.—The application described in subsection (b) shall include a plan for local School-to-Work Opportunities programs that—

(1) describes the manner in which the partnership will meet the requirements of this Act;

(2) includes the comments of the State on the plan, if any;

(3) contains information that is consistent with the information required to be submitted as part of a State plan in accordance with paragraphs (4) through (10) of section 212(b);

(4) designates a fiscal agent to receive and be accountable for funds under this section; and

(5) provides such other information as the Secretaries may require.

(d) CONFORMITY WITH APPROVED PLAN.—The Secretaries shall not award a grant under this section to a partnership in a State that has an approved plan unless the Secretaries determine, after consultation with the State, that the plan submitted by the partnership is in accordance with the approved plan.

(e) IMPLEMENTATION ACTIVITIES.—A partnership shall expend funds awarded under this section only for activities undertaken to implement School-to-Work Opportunities programs, including the activities specified in section 212(h)(2).

(f) USE OF FUNDS.—Funds awarded under this section may be awarded in combination with funds awarded under the Youth Fair Chance Program set forth in part H of title IV of the Job Training Partnership Act (29 U.S.C. 1782 et seq.).

TITLE IV—NATIONAL PROGRAMS

SEC. 401. RESEARCH, DEMONSTRATION, AND OTHER PROJECTS.

(a) IN GENERAL.—With funds reserved under section 507(c), the Secretaries shall conduct research and development projects and establish a program of experimental and demonstration projects, to further the purposes of this Act.

(b) ADDITIONAL USE OF FUNDS.—Funds reserved under section 507(c) may be used for programs or services authorized under any other provision of this Act that are most appropriately administered at the national level and that will operate in, or benefit, more than one State.

SEC. 402. PERFORMANCE OUTCOMES AND EVALUATION.

(a) IN GENERAL.—Using funds reserved under section 507(c), the Secretaries, in collaboration with the States, shall establish a system of performance measures for assessing State and local School-to-Work Opportunities programs regarding—

(1) progress in the development and implementation of State plans described in section 212(b) with respect to programs that include the program components described in sections 102, 103, and 104 and otherwise meet the requirements of title I;

(2) participation in School-to-Work Opportunities programs by employers, schools, and students;

(3) progress in developing and implementing strategies for addressing the needs of all students in the State;

(4) progress in meeting the goals of the State to ensure opportunities for young women to participate in School-to-Work Opportunities programs, including participation in nontraditional employment;

(5) outcomes for students in the programs (including disadvantaged students, students with diverse racial, ethnic, or cultural backgrounds, students with disabilities, students with limited-English proficiency, students who have dropped out of school, and academically talented students), which outcomes shall include—

(A) academic learning gains;

(B) progress in staying in school and attaining—

(i) a high school diploma or its equivalent, such as—

(I) a general equivalency diploma; or

(II) an alternative diploma or certificate for students with disabilities for whom such alternative diploma or certificate is appropriate;

(ii) a skill certificate; and

(iii) a postsecondary degree;

(C) attainment of strong experience in and understanding of all aspects of the industry the students are preparing to enter;

(D) placement and retention in further education or training, particularly in the career major of the student; and

(E) job placement, retention, and earnings, particularly in the career major of the student; and

(6) the extent to which the program has met the needs of employers.

(b) EVALUATION.—Using funds reserved under section 507(c), the Secretaries shall conduct, through grants, contracts, or other arrangements, a national evaluation of School-to-Work Opportunities programs funded under this Act that will track and assess the progress of implementation of State and local School-to-Work Opportunities programs and their effectiveness based on measures such as the measures described in subsection (a).

(c) REPORTS TO THE SECRETARIES.—

(1) IN GENERAL.—Each State shall prepare and submit to the Secretaries periodic reports, at such intervals as the Secretaries may determine, containing information described in paragraphs (1) through (5) of subsection (a).

(2) FEDERAL PROGRAMS.—Each State shall prepare and submit reports to the Secretaries, at such intervals as the Secretaries may determine, containing information on the extent to which Federal programs implemented at the State and local level may be duplicative, outdated, overly restrictive, or otherwise counterproductive to the development of comprehensive statewide School-to-Work Opportunities systems.

(d) REPORT TO THE CONGRESS.—Using funds reserved under section 507(c), not later than 24 months after the date of enactment of this Act, the Secretaries shall submit a report to the Congress on School-to-Work Opportunities programs and shall, at a minimum, include in such report—

(1) information concerning the programs that receive assistance under this Act;

(2) a summary of the information contained in the State reports submitted under subsection (c); and

(3) information regarding the findings and actions taken as a result of any evaluation conducted by the Secretaries.

SEC. 403. TRAINING AND TECHNICAL ASSISTANCE.

(a) PURPOSE.—The Secretaries shall work in cooperation with States, employers and associations of employers, secondary schools and postsecondary education institutions, student and teacher organizations, labor organizations, and community-based organizations, to increase their capacity to develop and implement effective School-to-Work Opportunities programs.

(b) AUTHORIZED ACTIVITIES.—Using funds reserved under section 507(c), the Secretaries shall provide, through grants, contracts, or other arrangements—

(1) training, technical assistance, and other activities that will—

(A) enhance the skills, knowledge, and expertise of the personnel involved in planning and implementing State and local School-to-Work Opportunities programs; and

(B) improve the quality of services provided to individuals served under this Act;

(2) assistance to States and partnerships involved in carrying out School-to-Work Opportunities programs in order to integrate resources available under this Act with resources available under other Federal, State, and local authorities;

(3) assistance to States and such partnerships to recruit employers to provide the work-based learning component, described in section 102, of School-to-Work Opportunities programs; and

(4) assistance to States and such partnerships to design and implement school-sponsored enterprises.

(c) PEER REVIEW.—The Secretaries may use funds reserved under section 507(c) for the peer review of State applications and plans under section 212 and applications under title III.

(d) NETWORKS AND CLEARINGHOUSES.—

(1) ESTABLISHMENT.—To carry out their responsibilities under subsection (b), the Secretaries shall establish, through grants, contracts, or other arrangements, a Clearinghouse and Capacity Building Network (hereafter referred to in this subsection as the "Clearinghouse").

(2) FUNCTIONS.—The Clearinghouse shall—

(A) collect and disseminate information on successful school-to-work programs, and innovative school-based and work-based curricula;

(B) collect and disseminate information on research and evaluation conducted concerning activities carried out through School-to-Work Opportunities programs;

(C) collect and disseminate information that will assist States and partnerships in undertaking labor market analysis, surveys, or other activities related to economic development;

(D) collect and disseminate information on skill certificates, skill standards, and related assessment technologies;

(E) collect and disseminate information on methods for recruiting and building the capacity of employers to provide work-based learning opportunities;

(F) facilitate communication and the exchange of information and ideas among States and partnerships carrying out School-to-Work Opportunities programs; and

(G) carry out such other activities as the Secretaries determine to be appropriate.

(3) COORDINATION.—The Secretaries shall coordinate the activities of the Clearinghouse with the activities of other similar entities to avoid duplication and enhance the sharing of relevant information.

TITLE V—GENERAL PROVISIONS

SEC. 501. STATE REQUEST AND RESPONSIBILITIES FOR A WAIVER OF STATUTORY AND REGULATORY REQUIREMENTS.

(a) STATE REQUEST FOR WAIVER.—A State with an approved plan may, at any point during the development or implementation of a School-to-Work Opportunities program, request a waiver of one or more statutory or regulatory provisions from the Secretaries in order to carry out the purposes of this Act, and such requests for waivers shall be submitted as part of the plan or as amendments to the plan.

(b) PARTNERSHIP REQUEST FOR WAIVER.—A partnership that seeks a waiver of any of the provisions specified in sections 502 and 503 shall submit an application for such waiver to the State, and the State shall determine whether to submit a request for a waiver to the Secretaries, as provided in subsection (a).

(c) WAIVER CRITERIA.—Any such request by the State shall meet the criteria contained in section 502 or 503 and shall specify the provisions or regulations referred to in such sections with respect to which the State seeks a waiver.

(d) SUPPORT BY APPROPRIATE STATE AGENCIES.—In requesting such a waiver, the State shall provide evidence of support for the waiver request by the State agencies or officials with jurisdiction over the provisions or regulations that would be waived.

SEC. 502. WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS BY THE SECRETARY OF EDUCATION.

(a) IN GENERAL.—

(1) WAIVER.—Except as provided in subsection (c), the Secretary of Education may waive any requirement of any provisions specified in subsection (b) or of the regulations issued under such provisions for a State that requests such a waiver—

(A) if, and only to the extent that, the Secretary of Education determines that such requirement impedes the ability of the State or a partnership to carry out the purposes of this Act;

(B) if the State waives, or agrees to waive, similar requirements of State law; and

(C) if the State—

(i) has provided all partnerships that carry out programs under this Act, and local educational agencies participating in such a partnership, in the State with notice and an opportunity to comment on the proposal of the State to seek a waiver; and

(ii) has submitted the comments of the partnerships and local educational agencies to the Secretary of Education.

(2) ACTION.—The Secretary of Education shall act promptly on any request submitted pursuant to paragraph (1).

(3) TERM.—Each waiver approved pursuant to this subsection shall be for a period not to exceed 5 years, except that the Secretary of Education may extend such period if the Secretary of Education determines that the waiver has been effective in enabling the State or partnership to carry out the purposes of this Act.

(b) INCLUDED PROGRAMS.—The provisions subject to the waiver authority of this section are—

(1) chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.), including the Even Start programs carried out under part B of such chapter (20 U.S.C. 2741 et seq.);

(2) part A of chapter 2 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2921 et seq.);

(3) part A of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2981 et seq.);

(4) part D of title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3121 et seq.);

(5) title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3171 et seq.); and

(6) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

(c) WAIVERS NOT AUTHORIZED.—The Secretary of Education may not waive any statutory or regulatory requirement of the provisions specified in subsection (b) relating to—

(1) the basic purposes or goals of the affected programs under such provisions;

(2) maintenance of effort;

(3) comparability of services;

(4) the equitable participation of students attending private schools;

(5) student and parental participation and involvement;

(6) the distribution of funds to State or to local educational agencies;

(7) the eligibility of an individual for participation in the affected programs;

(8) public health or safety, labor, civil rights, occupational safety and health, or environmental protection; or

(9) prohibitions or restrictions relating to the construction of buildings or facilities.

(d) TERMINATION OF WAIVERS.—The Secretary of Education shall periodically review the performance of any State or partnership for which the Secretary of Education has granted a waiver under this section and shall terminate the waiver under this section if the Secretary determines that the performance of the State, partnership, or local educational agency affected by the waiver has been inadequate to justify a continuation of the waiver, or the State fails to waive similar requirements of State law as required or agreed to in accordance with subsection (a)(1)(B).

SEC. 503. WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS BY THE SECRETARY OF LABOR.

(a) IN GENERAL.—

(1) WAIVER.—Except as provided in subsection (c), the Secretary of Labor may waive any requirement of the Act, or any provisions of the Act, specified in subsection

(b) or of the regulations issued under such Act or provisions for a State that requests such a waiver—

(A) if, and only to the extent that, the Secretary of Labor determines that such requirement impedes the ability of the State or a partnership to carry out the purposes of this Act;

(B) if the State waives, or agrees to waive, similar requirements of State law; and

(C) if the State—

(i) has provided all partnerships that carry out programs under this Act in the State with notice and an opportunity to comment on the proposal of the State to seek a waiver; and

(ii) has submitted the comments of the partnerships to the Secretary of Labor.

(2) ACTION.—The Secretary of Labor shall act promptly on any request submitted pursuant to paragraph (1).

(3) TERM.—Each waiver approved pursuant to this subsection shall be for a period not to exceed 5 years, except that the Secretary of Labor may extend such period if the Secretary of Labor determines that the waiver has been effective in enabling the State or partnership to carry out the purposes of this Act.

(b) INCLUDED PROGRAMS.—The Act subject to the waiver authority of this section is the Job Training Partnership Act (29 U.S.C. 1501 et seq.).

(c) WAIVERS NOT AUTHORIZED.—The Secretary of Labor may not waive any statutory or regulatory requirement of the Act, or any provision of the Act, specified in subsection (b) relating to—

(1) the basic purposes or goals of the affected programs under such provisions;

(2) maintenance of effort;

(3) the allocation of funds under the affected programs;

(4) the eligibility of an individual for participation in the affected programs;

(5) public health or safety, labor, civil rights, occupational safety and health, or environmental protection; or

(6) prohibitions or restrictions relating to the construction of buildings or facilities.

(d) TERMINATION OF WAIVERS.—The Secretary of Labor shall periodically review the performance of any State or partnership for which the Secretary of Labor has granted a waiver under this section and shall terminate the waiver under this section if the Secretary determines that the performance of the State or partnership affected by the waiver has been inadequate to justify a continuation of the waiver, or the State fails to waive similar requirements of State law as required or agreed to in accordance with subsection (a)(1)(B).

SEC. 504. COMBINATION OF FEDERAL FUNDS FOR HIGH POVERTY SCHOOLS.

(a) IN GENERAL.—

(1) PURPOSES.—The purposes of this section are—

(A) to integrate activities under this Act with school-to-work transition activities carried out under other programs; and

(B) to maximize the effective use of resources.

(2) COMBINATION OF FUNDS.—To carry out such purposes, a local partnership that receives assistance under title II or III may carry out schoolwide school-to-work activities in schools that meet the requirements of subparagraphs (A) and (B) of section 263(g)(1) of the Job Training Partnership Act (29 U.S.C. 1643(g)(1)(A) and (B)) with funds obtained by combining—

(A) Federal funds under this Act; and

(B) other Federal funds made available from among programs under—

(i) the provisions of law listed in paragraphs (2) through (6) of section 502(b); and

(ii) the Job Training Partnership Act (29 U.S.C. 1501 et seq.); and

(b) USE OF FUNDS.—A local partnership may use the Federal funds combined under subsection (a) under the requirements of this Act, except that the provisions relating to the matters specified in paragraphs (1) through (6) and paragraphs (8) and (9) of section 502(c), and paragraph (1) and paragraphs (3) through (6) of section 503(c), that relate to the program through which the funds described in subsection (a)(2)(B) were made available, shall remain in effect with respect to the use of such funds.

(c) ADDITIONAL INFORMATION IN APPLICATION.—A local partnership seeking to combine funds under subsection (a) shall include in the application of the partnership under title II or III—

(1) a description of the funds the partnership proposes to combine under the requirements of this Act;

(2) the activities to be carried out with such funds;

(3) the specific outcomes expected of participants in schoolwide school-to-work activities; and

(4) such other information as the State, or Secretaries, as the case may be, may require.

(d) DISSEMINATION OF INFORMATION.—The local partnership shall, to the extent feasible, provide information on the proposed combination of Federal funds under subsection (a) to parents, students, educators, advocacy and civil rights organizations, and the public.

SEC. 505. REQUIREMENTS.

The following requirements shall apply to School-to-Work Opportunities programs under this Act:

(1) No student participating in such a program shall displace any currently employed worker (including a partial displacement, such as a reduction in the hours of nonovertime work, wages, or employment benefits).

(2) No School-to-Work Opportunities program shall impair existing contracts for services or collective bargaining agreements, and no program under this Act that would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization and employer concerned.

(3) No student shall be employed or fill a position—

(A) when any other individual is on temporary layoff from the participating employer, with the clear possibility of recall, from the same or any substantially equivalent job; or

(B) when the employer has terminated the employment of any regular employee or otherwise reduced the work force of the employer with the intention of filling the vacancy so created with a student.

(4) Students participating in such programs shall be provided with adequate and safe equipment and safe and healthful workplaces in conformity with all health and safety standards of Federal, State, and local law.

(5) Nothing in this Act shall be construed to modify or affect any Federal or State law prohibiting discrimination on the basis of race, religion, color, ethnicity, national origin, gender, age, or disability.

(6) Funds appropriated under authority of this Act shall not be expended for wages of students participating in such programs.

(7) The Secretaries shall establish such other requirements as the Secretaries may determine to be appropriate, in order to ensure that participants in such programs are afforded adequate supervision by skilled adult workers, or to otherwise further the purposes of this Act.

SEC. 506. SANCTIONS.

(a) IN GENERAL.—The Secretaries may terminate or suspend financial assistance, in whole or in part, to a recipient or refuse to extend a grant for a recipient, if the Secretaries determine that the recipient has failed to meet the requirements of this Act, including requirements under section 402(c), or any regulations under this Act, or any approved plan submitted pursuant to this Act. The Secretaries shall provide to the recipient prompt notice of such termination, suspension, or refusal to extend a grant and the opportunity for a hearing within 30 days after such notice.

(b) NONDELEGATION.—The Secretaries shall not delegate any of the functions or authority specified in this section, other than to an officer whose appointment is required to be made by and with the advice and consent of the Senate.

SEC. 507. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Secretaries $300,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 7 succeeding fiscal years to carry out this Act.

(b) HIGH POVERTY AREAS.—Of the amounts appropriated under subsection (a) for a fiscal year, the Secretaries may reserve not more than 10 percent of such amounts for the fiscal year to carry out section 303, which reserved funds may be used in conjunction with funds available under the Youth Fair Chance Program set forth in part H of title IV of the Job Training Partnership Act (29 U.S.C. 1782 et seq.).

(c) NATIONAL PROGRAMS.—Of the amounts appropriated under subsection (a) for a fiscal year, the Secretaries may reserve not more than 10 percent of such amounts for the fiscal year to carry out title IV.

(d) TERRITORIES.—

(1) IN GENERAL.—Of the amounts appropriated for a fiscal year under subsection (a), the Secretaries may reserve up to ¼ of 1 percent to make Federal implementation grants to territories under section 212 on the same basis as the Secretaries make grants to States under such section. The territories shall use funds made available through such grants to implement School-to-Work Opportunities programs in accordance with the requirements applicable to States under subtitle B of title II.

(2) DEFINITION.—As used in this subsection, the term "territory" means the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the Federated States of Micronesia, and the Republic of the Marshall Islands, and includes the Republic of Palau (until the Compact of Free Association is ratified).

(e) NATIVE AMERICAN PROGRAMS.—

(1) RESERVATION.—The Secretaries may reserve up to ¼ of 1 percent of the funds appropriated for any fiscal year under subsection (a) to make Federal implementation grants to appropriate entities under section 212 on the same basis as the Secretaries make grants to States under such section. The territories shall use funds made available through such grants to implement School-to-Work Opportunities programs, for students who are Indians (as defined in section 1(1) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(1)), that involve Bureau funded schools, as defined in

section 1139(3) of the Education Amendments of 1978 (25 U.S.C. 2019(3)), in accordance with the requirements applicable to States under subtitle B of title II.

(2) IMPLEMENTATION.—The Secretaries may carry out this subsection through such means as the Secretaries determine to be appropriate, including—

(A) the transfer of funds to the Secretary of the Interior; and

(B) the provision of financial assistance to tribes and Indian organizations, as defined in paragraphs (13) and (7), respectively, of section 1139 of such Act.

(f) AVAILABILITY OF FUNDS.—Funds obligated for any fiscal year for programs authorized under this Act shall remain available until expended.

SEC. 508. ACCEPTANCE OF GIFTS, AND OTHER MATTERS.

The Secretaries are authorized, in carrying out this Act, to accept, purchase, or lease in the name of the Department of Labor or the Department of Education, and employ or dispose of in furtherance of the purposes of this Act, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise, and to accept voluntary and uncompensated services notwithstanding the provisions of section 1342 of title 31, United States Code.

SEC. 509. STATE AUTHORITY.

Nothing in this Act shall be construed to supersede the legal authority, under State law or other applicable law, of any State agency or State public official over programs that are under the jurisdiction of the agency or official.

SEC. 510. CONSTRUCTION.

Nothing in this Act shall be construed to establish a right for any person to bring an action to obtain services under this Act.

TITLE VI—OTHER PROGRAMS

SEC. 601. TECH-PREP EDUCATION.

(a) CONTENTS OF PROGRAM.—Paragraph (2) of section 344(b) of the Tech-Prep Education Act (20 U.S.C. 2394b(b)(2)) is amended by inserting "or 4 years" before "of secondary school".

(b) SPECIAL CONSIDERATION; PRIORITY.—Section 345 of the Tech-Prep Education Act (20 U.S.C. 2394c) is amended—

(1) in subsection (d)—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) are developed in consultation with institutions of higher education that award baccalaureate degrees;";

(2) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(3) by inserting after subsection (d) the following new subsection:

"(e) PRIORITY.—The Secretary or the State board, as appropriate, shall give highest priority to applications that provide for effective employment placement activities or transfer of students to 4-year baccalaureate degree programs.".

TITLE VII—TECHNICAL PROVISIONS

SEC. 701. EFFECTIVE DATE.

This Act shall take effect on the date of enactment of this Act.

SEC. 702. SUNSET.

The authority provided by this Act shall terminate on October 1 of the ninth calendar year after the date of enactment of this Act.

Mr. KENNEDY. Mr. President, the modifications—so the membership has an understanding—deal with the new section 504 that allow local partnerships to consolidate their Federal funds from programs listed in the waiver section of the act, except more in chapter 1, for schoolwide activities for schools in high-poverty areas.

We followed a similar procedure in our Goals 2000 legislation.

Language that required States to provide, in their grant applications, evidence that relevant State agencies and the private sector support and agree with State development and implementation grant proposals was removed. Instead, the "review considerations" language was strengthened to require that Secretaries give priority to applications that show the highest level of collaboration in the development and implementation of the State plan and the highest levels of concurrence with the proposed plans by appropriate State agencies and the private sector. We will have an opportunity to elaborate on that during the course of the debate.

Then the partnerships applying for the State subgrants must show how they intend to get the employers involved in the development and implementation of the school-to-work programs.

Those are basically the changes.

There is a modification also by Senator GREGG with regard to allowing clergy to participate in the development of the process when States determine what geographical areas will be served by the school-to-work programs. We will have a further opportunity, and I know the Senator from Illinois will expand on those proposals.

First of all, Mr. President, I again thank my friend and colleague from Illinois, Senator SIMON, who has really been the leader in the development of this legislation, and for his strong and continuing commitment in this area.

I always enjoy working with the Senator on legislation, particularly this kind of legislation that will impact most dramatically, I believe, the sons and daughters of working families.

I enjoyed very much the opportunity to visit a school program in Chicago with him in the not too distant past. I have seen, in a very important and practical way, how this legislation can open up opportunities for young teenagers. We will have a chance to elaborate. I want to tell him I received wonderful letters from all of those students thanking us for the visit. We will get back to talking about that program, I expect, during the course of the debate.

Mr. President, we are under tight time considerations so I want to make sure we understand where we are. How much time is there? There is a time agreement.

The ACTING PRESIDENT pro tempore. There is 1 hour equally divided.

Mr. KENNEDY. Then there is opportunity to debate various amendments to the committee substitute, is that correct?

The ACTING PRESIDENT pro tempore. That is correct. Most amendments do not have a time agreement.

Mr. KENNEDY. I will yield myself 10 minutes, Mr. President.

Mr. President, it is appropriate that we are taking up the School-to-Work Opportunities Act as we complete action on the Goals 2000 legislation, because the two measures closely complement each other. Together, they form the foundation for far-reaching reform in education system and in training our work force.

Building a world class work force starts with world class schools and education. The Goals 2000 Act recognizes that we need to set high standards for all students and schools, and provide incentives and opportunities to help them meet those standards.

But the education and training of the work force cannot end at the schoolhouse door. In the highly competitive global economy in which we operate, education and training must be viewed as an ongoing process that continues throughout each worker's working life.

The School-to-Work Opportunities Act addresses a major deficiency in our current education and training system—the lack of a coherent system to help students in school prepare for the world of work.

We have the best higher education system in the world. For those who go on to college, we offer a wealth of opportunity, and a great deal of financial aid and other support. But we do virtually nothing for the vast numbers of high school students who do not go on to college—which is why this group is so aptly referred to as the "forgotten half."

High schools link their courses to college requirements. They advise students on the connection between academic achievement and college admission. They offer guidance to students in applying to colleges.

But students who are not college-bound get virtually no help in relating their education to work opportunities. We do not motivate them to do well. We do not enable them to plan courses of study relevant to long-term career goals. We do not help them find suitable jobs or training programs when they leave school. Frequently, they are tracked—we should really say sidetracked—into watered-down general curriculum courses. Academic achievement is not expected, and the system hits them in the face with that stark reality at an early age.

Although the majority of students work during their school years, there is no real link between their jobs and their studies. As a result, students who do not go on to college typically spend the first 5 or 6 years after high school moving from one dead-end job to another. By age 23 or 24, they may have enough work experience to be hired for a long-term job. But they have little

more in the way of skills than they had when they were 18.

Government spending helps to lock in these gross differentials. We spend an average of more than $10,000 in taxpayer funds for each student who attends college, and an average of $15,000 for those who graduate from a 4-year college. In contrast, the average public expenditure after high school for non-college youth is only $1,500—one-tenth the amount for college graduates.

This disparity has real consequences for students, not just in school but for the rest of their working lives. Since the late 1970's, the differential between the wages of the college-educated work force and the high-school educated work force has risen dramatically, as real wages for those without a college education have plummeted.

Our legislation addresses this problem by helping States and localities work together with employers, schools, labor organizations, parents and community groups to build school-to-work transition systems at the local level.

Federal seed money will help these partnerships combine academic programs with supervised work experience and give students the opportunity to pursue career majors that will prepare them for work in particular occupations or industries.

School-to-work programs developed under this legislation will emphasize work-based learning in the form of job training and paid work experience to provide students with job skills. They will also include career exploration, career counseling, and a program of study based on the academic and job skill standards under the Goals 2000 Act.

Typical programs will involve at least 1 year of postsecondary education, will lead to a high school diploma, a certificate or diploma from a postsecondary institution, and an occupational skill certificate certifying mastery of specific occupational skills. Secretary Reich and Secretary Riley deserve great credit for their leadership in developing this initiative. I also commend Senator SIMON for the excellent job he has done in moving the legislation through the committee process.

Based on hearings and the very helpful comments we have received from a wide variety of individuals and groups who share the administration's commitment to improving the skills of our work force, we have made improvements in the bill as it has moved through the committee process and to the Senate floor. But these changes do not alter the basic design of the bill as proposed by the administration nor its essential elements.

For the most part, these amendments are intended to clarify the goals the legislation seeks to achieve and to provide greater guidance to States and localities seeking grants as to the kinds of programs we are seeking to create at the State and local level.

This legislation involves broad support from the business leaders, education experts, State and local government officials, labor unions and community-based organizations. I congratulate all those who have had a hand in fashioning the bill. I look forward to its enactment into law. We are very grateful for the excellent suggestions that we have had from members of our committee on a bipartisan basis during the consideration of the legislation and also in the markup.

We had the extraordinary occasion of the Secretary of Labor and the Secretary of Education commenting and interrelating both the Goals 2000 and the School-to-Work Program so that we could have a common approach in terms of enhancing academic achievement and also providing skills for young people to move into more constructive and productive lives.

We have had the support of the Chamber of Commerce, the National Association of Manufacturers, and a number of the other groups, which we will include in the RECORD.

There is a continuum of effort by the Members of the Senate and the House, as well as the administration, in focusing on putting people—in this case the young people—first, with the expansion of the Head Start Program, with the reaching out, going down to the youngest of ages, actually even to the prenatal care. We are talking about enhancing the quality of those programs. We are talking about the Goals 2000. We are talking about the School-to-Work Program. We are talking about the involvement of national service programs. We are talking about direct loan programs that will help provide some savings to our young people, and we are talking about the tuition payback programs that will make it easier for our young people as well.

We are talking about the introduction of help and assistance, in terms of technology, into the classrooms so that the young people will be technology-current in terms of the progress that is being made in those areas.

We are very, very grateful to all of those people for their cooperation and for their help. It is entirely appropriate that both the Goals 2000 and the School-to-Work Program are working really side by side, as hopefully we will be taking action on both measures in the next couple of days.

I withhold whatever remainder of the 10 minutes I have and yield to the Senator from Illinois for whatever comments he may make.

Mr. SIMON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. SIMON. Mr. President, I yield myself 10 minutes.

I am pleased to be part of the school-to-work opportunities proposal. I want to commend Senator KENNEDY for his leadership. Senator KASSEBAUM at this point is not supporting it but she has been great in the education matters generally. I appreciate that. Senator WOFFORD has been absolutely superb in this whole field. He has shown leadership in Pennsylvania on this, and I really appreciate his interest. Senators JEFFORDS and HATFIELD and DURENBERGER all are cosponsors, and they have been superb.

This is just one piece of the education puzzle, as Senator KENNEDY pointed out a number of things. But this is part of it. We talk about higher education and that is clearly part of what we have to do. This is higher education spelled a little differently. This is h-i-r-e, hire education, where you learn as you work. We have done this in some schools.

As Senator KENNEDY mentioned, he visited a high school along with me in Chicago where we saw a program. I visited a suburban Milwaukee high school where they had a program in a graphics plant. At the college level, Northeastern University in Massachusetts has done a great deal of work. Berea College in Kentucky and Blackburn College in Illinois have done this. We have to invest in our young people. The countries that are moving ahead are investing in education. That is one of the clear lessons as you look at the whole economic picture.

This calls for partnerships between schools, between educators, between labor unions, everyone working together. Educators tell me, if you can get a student interested in one subject, that person will stay in school. We have had testimony from young people about how they had a chance for a job and all of a sudden those courses in math or English made so much more sense to them.

This does not, incidentally, create a new Federal program. Senator KENNEDY mentioned the cooperation of the Secretaries of Labor and Education on this. They are determined that shall not take place, and there is cooperation. I do not recall ever being visited by two Cabinet members in my office at the same time on any subject. Both of them came in on this subject.

We say that this has to be established from the ground up, building on State and local successes. We provide flexibility in this. We call for partnership between business, education and labor. This is not another track for those who are going to college, but it does meet the needs of many who will not go to college. Seventy-five percent of those who go to high school are not going to be getting bachelors degrees, and yet we invest a disproportionate amount of our resources in the 25 percent. I am not suggesting that we should not invest in 25 percent, but we also have to be thinking about the 75 percent. This is something that can be

available for all young people. In fact, some who are going on to college now have been part of this kind of a program.

We also have language in this to make sure there is no displacement so we are not going to move a high school student in to take someone else's job.

The bill establishes four types of start-up grants: Development grants for all States to plan and create what is here; 5-year implementation grants to get things started; direct grants can be made to localities that are ready to move right away. And we encourage—we do not have a set aside specifically for poverty areas—but we encourage the use of some of the funds in the poverty areas.

The three things that the program has to include is a work-based learning experience—it cannot just be something where you are not learning—a school-based component so we mesh the two, and a connecting activities component.

Originally, the bill required that we have pay for work, and it is interesting that both the labor unions and the business side suggested this was desirable. We worked out, with Senator THURMOND, an amendment, because there has been some resistance to this, where paid work gets a priority.

Real candidly, I think the experience is overwhelming that when you are paid, both the student and the employer pay more attention to the responsibility. And so this is a practical compromise which we have worked out.

We have also worked with Senator TOM HARKIN, who has shown such leadership in the area of disabilities, to make sure that young people with disabilities have an opportunity.

I cannot remember the last time I had a bill that was endorsed by the Chamber of Commerce, the Manufacturers Association, the labor unions, the Business Round Table, the National Association of Business, Service Employees International Union, the National Education Association, American Vocational Education Association, U.S. Conference of Mayors, and on and on—National Governors, Urban League, Wider Opportunities For Women, Council on Competitiveness. I am usually in the Chamber supporting Senator KENNEDY on some controversial measure he has. I seem to be attracted like flies to certain things, to controversial things. All of a sudden, I have something here that is relatively noncontroversial. It is a pleasant experience for a change, I have to say.

We call for demonstration projects. This, frankly, is an opportunity for the United States to develop its work force. Secretary Reich has said very eloquently if you are prepared, technology is your friend. If you are not prepared, technology is your enemy. We have too many people who are not prepared. This is a way of moving us forward. This is again, as I said, one piece of the puzzle. There are no quick fixes in the area of education any more than there are in crime or any other range of problems. But this is something that is significant.

I ask unanimous consent, Mr. President, to put into the RECORD an op-ed piece in the Washington Post by the chairman of the board of Circuit City stores. Let me just read one paragraph from that op-ed piece.

Two years ago, I served on the Commission on the Skills of the American Workforce. The Commission concluded that without an effective system for moving young people from school to work, American businesses' need for work-ready, skilled employees soon would far surpass the number available. At the time, the Commission called for immediate action.

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

[From the Washington Post, Dec. 7, 1993]

GETTING FROM SCHOOL TO WORK

(By Alan L. Wurtzel)

Half of U.S. high school students never go to college. In fact, only 25 percent of our youngsters obtain a baccalaureate degree. These figures should come as no surprise.

Yet, unlike most other industrialized nations, we Americans don't have a system to prepare the majority of our young people to move from high school into skilled, well-paid jobs that help them realize their potential. As a result, high school dropouts and even high school graduates tend to drift from one minimum-wage job to the next, until—in their mid-twenties—they begin to acquire the training that will enable them eventually to settle into a trade or vocation.

In Europe, Japan and most other industrialized countries, students start right in high school to learn skills they need to be successful in the job market. They work hard to qualify for prestigious apprenticeship opportunities. They study, on the job as well as in school settings, the theoretical skills and knowledge necessary to advance in their fields.

In short, the countries with which we compete for export markets and jobs have far better organized systems for moving the non-university-bound student from school to productive work, without the years of unproductive drift that so many American youngsters experience.

President Clinton has proposed the School-To-Work Opportunities Act to spur the development of such systems throughout the United States. This act would establish a national framework within which local partnerships would develop school-to-work programs and make them available to all students. Such programs would combine classroom learning with real-world work experience. They would train students in general job-readiness skills as well as in industrial-specific occupational skills.

The benefit to young people is clear, and the benefits to American business should be no less obvious. My company can provide an example. Circuit City is a large national company that seldom hires people right out of high school. The reason: While our schools can successfully groom students for college, they do not adequately prepare them for the workplace.

In hiring new employees for our stores, warehouses and offices, Circuit City is looking for people who are able to provide very high levels of customer service, who are honest and who have a positive, enthusiastic, achievement-oriented work ethic. We also require individuals with strong math, English and computer skills.

The School-To-Work Opportunities Act would help high schools and community colleges create programs in cooperation with business, to develop the academic skills and attitudes toward work that too many of our youngsters lack today.

The act would establish, through a set of grants and waivers of certain federal requirements, a national framework for the development of school-to-work systems to help youth in all states make the transition from school to the workplace. States and communities would use federal funds as venture capital to spark the formation of school-to-work programs, dedicated to linking the worlds of school and work. Secondary and post—secondary education institutions, private and public employers, labor organizations, government, community groups, parents and students would work together on the programs.

The act would afford states and localities substantial discretion in establishing and implementing comprehensive, statewide school-to-work systems. Business partners would have a significant input.

Age and experience teach us that life doesn't present itself in a series of five multiple choices. Our schools must offer young people more practical knowledge. Students must learn to read literature and technical manuals, to solve algebra problems and customer complaints, to operate Bunsen burners and sophisticated machinery. A comprehensive but customized system for smoothing the transition from school to work will increase students' chances of success in life and industry's pool of productive workers.

Two years ago I served on the Commission on the Skills of the American Workforce. The commission concluded that without an effective system for moving young people from school to work, American businesses' need for work-ready, skilled employees soon would far surpass the number available. At the time the commission called for immediate action.

The School-To-Work Opportunities Act has strong bipartisan support. It will encourage states and communities to build meaningful connections between the now too-separate worlds of school and work. Just as schools need to change to meet the demands of businesses that are competing in a global economy, our business culture also needs to change to create incentives for students to stay in school and make smooth and productive transitions from school to work. The future of our youth and of our businesses, and ultimately our standard of living, depends on developing and utilizing the talents of our non-college-bound young people far more effectively than we have.

Mr. SIMON. This business leader says this is the kind of legislation that is needed for the future of our country.

I recognize that there are concerns.

Mr. KENNEDY. Will the Senator yield on that point?

Mr. SIMON. I am pleased to yield to my colleague.

Mr. KENNEDY. That commission, as I remember, America's Choice, was cochaired by Senator Brock, a former colleague, a Republican Senator, chairman of the Republican Committee, and Ray Marshall, who was Secretary of

Labor under President Carter, and really brought together a remarkable group of both businessmen and representatives in the trade union movement. As I remember in those hearings that we held, it was virtually unanimous in terms of the support for this kind of a project.

Mr. SIMON. I thank my colleague for his observation. Not only was it a remarkable group, as the Senator points out, where Senator Brock and former Secretary Marshall were involved, it was a remarkable report, spelling out where we have to go as a nation. I thought it was a great contribution. One of the things they called for is precisely the thing that we have here.

Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

Mrs. KASSEBAUM addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Kansas is recognized.

Mrs. KASSEBAUM. Mr. President, the chairman, Senator KENNEDY, and the Senator from Illinois [Mr. SIMON], who has been for years a strong advocate of work-related and education issues, have spoken persuasively about the strong support on both sides of the aisle for the school-to-work legislation.

I, too, care a great deal about our young people. I think we all acknowledge today the importance of being prepared for work, particularly for those students who will not be going on to a 4-year higher education degree, and we need to enhance the stature of the professionalism of apprenticeship work. But I would just like for a few moments to speak about my concerns about this initiative. I would begin by acknowledging the efforts of the sponsors of this legislation to address an issue of considerable importance, which is preparing our young people to succeed in the highly skilled, highly competitive workplaces of the 21st century.

I do intend to vote against this bill, and my opposition is based on my conviction that it compounds rather than corrects the deficiencies of current Federal job training efforts. Just consider the fact that we already have 154 separate job training programs on the books. By passing this bill, we will have 155. The Federal Government spends nearly $25 billion each year on these 154 job training programs, according to the General Accounting Office. Some of these efforts are clearly worthwhile. That is not the point. Overall, however, the present system simply does not work very well. We do not know what works well and what does not and where we could better coordinate and mesh these efforts.

The School-to-Work Opportunities Act is a prime example of why our current Federal job training efforts are so disjointed. Each time Congress identifies a specific group in need of training, in this case high school students, it creates a new program with new requirements and, of course, new funds. Creating new programs because we are disappointed with the ineffectiveness of the old ones is a time-honored tradition in Congress. Yielding yet again to this temptation is simply not the answer.

We have to draw the line somewhere. We should not be debating whether we need more programs but whether we need fewer, and how to make those that we have work more efficiently. I have high regard for the fact that Secretary Reich, the Secretary of Labor, and Secretary Riley, the Secretary of Education, are working closely together. We have long believed that this was an important combination, and the two of them are intent on seeing that it can work to a greater degree than has been possible in the past.

But the school-to-work bill claims to lay the groundwork for establishing a comprehensive system. I share the goal of creating a better integrated system to improve the transition from school to work. I do not share the view that this bill will necessarily accomplish that goal. The place to start is with existing programs. Congress has already enacted a program aimed at the school-to-work transition. The Tech-Prep Program, for example, was created for this very purpose. For years, vocational education, through programs like Tech-Prep, youth apprenticeships, and career academies has been at the forefront of preparing students for the working world.

I am pleased we are now refocusing our attention on this very important effort. Vocational education for far too long was kind of regarded as an outcast which you were involved in if you did not want to do anything else.

But let us look at the right thing, and that is fixing a patchwork of job training systems in desperate need of reform. This is why I chose to vote against S. 1361. It is going to pass. It will pass with significant support. But I argue that this is a new program, and supporters of it will say that it is not. Yet, it has all the characteristics of a new one. It has an 8-year authorization. Eight years is a long time for an authorization. It has a separate pool of funds; $300 million for the first year, and then such sums as necessary, and separate strings of eligibility requirements.

It has been explained to me that the funds authorized in this bill are supposed to be used as "glue money" to bring existing programs into one system. If that is the case, I simply cannot understand why it should cost hundreds of millions of dollars to integrate existing programs. If anything, consolidating programs should save money.

Where precisely is this money going? As far as I can tell, it will not be going directly to schools or to businesses that participate, or even to the students themselves. Rather, according to the bill, Federal funds will be used "as venture capital to underwrite the initial costs of planning and establishing a statewide school-to-work opportunities systems."

Just as an example—and the Senator from Illinois, Senator SIMON, listed some of these—there will be State development grants, and then there will be State implementation grants providing funds both for development and implementation. Then there will be Federal implementation grants to partnerships, Federal implementation grants, and opportunities program grants in high poverty areas, and so forth.

Mr. President, Kansas already has—and I am sure many other States, including Illinois and Massachusetts—businesses that are already working to a great degree with the school districts to provide a business-education partnership. They have not needed Federal money to be involved in that partnership. They have been doing it on their own, recognizing the importance both to the business community, particularly, and to educators as well. They have been setting up partnerships that truly work and are well fitted to the needs of that particular school district and community and city and/or State.

I think that this bill translates into layers of planning and development grants to bureaucracies and entities created by this bill. It is not clear how much money will actually trickle down to the students that this bill is designed to help. The fact of the matter is that the specific requirements contained in S. 1361 will lead to the creation of yet another Federal job-training program, alongside 154 others. The strings attached to the Federal funds will, in my view, prevent any meaningful integration of programs. For example, to be eligible for funding, all students must be paid in order to meet the mandatory paid-work experience. I am pleased to hear that there are going to be some efforts made to address this concern. I think it still will not be enough to provide options to those engaged in the program to choose whether they want the paid-work experience or not.

Under the Tech-Prep Program this is an option, and many choose to be engaged in this effort without having to meet the minimum wage requirement.

But as currently drafted, the paid-work provision will prevent existing programs which have no such requirement from integrating into the school work system. Across the country, schools and employers are already designing their own approaches, as I mentioned earlier. Innovative programs that provide students with valuable work experience through a variety of means other than a paid-work experience will be excluded.

The State of California, for example, has engaged employers as partners in instruction for many years through an educational consortium known as regional occupational programs. Employers provide onsite employment training, curriculum development and job placement all on a purely voluntary basis.

Programs like these will be excluded, as I understand it, from becoming part of the statewide school-to-work system envisioned by the bill because they do not pay students.

I would argue, Mr. President, this is more fragmentation, not integration. More importantly, the paid-work requirement will limit the ability of businesses to participate in the program even though these businesses are expected to foot the bill. Many employers, particularly small businesses, simply cannot afford to offer students paid work and will be excluded from being a part of the local school-to-work system.

The greatest source of jobs for young people, small businesses, will remain outside the School-to-Work Program. The irony is that while businesses must provide paid-work experience, mentoring and instruction to students, they are given very little opportunity to have a say in how the program is fashioned.

Without the active participation of the business community, S. 1361 will be of little value in placing students into jobs. After all, business will be providing the jobs for which we are training our students. Yes, I am aware that this legislation has been endorsed by the Chamber of Commerce, and it has been supported by business groups. I have heard some concerns, however, expressed by those businesses in my State who wonder why, when they are already participants in an educational partnership, do we then need to have this additional legislation.

In sum, Mr. President, rather than creating an overall framework under which existing programs could be consolidated, the bill creates yet another stand-alone program. While the bill says the right things in terms of encouraging coordination of programs, it falls far short of achieving real reform.

I agree wholeheartedly with the assessment of the National Governors' Association expressed in a recent letter to the President:

New waiver authority is helpful to a certain extent, but as a nation we will move very slowly toward the goal of integrated workforce development systems if each state must apply separately to each different federal department for permission to integrate programs.

I believe we should go further and be bolder and rethink the entire system. Perhaps it is an unrealistic notion. But I believe we should consider wiping the slate clean and not create any more new job-related programs until we are certain how we can combine them and make them an effective and accountable system.

This is what will benefit our young people far more than anything else. I know that this is the goal of the Secretary of Labor.

Secretary Reich said just last week at a Department of Labor conference in which both the Secretary and President Clinton spoke:

Where a program works and meets a real need, we will make it happen. Where a program does not, we will eliminate it. And where it is broken, we will fix it. Build on what is working. Get rid of what is not.

I think we all agree about that. But, in the meantime, let us not just add something else on top of what we already have. We must be willing to look at things in a new light. We must make a serious attempt to determine what works and discard what does not. Until then, we will simply continue to duplicate our efforts and waste our limited educational resources.

Establishing this new program will only, I argue, serve to complicate the real job before us—and that is producing a comprehensive and consolidated system that works for everyone.

Thank you, Mr. President.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, because we are running into a time situation, I wonder if the Senator is going to submit an amendment.

Mrs. KASSEBAUM. Yes.

Mr. KENNEDY. I will make a brief response, and then Senator SIMON will as well.

Mr. President, if I could ask consent that the time that we talk be charged to the discussion on the Senator's amendment.

The PRESIDING OFFICER. That is the regular order.

AMENDMENT NO. 1424

(Purpose: To allow States to combine certain Federal funds to develop)

Mrs. KASSEBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mrs. KASSEBAUM] proposes an amendment numbered 1424.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

Insert after section 504 the following new section:

SEC. 504A. COMBINATION OF FEDERAL FUNDS BY STATES.

(a) IN GENERAL.—

(1) PURPOSES.—The purposes of this section are—

(A) to integrate activities under this Act with State school-to-work transition activities carried out under other programs; and

(B) to maximize the effective use of resources.

(2) COMBINATION OF FUNDS.—To carry out such purposes, a State that receives assistance under title II may carry out activities necessary to develop and implement a statewide School-to-Work Opportunities system with funds obtained by combining—

(A) Federal funds under this Act; and

(B) other Federal funds made available from among programs under—

(i) the provisions of law listed in section 502(b);

(ii) the Job Training Partnership Act (29 U.S.C. 1501 et seq.).

(b) USE OF FUNDS.—A State may use the Federal funds combined under subsection (a) under the requirements of this Act, except that the provisions relating to the matters specified in section 502(c), and section 503(c), that relate to the program through which the funds described in section (a)(2)(B) were made available, shall remain in effect with respect to the use of such funds.

(c) ADDITIONAL INFORMATION IN APPLICATION.—A State seeking to combine funds under subsection (a) shall include in the application of the State under title II—

(1) a description of the funds the State proposes to combine under the requirements of this Act;

(2) the activities to be carried out with such funds;

(3) the specific outcomes expected of participants in school-to-work activities; and

(4) such other information as the Secretaries may require.

In section 510 in the section heading, strike **"SEC. 510."** and insert **"SEC. 511."**.

In section 509 in the section heading, strike **"SEC. 509."** and insert **"SEC. 510."**.

In section 508 in the section heading, strike **"SEC. 508."** and insert **"SEC. 509."**.

In section 507 in the section heading, strike **"SEC. 507."** and insert **"SEC. 508."**.

In section 506 in the section heading, strike **"SEC. 506."** and insert **"SEC. 507."**.

In section 505, in the section heading, strike **"SEC. 505,"** and insert **"SEC. 506."**.

In section 505A, in the section heading, strike **"SEC. 504A."** and insert **"SEC. 505."**.

In section 303(a)(1), strike "507(b)" and insert "508(b)".

In section 401(a), strike "507(c)" and insert "508(c)".

In section 401(b), strike "507(c)" and insert "508(c)".

In section 402(a), strike "507(c)" and insert "508(c)".

In section 402(b), strike "507(c)" and insert "508(c)".

In section 402(d), strike "507(c)" and insert "508(c)".

In section 403(b), strike "507(c)" and insert "508(c)".

In section 403(c), strike "507(c)" and insert "508(c)".

Mrs. KASSEBAUM. Mr. President, this amendment will provide the States with greater flexibility to combine Federal programs into one school-to-work system. It addresses the concerns I raised in my opening remarks about the flexibility that the Governors would like to have. It gives the States the option of integrating existing Federal School-to-Work Programs without having to apply for separate waivers

from each and every one of the separate rules and laws governing those programs.

A similar amendment was included in the substitute that was submitted by the chairman, but only related to a small portion of funds in the bill.

My amendment would cover all of the funds that are authorized. One of the goals of the School-To-Work Opportunities Act is to bring together existing programs for young people into one comprehensive statewide system. I think this is a laudable goal. I believe this amendment would go even further than the committee substitute that we are considering in making that flexibility available to all initiatives.

That is the thrust of my amendment, Mr. President.

Mr. KENNEDY. Mr. President, I yield myself time on the amendment.

Mr. President, I want to thank Senator KASSEBAUM for focusing attention on a direction that I think all of us on the committee, as well as in the administration, are attempting to go; that is, in terms of the restructuring of the various training programs.

As the Senator understands, we were the ones that initiated that GAO study because of the concern of the proliferation of various programs that had taken place and because we did not believe that there was the kind of overview and oversight of the effectiveness of those programs that we desired, and which the President and the Secretary have spoken to. I welcome the fact that she referenced the strong commitment of both Secretary Reich and the President at the meeting last week on dislocated workers, about the importance of that particular consolidation. We are strongly committed to that outcome for the reasons that I will identify shortly. I think those of us who know the commitment of the administration find that already the administration, in its new budget, is making recommendations for the abandonment of some of the existing programs and some enhancement of those programs that effectively have been found to be of value.

So that process is moving ahead. I know and respect her position that we ought to hold back now until we are able to deal with the totality of various training programs. We have some difference in that area. The facts remain that any of the young or old people in our society today that take a training program really do not know about what skills they are obtaining. And what we have attempted to do with the skills standards and in the Goals 2000, as well as building on that program, is to make sure that when a person is able to take that training program and when they are able to complete it, they achieve some form of certification which is portable, which means they may be able to move from Boston to San Francisco or San Francisco to Springfield and have portable creditable skills, which virtually do not exist today from what we have seen in the evaluation of various job training programs. That is an essential aspect for any effective training program.

Second, one of the important reasons that the business community supported it is because then the business community knows when they have an individual that has certification, they know that individual has certain skills that can be utilized by that employer. That is very important to them. In too many instances today, they do not know whether that individual has gone through an effective kind of training program or not.

Third, the taxpayers will know whether their investment, in terms of trying to keep people in the job market, rather than paying for the support programs and the safety net, are effective, and whether that whole range of different training programs are effective, and they are actually training individuals to have a useful and productive life and will be able, through that kind of training, to expand and strengthen our economy.

Mr. President, this is a very modest program. But what we are attempting to do is to see—if this approach is effective and works, clearly it will be a path to be followed as we reshape the other training programs, which I know the administration would want.

So, Mr. President, I do believe that this is a serious attempt to try and take those elements of training programs which have been effective, both in terms of our own experience here in the United States, as well as those that have been effective in other industrial countries of the world that have been working in these areas for a long period of time, and to try and put them into effect. I think what all of us understand is the change in the condition of our economy. Fifty years ago, if you were a ship fitter in Quincy, MA, so was your father and your grandfather. Your daughter or mother never worked. Now if you enter the job market, you are going to have eight different jobs over the course of your lifetime. That is entirely different. The training programs that were developed over a 30- or 40-year period targeted the various kinds of groups. That has to be altered and changed into a holistic kind of approach, and I agree with the Senator about that.

We have every reason to believe that this will be a core step in terms of moving us more effectively into the opportunity of giving so many of those young people a chance in our society. Forty years ago, when you graduated from high school, you could have a very useful, constructive, productive life, and do very well in terms of your income and in terms of looking out after the hopes and dreams of our children. Now in the last 10, 12 years, your real income has declined in many communities—in my State by 20 percent or more; nationwide, about 13, 14, 15 percent. Those are the realities.

It is a changed work force and a changed world economy, and the fact remains, as the Senator from Illinois has pointed out, without these kinds of skills, we are really disadvantaging our young people in a very important way. Education used to be a luxury. Now it is a necessity. These training programs are absolutely essential in terms of the young people in this country and older people, as well. I hope that at the appropriate time this approach, with all due respect, will not be accepted.

Mr. SIMON. Will the Senator yield 3 minutes?

Mr. KENNEDY. I yield 3 minutes to the Senator from Illinois.

The ACTING PRESIDENT pro tempore. The Chair advises the Senator that there is no time limit on the amendment.

The Senator from Illinois is recognized.

Mr. SIMON. All right. Thank you, Mr. President. Let me respond briefly to my friend, the Senator from Kansas. I think the Senator from Massachusetts used the right term. We are going to have to reshape things. It is easy to get the proliferation of programs, and we have all been guilty. When we talk about 154, however, which GAO has reached, that includes Pell grants, guaranteed student loans, and a lot of things that we would not consider part of this specific kind of thing.

But my creative staff, in digging out programs, found that the Senator from Kansas is cosponsoring legislation for the police corps program to create a new career program there, and one for EPA, and I am sure your creative staff can find where I am doing something along the same lines. It becomes easy. That is why the point the Senator makes that we have to be careful about creating new programs is so valid.

First of all, we are not creating any new Federal entity here. We are limiting administrative costs to 15 percent. Sixty-five percent of the money, the first year, has to go to these partnerships. Seventy-five percent has to go to these partnerships the second year.

We have this GAO report that was sent on January 28 to look at this proliferation. We are going to have a hearing next month on this whole question of proliferation.

I would just add one other small experiment, because my thinking is the same as the Senator from Kansas on this. There is a small experiment that is taking place. I have an amendment on a bill dealing with Indian reservations that permits a waiver on all Indian reservations starting last October 1 where, despite all other laws and regulations, they can waive everything and consolidate all programs on the Indian reservations.

It is a demonstration project, if you will. It is, at least at this point, causing some discussion on Indian reservations, and maybe we can learn something there in addition to being able to do a more effective job there.

But the point that the Senator from Kansas makes is a valid point. I do not think it applies with validity to this legislation, and it will not surprise her that I disagree with the validity of that as applied to this legislation.

Mrs. KASSEBAUM. Mr. President, if I may just ask the Senator from Illinois a couple of questions.

The ACTING PRESIDENT pro tempore. Does the Senator yield?

Mr. SIMON. I would be pleased to yield.

Mrs. KASSEBAUM. All three of us have been saying similar things about the need to integrate programs and the importance of these efforts, of course, to our youth today. They will have to be far better prepared in many ways than in the past before entering the work force.

But I say again that this is an opportunity to really do something a bit different. We just did Tech-Prep, and I was very supportive of that, on the Carl Perkins reauthorization 2 years ago. This is the same type of initiative. There is really no difference between the Tech-Prep program and this.

So, again, while I think we all have the same goals, the tune is a little bit different. I am just saying that we should take this opportunity—seize the moment—and not add another job training program to the list. Because this is a new program; it is a new authorization, and it is a new appropriated account. As long as we are speaking on my amendment and, I assume, because of the Senator's efforts to provide waivers for Indian reservations, would the Senator then be supportive of my amendment that would grant a full waiver to the States on the school-to-work bill?

Mr. SIMON. The answer is I may be. We are checking out the Senator's amendment with the Departments of Labor and Education to get their reaction.

I have not had a chance to read the amendment yet. I do not know if my colleague from Massachusetts has or not. But the answer is we may be supporting it. We want to look at it.

The point that the Senator from Kansas makes about Tech-Prep, there is no question there are a number of programs where there can be some overlapping, and that is why we do have to reshape. While there is some overlapping, this is a different program, and it is one that I think really needs to be encouraged.

This is one where, for once, we have business, labor, everyone aboard saying this is the direction we are going to have to go. I think we have an opportunity. I do not want to see us muff that opportunity.

Mrs. KASSEBAUM. Mr. President, if I may just ask the chairman of the committee, Senator KENNEDY, to clarify floor procedure on our time for those who may be wondering. We are offering amendments now and we can offer them for the remainder of the day. I have some other amendments. Should we continue offering amendments?

Mr. KENNEDY. The answer is yes, and we will accommodate whatever the desire of the Members is so that we can ask consent to set those aside and preserve the options.

The amendments will be required to be put in by 6 o'clock this evening, but we want to indicate the amendments will be stacked until tomorrow.

Mrs. KASSEBAUM. The amendments will be stacked until tomorrow sometime?

Mr. KENNEDY. Tomorrow afternoon. So we will proceed in that way. So for any Members who want it, the managers will ask consent to temporarily set aside what is existing so they can offer amendments. In the agreement there have been a number that have been identified. It is certainly our intention to ensure that the rights of Senators are protected along that line.

Let me, if I could, Mr. President, mention that Tech-Prep—and I yield myself time on the amendment—has been a great success. We are very strong in support of it. That is one type of a program that effectively is 2 years in high school and then 2 years after high school. That is a particular mode and model which has been very successful in a number of areas, and we are very strong supporters of it. A number of the Members that were supporters here were actually innovators of it. That demonstrates the direction we can go.

There are other models as well that have been illustrated offering opportunities. This is an area in which, by following both the academic achievement and developing the core curriculum and tying that in, in most cases, to community colleges and with their cooperation, that has been successful.

But we are not prepared to say that is the only model. What we are prepared to say is that is just the kind of cooperation that we have seen in the past. And what we want to try to do is expand those concepts and encourage the various elements here—the business community, the training programs, people—to move ahead.

We have a handful of programs that have been innovative and creative. I know in my own State, which I will discuss as well, which I think are not the Tech-Prep but are other similar kinds of programs that are helping youths open opportunities for students, we have a protect health care program that has 150 students working in seven area hospitals. That is working. That is 150 students. You know we are losing 400,000 students every year out of high schools. This program works to try to pick up many of those students who have been left out and left behind, too, developing programs for those individuals.

And we are hopeful that, as well, if we are tying that into the President's program in terms of service programs, national service programs, to take those numbers of individuals who drop out—and many end up in gangs and many end up in violence—to offer some additional kind of paths to these individuals to involve themselves in programs.

So, I believe, Mr. President, that, if we are able with this legislation to begin to move us down this road, it offers opportunities.

Second, let me just say that the 8-year authorization is enormously important. If there is one thing we have learned in terms of education, encouraging academic and training reform, it is to have a degree of predictability and certainty in the support of these programs so they are not on one year and turned off the next, on for a few months and then canceled.

We have tough accountability in these programs, so if they do get started and they are working and for some reason they are not measuring up, they can be terminated. That is very explicit in this legislation.

But what they are trying to do is give that kind of encouragement so there will be a program that is developed by business, by training programs, by labor, by the community to serve important kinds of needs in terms of bringing skills and skill standards to those individuals, and we will be able to continue for a period of time so we can get that careful evaluation. That is enormously important. We have tried to build that concept as well in terms of the Goals 2000, and that has been virtually uniformly recommended by those who know successful programs.

So, Mr. President, maybe we will have an opportunity to come back and revisit this subject matter. But I will include in the RECORD some of the programs that we have seen and have been successful. And people can say, if they are going on, why do we have to do anything else? The problem is they are only reaching a very, very small number of young people, and what we are very hopeful in doing is sensitizing schools all over this country and business all over the country in training programs to bring this concept into fulfillment as a matter of broad national policy. That is why we think this legislation makes some sense.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. SIMON. Let me just underscore the points the Senator from Massachusetts made that I did not make in my opening remarks.

This bill affects dropouts, and we have to reach these young people one way or another.

We had a very interesting series of witnesses, young people who came in and testified. One young man from the Boston area, who had been a gang member and was brought back in through this kind of an opportunity and is planning on going to college, said he wanted to become a lawyer.

I asked him what percentage of the gang members in the gang that he belonged to would, if they had this kind of an opportunity, drop their membership in the gang and come back to school and seize an opportunity? And he said, "I think half of them would."

Now that is just one young man who had been a member of the gang. But this is a program that can reach dropouts and really can be a constructive force in our society. I hope we move ahead on it.

Mr. KENNEDY. Will the Senator yield?

Mr. SIMON. I am pleased to yield.

Mr. KENNEDY. I think that expression was from those young people who were attending the course at a high school in Chicago. The Senator from Illinois asked those young people what they were doing prior to the time they were involved in this program. Their answers were: You would not want to know what we had been doing. A number of them talked about how they were not attending school.

As the Senator understands, the attentiveness and interest and sense of pride and sense of achievement and accomplishment that radiated out of that classroom in a very tough area of the city, and the sense of pride as well of those business leaders in terms of their involvement in that community, was inspiring.

Mr. SIMON. I thank the Senator for his remarks. If I may just add, not only the sense of pride on the part of business, but a feeling that this is a very practical way for us to get the employees we need, so that business benefits as well as those students benefit.

Mr. KENNEDY. The point they mentioned is that these students are in that community and live in that community in the proximity of the plant, and how they were wanting to have people that lived in that proximity because they wanted also to have some impact in that community.

We lose track of some of these other tangential, positive ripples that, hopefully, can take place in this kind of an endeavor. And it was certainly evident at that time.

Well, we may come back and discuss these matters.

I understand the Senator has another amendment.

I ask unanimous consent that the current amendment be temporarily set aside.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mrs. KASSEBAUM. Mr. President, I thank the Senator from Massachusetts.

AMENDMENT NO. 1425

(Purpose: To limit the fiscal years for which appropriations are authorized)

Mrs. KASSEBAUM. I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The bill clerk read as follows:

The Senator from Kansas [Mrs. KASSEBAUM] proposes an amendment numbered 1425.

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

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

The amendment is as follows:

In section 507(a), strike "7" and insert "2".

Mrs. KASSEBAUM. Mr. President, the amendment that I send to the desk is a simple one. It changes the authorization of this bill from 8 years to 3 years.

Senator KENNEDY just addressed this very issue a few moments ago by saying why an 8-year authorization is important. It allows time to develop the program, to develop some continuity in the program and to be better able to weigh the merits and demerits of what is being done.

I would argue that making this change from 8 years to 3 years is a critical one if we are truly serious about integrating programs and reforming the system. Seldom do we give an 8-year authorization. That is a long authorization.

While I can understand some of the merits of the argument of the Senator from Massachusetts, I really believe that it will not allow us to be able to give the attention that we need to give to the integration of the various programs.

If we have an 8-year authorization out there, we are not going to be forced to really review the success or failure of this program for a full 8 years, when the program is scheduled to end.

We may say that we will hold hearings and provide some insight into this, but we seldom do. That has been my concern. I am not aware of a single program that Congress has authorized for such a long period of time in this particular area of interest.

Lack of oversight has continued to be a perennial problem when it comes to any program, and job training programs in particular. Rarely do we take the time to look back at programs we have enacted to determine if they are working as we intended.

That is why, Mr. President, I believe changing the authorization to 3 years is an important part of this initiative that will force us to be far more vigilant in giving oversight to this initiative.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, as we mentioned before, in terms of trying to encourage these different departures and new directions in stability and certainty in terms of the integrity of the program, obviously there will be a review of these programs. But, I would say, by and large, the overwhelming majority of the people involved in the programs say unless you have some degree of certainty, unless we know this program, if we do it right, whether it is 8 years or 5 years, has a defined period of time, then the chances of its successes are marginal.

Second, you have the annual appropriations that review these programs year in and year out.

I think, third, we have seen, both in terms of the work that our committee is going to be doing in the area of dislocated programs and other programs, that we are going to be working closely on these programs. And, quite frankly, we do, in some areas of public policy, not even have annual periods of time. We authorize virtually without limitation in terms of years.

It is reasonable. We want accountability and review. But we want to balance that against a period of certainty and stability.

I think the recommendations for the time were put in that kind of context. Given the ability of the Senate and the House to review these annually in terms of the appropriations—and I think there are very scarce resources in terms of the kinds of domestic discretionary programs that this will be funded by, there will be a very high, intense review, I think, as there is currently on all domestic discretionary programs. I think we ought to at least give this the opportunity to work and not hamstring it right from the beginning. So we would resist this.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. SIMON. Mr. President, I concur completely with what my colleague from Massachusetts has to stay.

Under the amendment by the Senator from Kansas, this would be a 3-year authorization. And it really, you know, takes a little while to get a program up and going. Secretary Riley and Secretary Reich are eager on this, so I think this one is going to move fairly quickly.

If this were a cutting back from 8 years to 6 years, something like that, I think that could be considered. And I have spoken to my colleague from Massachusetts about that. But a 3-year authorization, I do not think is realistic.

I would be happy to join the Senator from Kansas at any point she wants to hold a hearing to see how the thing is going. Let us review it. It does not need just to be the Appropriations

Committee that takes a look at this. But I think we have to have more than a 3-year authorization.

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

The ACTING PRESIDENT pro tempore. Under the regular order, time is not charged.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Chair will inquire of the Senator whether he is speaking on the bill or on the amendment of the Senator from Kansas?

Mr. DURENBERGER. Mr. President, I am speaking on the bill.

The ACTING PRESIDENT pro tempore. We are under a time limit, the Chair would notify the Senator from Minnesota, on the bill. One would need to yield time.

Mr. SIMON. Mr. President, I yield 5 minutes.

Mr. DURENBERGER. Mr. President, I ask unanimous consent I may speak for 5 minutes on the bill and 5 minutes on one of the Kassebaum amendments.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DURENBERGER. I understand I have been yielded time for that purpose as well. I hope I did this right.

Mr. President, I thank you very much for clarifying the situation.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I rise today to urge my colleagues to give their strong support to the School-to-Work Opportunities Act. I became the lead Republican cosponsor of the School-to-Work Act because the bill is consistent, in my view, with so many basic Republican principles like bottom-up program development, strong community involvement, program consolidation, and a limited role for the Federal Government. The reality is the School-to-Work Opportunities Act provides seed money, technical assistance to States and communities in order to encourage and facilitate locally developed, locally operated, locally administered school-to-work transition programs. And as I get into my statement, I will illustrate what I mean by "local" and "community," in terms of my own community.

It builds on existing programs and it removes existing barriers that States and employers now face in making alternative ways of learning job skills a real option.

The programs supported by the legislation will help bring together employers, educators, government, labor, everyone—I will, again, illustrate that in my statement because it is really happening in my community—in true partnerships, to provide training and opportunities so that all our Nation's young people can compete for higher skilled, higher wage jobs.

Because the success of so many American businesses depends largely on their ability to attract a high-skilled workforce, this initiative will also help U.S. companies to thrive in an increasingly competitive global marketplace.

I really should begin this by thanking my colleagues—the chairman of the committee; the ranking member of the committee; and my colleague from Kansas, Senator KASSEBAUM—from whom I have learned so much about this. I thank Senator SIMON, Senator HATFIELD, Senator JEFFORDS, Senator BOND, and others who, through their cosponsorship, helped make this a bipartisan initiative—through their sponsorship, in the case of my colleague from Illinois.

I know these people truly understand the hope the School-to-Work Opportunities Act holds for our Nation's children and employers.

The Secretary of Labor—not really an instrument of bringing this to our attention; I think most of us learned this from our own communities and we have learned at least what to do about it from our colleagues—but the Secretary of Labor has made it a very important part of the administration's new approach to education and the workplace.

As I mentioned, my colleague from Illinois, Senator SIMON, has always been trying to teach us something about the connection to education, and what is it all for? He is one of the better educators, in so many ways, among our colleagues here in the Senate. He and his staff, I think, have stimulated all of us to think more appropriately about the role that Federal legislation should play in making education relate to the workplace and, in particular, to take advantage of this new locality-by-locality definition of what is community when we talk about bringing all of these various forms of education together.

So I think this is one of those unique times when all of us can celebrate a very constructive relationship among the people involved in this part of the process in our own communities on all these education and training issues. To me it has been a great source of pride to have worked on this and have it come to the floor today.

At this stage, Mr. President, I really want to thank the people who make my being here possible, the people in Minnesota, particularly Minnesota business, labor, education, and government leaders, all of whom have given their knowledge, enthusiasm, commitment, and time to help make the School-to-Work Opportunities Act even better.

In the last several months, I spent a great deal of time getting what we call around here constructive input on this legislation from so many people in Minnesota. It makes my head swim to try to identify them, which I am going to do here in a little bit. They are really involved in apprenticeships, school-to-work training and they are doing that at the State and local level in Minnesota.

It is the overwhelming support of these Minnesotans which has guided my efforts and reinforced my own commitment to help Senator SIMON and the administration in building even broader support for the legislation.

Let me give just several of the important contributions from Minnesota that have been part of the bill. Based on recommendations from Minnesota:

We strengthened provisions of the bill to assure consultation and collaboration among all key players, but ensure that State Governors bear ultimate responsibility and accountability for State school-to-work plans.

We added statutory and report language that broadened the definition of school-to-work opportunities in order to make it clear, one, that school-to-work opportunities, including career exploration and other less formal workplace learning programs, should begin much earlier than the 11th grade, in many cases as early as elementary, middle, and junior high; second, school-to-work opportunities may be linked to part-time employment and emerging community service and service learning initiatives all of which Minnesotans consider an integral part of State-based education reform.

Mr. President, we added at the request of Minnesotans an entire section in the bill creating a Federal clearinghouse in order to encourage replication of successful programs and to facilitate interstate collaboration in research and other opportunity areas.

Finally, we added a section of the bill which streamlines and strengthens provisions allowing Federal mandates to be waived.

The many Minnesotans who offered me their guidance on the bill should be very proud that their contributions are now part of the legislation before us today.

In particular, I want to recognize Tom Triplett, president of the Minnesota Business Partnership; Larry Perlman, CEO of Ceridian Corp.; Jean Dunn, executive director of the Minnesota Teamsters Service Bureau. There is a spectacular Minnesotan.

I also want to call attention to the assistance given to me in recommending improvements in the bill by Dale Jorgenson, the youth apprenticeship coordinator at Minnesota Technology, Inc.; Tom Berg from the Minnesota Department of Education; Mick Coleman from the Minnesota Technical College System.

I ask unanimous consent that a complete list of the many Minnesota leaders in education, labor, and government who contributed to the School-to-Work Opportunities Act be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. DURENBERGER. Mr. President, in addition, I would like to thank three groups of people I met with in Minnesota during the January recess, trudging through the snow, who are now designing school-to-work programs that could be assisted by the legislation.

The first of these, first on so many of these creative ways of approaching these issues, is the teamsters in Twin Cities, the Teamsters Service Bureau in particular, working with the Service Employees Union, the Communications Workers Union, with educators and employers on an exciting program called Skills for Tomorrow.

Under this workplace literacy project, employees in the trucking, health care, and telecommunications industries are learning valuable job skills in special classes taught during the regular work day.

In addition to the workplace literacy project, the Teamster Service Bureau is also partner with other business and education organizations in establishing a new charter public school that would use youth apprenticeships as one of the main means of teaching and learning.

The other two groups I met with include educators, labor, and hospital officials in the Twin Cities and in the Duluth-Cloquet, MN, areas who are designing new youth apprenticeship programs in several different health care occupations.

Many Members know of my strong interest in health care reform. I must say, I was struck as I listened to both these groups during the January recess at how important the fundamental changes we are talking about today are in preparing Americans for work and how important they will be to our ability to achieve the kind of cost savings and other changes we all so desperately need in America's health care system.

Finally, I want to recognize the contributions of Dr. David Johnson from the University of Minnesota's National Transition Network.

In his testimony before the Labor and Human Resources Committee, Dr. Johnson expressed the importance of ensuring the School-to-Work Opportunities Act promotes opportunities for all Americans, including those young Americans with disabilities. Dr. Johnson's recommendations and guidance, along with the contributions of the entire disability community, formed the basis for a set of modifications submitted by Senator HARKIN and myself that are now incorporated into this bill as well.

As a result, the programs supported by the School-to-Work Opportunities Act now guarantee full and meaningful participation by all Americans with disabilities.

Mr. President, in addition to the changes I previously mentioned, I am encouraged by the interest I received from my colleague from Illinois and other members of the Labor Committee in continuing to collaborate on our common objectives during the coming reauthorization of the Elementary and Secondary Education Act, as well as all other education and job training proposals, welfare reform and other initiatives we will consider later this year.

I know that Senator KASSEBAUM, in particular, would prefer that we deal with more fundamental reform of our numerous existing job training programs prior to adopting this bill. To her and to others who share this view, let me say I strongly support the need for a fundamental overhaul of this Nation's job training program.

I must also say I particularly appreciate the fact that each time we come on one of these things, she says, "Why can't we reorganize this thing so we don't have so many separate organizations, agencies, programs," and so forth. Let us start looking at the whole person rather than categorizing these folks. There are too many different programs and different funding streams. There are too many different priorities and targets that overlap single people.

My personal preference would be to leave the design of these programs and setting of priorities and how funds should be spent to the State and local level, not the Federal level. I believe the legislation before us is consistent with that preference, and I believe that working together on a bipartisan basis with the administration we will have opportunities this year to accomplish the objectives that both Senator KASSEBAUM and I share.

Let me say in this regard that I intend to support Senator KASSEBAUM's amendment that would give States more flexibility in integrating and combining Federal funds and existing State programs in order to develop and implement more effective school-to-work programs.

I hope, in conclusion, that my colleagues on both sides of the aisle will join those of us who have spoken today in support of this very important legislation. The School-to-Work Opportunities Act really comes from our communities. It comes from our workplaces and it comes from our schools. Therefore, in my experience in Minnesota, I must say, Mr. President, it does represent a very significant step forward in supporting initiatives at the State and local level that make the kind of changes we need in how we both teach and how we learn.

Thank you, Mr. President. I yield the floor.

EXHIBIT 1

SOURCES OF MINNESOTA INPUT

Summaries of the School-to-Work Opportunities Act—and an invitation to comment or make suggestions for changes—were mailed in early August to more then 350 Minnesotans in state and local government, business and labor organizations, educators, and others. A number of individuals and organizations responded or were contacted directly. Among those whose suggestions formed the basis for these recommendations were:

STATE GOVERNMENT, EDUCATION

Allison England, Office of Governor Arne Carlson, Thomas Berg, Minnesota Department of Education; Mike Coleman, youth apprenticeship coordinator, Minnesota Technical Colleges, John Harback, instructor, Northeast Metro Technical College, John Lennes, Commissioner, Minnesota Department of Labor and Industry, Tony Scallon, Director, Skills For Tomorrow Charter School, Russell O. Smith, Superintendent, Cloquet Public Schools, Nick Waldoch, youth apprenticeship coordinator, Minnesota Department of Education.

BUSINESS AND LABOR LEADERS

Tom Triplett, President, Minnesota Business Partnership, Paula Prahl, Education Policy Director, Honeywell, Lawrence Perlman, CEO, Ceridian; and Chair, Business Roundtable Task Force on Workforce Training and Development, Robert Unterberger, General Manager, IBM Corporation, Rochester, Jean Dunn, Executive Director, Minnesota Teamsters Service Center, Steve Gilbertson, union representative, Local 789, United Food and Commercial Workers Union.

OTHER

Dale Jorgenson, Minnesota Technology, Inc., Carol Truesdell, Executive Director, Minneapolis Youth Trust, Rich Cairn, service learning consultant; and former deputy director, National Youth Leadership Council.

Mr. SIMON. Mr. President, I yield myself 1 minute.

I simply want to thank the Senator for Minnesota for his comments. I am pleased to be associated with him in this effort. But let me add one other thing.

I have been around this body, the Senate, and the House long enough to see frequently when Members announce their retirement, then you hardly ever see them participating in anything. It says something about the personal character of DAVID DURENBERGER that he continues to be just as vigorous, just as active after announcing he is not going to be running for reelection as he was before. I am very proud to be associated with him in this body.

Mrs. KASSEBAUM. Mr. President, while we may differ on the support ultimately of this legislation, I, too, wish to commend the Senator from Minnesota for his very constructive approach on the school-to-work legislation. As Senator DURENBERGER outlined, he talked to many people. He thought about it. He worked with many different concerns on this legislation, and that is how good legislation should be achieved.

So I certainly value his contribution and am particularly pleased he is going

to support the amendment on giving the States a waiver as well.

I thank the Senator.

Mr. DURENBERGER. Mr. President, might I be yielded a minute on the amendment so that I might respond?

The ACTING PRESIDENT pro tempore. The Senator is recognized. There is no time limit.

Mr. DURENBERGER. Mr. President, I am prompted to say two things in addition to speaking of my gratitude for the opportunity to serve with these two wonderful Midwest colleagues from whom I have learned so much.

First, I think I am a lucky person because I represent a State like Minnesota and people are never satisfied with anything going as well as it could so they are constantly wanting to do better, to do more, and so forth. So it is a really easy people to represent because people are always telling you where to go and what to do, and so forth, and so the compliments are for my constituency.

Second, right now, in response to what both my colleagues said, I think I have about 330 days remaining on my term, some of which are recess days, some of which are adjournment days, so maybe that cuts it in half, something like that. There seems to be an awful lot remaining to do that I have noticed accumulated on my watch.

So I wish to say to my colleagues it is no accident that I am here. There is a lot to do. There are only 100 of us to do it. I have pledged to you that I will be back here at every opportunity to help you, and that includes probably some time in 1995 and beyond where the spirit so moves me.

I thank my colleagues and I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The presence of a quorum has been raised. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. GRASSLEY. I further ask, Mr. President, to speak for 9 or 10 minutes as if in morning business.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. GRASSLEY. I thank the Chair.

REOPENING THE M ACCOUNTS AT DOD

Mr. GRASSLEY. Mr. President, last week I came to the floor of the Senate and made some very critical remarks about Comptroller General Bowsher's recent decision to reopen the M accounts at the Department of Defense or DOD.

Congress passed a law in 1990 that phased out those accounts by September 30, 1993. Now, Mr. Bowsher wants to reopen the doors to the magic vault or M accounts by just a crack, he promises, to correct $130 million clerical errors.

I fear that Mr. Bowsher, the national money copy, has given DOD the green light to proceed further down the road to fiscal mismanagement.

I fear Mr. Bowsher's decision will help to undermine discipline and integrity of financial management within the Government.

This is strong medicine, I know, but the facts tell me the criticism is deserved.

Over the years, I have been very complimentary of Mr. Bowsher's work. He has cooperated with me on a number of important projects. He has helped Congress exercise oversight. He has been a faithful watchdog at the entrance to the U.S. Treasury.

But in this particular case, I have to disagree with him. He made a bad decision.

My concerns about Mr. Bowsher flow directly from his recent decision to reopen the Department of Defense or DOD M accounts.

The decision that authorizes DOD to reopen the M accounts is laid down in a document entitled "Department of the Treasury Request for Opinion on Account Closing Provisions of the Fiscal Year 1991 National Defense Authorization Act," No. B-251287, Dated September 29, 1993.

Mr. President, when I spoke about the issue on the floor last week, I examined the weak legal foundation for the decision and urged Mr. Bowsher to withdraw it.

I did not have enough time to get into the issues surrounding what is called unmatched disbursements. That is what I would like to do today.

Mr. President, I feel that Mr. Bowsher's decision gives tacit approval to improper accounting practices which breed unmatched disbursements.

These improper procedures and their unfortunate by-product are totally inconsistent with the spirit and intent of all provisions of law governing finance and accounting.

Unmatched disbursements, I fear, are the principal driver behind Mr. Bowsher's decision.

Unmatched disbursements are Government checks that have been cashed and returned to the Treasury but Government accountants are unable to match and post those checks to the correct accounts.

Mr. President, DOD is thought to have about 50 billion dollars' worth of unmatched disbursements right now. The figure could well be higher than that. Nobody knows for sure.

A multibillion-dollar pool of unmatched disbursements—from the point of view of a Pentagon bureaucrat—has all the advantages of another slush fund. Unmatched disbursements can hide cost overruns, overobligations, unauthorized expenditures, and even illegal payments.

Mr. President, I fear Mr. Bowsher's decision condones sloppy bookkeeping at the Pentagon.

I refer here to the discussion on page 6 of the decision document, B-251287 dated September 29, 1993, that I placed in the RECORD last week.

Mr. President, I would like to warn my colleagues. This is arcane, complicated language, but it is important. It goes right to the heart of the issue.

Please listen carefully.

This is how Mr. Bowsher blesses the ugly procedure:

> If a disbursement that was made before cancellation of an appropriation account cannot be matched with a recorded obligation of a canceled account, but DOD can establish to the satisfaction of Treasury that the disbursement represents payment of a valid unrecorded obligation otherwise properly chargeable against the canceled appropriation account, the Treasury may adjust the canceled account balance to reflect the disbursement.

The idea of being unable to match a check to a recorded obligation is bad enough, but the thought of then allowing DOD to scour the countryside in search of an unrecorded obligation to cover the check is disgusting.

Mr. President, we are looking at the point where control over the peoples' money is breaking down, and Comptroller General Bowsher is right there in the middle of it. I fear he is making himself a party to the problem.

Government checks that cannot be matched with corresponding entries in accounting records are a danger signal—a red warning flag.

If Government checks are returned to the Treasury but cannot be matched up with recorded obligations, then it is time to call in the FBI, lock the doors, seal up safes and filing cabinets and launch a top-to-botton investigation. Questions must be answered. Lot's of questions. Were illegal or improper payments made? To whom? Why? Was money stolen? Is there a violation of Federal criminal law?

The national money cop, the Comptroller General, should not be giving the go-ahead signal on unmatched disbursements.

Mr. Bowsher's decision appears to do exactly that.

Mr. President, the existence of unrecorded obligations and expenditures at the DOD makes one thing very clear to me: Financial management at the Pentagon has collapsed.

And Comptroller General Bowsher should not dredge up a legal gimmick to bless it.

For the ordinary citizen, unmatched disbursements are like writing checks but never filling out the stub and not knowing how much money is left over or which bills have been paid.

This practice is unacceptable. It must not be tolerated.

That is why DOD cannot audit the books. That is why the Defense Business Operations Fund or DBOF cannot comply with the Chief Financial Officers Act of 1990.

The failure to record obligations and expenditures in ledgers and to link those transactions to the proper appropriations accounts is totally inconsistent with the law of the land.

The required linkage between obligations and expenditures must be established before a payment is made. If preliminary commitment accounting work is done, then disbursements could be quickly and easily posted to the proper accounts.

Mr. Bowsher does not dispute this fact. He says,

> I share your concern about the failure of the agencies to record obligations and expenditures as they occur and agree this practice has exacerbated the problem of unmatched disbursements.

Yet his decision would give DOD financial managers an indefinite amount of time to make the necessary accounting hookups.

But how long should that take: 5 days, 1 week, 1 month, 6 months, a year, or 5 years? What is it?

The Comptroller General does not seem to know the answer.

The Treasury will give DOD until May 31, 1994. DOD wanted a year or more.

I had also asked Mr. Bowsher to help me craft legislation to eliminate unmatched disbursements.

But Mr. Bowsher says current law is satisfactory. It already requires Government officials to record obligations and expenditures.

This is what Mr. Bowsher says:

> I think the statutes are clear with regard to the requirement for the proper recording of obligations and expenditures. What I think needs improvement is the execution of the requirement of these statutes.

What the Comptroller General is telling us is this: DOD is not complying with the law.

Yet Mr. Bowsher's decision tries to make noncompliance look more legitimate.

Mr. President, I would like to direct the next logical question to Mr. Bowsher:

Mr. Bowsher, what do we need to do to bring DOD into compliance with these laws?

Mr. Bowsher's decision sends the wrong message to the financial management community: sloppy bookkeeping is OK.

Mr. Bowsher needs to send a clear, unambiguous signal to the financial managers at the Pentagon: Obligations and disbursements should be recorded immediately—as they occur.

Anything short of that is unacceptable.

Mr. President, I will have much more to say on the question of unmatched disbursements in the weeks and months ahead.

Mr. President, I hope to have more to say on this question of unmatched disbursements in the weeks and months, until we either take care of this by changing law, or until we take care of this by seeing that the existing law is honored by those responsible for its faithful execution.

I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. FEINSTEIN). Without objection, it is so ordered.

Mr. BYRD. Madam President, I ask unanimous consent that I may speak out of order.

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

The Senator is recognized.

ET TU, PEOPLE?

Mr. BYRD. Madam President, from time to time here on the Senate floor, I have decried declining standards of education in our society, sliding levels of literacy among increasing numbers of our citizens, and a disturbing spread of inaccurate and undisciplined scholarship, even at some of the higher echelons of American education.

Unfortunately, the First Law of the decay of civilizations seems to be that, paralleling monetary experience, "Bad culture drives out good culture."

Thus, bad music overwhelms good music. Bad taste destroys good taste. Bad literature drives out good literature.

And, I might add, apparently, ignorance often displaces fact.

Shakespeare said:

> . . . Ignorance is the curse of God, knowledge the wing wherewith we fly to heaven.

As a case in point, I cite the February 7, 1994, issue of People magazine.

People has never purported to be a scholarly publication. However, as a premier offering of Time-Life, Inc., People has proved to be a cut far above the prolific tabloids found prominently near the checkout stands of most supermarkets.

However, on page 93 of the February 7, 1994, issue of People, one finds this assertion, "Jubilee, for example, comes from the Bantu word juba, a popular plantation dance dating back to the 18th century."

Madam President, "jubilee" does no such thing!

As thousands of American school children might have known 60 or 70 years ago from the widespread study of Latin in our public schools, "jubilee" comes from the Latin verb jubilare, meaning "to shout" or "to rejoice," which is to say that the Romans were using that word and the Latin equivalents that sprang from it and into English—"jubilation," "jubilant," "jubilate," and such—as much as nearly 3,000 years before any plantation dances were being performed on the North American continent.

Further, in Leviticus 25 in the Hebrew Bible and the Christian Old Testament, one reads about "the year of jubilee," long before plantation dances were ever heard of in the South. This goes by hundreds and hundreds and hundreds of years. An ancient Jewish celebration "the year of jubilee" was an ancient Jewish celebration lasting 12 months, either every 25 or 50 years, during which all bondsmen were set free, all mortgaged lands restored to their original owners, and the land was left fallow. Further, Hebrew carries the word yobel, which translate as "ram's horn," a ceremonial instrument that was sounded ritually to announce holy occasions such as "the year of jubilee," and the apparent source of the Hebrew equivalent for "jubilee."

According to Biblical scholars, the Book of Leviticus, in which the word "jubilee" is prominently found, took its final form by the 6th century B.C. And from the Hebrew into the English, the word "jubilee" was carried over into the King James Version of the Bible, which was first printed and published during the years 1604–1611, well before 1619, when the first slaves were landed at Jamestown.

Again, this was before plantation dances were taking place down South.

Thus, Madam President, neither the Romans, the Jews, or the English of 1600 A.D. had an opportunity to know anything about plantation dances performed in the American South, which occurred long after the word "jubilee" had entered the Latin, Hebrew, and English vocabularies.

I point this faux pas out not to excoriate People magazine as much as to again underline the decline of popular culture in our country. As I indicated, six or seven decades ago, U.S. school children would have recognized jubilee from their Latin classwork.

Further, six or seven decades ago, millions of churchgoers and members of adult Sunday school classes would have recognized jubilee from their knowledge of the Old Testament—the Book of Leviticus.

But today, a publication as glossy and apparently as sophisticated as People magazine can print a false citing that at one time might not have gotten past a proofreader with a high school diploma.

Unfortunately, Madam President, unless the standards by which we measure educated men and women are raised, and unless the goals of education itself are geared to rising and increasingly demanding world expecta-

tions, the price that our society and economy will pay will be far more exacting than inaccuracies in a glossy celebrity gossip magazine. That price will be increasing illiteracy among millions of Americans and a plunge in the standard of living taken for granted by most Americans today.

Indeed, one of the signs of the decay of the Roman Empire and the dawn of the Dark Ages was a rise of sloppiness in the writing and speaking of daily language, the spread of ignorance about history and the past, and the displacement of fact and truth by superstition and falsehood. Is it possible that, even in this dawning space age, we stand simultaneously on the precipice of a new Dark Age?

Perhaps only time and the reassertion of accuracy, discipline, and rigorous scholarship will halt the current slide into cultural barbarism and the rotting away of standards of truth evident too often in contemporary communication, writing, and research. Let us hope that it is not too late.

Good, sound education gives us hope.

True hope is swift, and flies with swallow's wings;
Kings it makes gods, and meaner creatures kings.

Valentine, speaking to Proteus in the Two Gentlemen of Verona, and referring to his dearly beloved Silvia, said:

And I as rich in having such a jewel
As twenty seas, if all their sand were pearl,
The water nectar, and the rocks pure gold.

Valentine could just as well have been speaking of a good, solid, well-rounded education:

And I as rich in having such a jewel
As twenty seas, if all their sand were pearl,
The water nectar, and the rocks pure gold.

Madam President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

SCHOOL-TO-WORK OPPORTUNITIES ACT

The Senate continued with the consideration of the bill.

Mr. GREGG. Madam President, what is the current business of the Senate?

The PRESIDING OFFICER. The current business is amendment No. 1425, which is pending.

Mr. GREGG. Madam President, I ask unanimous consent to lay aside that amendment and that it be in order for me to offer an amendment.

The PRESIDING OFFICER. Is there objection? There being none, it is so ordered.

AMENDMENT NO. 1426

(Purpose: To establish a limitation on unfunded Federal mandates)

Mr. GREGG. Madam President, I send an amendment to the desk and ask for its immediate consideration. I understand it has been cleared by both sides.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG] proposes an amendment numbered 1426.

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

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place in title V, insert the following:

SEC. . ADDITIONAL FEDERAL REQUIREMENTS.

(a) PURPOSE.—The purpose of this section is to ensure that the funds provided under this Act cannot be utilized by the Federal Government to contribute to an unfunded Federal mandate.

(b) REQUIREMENTS.—Subject to subsection (c) and notwithstanding any other provision of Federal law, no provision of Federal law shall require a State, in order to receive funds under this Act, to comply with any Federal requirement, other than a requirement of this Act as in effect on the effective date of this Act.

(c) RULE OF CONSTRUCTION.—Any provision of Federal statutory or regulatory law, in effect on or after the effective date of this Act, shall be subject to subsection (b) unless such law explicitly excludes the application of subsection (b) by reference to this section.

Mr. GREGG. Madam President, I would like to thank the distinguished senior Senator from Illinois and his staff for their hard work in reaching agreements on the amendment that I offered, especially the unfunded mandates. Additionally, I would like to ask Senator SIMON if he will help to ensure that the amendments we have agreed upon will be protected in conference with the other body.

Mr. SIMON. Madam President, I would like to assure the Senator from New Hampshire that I am committed to supporting the Senate language during conference with the House.

Mr. GREGG. I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Is there objection to the unanimous consent?

Mr. SIMON. Madam President, we have looked at the amendment. It is perfectly proper. It is my understanding from the Senator from New Hampshire that the Senator from Kansas has also agreed to it, so we are very pleased to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1426) was agreed to.

Mr. SIMON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who seeks recognition?

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

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. GRASSLEY. Madam President, this unanimous-consent agreement has been cleared on both sides of the aisle.

I ask unanimous consent that the Senate return to consideration of S. 1150, that Senator KENNEDY's amendment No. 1421 be withdrawn, and that I be permitted to modify my amendment, No. 1388, with the language I now send to the desk.

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

GOALS 2000: EDUCATE AMERICA ACT

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1150) to improve learning and teaching by providing a national framework for education reform; to promote the research, consensus building, and systemic changes needed to ensure equitable educational opportunities and high levels of educational achievement for all American students; to provide a framework for reauthorization of all Federal education programs; to promote the development and adoption of a voluntary national system of skill standards and certifications, and for other purposes.

The Senate proceeded to consider the bill.

The amendment (No. 1421) was withdrawn.

The amendment (No. 1388) was modified as follows:

At the appropriate place in the bill, insert the following:

SEC. . PROTECTION OF PUPILS.

Section 439 of the General Education Provisions Act is amended to read as follows:

PROTECTION OF PUPIL RIGHTS

SEC. 439. (a) All instructional materials, including teacher's manuals, films, tapes, or other supplementary material which will be used in connection with any survey, analysis, or evaluation as part of any applicable program shall be available for inspection by the parents or guardians of the children.

(b) No student shall be required, as part of any applicable program, to submit to a survey, analysis, or evaluation that reveals information concerning:

(1) political affiliations;

(2) mental and psychological problems potentially embarrassing to the student or his family;

(3) sex behavior and attitudes;

(4) illegal, anti-social, self-incriminating and demeaning behavior;

(5) critical appraisals of other individuals with whom respondents have close family relationships;

(6) legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers; or

(7) income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program),

without the prior consent of the student (if the student is an adult or emancipated minor), or in the case of an unemancipated minor, without the prior written consent of the parent.

(c) Educational agencies and institutions shall give parents and students effective notice of their rights under this section.

(d) ENFORCEMENT.—The Secretary shall take such action as the Secretary determines appropriate to enforce this section, except that action to terminate assistance provided under an applicable program shall be taken only if the Secretary determines that—

(1) there has been a failure to comply with such section; and

(2) compliance with such section cannot be secured by voluntary means.

(e) OFFICE AND REVIEW BOARD.—The Secretary shall establish or designate an office and review board within the Department of Education to investigate, process, review, and adjudicate violations of the rights established under this section.

Mr. GRASSLEY. Madam President, I am not going to take but 30 seconds to say this is the amendment I spoke about on Friday at considerable length. I have had an opportunity to work with Senator KENNEDY's staff, Senator KASSEBAUM's staff, people at the Department of Education. I feel we have worked out a very, very good compromise and this is the compromise that is now presented and will be taken up tomorrow when we do what is remaining of that bill.

Mr. ROCKEFELLER. Madam President, I am proud today to join Senator KENNEDY and the bipartisan coalition who have been supporting this important piece of legislation. Goals 2000, Educate America Act, is a key effort to reform and revitalize our education system by focusing on reform at the school level. The provisions of this bill reaffirm our national education goals and it is an investment in converting these goals into reality. Such investments are long overdue.

It is worthwhile to emphasize exactly what our goals are:

First, all children will start school ready to learn;

Second, high school graduation rate will be at least 90 percent;

Third, students will achieve a basic competency in key subjects of English, math, science, foreign language, civics, arts, history, economics and geography;

Fourth, American students will be first internationally in math and science;

Fifth, every citizen will be literate; and

Sixth, every school will be free of drugs and violence and offer a disciplined environment conducive to learning.

Every parent, teacher, student, and citizen should embrace these basic goals and work together to achieve them by the year 2000.

I firmly believe that every child should be given the opportunity to develop to his or her full potential. Under the Goals 2000 plan, we will widen the gateway to an education necessary to the full development that many students crave but are unable to possess. This program has bipartisan support in Congress, and it is a partnership with the States and local schools, which are the frontlines of our education system. While the legislation is voluntary, it will provide incentives and encouragement for local schools to undertake bold reform, and over schools flexibility to achieve it.

As a joint endeavor between the Federal Government and the States, Goals 2000 provides Federal leadership in setting fundamental, voluntary goals, and providing incentive to reach them. Federal support of education reforms can spark innovative programs and initiatives across the country. Under this plan the States and local schools will have help and more opportunity to develop their own strategies for reform. The Federal Government can play a pivotal role in promoting reform and provide the teachers, parents, and students the resources necessary to revamp their neighborhood schools.

At the heart of the Goals 2000 legislation are the challenging national performance standards. These voluntary standards will help define what students should know and be able to do in many core academic areas, such as math, history, science, and English. The voluntary standards will be formed at the Federal level, but they will act as no more than a baseline from which States will be encouraged to strive for excellence in education.

A second, and equally important function of the Goals 2000 program is the continuing education program created for teachers. Continuing professional development should be an integral part of any job, and too often in the teaching profession the same old methods are used year after year, with diminishing results. Any increase in expectations of student performance must be coupled with a revitalization of the materials and methods employed by teachers. Continued retraining programs for teachers will enrich course content, which, along with higher standards, will lead to better student performance.

A third element of Goals 2000 is the inclusion of the community approach to education: realizing that educational responsibilities lie not only with teacher and student but also with parents, businesses, community organizations, and social services. Of these it is the parent who takes primary responsibility. Parents provide for their children the model of action. Parents are their children's first teachers, and they need to be involved in their child's education.

The glue that holds this package together is the issue of accountability. Schools should be given the resources to make necessary changes in their methods, and the flexibility to try a range of different approaches, but they also must be held accountable for their results. Federal oversight in this program is minimal. State and community participation in this program is completely voluntary.

As chairman of the National Commission on Children, I had a unique opportunity to travel across our country and talk to young people, parents, and teachers. People understand that education is the key to the future for our children and our country. Our unanimous, bipartisan report of the National Commission on Children included recommendations on education and it is gratifying to note that the principles of reform outlined by the Commission are reflected in this important legislation.

SCHOOL-TO-WORK OPPORTUNITIES ACT

Mr. GRASSLEY. Madam President, I now ask unanimous consent that the Senate resume consideration of S. 1361, and that all of the provisions of the unanimous consent agreement governing S. 1150 remain in effect, and that no amendments be in order to amendment No. 1388.

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

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Illinois.

Mr. SIMON. Madam President, I have no objection. Senator KENNEDY's staff has informed me what the Senator from Iowa suggests is correct, that that has been worked out with Senator KENNEDY. I am pleased to accommodate the Senator from Iowa once again.

Mr. GRASSLEY. I thank my colleague very much.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. HATCH. Madam President, I ask unanimous consent that my remarks be considered as in morning business.

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

THE SITUATION IN FORMER YUGOSLAVIA

Mr. HATCH. Madam President, the shocking deaths of 66 innocent people in a marketplace in Sarajevo compels us to address once again the situation of the former Yugoslavia.

I am deeply disappointed by the reaction of the Clinton administration. The President's spokespeople have talked about entering another round of pointless consultations with our allies. None has indicated that this Nation is committed to taking action.

The President himself said that he hoped the shocking nature of this atrocity would finally compel the two sides to negotiate a settlement. But the obvious point is that the Serbian side—which perpetrated this atrocity—is interested not in peace but in conquest.

I have repeatedly spoken and written on this issue during the last 3 years. In speaking today, I have a tragic sense of deja vu.

After similar atrocities in the past, the Bush and Clinton administrations have always said that we have no moral duty to respond. They said that U.S. interests were not involved, that intervention would lead to a quagmire, and that our allies had troops on the ground who would be imperiled.

I believe both administrations suffered from moral and strategic myopia. We can help protect innocent people without putting U.S. troops on the ground. We must do it now.

There are three issues—whether we send arms, whether we employ air strikes, and whether we send troops.

There will be no peace in Bosnia until the Serbian aggressors are defeated militarily. And that cannot happen until we lift the U.N. arms embargo.

Many observers argue that we should not be involved in any way. The real tragedy is that we already are intervening—but on the wrong side. The U.N. arms embargo deprives the Moslems and the Croatians in Bosnia of the means to defend themselves against the Serbians who inherited the vast military establishment of the former Yugoslavia.

We must enable the Moslems and Croatians to defend themselves. It is time to lift the embargo, to provide the victims of aggression with the means to fight back.

If that requires a withdrawal of the troops of our allies, so be it. If the risk to those troops prevents us from lifting the embargo, it's time for those troops to go home. Madam President, I urge the administration to make that clear to our allies.

We should also conduct air strikes on the Serbian artillery positions that have rained down fire on Sarajevo and other Bosnian cities. The Air Force is confident that these strikes can be conducted at minimal risk and that they can succeed. The United Nations has asked NATO to grant authority for air strikes.

If we lift the embargo and if we conduct limited air strikes, there would be no need to send U.S. troops. Croatians and Moslems in Bosnia are ready and willing to fight to defend their homeland and their families. We do not need to take their place. The answer is to give them the arms to fight by lifting the embargo and send Serbia a signal by undertaking air strikes. We do not have to risk our own men and women in order to respond effectively.

President Clinton last year declared that these cities would be safe havens. As we saw this weekend, they are neither havens nor safe. The President's policy of endless consultations has failed. It's time for the United States to lead and to act, regardless of the positions taken by the European powers.

I have absolutely no doubt in my mind that if the administration would aggressively and energetically tell the European powers we need to change this policy, our European friends would go along with it. I think everybody is disgusted with what has happened, and continuing threats and withdrawal is not cutting the mustard.

Madam President, I have been very concerned about it. I have been calling for this type of action for a long time. I do not want American troops on the ground in any circumstance, but we certainly should not let one side have all the advantage over the other while waiting for some sort of negotiated peace to occur. It is just not going to happen. So we have to lift the embargo and allow the Moslems and Croats to be armed and conduct limited air strikes to let the Serbians know we are sick of what they are doing to these innocent people in Sarajevo and other areas.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

SCHOOL-TO-WORK OPPORTUNITIES ACT

The Senate continued with the consideration of the bill.

Mr. PELL. Madam President, I rise in strong support of S. 1361, the School-to-Work Opportunities Act of 1993. I am very glad to be an original cosponsor of this important administration initiative, which Senator SIMON introduced on August 5 of last year.

In developing this legislation, President Clinton is keeping his commitment to establish a comprehensive system to help ease the transition from school to a changing American workplace that increasingly demands highly skilled and well-motivated workers.

Madam President, I strongly believe we must continue to emphasize the importance of obtaining a college education. We must not, however, neglect to provide career education and training opportunities for the 75 percent of our youth who enter the workplace without a baccalaureate degree, two-thirds of whom have never even been to college.

Far too many of our young people have lost hope for a brighter future. Despite the best efforts of many dedicated educators, too many of our secondary school students fail to find meaningful challenge in the classroom. We can help restore that hope and inspire them to realize their full potential by giving them the opportunity to link what they are learning in the classroom to what they can accomplish and receive financial reward for in the workplace.

Unlike most of our competitors in the global marketplace, we do not have a comprehensive, cohesive school-to-work system. This bill would build on a successful program such as Tech-Prep and cooperative education while allowing for flexibility so the programs can best address the needs of each individual community to better serve our non-college-bound youth. It is a critical first step in the process of creating a system of life-long learning.

Madam President, I congratulate Secretary of Education Richard Riley, and Secretary of Labor Robert Reich, for their attention to this issue. I look forward to continuing to work with them to ensure that the quality school-to-work opportunities we seek to provide through this legislation become a reality.

I wish to commend the chairman of the subcommittee, Senator SIMON, for his efforts and that of his able staff to accommodate the concerns of other Senators. We must thank Senator SIMON and the chairman of the full committee, Senator KENNEDY, for moving this bill another step closer to enactment.

I hope that we all support this measure overwhelmingly.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Madam President, I thank our colleague from Rhode Island.

Let me just add, it is significant. No one in the House or Senate has contributed more to education than the Senator from Rhode Island, and I should add not only in education; the National Endowment for the Arts is one of his monuments, and many other things. Of course, in the field of foreign relations

he has made a real contribution. His cosponsorship is significant, and I am pleased to have it. I am pleased to welcome his comments.

Madam President, I question the presence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. WELLSTONE). Without objection, it is so ordered.

The Senator from South Dakota is recognized.

Mr. PRESSLER. Mr. President, in just a minute I shall send an amendment to the desk. First I shall explain my amendment.

May I first ask, is it necessary for me to ask the pending amendment be laid aside?

My amendment has been agreed to on both sides. I ask unanimous consent the pending amendment be laid aside for about 5 or 10 minutes while we deal with this amendment.

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

AMENDMENT NO. 1427

(Purpose: To provide for assistance to consortia of congressional districts with low population densities for the development and establishment of school-to-work opportunities systems)

Mr. PRESSLER. Mr. President, my amendment is a very simple one. It targets a portion of the funds authorized by S. 1361 to States with a low population density.

My amendment will assist South Dakota, North Dakota, Montana, Wyoming, Idaho and Alaska in training their work force. The average population density for these States is less than 12.30 persons per square mile. In addition, my amendment permits these designated States to seek funding cooperatively.

While classified as rural, these sparsely settled States are confronting issues which are unique to their region. In an article entitled, "How Demographic Trends for the Eighties Affect Rural and Small-Town Schools," author Joyce Stern, notes that

The ups and downs of urban schools have been well documented for many years. But during the eighties, the dynamics of economic change, unemployment, eroding tax bases, rising poverty, and significant outmigration disrupted rural and small-town America, changing family patterns and forcing educators to rethink approaches.

In recent years, we have seen an exodus of young adults from these regions and an erosion of the traditional economic bases. Ms. Stern succinctly summarized some of the problems of South Dakota when she observed:

Moreover, in rural America, where for generations the emphasis has been on producing crops, extracting raw materials, and more recently, manufacturing products, rapid economic restructuring disrupted many lives. At the same time, it has been forcing educators to think in new ways about appropriate instructional programs for educating rural children and youth, forcing rural young people to explore alternatives to their parents' way of life.

To address the need to restructure programs targeting young people, Dr. Larry Bright, the dean of education at the University of South Dakota [USD] has developed an initiative which supports the policies and principles delineated in the school-to-work opportunities legislation. My amendment will help initiatives like the one proposed by Dean Bright.

USD has introduced a school-to-work model in a cluster of rural communities in five States. USD is working with research universities in Wyoming, Idaho, North Dakota, and Montana. The universities in these States have created a consortium called WINSM. They are in the process of linking their ideas, faculties, and technologies to change the education and training system, focusing on emerging needs of the Nation for a highly educated work force. The development of this five-State School-to-Work Program will serve as a model for testing and replication in other rural settings in the Nation.

Key points in the WINSM proposal according to Dean Bright are:

Five State involvement with economic development outcomes: Each of the five WINSM States will have one cluster of rural communities which would collaborate with WINSM universities and the initial USD site to establish a school-to-work model unique to the region. The model will require educators and business leaders to develop human capital resources for economic development goals.

Funding for personnel and instruction: Funds would be used to provide personnel, teaching materials, and interactive media teaching resources. The USD model is a low personnel cost model. It focuses on school district allocation of funds to release excellent teachers to become mentors for peers working on curriculum redesign and work force development goals.

They also work with the business community to design quality internship experiences for students who work in business as part of their educational program, and for mentoring teaching interns who are themselves educated through a school-to-work internship as part of their teacher education. This is a rural adaption of the national professional development center model.

Linkage of the pilot communities: Electronic linkages with fiber optics and a core interactive media curriculum related to school-to-work curricular objectives will be established.

USD support for pilot development: Each of the five collaborating WINSM States will consult with the USD School of Education to build on the rural professional development center [PDC] model. That model encourages school districts and community economic development leaders to identify superior teachers to work with business and education personnel in designing and implementing a school-to-work rural model for testing and replication as a national model.

There is also the Interactive Media Technology for Teaching. Basic school-to-work goals, objectives, and curriculum components will be designed for an interactive media format with the support of the USD Interactive Technology Center. The transfer of emerging instructional technology will help develop quality programs to prepare people for tomorrow's work force needs.

Mr. President, I urge my colleagues to support this amendment and to foster the future economic development of States with low population density.

Mr. President, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER] proposes an amendment numbered 1427.

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

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

The amendment is as follows:

At the end of section 202, add the following:

(d) GRANTS TO CONSORTIA.—

(1) IN GENERAL.—The Secretaries may make grants under subsection (a) to consortia of Congressional Districts with low population densities, to enable each such consortium to complete development of comprehensive, statewide School-to-Work Opportunities systems in each of the Congressional Districts comprising the consortium. Each such system shall meet the requirements of this Act for such a system, except as otherwise provided in this subsection.

(2) AMOUNT.—The amount of a development grant under this subtitle to a consortium may not be greater than the product of—

(A) $1,000,000; and

(B) the number of Congressional Districts in the consortium,

for any fiscal year.

(3) APPLICATION.—For purposes of the application of this subtitle to a consortium:

(A) GOVERNOR.—References to a Governor shall be deemed to be references to an official designated by the consortium to carry out the duties of a Governor under this subtitle.

(B) STATE.—References to a Congressional District shall be deemed to be references to the consortium.

(C) OFFICIAL.—References to an official of a State shall be deemed to be references to such an official of any of the States comprising the consortium.

(4) DEFINITION.—As used in this subsection, the term "consortia of Congressional Dis-

tricts with low population densities'' means a consortia of Congressional District, each Congressional District of which has an average population density of less than 20.0 persons per square mile, based on 1993 data from the Bureau of the Census.

At the end of section 212, add the following:

(i) GRANTS TO CONSORTIA.—

(1) IN GENERAL.—The Secretaries may make grants under subsection (a) to consortia of Congressional Districts with low population densities, to enable each such consortium to implement a comprehensive, statewide School-to-Work Opportunities systems in each of the Congressional Districts comprising the consortium. Each such system shall meet the requirements of this Act for such a system, except as otherwise provided in this subsection.

(2) AMOUNT.—The amount of an implementation grant under this subtitle to a consortium may not be—

(A) greater than the product of—

(i) the maximum amount described in subsection (e); and

(ii) The number of Congressional Districts in the consortium,

for any fiscal year; or

(B) less than the product of—

(i) the minimum amount described in subsection (e); and

(ii) the number of Congressional Districts in the consortium,

for any fiscal year.

(3) APPLICATION.—For purposes of the application of this subtitle to a consortium:

(A) GOVERNOR.—References to a Governor shall be deemed to be references to an official designated by the consortium to carry out the duties of a Governor under this subtitle.

(B) STATE.—References to a State shall be deemed to be references to the consortium.

(C) OFFICIAL.—References to an official of a State shall be deemed to be references to such an official of any of the States comprising the consortium.

(4) WAIVERS.—In order for a consortium that receives a grant under this section to receive a waiver under title V with respect to a State, the State and officials of the State shall comply with the applicable requirements of title V for such a waiver.

(5) DEFINITION.—As used in this subsection, the term ''consortia of States with low population densities'' means a consortia of States, each State of which has an average population density of less than 12.30 persons per square mile, based on 1993 data from the Bureau of the Census.

In section 301 (2), insert '', and to implement such programs in States with low population densities,'' after ''in high poverty areas of urban and rural communities''.

In section 301 (2), insert ''or in States with low population densities'' after ''designated high poverty areas''.

In section 303, strike the title and insert the following:

''SEC. 303. SCHOOL-TO-WORK OPPORTUNITIES PROGRAM GRANTS IN HIGH POVERTY AREAS AND IN STATES WITH LOW POPULATION DENSITIES.''.

In section 303(a)(1), insert ''and to partnerships to implement such programs in States with low population densities'' after ''in high poverty areas''.

In section 303(a)(2), strike ''DEFINITION.—'' and insert ''HIGH POVERTY AREA.—''.

At the end of section 303(a), add the following:

''(3) STATE WITH A LOW POPULATION DENSITY.—For purposes of this subsection, the term 'State with a low population density' means a State with an average population density of less than 12.30 persons per square mile, based on 1993 data from the Bureau of the Census.''.

In section 507(b), strike ''HIGH POVERTY AREAS.—'' and insert ''HIGH POVERTY AREAS AND STATES WITH LOW POPULATION DENSITIES.—''.

The PRESIDING OFFICER. Senator from Illinois is recognized.

Mr. SIMON. Before the Minnesota delegation caucuses up there, let me get a word in here, Mr. President.

I am pleased to support the amendment offered by my colleague from South Dakota.

I come from rural, sparsely settled southern Illinois. So I have sympathy for what he is trying to do.

I point out that it contains permissive language. It does not require this, but permits this and encourages it by having it in the statute.

I think it is a step in the right direction. We have both consulted with Senator KASSEBAUM's staff. She has indicated it is acceptable to her also.

So, Mr. President, I have no objection to the adoption of the amendment at this point.

Mr. PRESSLER. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1427) was agreed to.

Mr. SIMON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. SIMON. Mr. President, if no one else seeks the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DURENBERGER. Mr. President, I ask unanimous consent that I might proceed as though in morning business for 8 minutes.

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

HEALTH CARE REFORM

Mr. DURENBERGER. Mr. President, as the current Presiding Officer and a colleague who is seated here from Pennsylvania and some others who have been very active in health care reform know, I have been at it for quite some time and do not necessarily hold myself out as the best judge of the politics of health care reform. But I have been sort of smiling all weekend about the events of the last 2 weeks.

I must say it was sort of slow in the health care reform business during December and January because there were not many politicians around this place, but once we all got back together again the media started focusing on what we said about health care reform or what we said about each other. It became sort of an interesting 2 weeks.

But I must say I think the assessment from the so-called media pros about who is ahead or who is winning and that sort of thing sort of misses the mark. If I can guess at what I have been sensing here about the weekend, they said the first week of this new term belonged to the President because in a strong State of the Union Message, he touched the people of the country on the issue of health care reform and got the whole thing back on track.

But then in the second week, with sort of the politics of vilification and one specific plan other than the President's plan, they said, well, now he is weak. Somehow, last week President Clinton got strong; this week President Clinton got weak because these groups came out and did not endorse his bill.

Let me say, Mr. President, why this makes me smile a little bit. I think it is, first, because there is such an issue of personality in all of the politics of reform. All of a sudden, Jim Cooper cannot go anywhere without having something stuck in his face and asked his opinion, and yet, as the current Presiding Officer knows, there are a lot of us who are champions of the same approach as Jim Cooper. But there is sort of a sense of let us personalize this one as we personalize the Clinton plan around the President or around the commitment that the First Lady has made to it.

That is the first observation. The politics of personalizing reform does not always lead you to the best answer.

The second observation I make is that one of the weaknesses, if you will, in the Clinton plan is in its comprehensiveness. Many people characterize the Clinton plan as 800 movable parts.

When I look at it, I say here is an effort by the President to try to solve all of the problems that are involved in health policy in this country—or lack of policy in the country—all done in one big, 1,320-some page bill.

So I think right there is sort of a weak link, the fact that the President wants us to do insurance reform, changing all the insurance market rules, substituting something called an accountable health plan. The President wants to do system reform. He recognizes that until the delivery system in health care changes in this country, we are not going to get costs under control, we are not going to have higher quality, and we are not going to be able to afford universal coverage.

Then the third part of it is how do we do universal coverage? Do we do it by

mandating coverage on employers or individuals or do we do it by actually reforming the policies, the public policies that make coverage affordable for everybody in this country?

The Cooper approach, of which JOHN BREAUX and I are the principal sponsors in the Senate, is often characterized as "Clinton lite." The reason it is characterized as Clinton lite is that it does understand reform. It does system reform, and it begins the process of coverage reform on the way to universal coverage.

So what it is, in effect, is the Clinton proposal but without the immediacy of universal coverage by employer, or, in the case of the Republican bill, individual mandate.

We do the insurance reform, we do the system reform, and we move in the direction of universal coverage through coverage reform.

So I guess what I rise to say today is that the notion that somehow the President has been weakened by the Business Roundtable endorsements, by the position of the National Governors' Association, the position the Chamber of Commerce did or did not take, the AMA did or did not take, is not true. I think, in fact, that much of the President's proposal has been strengthened, first by the President himself when he put the lie to the fact that there was no crisis in this country; he backed off, I think, even some Republicans from that notion, hopefully; but, in addition to that, strengthened those parts of the Clinton plan that are committed to changing the way health care is delivered in this country by changing the way we buy health care in this country, which are the two critical elements on our way to universal coverage.

What it means, Mr. President, is we are much closer together today on health care reform than we were 2 weeks ago. We can agree on the way in which we change this system through insurance reform. We have already agreed on that in most of our bill. We can agree that we are going to take that system reform a step farther by developing rules, national rules, for health alliances or buying groups, accountable health plans, which is the substitute for health insurance as we know it, basic benefit package, that sort of thing; national rules where the things that make a difference in this health care marketplace, and then one local market at a time, in southern Illinois, in northern Minnesota, each market operates differently within these national rules.

We begin to change the rewards in the system, to reward the best, those who give us the highest value for the lowest possible price. We do not tell them exactly how to do it. But we set in place these new rules. We have President Clinton and the First Lady to thank for that.

So the notion that seems to be abroad—I must say is fostered by one or the other of our colleagues who continue to attack anyone who does not support the Clinton plan in its totality—the notion that somehow the President's plan was weakened last week, I say as someone who has been at this for the 16 years I have been in the Senate, is the opposite from the truth. Because I think the heart of the President's approach, changing this system whose costs are strangling us today, was strengthened last week.

I want to take this just one step farther and tell you exactly why it was strengthened by the Governors. The Governors said, if you folks go out of here in 1994 and you have not given us some national rules for this health care system that are different from the ones we have today, which are the more you do, the more you get paid—we do not care about what; we do not care about costs—change those rules. And then in our local markets you are going to see a lot of change. If you do not go out here and do that, we will end up doing it State by State and you probably will not like the way it is done if we do it State by State.

The Business Roundtable, National Association of Manufacturers, and all the rest of these people join in saying the leaders in health care reform in America have been the employers. They are not just the bill payers; they are the leaders in reform.

Everywhere you go in this country you see markets changing in medicine, you see the practice of medicine changing, you see insurance in the indemnity sense leaving the marketplace, and a more accountable health plan joining the marketplace. It is because the large employers, small employers, coalition of employers, have come together to say this community health care system can do better for its people than it is doing now and we want to assist our employees in making that happen.

The people of the Business Roundtable and, I know, the people at these other organizations represent all the communities in America that have already been trying through their employer and employee groups to change this marketplace.

So my bottom line, Mr. President, is I think health care reform is stronger today than it was last week. I think the best parts of the Clinton plan are stronger today by the endorsement of people who actually have been out there changing these systems than it was last week.

I just hope that those who would either characterize the endorsements of other plans yesterday or last week as defeat for the President would rethink it. You can find Jim Cooper in the Bill Clinton plan. You can find Jim Cooper in the JOHN CHAFEE Republican plan. There is a broad consensus in the middle of this and the House of Representatives for what it takes to do health care reform.

But unfortunately, some of that consensus was labeled "Clinton," some of it was labeled "Cooper"—personalities—and some of it got labeled CHAFEE—the personalities—so we do not recognize them for their similarities. We recognize them for the personalities of their authors, and that is too bad. I just hope my colleagues and the people in the White House, the administration and so forth, who worked an awful long time on health care reform will recognize that reform is better off today, getting stronger every day, than a week or two ago.

I say to those on either edge of this debate, my colleagues who are single-payer advocates, my colleagues who are advocates of, you know, let us just make everybody pay the first $3,000 of their medical bills, will give the folks in the middle of this process, Bill Clinton, Hillary Rodham Clinton, Jim Cooper, JOHN CHAFEE, DAVE DURENBERGER, JOHN BREAUX, Republicans and Democrats alike, HARRIS WOFFORD—people in the middle of this thing who really want to do health care reform in 1994—the Governors, give us a chance. Give us a chance.

Look at the middle. Look at the things that we have in common. Look at the things in which there is very little disagreement. Make us settle our differences. Make the Republicans in the middle get together with the Democrats in the middle, get together with the President in the middle, and let us get on with it. It is not that hard.

I think one of the difficult issues will be how do we get the universal coverage. As someone who served on the Finance Committee all of the years that I have been here, I think we know why that is. We are currently spending $400 billion in public subsidies for employed persons, the elderly, and low income in this country. We are spending it with rules made in 1954, the tax rules, and 1965, the Medicare-Medicaid rules. They are all outdated. They are not buying good health care. They are not doing good coverage of the elderly, disabled, low-income or poor people. They are either buying too much health insurance or not enough health insurance. They are either buying the wrong kind of services or too expensive services or unneeded services. They are antiquated. They are broken. We ought to throw them out and start over.

We do not do that naturally, literally, because we have in our communities examples of how we can get the universal coverage by making it possible to change the public subsidies so that those subsidies finance the premiums on account of a health plan. If the elderly and disabled in America are able to buy an accountable health plan instead of buying part A, part B, sup-

plemental, cancer, heart insurance, and then getting reimbursed reasonable and customary, and deluged in paperwork, wow, we fix that.

If the low income could go to work in America with a substantial part of their premiums for accountable health plans paid, it would be so much less expensive for employers to have to subsidize those plans as well.

The key is the accountable health plan. The key is putting the subsidies in some order that makes some sense according to age and sex, if you are elderly or disabled, according to income if you are not so well off. It is not that hard.

But we need to get about that. I think that is the critical part. That is the part that will take us to universal coverage.

So, in summary, Mr. President, what do you say the message of this week is? It is simply let us get on with it. There is change taking place in health care in all of America. What it needs is a sense of direction. And that is what you and I and the rest of this place are about. Give it a sense of direction. Do not tell it how to get there, but give it a sense of direction and you will get the markets to respond.

This is the week that CBO is going to come out with its estimate, and there will be another brouhaha over whether or not the Clinton plan is fully funded. I suspect CBO will say it is not fully funded. Then people will say, well, there is another defeat for the President. Not at all. Remember, the President is trying to do everything in one bill in 5 years, and it probably cannot be done.

The opportunity that is presented by the CBO estimating process is to get inside the $400 billion we are now spending in public, taxpayer money to subsidize this system and change the way we do it, so we can make health care access affordable for every single American through some kind of a public subsidy, tax subsidy, social insurance subsidy, employer subsidy, or insurance reform.

I am convinced by the many years of experience I have had in Minnesota that it can be done. It cannot be done if the chairman of the Business Roundtable is to be vilified. He was not responsible for the position they took. Business people all over America are responsible for it, who have been changing their own communities and health care and are the ones who said the strongest part of Clinton is the Cooper, or the Cooper part of Clinton. It was not the president of Prudential, who happened to be the chairman of the Business Roundtable at a time when all of the other members of the Roundtable are saying there is a better way to do it. It is contained inside the Clinton plan.

So, Mr. President, I am very excited by the opportunity that we all have been presented with by President Clinton and Mrs. Clinton taking on the challenge of health care reform. I am excited that so many of our colleagues accepted that challenge, or created their own approaches, or endorsed approaches of others. I am most excited that we are now going to get it done in 1994. We are not going to put it off because it is too difficult, or because there is no crisis, or because the Republicans do not agree on all of the details, or because the Democrats do not agree on all of the details. The consensus, as in most things, lives in the bill, and I hope that as soon as possible the folks that are in the middle can get their act together so that the folks on either side who may be waiting for them to fail can join them and join the President in guaranteeing that every American will never have to, in the future, go without the security of access to needed health care and medical services and long-term care service in this country.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

THE SHOOTING OF PATROLMAN STEVEN SHAW

Mr. CHAFEE. Mr. President, last Thursday in Providence, a terrible tragedy occurred: a fine young Providence policeman was killed in the line of duty, shot by a suspect using a handgun.

Steven Michael Shaw and other officers were responding to a call involving a search for three men who were suspected of committing two robberies earlier that afternoon. After entering the house where the suspects were believed to be, Patrolman Shaw was shot in the head by one of the suspects, who had hidden himself in a bedroom closet.

Patrolman Steven Michael Shaw, just 27 years old, began his career with the Providence police in January 1989, working in the patrol bureau and the community policing unit. Steven Shaw was an officer well recognized for his work: he had been involved in a 1991 capture of an armed man who at the time was shooting at him. In 1992 he also played a key role, at some significant personal risk, in securing the release of a hostage held by five armed—and actively firing—men.

These events and his work in handling armed robberies, break-ins, and shootings made him a decorated officer: he received the Police Chief's Medal, given for "an outstanding act in the performance of duty;" the City Council Medal, and the Hostage Situation Medal. Moreover, Patrolman Shaw was a member of the U.S. Marine Corps Reserve, and indeed had served in the Persian Gulf war.

Steven Shaw did not shy from dangerous situations in the course of duty. He had experience in dealing with armed criminals; he had the skills to handle a dangerous and tense situation.

But on February 3, he didn't have a chance.

How long are we going to allow our officers to face the kind of danger posed by the number of handguns out there in circulation? Every year, dozens of police officers are killed while carrying out their official duties—and every year, the vast majority of them are killed by handguns. Since 1982, a staggering 70 percent of the 802 officers killed in the line of duty were fatally shot by handguns. Due to the 72 million handguns out there, our officers face the threat of death every time they leave the station. Due to the presence of handguns, any routine police call can result in tragedy.

No Providence police officer has been killed in the line of duty since 1928, more than 65 years ago. But regretfully, due to the growing number of handguns, it is becoming increasingly dangerous for our officers. In March of 1989, three officers were shot but thankfully not killed in a gunfight. And just last September, a Providence patrolman was shot while investigating a disturbance; his life was saved when the bullet bounced off the bulletproof vest he was wearing.

Every day the men and women of our police force take their lives in their hands on our behalf. We cannot allow the proliferation of handguns to continue to needlessly threaten their lives.

Steven Shaw, this young man of great courage, died in the act of performing his duties. He was a kind, thoughtful, and considerate young man. His friends and family say he had a zest for life, enjoying rafting, hunting, foreign travel, and car racing. His partners say that he enjoyed a challenge; one described a training day where Patrolman Shaw tried to outdo his fellow officers, saying that Shaw was a "150-pound man with a 300-pound heart [who] wouldn't quit."

My deepest condolences go out to Steven Shaw's parents, Robert and Judith Shaw; to his five brothers and sisters; and to his other relatives and his many friends. My heart goes out especially to his young wife, Mrs. Maria Angela Conte Shaw, to whom Patrolman Shaw was married just 1 year ago. On behalf of Mrs. Chafee and myself, I want to offer her and the entire Shaw family my heartfelt sympathy. And on behalf of all Rhode Islanders, I want to convey to Mrs. Shaw and to Steven Shaw's parents the thanks and grati-

tude that each and every Rhode Islander feels for the service that Steven Shaw gave wholeheartedly to our State.

Flags are at half-mast in Rhode Island in honor of this brave young man. He deserves no less, and indeed, much more. We must not lose another Steven Shaw to the slaughter arising from handguns. In his name and the name of all those officers who have been gunned down, we must act.

I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WOFFORD). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. SIMON). Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, for the benefit of Members, even though we have not been involved in extended debate on the floor, we have been making good progress in the areas in which a number of our colleagues have been interested and concerned, such as addressing issues about the length of the authorization and the kinds of flexibility that we have provided in this legislation to be able to deal with some of the existing rules and regulations and even laws.

We have found a consistent position both in the education programs and, hopefully, in this program to provide a degree of flexibility which had not existed previously. I think there are some Members who desire to go even further than that. But we have been working with our colleagues.

Then there are some other issues involving the questions of employment and the paying of certain employees. We have been addressing that. Others want to have some limitation in terms of the total amounts that are going to be authorized and a few other matters as well.

Nonetheless, we have been working with our colleagues. There are several who have been listed on this list of amendments who have common positions, so we have been working through on the substance of those issues.

We want to give assurance to our colleagues that we are proceeding along and making good progress. We will have the opportunity to address the areas where there still remain some differences, but all of us are appreciative of the amount of cooperation that we have been able to achieve so far.

Mr. President, earlier in the debate, my good friend, the Senator from Illinois, had mentioned the hearings that we had on America's Choice, the very outstanding group of men and women who reported to the Congress over a year ago on some of the activities that were taking place in a number of the other industrial countries that were assuring those countries of high skills, high-wage employees and the steps they were taking to make sure that their employees were going to be able to be competitive in the new world markets.

Actually, one of the members of that group was Mrs. Clinton. I can remember very clearly her testimony before our committee when she, Ray Marshall, Bill Brock and actually Ira Magaziner, who has now been working with the President and Mrs. Clinton on the issues of our health care, made an excellent presentation.

As the Senator from Illinois has pointed out, and others, one of their key recommendations for young people in this country was the kind of School-to-Work Program which is now before us. For those who really are interested in the justification of this program, any review of their report is enormously compelling and incredibly persuasive. They really were enormously interesting and challenging recommendations which a number of us worked on to try and ensure that the legislative efforts were going to incorporate the recommendations.

Another very important aspect of that report is the continuing education and training programs of most of the important industries in the European Community.

(Mr. BAUCUS assumed the chair.)

Mr. KENNEDY. They commit from about 1.5 percent up to about 3 percent of their payroll costs for training programs to upgrade employee skills including continuing training programs with certificates establishing what the content of those training programs actually was.

I think there was reluctance by the administration to talk about some kind of requirement by the companies and corporations to move into that kind of encouragement for those plants and factories. But nonetheless, that has been the policy in those countries and is widely embraced by all the political parties, by business as well as workers, and that continues to function.

What we have seen in the United States is that about anywhere from $30 billion to $40 billion a year goes into training programs. Two-thirds of that is for white-collar workers, not the blue-collar workers. A number of the companies that have had those programs have been willing to do that even though there is a reasonable chance that after their employees actually gain the training, there is enormous interest in those employees by some of the competitors of those companies and then they move and become hired by those competitors. That is a condition which does not exist by and large in most of the other industrialized nations in the world.

I know that is not the issue before us, but I do think it does describe the very modest but important initiative which we have at this particular time. We are taking a very important aspect of the recommendations which have been made by that Commission and putting them in place, and I think, as the Senator from Illinois has pointed out, with very broad support from the private sector and from business and from labor. I think it is enormously encouraging. For anyone who did not have the opportunity the other evening to see Rick SMITH interview President Clinton, he spent about an hour talking about what was necessary to have a highly skilled, well-paid, competitive work force—the matter before the Senate—addressing how the President and his administration viewed the importance of this very program, and also how it related to the other programs and plans of other industrialized nations.

The President made it very clear that we are not attempting to replicate the programs in these other countries. We have our own economy. We have our own traditions. We have our own labor-management relations. But there are fundamental and underlying concepts which have demonstrated time in and time out the importance of these kinds of programs and cooperative efforts.

The President, I thought, in that program—as well as at other times when many of us have heard him speak, has clearly indicated his strong commitment to this area. As recently as last week at a training conference here in Washington, a training conference of those who are interested in continuing training programs in the private sector, programs conducted by unions and by others—heard the President of the United States, over a period of about 2 hours, moderating a panel on these training issues. I think that is a very clear indication of his strong commitment in this area, and the support of the administration for training.

As I mentioned earlier, this is in harmony with Goals 2000 that establishes the skills standards. It will also help establish world-class standards in the areas of learning, with the more effective kinds of assessments of what young people know and what they should know.

Parents in our country need to know how effective our high schools are in preparing our young people. This legislation is all part of this interest in young people and making sure that they are going to have productive and contributive lives in terms of our economy.

I will take just a few moments of the Senate's time to illustrate some of the programs we are working on in our own State which I believe demonstrate what might be able to be achieved in other communities.

We have in Massachusetts relatively high unemployment. We have in New England 5 percent of the Nation's population. Almost 25, 28 percent of all the job loss over a 5-year period was in that area. We are one of the highest States, in the top five States, with individuals who have lost their jobs and who have been unable to recover them. So when we find that people lose employment without the other kinds of opportunities, of having additional kinds of skills and training, it is an enormous personal burden on those workers, men and women, and upon the families.

I thought I would just, for a few moments, mention a few of the programs that appear to be working which, I think, incorporate this concept. They are only affecting maybe a few hundred people now, but what we are very hopeful about is that we will affect thousands, tens of thousands, hundreds of thousands, including the hundreds of thousands of people who actually drop out from the school systems. With effective kinds of programs, we will be able to reach out to some of those individuals and bring them back into a process which hopefully sets some opportunities for their own future.

In my own State, we are experimenting with a number of different approaches to assisting young people in making the transition from school to work.

In Boston, we have three different models: A youth apprenticeship program called Pro-Tech, which prepares high school students for careers as health care specialists; three national academy programs which operate as schools within schools which offer programs in travel, tourism, finance, and public service; and restructured vocational education programs which integrate vocational and academic programs.

Project Pro-Tech is a collaborative effort with the Boston public schools, the Boston teaching hospitals, the Bunker Hill Community College, and Jobs for the Future, a nonprofit organization. It is that kind of coordination which is so essential to produce an effective program and why the support for those different elements being brought together is a critical part of this whole legislative effort.

Under the program, which got underway in September 1991, participating students combined work at participating hospitals with on-site classroom training by health professionals and a specialized school curriculum emphasizing math and science courses specifically designed to complement their work experience.

We heard earlier in the day about the importance of the Tech-Prep, which we very strongly support. We have evidence of that in my own State. But that is different from this kind of program.

What this legislation is intending to support is the diverse kinds of ways of equipping young people with both the academic wherewithal and the technical skills.

The program I just mentioned was designed for students to enter the program in the 11th grade, continuing after high school graduation with course work at Bunker Hill Community College, with a goal at the end of the 4 years that they would have a professional certification establishing their qualification as health care professionals and an associate's degree from the community college.

Pro-Tech students spend 15 hours per week in the workplace as part of a restructured and extended learning program. Teachers and workplace supervisors have jointly developed new curricula for clusters of 25 to 50 students. That is going to be necessary, the developing of new kinds of curricula which will be supported with this kind of an effort. Participating employers have committed to supporting these students beyond high school graduation through at least 2 years of additional education and potential entry into a career path within their organizations.

Although project Pro-Tech is still in the pilot stage, the results so far have been highly encouraging. All 38 of Pro-Tech's first class of high school graduates successfully have begun their postsecondary education at 17 different area community colleges and universities, while continuing their apprenticeship jobs at local hospitals.

The program has reached out to a number of the community colleges and universities, not only in my State but in other States.

Interestingly enough, the results in some respects have turned out differently than what was envisioned on the theory that this was a program primarily for kids who would otherwise be unlikely to go to college. The program was originally set up to terminate with a 2-year community college associate degree. Instead, contrary to expectations, almost a third of the Pro-Tech's first class of high school graduates have entered 4-year colleges rather than community colleges. This is obviously an encouraging development. It should help to alleviate concerns that school-to-work programs will turn out to be just another way to attract students who are considered to be poor achievers away from the goal of 4-year college and limit their future opportunities and earning potential.

The project Pro-Tech Health Care Program now has 150 students working in seven area hospitals. The program has recently extended from health care to financial services, providing an additional 70 students with youth apprenticeships at seven different banks, insurance companies, and investment companies. That clearly also is different from what we developed in the Pro-Tech area.

Boston now has three national academy programs that together enroll more than 200 students—the Travel and Tourism Academy; East Boston High School, the Financial Academy, Hyde Park, a Public Service Academy of Dorchester High School. These academies provide participating students with 4-year programs and upgrade academic learning with the study in the particular industry in which the students plan careers.

Students in these academies are grouped together for many of their high school courses, and their academic courses use curriculum that relates to the academy's occupational field. Area employers promote mentor and summer internships to introduce students to the academy's field.

Again, in terms of the mentoring, we accepted the mentoring amendment on our Goals 2000 program. We can see now how this community service program has an important role.

A third model for school-to-work programs is being implemented at the new Madison Park Vocational Technical High School, Cambridge Language and Latin. There, additional vocational-educational programs have been completely restructured to provide students with earlier and broader opportunities to learn about varied careers and explore those careers through job shadowing, visits to the workplace, and closer linkages between communities' occupational and academic courses.

Each of these programs has its own special strengths. Boston and other communities should be encouraged to continue to experiment with these and other models under the legislation we are considering today. Because this legislation does not describe one rigid model for all communities to follow, we expect schools and employers to continue to combine and adopt new ideas that meet local needs.

That is what this legislation is really about. We have seen fewer dropouts taking place in a number of the other communities, which has resulted in very positive experiences for many young people who, in too many instances, may drop out of school and involve themselves in a more negative direction. These programs have been a lifeline in many different areas.

What we are seeing in a number of the schools and colleges is that they are developing their academic courses and relating those to some of the work experience courses and doing that in a very demanding academic fashion. This, in turn, has awakened a great deal of interest in a number of different areas. This has been very, very encouraging as well.

Mr. President, I see my friend and colleague from Pennsylvania [Mr. WOFFORD], who has worked in this area as well as in many other areas and is a

real leader in his State in terms of the creation of jobs, skills, and voluntary services.

As has been pointed out, PAUL SIMON has been enormously involved in these kinds of programs and has been very, very much involved, as was recognized earlier today, in the shaping and fashioning of the program. We have worked very closely on this effort together.

I know Senator WOFFORD has some comments. So I will yield the floor.

Mr. WOFFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. WOFFORD. Mr. President, I thank the Senator from Massachusetts, our distinguished chairman. I suppose I should accept his kind words because it takes one to know one, and he has been in the forefront of this effort, as has Senator SIMON, for a long, hard time; a creative time, too.

Mr. President, I rise in full support of the School-to-Work Opportunities Act of 1993 because this bill will create a diverse, national system of apprenticeship-style programs from the grassroots up, it will increase the skills of our young people, the success of our schools, the competitiveness of our businesses, and the productivity of our work force.

School-to-work and youth apprenticeship programs are built on a simple truth: People learn best by doing. It is like the old Chinese proverb: "What I hear I forget. What I see I remember. What I do I understand." We must empower young people to become active, not passive, in learning the skills they will need to get good jobs and be productive workers. Real learning requires more than textbooks. You have to get your hands dirty.

Let me give you two examples of how these apprenticeships are already working in Pennsylvania. At Osram Sylvania, a tool and die manufacturer in York, PA, three young men are learning hands-on skills that they need to be part of the work force in the future. And at Flinchbaugh Engineering, also in York, Ryan Crowl is developing proficiencies in math and science while learning how to read a blueprint, operate a lathe, and adjust machinery. They are developing a work ethic and a sense of personal responsibility for the quality of the products they turn out and for getting them to the customers on schedule.

Once they complete this work, a 4-year program as part of their high school curriculum, these students will not only have the skills and the high school degree but also the real workplace experience and solid employer references that they can apply to a job in any industry.

But apprenticeships are not only good for young people who need jobs. Business needs apprenticeship programs to train the skilled workers they need. My friend, Robert Valentini, president and chief executive officer of Bell of Pennsylvania, offered us some time ago some powerful reasons why in our Pennsylvania economic development partnership just before I got sent down on this mission to the Senate of the United States.

About 10,000 Bell workers in Pennsylvania, over 30 percent of their total work force, are in three separate entry-level jobs within the company: Telephone operators, service representatives, and technicians. All these jobs offer a career ladder and progressive pay scales, health care benefits, and opportunities for long-term employment. Most of the workers are hired right out of high school with no college experience.

At the time of Bob Valentini's report—and he told me the other day the situation still has not improved—Bell of Pennsylvania was hiring 1,100 employees in these three jobs each year. But to get that number, they had to interview and test over 9,000 applicants just in order to identify 1,100 qualified workers to hire.

Many candidates scored reasonably well on writing and math tests, but most scored low on critical thinking and applied problem solving. A high proportion quit or had to leave in the first year—in fact, in the first 6 months—because they lacked the motive or the work ethic to succeed.

Last April I held a roundtable discussion with students, manufacturers, teachers, and union representatives at a pilot apprenticeship program in Williamsport to talk about how we can use Pennsylvania's experience to expand apprenticeship nationwide. Area manufacturers—Precision Metal Forming, Keystone Friction Hinge, and Textron Lycoming—told me that apprentices like the ones I met there, Jason Huff and Jamie Rakestraw, were filling a critical need they had for trained toolmakers.

In Pittsburgh, Bill Bleil, vice president of manufacturing at Scheirer Machine Co., found that apprenticeship was the answer to the question that he and his competitors have been wrestling with. "Where are we going to get trained, skilled workers? Where are our future technicians going to come from? Because right now we are stealing workers from each other." Scheirer Machine is employing a student now from Peabody High School in Pittsburgh. Peabody High has 14 apprentices placed in local businesses, and the students are the ones who choose which businesses they go to work in.

Many American companies want this legislation. It has been endorsed by the Business Roundtable, the National Alliance of Business, the U.S. Chamber of Commerce, and the National Association of Manufacturers. As some of us know who are working hard on the health care reform effort, getting endorsements from those groups is not so easy.

Schools, teachers, and students want the bill, too. One such student, Stacey Coleman, a junior at Peabody High in Pittsburgh, wanted to pursue a career in printing. Now she is working at Hoechstecher Printing learning computer technology and how to read a blueprint while creating a real work product. Her response to her experience so far echoes our Pennsylvania Economic Development Partnership's recommendation that "This program should be in every school."

We all want cost-effective education reform that improves how students learn and teachers teach. But no one could have said it better than Rick Miller, a machinist and teacher, who heads the program at Peabody High. He admits: "We have a harder time nowadays teaching high school students. They think they know everything. But through the apprenticeship program, kids quickly see that they don't," he said. "It shows them why they need to learn."

As I discovered when I was our State's secretary of labor and industry, the mismatch between what our schools and job training programs are teaching and what our businesses need is growing. It is estimated that 30 percent of 16- to 24-year-olds nationwide lack the skills necessary for entry level employment. That is why Senator SIMON and I worked together to develop the Career Pathways Act of 1993 and why I join him so enthusiastically in supporting the School-to-Work Opportunities Act, which is based in large part on our original bill.

The United States lags way behind our competitors in Europe and Asia in preparing young people—especially those who choose not to go to college—for the world of work. Germany and Japan have developed extensive, integrated youth education and job training programs to succeed in the high-technology global economy of the 21st century.

As a former college president, I think it is critical for us to open the doors of opportunity to college to every young person through grants and loans. My first bill in the Senate made college more affordable for middle-income families. Our national service bill includes college aid as a key component. But it is wrong that this country spends $55 on college aid for every dollar we spend on opportunities for those who do not go to college, especially when such a small percent of today's high school freshmen will graduate from both high school and college. That is penny-wise and dollar-foolish.

As we have learned over and over again, what we do not invest today in giving our young people the skills, discipline, and sense of personal responsibility to be productive workers and good citizens, we pay tomorrow in the costs of unemployment, welfare, drugs, crime, and prison. Only about half of

our high school graduates enter post-secondary education or training programs and, of these, only half will complete their degrees. Too many of these people move from one low-skilled job to the next with periods of unemployment and sometimes welfare in between. Fifty percent of adults in their late twenties are estimated not to have found a steady job. Think of the wasted productivity, talents and skills. We can do better.

As the examples in Pennsylvania that I gave demonstrate, we know we can do better. So if you want to see the future of where we must take this Nation in youth apprenticeships, look at where Pennsylvania has already been. Under Governor Casey's leadership, we now have more than 450 students participating in Pennsylvania's Youth Apprenticeship Program at 14 sites, including 152 businesses, across the Commonwealth. They are learning practical skills in metalworking, manufacturing, electronics and health care. Contrary to what my distinguished colleague from Kansas suggested this morning, many of these businesses that are participating in initiating and leading this program and supporting it are, in fact, small businesses.

Philadelphia is just one of the cities where this apprenticeship program is having extraordinarily good results under the joint leadership of the Philadelphia Federation of Teachers, the Philadelphia High School Academies, and the Philadelphia School District. And in this Philadelphia partnership, I salute particularly Natalie Allen and J. Lawrence Wilson and Ted Kirsch. In one of their programs we have 135 students in 15 hospitals and community health centers around the city. At Jefferson, Hahnemann, Einstein, Temple, and Abington hospitals, and other medical centers, students are learning the technology needed to work in areas such as radiology, nuclear medicine, and pulmonary therapy from mentors on the job.

The Philadelphia academy system itself, schools within schools, is the Nation's oldest and biggest program linking school and work. It is representative of the type of programming and school reform the School-to-Work Opportunities Act will help foster. Recently, I visited with some of the over 250 students and teachers from the Environmental Technology and Horticulture Academy at Philadelphia's Abraham Lincoln High School. That is a 4-year specialized program in an emerging growth industry. This program teaches chemistry, biology, and geology, and it is the only one of its kind in the country. They teach by doing as well as by studying.

The Philadelphia academy system, serving less than 10 percent of the city's high school population, has an impressive 54 percent of its students going on to college. It has a dropout rate less than half of the rest of the school district. Businesses contribute $1.5 million a year to the program, and executives volunteer to help oversee and manage the operations.

One final example: In Hershey, PA—where I started this very day—an innovative partnership between the school district and Hershey Medical Center is now giving 21 Hershey and Lower Dauphin High School students the opportunity to work alongside doctors, nurses, and medical technicians at Penn State's Hershey Medical Center. In their junior year of high school, they go through 16 clinical rotations, including radiology, physical therapy, patient transport, orthopedics, and even surgery. In their senior year, students choose two fields to specialize in.

The program is so popular that they are nearly doubling it to include 40 students next year. The response from the medical center has been equally enthusiastic. They have asked the school district to bring the students in for longer periods of time.

Most important, the experiences on the job are translating into better performance at school, higher confidence, and stronger motivation. Formerly average students are now earning above-average grades and moving into accelerated courses. During the past 9 weeks, nearly every student in the program has had perfect attendance. The young people's enthusiasm and motivation is contagious. As Priscilla Fair, the program coordinator and assistant superintendent of Hershey school district said, "The other kids now look up to them."

The efforts I have described, when taken together, represent a still small but very promising start. Now it is our turn to do our job so that teachers, students, business and community leaders can do theirs. These pilot programs I have described have worked. They are working. But the purpose of pilot programs is when that happens, they ignite the whole, and that should be our purpose today.

The House has already passed the School-to-Work Opportunities Act. I note with particular appreciation the support of my Pennsylvania colleague, Representative BILL GOODLING, the ranking minority member of the House Education and Labor Committee.

It is my hope that this bill will pass the Senate with the votes of many of my colleagues from both sides of the aisle tomorrow, because this legislation has nothing to do with party or politics. It offers us another chance to show the American people that we can come together to empower citizens and schools, communities and companies to help each other. It is part of the business education partnership that is the key to good education for the good jobs of the future, not with more government bureaucracy, but with support for education that works.

So this is the time to support on-the-job, school-to-work training that will give young people—especially those millions of young people who do not go to college—the chance to build prosperous careers and better lives for themselves and their families.

That is our job right now. That is the idea behind the School-to-Work Opportunities Act.

So I urge my colleagues to support this creative and vital legislation.

Mr. SIMON and Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. I will be just 1 minute. I know my colleague from New York has been on the floor.

I simply want to commend my colleague from Pennsylvania who has provided real leadership in this area. I mentioned in my opening remarks this morning my gratitude to him. He has worked in this area as Secretary of Labor in Pennsylvania. He understands it. He knows this is really the key to our Nation moving ahead as we should, and I am very grateful to him.

Mr. WOFFORD. I am grateful, from someone who has played such a pioneering role, to hear those words.

I ask unanimous consent to print in the RECORD a letter about this program from our Governor, under whose leadership it was instituted in Pennsylvania, Gov. Robert Patrick Casey.

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

OFFICE OF THE GOVERNOR,
Harrisburg, PA, February 7, 1994.

Hon. HARRIS WOFFORD,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR HARRIS: I am writing in support of the School-To-Work Opportunities Act which I understand is now under consideration by the Senate. This program, which tracks the Pennsylvania Youth Apprenticeship Program, has the potential of reinventing vocational educational curricula across the nation.

Pennsylvania's Youth Apprenticeship Program that you were instrumental in developing as Secretary of Labor and Industry is aimed at meeting the growing demand for skilled workers in technical occupations and providing students with the advanced capability and flexibility they will need in the high technology workplace of tomorrow. We believe that we have developed more than a program; we have created a means to unleash the energy and creativity of our youth and prepare them for the global marketplace.

We are working to make our program available throughout the Commonwealth. Last year the program included six sites with 105 apprentices and the participation of 79 metal working companies. This year we have 450 apprentices at 14 sites with programs that now include health care, general manufacturing, printing, and finance. Our programs are in the urban settings of Philadelphia and Pittsburgh, rural communities of Lycoming County and the Northern Tier counties, and suburban sites in Montgomery, Allegheny and Dauphin counties.

Pennsylvania's experience has demonstrated the value of a competency based curriculum which includes paid work experience and work site monitoring. I understand that there has been opposition to the requirement of paid work experience; in Pennsylvania we have found that while paid work experience may be a challenge for school administrators, it is as fundamental to the curriculum as algebra. I would encourage the Senate to maintain these critical elements in the program.

Harris, I want to commend you for successfully moving the concept of our Youth Apprenticeship Program from a program which we started in Pennsylvania into a means for changing the face of vocational education throughout the nation. I wish you much success with the School-To-Work Opportunities Act.

Sincerely,

ROBERT P. CASEY,
Governor.

Mr. D'AMATO. Mr. President, I ask unanimous consent that I might be permitted to proceed as if in morning business.

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

BOSNIA

Mr. D'AMATO. Mr. President, I intend to take only a few minutes to speak on a matter, I think, of incredible importance. I do not know of anyone to whom I have talked, who is not shocked and deeply hurt, with emotions running the entire gamut as it relates to what is taking place for the past 3 years in Bosnia.

I think it came to a horrific conclusion—I would not say "conclusion"; I wish it were a conclusion. But it certainly made an indelible impression on everyone who has seen any of the accounts of the bombardment in Sarajevo which resulted in the wounding of hundreds of people with 68 people, innocent people, civilians—men, women, and children—killed, all in a beautiful city which hosted, not too long ago, the winter Olympics. Now we see how the snow has been turned red with the blood of the innocent.

It is now clear that the United States and the United Nations have not met our obligations in Bosnia. The United States, both under President Bush and President Clinton, under both administrations, has made many grand statements and has even made some threats, all of which have turned out to be meaningless. Our routine warnings are now only that. We lack credibility.

Mr. President, what we have done is flown right in the face of some very elementary principles, those laid down by President Teddy Roosevelt; that is, "speak softly and carry a big stick." Do not make threats. Do not make warnings unless you are willing to carry them out.

When you make bold statements as the leader of a great nation and then do nothing, it does not just undermine your own credibility; it embarrasses the United States of America. To be quite candid, it weakens us.

It invites the kinds of aggression that we have seen in other areas of the world, where people take us for granted and do not believe we have the resolve to stand.

After 3 years of this war, the United States has talked a mighty tough game. Outside of putting sanctions on Serbia, we have done nothing but ignore this brutal war. In fact, five State Department officials have resigned as a protest to the policy in regard to Bosnia: George Kenney, Jon Western, Stephen Walker, Marshall Harris, and former U.S. Ambassador Warren Zimmerman.

If the United States cannot protect the innocents of Bosnia, we should allow the Bosnians to defend themselves. Let us level the playing field. While the Serbs in Bosnia have access to vast quantities of weapons from Serbia, the Bosnian Moslems are left without weapons to defend themselves. Even His Holiness, the Pope, last year said the Bosnians have a right to defend themselves.

What kind of policy do we have when we are not even willing to allow them to defend themselves or to help them with the military supplies that they are entitled to when we see this massacre continue? And now we say to ourselves, "Oh, well, we cannot prove with absolute certainty that the mortar round came from the Serbians." Who has been shelling the city for the last 3 years? Who has been killing the people? Even now people cannot bury their dead. They have to do it under cover of darkness. They cannot do it during the daytime because of the snipers firing down upon them.

Mr. President, I believe that any lifting of the arms embargo against Bosnia should be coupled with the use of air power. Let me suggest to you that you are not going to knock out the gun emplacements, the ones in the mountainside, others hidden in caves, which they drag back and forth. But there are economic targets. I brought this idea to the attention of the Senate back in August 1992, with the past administration. This is a folly that continues.

I remember President Clinton talking about taking action if necessary. Let me say something. If we are going to threaten, then let us do something; otherwise we should not make hollow threats, because we cruelly raise false hopes in those who are oppressed that we are going to somehow come to their aid.

I suggest that the Western nations, the United Nations, and the United States have done exactly that—raised the hopes of the victims of the Serbian aggression and have not followed through.

Let me also suggest it is about time we let the Serbs in Belgrade understand that they are going to pay a price for their support of the war in Bosnia. They have supplied the munitions, and have continued the war. They cannot now just wash their hands of the situation. Here they are, in Belgrade. They are not having problems. They have electricity, food, and water. Their economy may have some problems, but mostly they are well.

Let us look at the economic targets there, whether it is the power plants and the fuel distribution systems, et cetera, and let them know that we will punish them for the aggression that they have helped to foster. So there are things we can do.

We should not be saying we are going to do something and let Mr. Milosevic then laugh at us because he sees that we lack the will to back up our rhetoric with action.

Mr. President, I certainly hope that within the not-too-distant future, we at least give the Bosnians an opportunity to defend themselves.

Thank you, Mr. President.

WHITEWATER/MADISON COUNTDOWN

Mr. D'AMATO. Mr. President, I have come to the floor on a number of occasions, and I have said to my colleagues—and I do not intend to take a great deal of time—that I would continue to raise an issue that I think must be raised until the American people get, and Congress gets, satisfactory explanations and answers as it relates to how it is that with only 21 days left until February 28, when the statute of limitations runs out, or at least, the RTC has led us to believe that this is the date, there is no perceptible movement at the RTC. Anyone responsible for the loss of possibly millions of dollars will be immune from civil action after the 28th; after the 28th, the American people will lose their best chance to recoup the taxpayers' money poured into the Madison bailout.

Since this is Monday, I will cross off not only Monday, but I will cross off Saturday, Sunday, and today.

That gives us 21 days remaining in the countdown. When time runs out, we will lose the opportunity of seeking civil remedies against those people who may be responsible for the loss of possibly millions of taxpayers' dollars put into Madison.

With only 21 days to go, we still have not seen any results of the RTC investigation of potential civil violations at the Madison.

Mr. MURKOWSKI. I wonder if the Senator will yield for a question.

Mr. D'AMATO. Certainly.

Mr. MURKOWSKI. I wonder if the Senator is certain that February 28 is the date the statute of limitations would run out with regard to Madison Guaranty.

Mr. D'AMATO. I would have to answer my colleague that I am not cer-

tain that is the date; that while the RTC has indicated in the letter they sent to us that February 28 is the anniversary date, and the RTC seems to be operating on the premise that an RTC suit to take place to recover taxpayers' money would seem to have to be initiated by February 28, they have not explicitly indicated that to us.

Mr. MURKOWSKI. I wonder if I could pursue this, Mr. President. I understand that the Senator from New York has sent letters on two separate occasions to the RTC inquiring specifically as to the status of the statute of limitations.

Mr. D'AMATO. That is correct. We have sent two letters. One reply was received last week, and the response on this question as it relates to explicitly the statute of limitations was at best evasive.

Mr. MURKOWSKI. I wonder if the Senator will yield further. I am familiar with the letter that he placed in the RECORD. I have a copy of that letter with me today.

I took a close look at the letter and the RTC only acknowledged the impending February 28 anniversary date, but they do not indicate that is absolutely the last date. Further, in the second paragraph of that letter, with regard to claims existing, the RTC indicates they will "vigorously pursue all appropriate remedies using standard procedures in such cases which could include the seeking of agreements to extend the toll on the statute of limitations."

But I would emphasize they use the words "which could." They do not specifically state that they will.

I wonder if there is any explanation for that.

Mr. D'AMATO. The Senator has put his finger exactly on the point.

We talk about obfuscation. We cannot get and have not gotten—and it is now close to a month—from the RTC an answer as to exactly when the RTC can no longer bring civil litigation in this case. The RTC letter talks about an anniversary date of February 28. That does not tell us that is the date. We do not know specifically whether or not that is the date. I share the Senator's curiosity as to what they mean when they talk about that particular date.

Then they talk to us about procedures that have been used in the past—the use of the tolling of statutes of limitations, entering into agreements with people who face potential liability — but they do not indicate that they are seeking these tolling agreements. They do not indicate that in lieu of getting a tolling agreement they will bring civil action.

Here we have 21 days to go, and we have no indication other than they understand that there is a procedure and this procedure has been used.

Mr. MURKOWSKI. With regard to that and the relevance of the anniversary date to the RTC law enforcement responsibilities, one can only assume it would relate to a determination that the RTC should make with respect to entering into these tolling agreements, the stopping of the running of the statute.

In their letter to you, the RTC says it will pursue all appropriate remedies using standard procedures which they say could include seeking arrangements to toll the statute of limitations.

I ask the Senator, is it correct that the RTC has made no commitments to toll the statute of limitations with regard to Madison?

Mr. D'AMATO. The Senator is absolutely correct. They have not made any commitments. They have only indicated that in the past this has been standard procedure. What basically we are saying is, give us the assurance that you are going to get this tolling agreement that stops the statute of limitations from running out.

People should understand why they do this. Because, in lieu of someone agreeing to give them sufficient time to explore all of the facts, they then bring a broad-based suit against all potential people who may be liable. In this way, they preserve the taxpayers' rights.

By the way, I might say that this goes back to an original letter of January 11 when I and several of our colleagues wrote to the RTC suggesting that tolling agreements should be sought in this matter, and they have yet to inform us that they are going to take the time.

Now this is obfuscation. It only was after Senator RIEGLE loaned himself to this that at least we got the answer that you read part of in the letter of January 25.

Mr. MURKOWSKI. I wonder, in the case of where the RTC would fail to enter into a tolling agreement before the 28th of February, are there any other remedies available to the American taxpayer, assuming the RTC fails to file a lawsuit?

Mr. D'AMATO. In the absence of a tolling agreement or lawsuit, the RTC and the American people would lose the opportunity to recover taxpayers' money that it might be entitled to in the Madison bailout. And, I think it is fair to assume that would be a pretty bleak picture to spell out to the American taxpayers, given that we are talking about people in high positions that this might touch upon. It could even have been said they have been given a free ride at the expense of the American taxpayers.

Mr. MURKOWSKI. Currently the taxpayers are subjected to about $47 million to the Madison bailout; is that generally the Senator's understanding?

Mr. D'AMATO. That is approximately the bottom line; the Senator is correct, $47 million, at the low end. It might be more.

Mr. MURKOWSKI. We have heard this is far from the largest S&L bailout that the taxpayers have had to pay. As we know, we have had billion-dollar savings and loan failures and we have large cases that are still pending. But would you not expect that the RTC would enter into tolling agreements in all cases, uniformly, whether they involve $10 million or $100 million or a billion of taxpayers money?

Mr. D'AMATO. The Senator is absolutely correct. As a matter of fact, Mr. Altman, while he says it is the standard procedure, refuses, and does not indicate that they are undertaking this action or are they contemplating taking it.

Mr. MURKOWSKI. This is what bothers the Senator from Alaska. Why would not the RTC want to simply extend the tolling agreement so that they could pursue the civil action and not run the risk of having the statute of limitations expire on February 28? I mean, I do not understand why, since they have evidently done it as a matter of course, they would not do it in the case of Madison.

Mr. D'AMATO. Senator MURKOWSKI, you are absolutely correct. And it just seems to me that it is so basic. That is why, when we come to the floor and raise this issue, I think some of our colleagues become uncomfortable.

I have been asked: Why is it that you have not raised this about other S&L's? Because I have not been aware of tolling agreements that should have been and have not been sought.

As a matter of fact, I have had complaints from scores of bankers around the country—and I know my colleagues have—who, as a result of being directors, part-time directors on boards—who had no malfeasance or misfeasance but were successful business entrepreneurs and therefore served on some of these small bank boards and found themselves in trouble when the real estate market collapsed—find themselves the subject of lawsuits because they had so-called deep pockets.

In the past, the RTC has been very rigorous going after people that had absolutely no liability but did have some money. Here we cannot even get an answer from the RTC as to what they are doing, what they intend to do in this case. Yet the statute is running, the clock is ticking. This may embarrass our friends, but we are going to continue to call it to their attention.

Mr. MURKOWSKI. The Senator has heard the allegation that this is a political witch hunt of some consequence with regard to the S&L because of the delicate nature of those involved. But it would seem to me responding to what my good friend from New York, Senator D'AMATO, is attempting to do is something that is done as a matter of course with regard to the RTC extending the tolling. The Senator from New York has written two letters to

the RTC asking them to extend the tolling and they have given us less than a complete answer from the standpoint of a reference to them, perhaps including agreements. But, I just cannot understand why they are reluctant to simply say we will extend the tolling.

Mr. D'AMATO. Or attempt to.

Mr. MURKOWSKI. Or attempt to, which would certainly seem to be appropriate in relation to past practices.

I commend the Senator from New York. I do not think this is a politically motivated action of any kind. It is simply an action to recognize the reality that comes the 28th of this month, it very possibly will be too late to pursue any civil action associated with this case because the statute of limitations would have expired. Yet, in many of the activities associated with the administration of the RTC, they have automatically extended the statute through the voluntary tolling agreements which are negotiated between the RTC and the institution or its directors.

Mr. D'AMATO. Or those people who may have some liability, that is correct; through their attorneys. That is, all we want, is impartial but vigorous enforcement as has been undertaken in other cases. We just want the uniform enforcement of the laws passed to protect taxpayers.

Mr. MURKOWSKI. I hope that those that might question the motivation here recognize the significance of what the Senator from New York has pointed out. Indeed, by the 28th of this month, it may be too late to pursue, on behalf of the taxpayers, the approximately $47 million that has been charged off in the bailout of the Madison.

I wonder if the Senator from New York would allow me one more question. Who is running RTC at this time?

Mr. D'AMATO. I am glad the Senator has raised this question. Because this really is a situation that I think is very regrettable.

The RTC is being run on interim basis—when I say interim basis, that interim basis now has gone on for almost a year—by the Deputy Treasury Secretary, Roger Altman.

I have to tell my colleague, the RTC's failure I think to respond to legitimate congressional inquiries has raised bureaucratic obfuscation and nonresponsiveness to the level of an art form. The stonewalling starts right at the top, and it includes Mr. Altman, who has sent us two of these letters. Maybe we should call him Stonewall Altman. That might be a new name.

He is not only stonewalling the Senate but I would indicate to my friend and colleague from Alaska, Senator MURKOWSKI, that last week, Congressman JIM LEACH, my counterpart on the House Banking Committee, raised some very significant and serious questions about Mr. Altman's dual role. Here is Mr. Altman who is wearing two hats. He is the Deputy Treasury Secretary, and that is a very responsible, time consuming position. At the same time he is the interim head of the RTC. This may place—I believe does place—conflicting demands on him. It is unfair to Mr. Altman. It creates an unseemly appearance at the least, in the eyes of the American people.

Mr. Altman has been the interim CEO of the RTC for almost a whole year. Last year when we were considering a RTC funding bill we were told that Mr. Altman would be out of the RTC as soon as the new CEO had been selected and confirmed. Now it is almost a year later. The one candidate for RTC chief that they had withdrawn, and Mr. Altman is still the head.

That is only half the story. Because, you see, Mr. Altman, as a ranking political appointment of the administration—and he is Deputy Secretary of the Treasury—is the No. 2 person at Treasury. He is appointed by the President of the United States. How can you ask a man who is appointed by the President to undertake or to pursue a vigorous civil investigation as that may touch upon the President, the First Lady, and other people, or family members of such people, in the administration? It is not fair to Mr. Altman.

I do not suggest any impropriety on his part. But I suggest he is placed in an untenable position. We cannot have a political appointee investigating the person who appointed him, who is responsible for his appointment. That is basic Logic 101.

Because what this does at the very least, it creates a compromising appearance. Let me tell you something, I know Roger Altman. He is a man of integrity. He is a man of great ability. He is a man in a very responsible position. He cannot be running the Treasury Department and he cannot be supervising the RTC and this investigation without there being questions raised as to how someone can possibly be looking into bringing a civil lawsuit, or extending toll agreements when a statute is running, that may relate to or touch upon a person who is responsible for appointing him and/or people close to him or his family. It is ridiculous.

It certainly raises the issue of his ability to run an independent agency like the RTC in a completely independent fashion that the people are entitled to. And it is wrong. No one should be placed in such an untenable position where an obvious conflict exists.

Just consider the possibilities. A high ranking political appointee with close ties to the White House who also holds an official position that may require him to possibly pursue civil legal action involving the person who appointed him. I do not care what administration that is in, we understand it and that is why we allow in these situations the appointment of a special counsel.

Through circumstances, Mr. Altman is in a difficult spot. His personal predicament aside, the taxpayers may suffer the most. At the same time, Mr. Altman is forced to perform this high wire act, the RTC is being evasive and cryptic and it is unclear what the RTC is doing to enforce the law. It is also unclear whether the RTC will be able to enforce the law, if need be, before the statute of limitations runs out and the American taxpayer is left holding the bag.

An 11-month tenure in an interim position is too long. That is how long Mr. Altman has been there. The Constitution requires the Senate to advise and consent on top executive officials. This is a key part of our checks and balance system. Mr. Altman's permanent interim role at the RTC looks like an end-run around the Senate. Again, I am not questioning Mr. Altman's character, dedication to public service, or ability. Indeed, I have high regard for him. But what I am questioning is the propriety of putting any public official in such an awkward role. There is an absolute conflict in this dual role and it is just not right.

I therefore call upon the administration to immediately put forward Mr. Altman's name as the candidate to be the full-time chief executive officer of the RTC, or submit another nomination. Mr. Altman's continued presence at the helm of the RTC is absolutely not the right thing to do.

It is unfair to him. It is absolutely unfair.

Mr. MURKOWSKI. Mr. President, I would like to again commend the Senator from New York. I think, if you boil this dialog down to one simple thing, it is simply asking Mr. Altman as interim CEO of the Resolution Trust Corporation to come forward and simply extend the tolling agreement on Madison, which would extend of course the statute of limitations. Then the process that is underway can continue, it can be resolved to the satisfaction of the American people, and in the interests of the taxpayers who lost $47 million.

I think, again, the Senator's efforts are to bring this before this body and the American public, by highlighting the reality that the time is passing and there are very few days left before the statute expires. We are going to have the Lincoln day recess. By the time we come back there will only be a few days left. I hope this would not be the objective of the RTC, to simply let the statute of limitations expire because that would appear, obviously, to be contrary to the best interests of our administrative oversight through the RTC. But one can only draw a conclusion because, as Senator D'AMATO pointed out, they have the authority to

extend it. The question that they are not responding to, as the Senator cited in his letter, is why they do not extend it. If they do not, one can only conclude they hope my colleague and others will not raise this issue, and bring it before the American public, to show the statute of limitations is about to expire. And when it expires, the civil investigation basically goes away, as I understand it.

So, in conclusion I commend my colleague for bringing this matter before this body.

Mr. D'AMATO. Mr. President, I want to thank Senator MURKOWSKI for raising these questions. And they are important.

I note, if you take a look at the calendar, it would appear there are 21 days between now and—if the tolling date turns out to be the 28th. But that is not really true. If we were talking about working days we will find that we only have 4 more working days that the Senate will be in session and Congress will be in session this week: the 8th, 9th, 10th, and 11th.

We go out of session on the 11th. We will not be back in, until the 22nd. So that gives us 5, 6, 7—8 days. So, in essence, while there are 21 calendar days between now and the time the statute of limitations runs out, there are 8 days in which the Congress will be in session to raise this issue and to address it.

If I had not seen a stonewalling and obfuscation before, it is certainly here. I think the Senator is absolutely right. The RTC is playing this game: We will just make believe it does not exist and maybe it will go away. Maybe whoever it is who brings this to our attention will stop. I am not going to stop.

But let us understand, my colleagues, all of us, when and if this is allowed to take place, these 4 working days the rest of this week and the 4 the last week, we are all—we should all be held accountable and responsible for allowing the RTC to allow the statute of limitations to run. I have to tell you, if he wants to run it, fine, but I do not know how he, Mr. Altman, can be in charge of this investigation. I just do not know how it can be done. It is wrong for him. It is wrong to place him in that position. I do not know how you get around it. He did not take on this position to be placed in that position.

Yet, that is exactly where he is.

Mr. MURKOWSKI. Mr. President, the Senator might give some thought to an 8-day calendar, in reality. That is what we have, as the Senator pointed out, with the Lincoln Day recess.

Let there be no mistake about it, there is not much time. I hope the Resolution Trust Corporation, under Mr. Altman, will reflect on—and the directors and those involved—the necessity of a very simple extension which would give the assurance to the public that there will be adequate time to do the appropriate followup, should it be necessary, with regard to Madison Guaranty.

I thank my friend from New York.

Mr. D'AMATO. I thank the Senator. I will add I think that the administration should consider how to manage Mr. Altman's dual duties at the RTC or as Deputy Treasury Secretary. I would suggest that if he is going to run the RTC, then the administration might want to consider whether it is apppropriate, and consult with the relevant authorities at Treasury, to consider his move from the Treasury and undertake his responsibilities on a full-time basis; whether this or other measures are appropriate to ensure that the public's confidence is maintained. I believe he should discharge his responsibilities accordingly, but you cannot ask him to wear both hats, particularly given the sensitivity of this particular matter.

I have talked far enough, and I thank my Senators for being so patient and for giving me the opportunity to express my thoughts on this matter.

I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I came over here prepared to discuss the school-to-work bill. I have to say I am not prepared to discuss the matter that has been discussed by our colleagues from Alaska and New York. Senator PRYOR has really enmeshed himself in this, and I am sure at an appropriate time he will want to respond.

I assure those who may be viewing this session that there is another side to this, but I am not enmeshed in this enough to be able to respond to that.

Mr. President, if no one seeks the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. RIEGLE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SIMON. Mr. President, I ask unanimous consent that the Kassebaum amendment be set aside so that Senator THURMOND can offer an amendment.

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

AMENDMENT NO. 1428

(Purpose: To give priority for implementation grants to applicants that describe systems that include programs that will provide paid high-quality, work-based learning experiences)

Mr. THURMOND. Mr. President, I rise today to offer an amendment to S. 1361, The School-to-Work Opportunities Act of 1994. The amendment will allow for the streamlining of States' vocational and education training systems.

Mr. President, I ask unanimous consent that the following Senators be added as cosponsors to this amendment: Senator CHAFEE, Senator COATS, Senator DURENBERGER, and Senator GREGG.

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

Mr. THURMOND. Mr. President, as you know, this legislation addresses the issue of preparing our youth to meet the challenges of a highly skilled, highly competitive workforce. It is intended to help students make a successful transition from school to their first job by linking academic instruction with on-the-job experiences.

S. 1361 will be jointly administered by the Secretary of Labor and the Secretary of Education. It will provide grants and waivers of Federal regulations to build a national framework for State school-to-work systems.

Mr. President, the U.S. General Accounting Office recently cited over 150 existing job training and education programs on which the Federal Government spends over $20 billion each year. This is unreasonable. We must encourage our States to coordinate existing programs into statewide school-to-work systems.

My amendment will do just that, by removing the paid work mandate from this legislation. It will thereby remove the limitations of requiring paid work, and allow businesses more opportunities to participate.

Unquestionably, business is essential to the success of this legislation. However, if the paid work mandate is not removed, many businesses will be excluded from participating under this legislation.

I also believe that the ability of States and local partnerships to consolidate existing programs will be limited if all students in the school-to-work system must be paid for their work.

This amendment will allow a preference to State systems which do provide paid work experiences. This does not mean that a student must be paid for the entire time they participate in the program. It simply means that when a student is on the job, producing a product or providing a real service, they may be paid for their actual work.

For example, a program which trains students during the school year, but pays them only for summer jobs completed through the program would still meet the requirement of the paid work experiences.

The Secretary of Education, Secretary Riley, has written a letter to me clarifying that under this legislation "students do not need to be paid for all work-related activities."

Mr. President, this amendment will allow States the flexibility needed to include elements of other programs or to be creative in tailoring programs to address local needs and concerns. It

will allow a State to develop a system that consolidates or coordinates the best aspects of other existing programs.

I would like to thank the chairman of the Labor and Human Resources Committee, Senator KENNEDY, and the chairman of the Subcommittee on Employment and Productivity, Senator SIMON, and their staffs for their hard work in addressing a number of my concerns.

Again, I believe that my amendment will allow the consolidation of a number of Federal training programs in a State system and possibly be more cost effective in the long run. Therefore, I urge my colleagues to support this worthy amendment.

Mr. CHAFEE. Mr. President, I would like to enter into a colloquy with the sponsor of S. 1361, Senator SIMON, to clarify the intent of the paid work provision contained in this bill. I believe most of my concerns will be addressed by an amendment Senator THURMOND and I have worked out with the administration, and which the managers are prepared to accept, dealing with paid work.

Rhode Island has one of the most successful Tech-Prep Program's operating in the country today. The program is a partnership that includes the Community College of Rhode Island [CCRI], 32 secondary high schools and vocational technical facilities, and representatives from business and industry. Currently, more than 1,400 students are participating in the program, according to the program director, Ms. Judy Marmaras.

The program is divided into two parts: First, a secondary level, aimed at academic skill development, and second, a postsecondary level, focused on advanced technical skill development. The secondary program offers no paid work opportunities for its students. However, the postsecondary program does have some employer paid work participation. I might add, Director Marmaras has indicated that very few employers in our State have the inclination or wherewithal to offer paid work opportunities to high school students.

With the adoption of the Thurmond-Chafee amendment, I understand the paid work requirement will be deleted from this bill. However, in reviewing grant applications, I understand it is still the intent of the managers that preference be given to those programs with a paid work component.

I want to make sure Rhode Island's Tech-Prep Program, which lacks paid work at the secondary level, will not be disadvantaged by this preference. I am hopeful that the existence of some paid work positions at the postsecondary level will satisfy this preference, and that Rhode Island's Tech-Prep Program will be on an equal footing with other applicants vying for Federal funds under this legislation.

Mr. SIMON. The Senator from Rhode Island is quite correct. Rhode Island's Tech-Prep Program will in no way be disadvantaged by the paid work preference contained in this legislation. CCRI's Tech-Prep Program does have some paid work participation. Therefore, it would more than satisfy this preference.

Mr. CHAFEE. I thank the Senator.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, this is a practical compromise that we have worked out. The bill calls for mandated paid work.

Both the business community and the labor community have indicated they believe paid work in this kind of situation is helpful. There are those who question that. So this amendment has been worked out between Senator THURMOND and some of the Republican Senators, and Senator KENNEDY and myself, and our staffs. It encourages that we have paid, high-quality work and it gives it priority, but it does not mandate that.

It is a practical compromise that I think makes sense and it is acceptable on this side of the aisle.

Mr. THURMOND. Mr. President, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for himself, Mr. CHAFEE, Mr. COATS, Mr. DURENBERGER, and Mr. GREGG proposes an amendment numbered 1428.

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

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

The amendment is as follows:

On page 7, between lines 8 and 9, insert the following:

(9) encourage the development and implementation of programs that will provide paid high-quality, work-based learning experiences;

On page 7, line 9, strike "(9)" and insert "(10)".

On page 7, line 16, strike "(10)" and insert "(11)".

On page 7, line 20, strike "(11)" and insert "(12)".

On page 17, line 14, strike "paid".

On page 31, between lines 18 and 19, insert the following:

(9) describe the extent to which the School-to-Work Opportunities system will include programs that will provide paid high-quality, work-based learning experiences;

On page 31, line 19, strike "(9)" and insert "(10)".

On page 31, line 23, strike "(10)" and insert "(11)".

On page 32, line 5, strike "(11)" and insert "(12)".

On page 32, line 10, strike "(12)" and insert "(13)".

On page 32, line 17, strike "(13)" and insert "(14)".

On page 32, line 23, strike "(14)" and insert "(15)".

On page 33, line 3, strike "(15)" and insert "(16)".

On page 33, line 7, strike "(16)" and insert "(17)".

On page 33, line 9, strike "(17)" and insert "(18)".

On page 34, line 21, strike "and".

On page 35, line 2, strike "system;" and insert "system; and".

On page 35, between lines 2 and 3, insert the following:

(4) give priority to applications that describe systems that include programs that will provide paid high-quality, work-based learning experiences;

On page 38, between lines 18 and (19), insert the following:

(D) describes the extent to which the program will provide paid high-quality, work-based learning experiences;

On page 38, line 19, strike "(D)" and insert "(E)".

On page 38, line 23, strike "(E)" and insert "(F)".

On page 39, line 1, strike "(F)" and insert "(G)".

On page 44, line 13, strike "(10)" and insert "(11)".

On page 46, line 20, strike "(10)" and insert "(11)".

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1428) was agreed to.

Mr. SIMON. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, again I thank the able Senator from Illinois, Senator SIMON, for his fine cooperation in this matter.

Mr. SIMON. I thank Senator THURMOND. It is a pleasure to work with him.

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

The PRESIDING OFFICER (Mr. REID). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. GORTON. I also ask unanimous consent that the pending amendment be set aside.

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

AMENDMENT NO. 1429

(Purpose: To amend the Job Training Partnership Act to encourage the placement of youths in private-sector jobs under the Summer Youth Employment and Training Program)

Mr. GORTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. GORTON] proposes an amendment numbered 1429

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

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

The amendment is as follows:

At the appropriate place in the Committee amendment, add the following:

TITLE —JOB TRAINING PARTNERSHIP ACT

SEC. 1. PRIORITY FOR PLACEMENT IN PRIVATE SECTOR JOBS UNDER SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAM OF JOB TRAINING PARTNERSHIP ACT.

(a) IN GENERAL.—

(1) PLACEMENT AND CERTIFICATION.—Section 253 of the Job Training Partnership Act (29 U.S.C. 1632) is amended—

(A) by redesignating subsection (d) as subsection (e); and

(B) by inserting after subsection (c) the following new subsection:

"(d) PLACEMENT IN PRIVATE SECTOR JOBS.—

"(1) IN GENERAL.—Notwithstanding section 141(k), in providing on-the-job training, work experience programs, and any other employment or job training activity under this section, a service delivery area shall give priority to placing participants in unsubsidized employment in the private sector.

"(2) SUBSIDIZED EMPLOYMENT.—

"(A) IN GENERAL.—Notwithstanding section 141(k), a service delivery area may place participants in subsidized employment in the private sector.

"(B) EDUCATIONAL SERVICES.—Any employer that places participants in subsidized employment in the private sector shall establish a work schedule for the participants that accommodates the needs of the participants to receive educational services identified in the service strategy of the participants under section 253(c)(2).

"(3) ASSURANCE.—An employer who desires to place participants in employment in the private sector through a program carried out under this part within a service delivery area shall provide an assurance to the administrative entity serving the area that the employer—

"(A) will employ the participants for the duration of the program carried out under this part; and

"(B) will not terminate the employment of such participants prior to the end of such program, other than for cause.

"(4) SPECIAL RULE.—Nothing in this section shall be construed to require a service delivery area to place participants in subsidized employment in the private sector.

"(5) WAGES.—In making funds available under this part to private for-profit employers to pay for the wages of participants placed in subsidized employment by such employers under this part, no service delivery area may use funds made available under this part to contribute more than an amount equal to the product of—

"(A) 40 percent of the applicable minimum wage under section 6 of the Fair Labor Standards Act (29 U.S.C. 206); and

"(B) the number of such participants, toward such wages.".

(b) CONFORMING AMENDMENTS.—Paragraphs (37) and (39) of section 4 of the Job Training Partnership Act (29 U.S.C. 1503) are amended by striking "section 253(d)" and inserting "section 253(e)".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect as if included in the Job Training Reform Amendments of 1992.

Mr. GORTON. Mr. President, over the course of the last 20 or 25 years, this Nation and each administration has made significant investments in more than 150 Federal job training programs. Each of these programs to a greater or lesser extent, have attempted to prepare America's young people for work, primarily, though of course not exclusively, in the private sector.

This School-to-Work Opportunities Act is another in this series. Its goals, of course, are overwhelmingly worthy in that connection. But like most of those which have preceded it, it is primarily focused at finding jobs for young people about to leave school, or just having left school, in the private sector of our economy.

The proposed amendment that I have at the desk at the present time deals with one of these other 150 programs which are already on the books. The Summer Youth Employment and Training Program also attempts to get young people prepared for a job in the real world, a job after they have completed their schools. Every summer, provides jobs for young people all across the United States of America.

However, this Summer Youth Employment and Training Program is oriented exclusively at this point to the nonprofit and public sectors. The jobs in that program are funded entirely by the Federal Government, and they are jobs or positions in the public sector or in the private, not-for-profit sector. According to Family Circle magazine, a young Bill Clinton once had a job in a similar Government program. After a few weeks of what he called make work, he sent his paycheck back to the Government. Like thousands of other young people employed in Government programs every summer, he did not feel that he had earned his money just by showing up, just by hanging out at a job site. This has been a current dissatisfaction and criticism about the Summer Youth Employment and Training Program almost from its inception.

The amendment which I have before the desk attempts to make that summer youth program more consistent with the very program which is before us at the present time by changing at least some of the emphasis on the summer youth jobs program from the public and nonprofit sector to the private sector. After all, when the great majority of the young people of the United States ultimately reach a full-time job, they are at work for the private sector.

In this case, what we should do is to expand the authority of the very hard-working men and women who manage each of the local service delivery areas, or SDA's, who run this summer program, and to allow them and encourage them to reach out far more to the private sector to find summer positions for the young people that their program is designed to help.

I have a letter here dated last May in response to the original bill on which this amendment is based, from the Bridge Program for Youth and Community in my own home city of Seattle, WA, which asks for exactly that kind of increased authority.

I ask unanimous consent that a copy of that letter be printed in the RECORD at this point.

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

THE BRIDGE PROGRAM,
Seattle, WA, May 26, 1993.

Hon. SLADE GORTON,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR GORTON: I take this opportunity to wish you much luck and success in passing the Youth Job Opportunities through Business (JOBS) Act which will amend the summer youth employment and training program to give priority to placing participants in private sector jobs. This timely amendment is extremely important for the youth of America. In these changing and unsettling times for youth, it is refreshing to see your foresight and vision for this often under-represented population.

The creation of a system that will give priority to placing youths in private sector jobs where private-industry trade, skills and knowledge can be learned, modeled, and integrated into the community and the ability to service more youth because the private sector has been opened up and creates new job opportunities, will enable America's youth to dream again and reach for higher goals.

The Youth Job Opportunities through Business (JOBS) Act, when applied properly, will eliminate virtual makeshift and dead-end positions that have offered little to no success or positive outcomes for youth whom we are caregivers of in our communities.

I applaud you for taking a stance on behalf of the Youth of America.

Sincerely,

F. EDWIN WOODLEY,
Executive Director.

Mr. GORTON. Mr. President, in order to get the private sector into this summer youth jobs program, it seems to us to be very, very important that there be an encouragement for them to do so. After all, the private sector can and does employ young people at summer jobs without any intervention from the Federal Government. When it begins to deal with the Federal program, many private-sector employers, rightly or wrongly—rightly, in the view of this Senator—feel they are simply involved in another bureaucratic exercise. What we would like to have them do, however, is to provide more employment to more young people.

So in addition to expanding the proposal from the public and nonprofit sectors to the profitmaking private sector, the gist of this amendment is to allow each service delivery area's officials to make a determination as to whether or not to provide a subsidy out of the amount of money appropriated to it, out of its share of the overall pot, to subsidize private-sector employment.

We put a cap of 40 percent on that subsidy. But even if every dollar in a particular service delivery area were to be devoted to private-sector, subsidized employment, we would have a situation in which only 40 percent of the salaries would be paid by the service delivery area and 60 percent by the private sector itself. In other words, we could probably supply 2 to 2½ times more summer employment for youth than the summer youth program does at the present time.

It is highly doubtful that the officials of any service delivery area would go to that extreme. But it seems to me, Mr. President, that we should be able to trust the very people to whom we have entrusted the management of these Federal dollars to determine how they can maximize summer youth employment by providing some degree of subsidy to private employers who agree to take part in exactly that summer youth employment.

If we believe in the genius of our people, if we believe in the goodwill of both the professional employees and the volunteers from both the public and private sector who attempt to improve the condition and the training of our young people, we should certainly be willing to trust them with the ability to provide this type of subsidy.

Yes, of course, there will be some employers who will use subsidized employment in the place of unsubsidized employment which they provide at the present time. But by its very definition, by the limitation on this employment subsidy, there is little question but that it will end up with greater total employment of youths, that more young people will actually be employed in this summer youth program if we expand it to the private sector in this fashion than is the case with that very program at the present time.

Mr. President, equally important, perhaps more important, is the fact that the experience that young people will get in the private sector, where 60 percent of their salaries are going to be paid by the private sector, will be a far more meaningful work experience than will be one in which they are paid entirely by the Government, where they are free, for example, to a nonprofit organization or free to a Government entity to whom they are assigned.

I wish to repeat, Mr. President, the work experience will be an infinitely more realistic and better one. It will be infinitely more likely to produce a permanent full-time job after the particular youth who has done a good job has finished his or her schooling. Even when it does not, it will have been a job in the sector and under the discipline in which the great majority of these young people will eventually find themselves—the private sector.

As a consequence, Mr. President, I find it, I suppose, understandable but somewhat frustrating that this kind of expansion of the summer youth jobs program is not welcomed.

What we want to do is to see to it, first, that more young people have this kind of summer employment and, second, that a very significant number of them have it in the private sector in a job which they would otherwise not have taken.

This amendment, while to a different program than the one that we are discussing here, is directly and completely consistent with it because the idea of the very discussion that we are having right here now is to prepare young people for the transition from school to work. Nothing can prepare them better than to have a private sector job at some point or another during their school career.

This transforms a program which at the present time is aimed away from the private sector to one in which the private sector is one, though not the only alternative.

I commend the idea of the kind of discipline and real-world opportunity which this amendment will create to my colleagues.

Mr. President, I ask unanimous consent to print in the RECORD an article entitled "Better Life Lies Across 'Bridge'."

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

BETTER LIFE LIES ACROSS "BRIDGE"

(By Michael Paulson)

Saying that most alternative schools are failing to help teen-agers face life after graduation, a group of community activists today is unveiling a new program aimed at getting troubled teen-agers past school and into the work force.

Founders of The Bridge Program, a private, nonprofit, alternative school supported by the Seattle School District, argue that a degree is no longer enough of an incentive to keep some teen-agers off the streets and away from the drug trade.

So their program is supplementing academics with what it calls socialization, a crash course on how to behave in the world of decent-paying jobs

"This is a curriculum that empowers people with the skills to survive society," says the program's founder, Edwin Woodley. "You can't entice anybody to quit selling drugs to get a $4.25-an-hour job."

The program opened with three students at the Rotary Boys and Girls Club six weeks ago.

Today, as leaders prepare to move the school and its 120 students to the Columbia City area, the program will be described at a luncheon for political and business leaders.

The Bridge Program is voluntary, and recruiters promote the program to teen-agers who have fallen through the school system's cracks.

Of the program's 120 enrolled students, 60 to 70 show up most days.

"The system has forgotten these kids. They have been labeled failures," says program assistant Kurt von Fuchs. "The fact that we have 60 kids showing up shows we can succeed."

The program's $1.3 million budget this year is being supported by the Seattle School District, the state offices of Income Assistance and Support Enforcement, and private contributors.

It is one of 11 programs supported by the school district's Interagency Program department, which serves high-risk students who have or are likely to drop out or get kicked out of school.

No one is sure how many school-age youngsters are on the streets of Seattle, but estimates run as high as 5,000.

"It makes good economic sense for government to pay us to socialize these kids, rather than keeping them in the cycle of poverty and dependence," von Fuchs says. "We teach personal responsibility, and the state in the long run is saving a lot of money."

The program, intended to last six to 18 months per student, will attempt to steer 13- to 16-year old students back to school. Older students, ages 17 to 25, will work toward a general equivalency degree and a job.

The program will offer work-ships on resume writing and job seeking. Eligible students will be given job-training internships and paired with a mentor. Ultimately, the program plans to help students find work.

In addition to its three teachers, the program employs 10 "facilitators" who work on socializing the students.

Topics discussed with the students range from the cost of having a baby to working one's way through the welfare system, and include more mundane things like controlling anger and using appropriate language, according to facilitator Kim Gordon.

Students sign a no-weapons, no-drugs pledge and are forbidden from displaying any gang symbols in schools.

"We teach them that they have to make it in the work system or the welfare system or the penal system," says Kevin Preston-Curvey, deputy program director.

Mr. GORTON. Mr. President, my friend, the distinguished Senator from Illinois, had roughly five reasons which he outlined with some eloquence on which he based his opposition to this amendment.

I would simply like to explain, both for him and for Members not present as they read the RECORD and before they vote on these amendments, that each of these objections is one that we have considered and one which we do not feel to be valid enough to cause the rejection of the amendment itself.

It is, of course, true, and it is a strength of the bill which is before us, the School-to-Work Opportunities Act, that it is concentrated on finding opportunities for young people in apprenticeship-type or like opportunities in private sector employment. That is a strength of the bill which is before us at the present time.

It is also true that it is supported by a very significant number of large businesses. The Senator from Illinois mentioned Sears. I think he mentioned two or three other large businesses which had endorsed his proposal. That would seem to me to strengthen the argument that we make the summer youth employment and training program more like the program that the Senator from Illinois has expounded upon with such eloquence; that we shift the priorities in the summer youth employment and training program away

from the public and nonprofit sector to having a priority—though not an exclusive dedication—toward finding opportunities in the private sector itself. That will make it more like but not identical to the very subject of the bill which is before us.

This is a summer youth program. It is not something which is going to lead immediately to an instant job opportunity. It is something which has a social value, in giving something of importance to young people while they are on summer vacations. And we want these experiences, as frequently as is reasonably possible, to be in the private sector itself. It is much more aimed, not at the Sears and the U.S. Wests of this world. Offhand I do not know why the officials of the service delivery area would want to subsidize jobs with huge corporations like that. No, this is aimed at the corner mechanic, or the individual small drug store or pharmacy, the small neighborhood book store, the very small employer who is most likely to go through the summer without hiring that teenager or that high school student.

This is where we think the focus of the service delivery area officials should be. It is in this area that the incentive of a modest subsidy is most likely to work.

The distinguished Senator from Illinois was just saying these subsidies should not be given to large corporations. My response is it is very difficult for me to imagine the officials in a service delivery area doing so. This is for that small business opportunity, which in all probability is going to be the most frequent employer of these young people when they get out of school, in any event. Of course the large corporations of the world should deal in issues like this on an unsubsidized basis. But if we can get more bang for our buck if a small subsidy will hire two or three people where the full subsidy to the nonprofit or the Government agency will hire only one, should we not take advantage of that? And should we not finally be willing to trust the people we ask to administer these programs? Are they just horrendously irresponsible? If we tell them they can provide this modest subsidy, are they automatically going to misuse it? No, that just, simply is not the case.

The second objection of the Senator from Illinois, this is like the targeted jobs tax credit which may very well be repealed at some time in the near future. Again, I think it has two profound distinctions. One is the targeted jobs credit was after the fact. It was something you got after you had already hired a new employee, probably on a more or less permanent basis. This is prospective; this is a subsidy which is only going to be given by local officials in a local service delivery area when they think it will actually add to the job experience of the young people with whom it is concerned. And, obviously, it is only for a very short period of time because it is just simply a summer jobs program itself. It is aimed at the smaller employers, and it is prospective rather than retrospective.

Equity? It seems to me there is an overwhelming degree of equity in a program which is locally administered and in which each case, each attempt to find a job or each attempt to subsidize a job is going to be determined on its own merit. Will there be, if a million youths or 2 million youths are benefited in a given summer, will there be some handful of those who may displace someone who would have had a nonsubsidized job? Of course there will, in a handful of cases.

But as I have already said, at the maximum, a 40 percent subsidy would produce 2½ jobs for every 100 percent subsidy which we are providing right now—right now to government agencies, to park districts, to nonprofits. We are providing a 100 percent subsidy.

Do they not displace some jobs which would otherwise be given by those nonprofits in the summer? Of course they do. But this way we get more young people hired and we will get more young people far more—perhaps numbered in the millions—hired if we allow this modest and discretionary subsidy. It is not required. No service delivery area whose officials think it will not work in their service delivery area has to give it at all. It is simply trusting in the officials in each one of these to do it and to do it right.

I quoted one from Seattle which would love to have this opportunity, which feels this opportunity would provide not only a good experience but would provide that experience to more.

Finally, we are told there have been no hearings on this proposal. This Senator introduced the proposal almost a year ago. It has not had the priority in the committee. I am not criticizing the committee for that myself. But we did discuss it here last year in connection with the budget debate. Why not take a chance? If we should pass it as a part of this bill, it will be scrutinized with great care between now and the time at which a conference committee comes back with a final version. There will be plenty of time to hold hearings on this idea. But when we have come up with something that one, I think the people in the field, who deal day in and day out with youth employment are concerned with, and would like to utilize; and second, brings the summer youth program to a point at which it is more consistent with the very bill we are dealing with here today; then, I think we are offering greater numbers of our young people a more realistic experience. An experience much more likely to lead to permanent jobs. One which works very well in the small business sector with the bill itself. And, one which almost by its very nature is largely going to affect the big business sector.

Mr. SIMON. Mr. President, I would like at this point to address the amendment offered by my friend from Washington, who is a solid substantial Member of this body. But once in a while he can go astray, just like once in a while PAUL SIMON can go astray, or even Senators from Vermont or Nevada or other places can go astray.

First of all, I agree with the Senator from Washington that we have had too many programs. The 154 figure he used includes the guaranteed student loan programs and a lot of others that I do not think really fit into this measure. But I join Senator KENNEDY. The two of us asked for a GAO report on this very question. We received a report the last day of January and we will hold hearings next month on this question.

I might add that in the Select Committee on Indian Affairs, on which he and I serve, I introduced an amendment that permits, on Indian reservations, a consolidation of this program as of October 1. That is now the law. We will have at least the opportunity for some experimentation in consolidation of some of the programs.

But there are serious flaws in this amendment. First of all, it undercuts the ability to have unsubsidized employment programs under this.

It is very interesting, the chamber of commerce supports this bill right now as does the National Manufacturers Association. They are not asking for this subsidy. I do not think we ought to provide it.

Second, while $300 million as an authorization sounds like a lot of money, when you start spreading it out over the Nation it starts getting pretty, pretty thin, and this thins it out some more. I think it does not make sense.

It would supplant funds that the private sector is now using, and we have had testimony on this where they are very enthusiastic. We have heard from the Chicago Tribune and Sears, and I do not know how many companies who are saying this kind of a program really makes sense.

It is almost like the targeted jobs tax credit. Interestingly, the inspector general of the Department of Labor has recommended that we do away with that, that it is really not producing jobs.

It also raises serious questions of equity. Which company do we give this subsidy to and which company do we not give this subsidy to?

As long as this is a program where we encourage all companies, all businesses and labor unions to work together with schools to provide this opportunity, we can go ahead. But as soon as the Federal Government, through the States and other governmental entities, start picking, "This company will get a sub-

sidy; that company will not get a subsidy," we are getting on very, very thin ice.

Two other points. One is, this language does not prohibit displacements. I think that is a major flaw in this amendment. I am not suggesting there would be massive displacements, but I think that is a flaw.

And, finally—and this is something we are guilty of on this floor day after day after day, and I have been guilty of it too—too often we come up with amendments on which there have been no hearings whatsoever. We have a good idea, and sometimes these good ideas are worthy without having hearings, without studying carefully, but too often they are flawed.

My colleague from Washington comes up with many good ideas. This time he has come up with a flawed idea. I will have to resist this amendment.

Mr. GORTON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the order previously entered, the vote will be held tomorrow.

Mr. NICKLES. Mr. President, I ask unanimous consent to set aside the pending amendment.

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

AMENDMENT NO. 1430

(Purpose: To limit the amount of funds authorized to be appropriated to carry out School-to-Work Opportunities programs)

Mr. NICKLES. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES] proposes an amendment numbered 1430.

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

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

The amendment is as follows:

Beginning in page 67, line 6 strike "such sums as may be necessary for each of the 7 succeeding fiscal years to carry out this Act." and insert in lieu thereof "$308,000,000 for fiscal year 1996; $316,000,000 for fiscal year 1997; $324,000,000 for fiscal year 1998; and $341,000,000 for fiscal year 1999."

Mr. NICKLES. Mr. President, this amendment is very simple, and I wish to thank my friend and colleague from Illinois for allowing me to introduce it prior to the 6 o'clock deadline. I also wish to compliment my friend, Senator GORTON, for his speech and for his amendment as well. I will be very brief, and my amendment is very plain.

Mr. President, the legislation that we have before us authorizes $300 million in the first fiscal year 1995 and then such sums as necessary for the outyears.

My amendment conforms to the same amount that CBO has scored the bill. They have scored the bill as $300 million but increasing each year with inflation.

That is exactly what my amendment would do. It would replace such sums as necessary for the second, third, fourth, and fifth years of the program with specific amounts that limit the authorization to $300 million plus inflation for the fourth through the fifth years.

We would eliminate such sums as necessary, because I think most of my colleagues are aware if we authorize legislation in that blank check manner there is no limit to how much it might cost.

Again, I wish to place a cap or limit so we will know how much this program might cost over the next several years. I have used the CBO scoring as they have estimated how much this cost would be, and I hope that my colleagues would occur.

I thank my friend and colleague from Illinois for his consideration in permitting me to offer this amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who now yields time?

Mr. SIMON. Mr. President, I yield myself time.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I ask unanimous consent that the Nickles amendment be temporarily set aside so that I may offer an amendment in behalf of Senator KENNEDY and myself. I believe it is noncontroversial.

The PRESIDING OFFICER. The prior amendment is set aside.

AMENDMENT NO. 1431

(Purpose: To encourage grants to partnerships serving high poverty areas)

Mr. SIMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON], for Mr. KENNEDY, for himself and Mr. SIMON, proposes an amendment numbered 1431.

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

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

The amendment is as follows:

On page 45, line 9, after the word "authorized", insert the following: "and encouraged".

Mr. SIMON. Mr. President, I ask unanimous consent to set that amendment aside.

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

AMENDMENT NO. 1427, AS MODIFIED

Mr. SIMON. Mr. President, I offer on behalf of Senator PRESSLER, a modification of his earlier amendment that was adopted. I believe there was no controversy on that. I urge its adoption.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

So the amendment (No. 1427), as modified, is as follows:

At the end of section 202, add the following:

(d) GRANTS TO CONSORTIA.—

(1) IN GENERAL.—The Secretaries may make grants under subsection (a) to consortia of congressional districts with low population densities, to enable each such consortium to complete development of comprehensive, consortiawide School-to-Work Opportunities systems. Each such system shall be implemented by individuals selected by the States in which the system is located. Each such system shall meet the requirements of this Act for such a system, except as otherwise provided in this subsection.

(2) AMOUNT.—Notwithstanding any other provision of this section, the amount of a development grant under this subtitle to a consortium shall be in such amount as the Secretaries may determine to be appropriate.

(3) APPLICATION.—For purposes of the application of this subtitle to a consortium:

(A) GOVERNOR.—References to a Governor shall be deemed to be references to an official designated by the consortium to carry out the duties of a Governor under this subtitle.

(B) STATE.—References to a State shall be deemed to be references to the consortium.

(C) OFFICIAL.—References to an official of a State shall be deemed to be references to such an official of any of the States in which the consortium is located.

(4) ABILITY OF STATE TO CARRY OUT PROGRAM.—Nothing in this subsection shall limit the ability of a State to carry out a statewide School-to-Work Opportunities system in the State, even if a congressional district located in the State participates in a consortium under paragraph (1).

(5) DEFINITION.—As used in this subsection, the term "consortia of congressional districts with low population densities" means a consortia of congressional districts, each congressional district of which has an average population density of less than 20.00 persons per square mile, based on 1993 data from the Bureau of the Census.

At the end of section 212, add the following:

(i) GRANTS TO CONSORTIA.—

(1) IN GENERAL.—The Secretaries may make grants under subsection (a) to consortia of congressional districts with low population densities, to enable each such consortium to implement comprehensive, consortiawide School-to-Work Opportunities systems. Each such system shall be implemented by individuals selected by the States in which the system is located. Each such system shall meet the requirements of this Act for such a system, except as otherwise provided in this subsection.

(2) AMOUNT.—Notwithstanding any other provision of this section, the amount of an implementation grant under this subtitle to a consortium shall be in such amount as the Secretaries may determine to be appropriate.

(3) APPLICATION.—For purposes of the application of this subtitle to a consortium:

(A) GOVERNOR.—References to a Governor shall be deemed to be references to an official designated by the consortium to carry

out the duties of a Governor under this subtitle.

(B) STATE.—References to a State shall be deemed to be references to the consortium.

(C) OFFICIAL.—References to an official of a State shall be deemed to be references to such an official of any of the States in which the consortium is located.

(4) WAIVERS.—In order for a consortium that receives a grant under this section to receive a waiver under title V with respect to a congressional district located within a State, the State and officials of the State shall comply with the applicable requirements of title V for such a waiver.

(5) ABILITY OF STATE TO CARRY OUT PROGRAM.—Nothing in this subsection shall limit the ability of a State to carry out a statewide School-to-Work Opportunities system in the State, even if a congressional district located in the State participates in a consortium under paragraph (1).

(6) DEFINITION.—As used in this subsection, the term "consortia of congressional districts with low population densities" means a consortia of congressional district, each congressional district of which has an average population density of less than 20.00 persons per square mile, based on 1993 data from the Bureau of the Census.

In section 301(2), insert ", and to implement such programs in congressional districts with low population densities," after "in high poverty areas of urban and rural communities".

In section 301(2), insert "or in congressional districts with low population densities" after "designated high poverty areas".

In section 303, strike the title and insert the following:

"SEC. 303. SCHOOL-TO-WORK OPPORTUNITIES PROGRAM GRANTS IN HIGH POVERTY AREAS AND IN CONGRESSIONAL DISTRICTS WITH LOW POPULATION DENSITIES."

In section 303(a)(1), insert "and to partnerships to implement such programs in congressional districts with low population densities" after "in high poverty areas".

In section 303(a)(2), strike "DEFINITION.—" and insert "HIGH POVERTY AREA.—".

At the end of section 303(a), add the following:

"(3) CONGRESSIONAL DISTRICT WITH A LOW POPULATION DENSITY.—For purposes of this subsection, the term 'congressional district with a low population density' means a congressional district with an average population density of less than 20.00 persons per square mile, based on 1993 data from the Bureau of the Census.".

In section 507(b), strike "HIGH POVERTY AREAS.—" and insert "HIGH POVERTY AREAS AND CONGRESSIONAL DISTRICTS WITH LOW POPULATION DENSITIES.—".

Mr. SIMON. Mr. President, the Senator from Oklahoma, Senator KENNEDY, I, and I am not sure who all may be involved—Senator JEFFORDS and others may be involved—but we are trying to negotiate and get the Nickles amendment worked out. I hope by tomorrow we can have such an agreement. We will try.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

AMENDMENT NO. 1432

(Purpose: To forbid appropriations under this Act for school-to-work opportunities programs until the deficit increase resulting from fiscal year 1994 emergency spending is eliminated)

Mrs. KASSEBAUM. Mr. President, I send an amendment to the desk on behalf of Senator COVERDELL and ask for its immediate consideration.

The PRESIDING OFFICER. Would the Senator ask to have the amendment pending set aside?

Mrs. KASSEBAUM. I ask unanimous consent that the pending amendment be temporarily laid aside.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mrs. KASSEBAUM] for Mr. COVERDELL proposes an amendment numbered 1432.

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

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place in title V, insert the following new section:

SEC. . DELAY OF SPENDING FOR SCHOOL-TO-WORK OPPORTUNITIES PROGRAMS UNTIL FISCAL YEAR 1994 EMERGENCY DEFICIT INCREASE IS ELIMINATED.

(a) PROHIBITION ON APPROPRIATIONS.—Notwithstanding any other provision of this Act, Congress shall not appropriate funds under section 507 until the Director of the Office of Management and Budget certifies that the total amount of deficit increase for fiscal year 1994 resulting from budget authority contained in supplemental appropriations Acts and declared to be emergency spending under section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(D)(i)) has been eliminated through rescissions and transfers of funds.

(b) PROHIBITION ON OBLIGATION.—Nothwithstanding any other provision of this Act, no funds that were appropriated for a program under this Act prior to the date of enactment of this Act shall be obligated for the program until the date of the certification described in subsection (a).

(c) ENFORCEMENT.—

(1) POINT OF ORDER.—Prior to the date of the certification described in subsection (a), it shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report providing appropriations under section 507.

(2) WAIVER OR SUSPENSION.—Paragraph (1) may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

Mrs. KASSEBAUM. It is my understanding that the Senator from Georgia is working with the majority leadership on this amendment and he will withdraw this amendment if his concerns are worked out. But since we do face a 6 o'clock deadline, I thought it was very important that the amendment be offered.

Mr. SIMON. Mr. President, that is my understanding, too. I thought for a moment we were trying to move ahead without getting something worked out. But I am pleased that we are moving ahead on this basis.

AMENDMENT NO. 1433

(Purpose: To express the sense of the Senate regarding a limitation on the amount of funds appropriated to carry out School-to-Work Opportunities programs)

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the pending amendment be set aside and I send an amendment to the desk on behalf of Senator DOLE and Senator NICKLES.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mrs. KASSEBAUM] for Mr. DOLE, for herself, and Mr. NICKLES, proposes an amendment No. 1433.

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

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place in title V, insert the following:

SEC. . SENSE OF THE SENATE.

It is the sense of the Senate that the Congress should fund programs under this Act, for fiscal years 1996 through 2002, solely from the savings resulting from efforts of the Department of Labor, the Department of Education, and other Federal agencies, to eliminate, consolidate, or streamline, duplicative or ineffective education or job training programs in existence on the date of enactment of this Act.

Mrs. KASSEBAUM. This is a sense-of-the-Senate resolution regarding job training funds.

Mr. SIMON. Mr. President, again, negotiations are taking place on this amendment. I think we are going to get something worked out, but we are not ready at this point to accept it on this side.

AMENDMENT NO. 1424, AS MODIFIED

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent to modify amendment No. 1424. This is my own amendment. I send the modification to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 1424), as modified, reads as follows:

Insert after section 504 the following new section:

SEC. 504A. COMBINATION OF FEDERAL FUNDS BY STATES.

(a) IN GENERAL.—

(1) PURPOSES.—The purposes of this section are—

(A) to integrate activities under this Act with State school-to-work transition activities carried out under other programs; and

(B) to maximize the effective use of resources.

(2) COMBINATION OF FUNDS.—To carry out such purposes, a State that receives assistance under title II may carry out activities necessary to develop and implement a state-

wide School-to-Work Opportunities system with funds obtained by combining—

(A) Federal funds under this Act; and

(B) other Federal funds made available from among programs under—

(i) the Carl D. Perkins Vocational and Applied Technology Act, section 201; and

(ii) the Job Training Partnership Act (29 U.S.C. 1501 et seq.).

(b) USE OF FUNDS.—A State may use (or "the State portion of") the Federal funds combined under subsection (a) under the requirements of this Act, except that the provisions relating to the matters specified in section 502(c), and section 503(c), that relate to the program through which the funds described in subsection (a)(2)(B) were made available, shall remain in effect with respect to the use of such funds.

(c) ADDITIONAL INFORMATION IN APPLICATION.—A State seeking to combine funds under subsection (a) shall include in the application of the State under title II—

(1) a description of the funds the State proposes to combine under the requirements of this Act;

(2) the activities to be carried out with such funds;

(3) the specific outcomes expected of participants in school-to-work activities;

(4) such other information as the Secretaries may require;

(5) evidence of support for the waiver request by the State agencies or officials with jurisdiction over the funds that would be combined; and

(6) a State's authority to combine funds under this section shall not exceed a period of 5 years, except that the Secretaries may extend such period if the Secretaries determine that such authority would further the purposes of this Act.

In section 510, in the section heading, strike "**SEC. 510.**" and insert "**SEC. 511.**".

In section 509, in the section heading, strike "**SEC. 509.**" and insert "**SEC. 510.**".

In section 508, in the section heading, strike "**SEC. 508.**" and insert "**SEC. 509.**".

In section 507, in the section heading, strike "**SEC. 507.**" and insert "**SEC. 508.**".

In section 506, in the section heading, strike "**SEC. 506.**" and insert "**SEC. 507.**".

In section 505, in the section heading, strike "**SEC. 505.**" and insert "**SEC. 506.**".

In section 504A, strike "504A" and insert "505".

In section 303(a)(1), strike "507(b)" and insert "508(b)".

In section 401(a), strike "507(c)" and insert "508(c)".

In section 401(b), strike "507(c)" and insert "508(c)".

In section 402(a), strike "507(c)" and insert "508(c)".

In section 402(b), strike "507(c)" and insert "508(c)".

In section 402(d), strike "507(c)" and insert "508(c)".

In section 403(b), strike "507(c)" and insert "508(c)".

In section 403(c), strike "507(c)" and insert "508(c)".

Mr. SIMON. Mr. President, point of inquiry. Are we on the Kassebaum substitute now?

The PRESIDING OFFICER. There was unanimous consent that her modification be accepted. It was accepted. We are now back on the Kassebaum amendment.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Kassebaum amendment be set aside for further amendment.

Mr. SIMON. Mr. President, I do not want to set aside an amendment we can get rid of right away by accepting. It has been worked out.

If the Senator wants to move ahead, it is acceptable on this side.

The PRESIDING OFFICER. If there is no further debate on amendment No. 1424, as modified, the question is on agreeing to the amendment.

The amendment (No. 1424), as modified, was agreed to.

Mr. SIMON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mrs. KASSEBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1430, AS MODIFIED

Mr. NICKLES. Mr. President, I ask unanimous consent to send a modification to my previous amendment to the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, the amendment is so modified.

The amendment (No. 1430), as modified, reads as follows:

Beginning on page 67, line 6 strike "such sums as may be necessary for each of the 7 succeeding fiscal years to carry out this Act." and insert in lieu thereof "$400,000,000 for fiscal year 1996; $400,000,000 for fiscal year 1997; $330,000,000 for fiscal year 1998; and $220,000,000 for fiscal year 1999."

Mr. NICKLES. Mr. President, I had earlier told my friend and colleague from Illinois that when we were negotiating caps what the level would be. The figure that I had in my original amendment was CBO projections, which was just $300 million adjusted for inflation. The modification that I have sent to the desk inserts the President's figures which he has in his budget for each of the next 5 years.

The total in my original amendment was, over the 5 years, $1.589 billion. The figure that was in the President's budget for the 5 years is $1.650 billion, or a difference of about $61 million over the 5 years.

I thought I might as well put in the President's figures because it was my guess that the Senator from Illinois or someone else would use the President's figures. I thought maybe this would save some time and hopefully would increase the likelihood that the amendment would be accepted.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER (Mr. FORD). The Senator from Illinois.

Mr. SIMON. The Senator from Oklahoma has a right to modify his amendment. We are not ready at this point to accept that amendment. I hope something can be negotiated in the course of the evening, but that is where we stand right now.

Mr. NICKLES. I thank my colleague.

Mr. SIMON. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

The Chair will inform the Chamber, the Gorton amendment is before the Senate. It has 2 hours debating time.

Who yields time?

Mr. JEFFORDS. Mr. President, I would like about 7 minutes if anybody would yield?

The PRESIDING OFFICER. Senator GORTON and Senator SIMON will be controlling the time on the GORTON amendment. Senator GORTON just used 9 minutes and 6 seconds of his time.

Mr. GORTON. Mr. President, it is not my feeling—I do not know about Senator SIMON but I do not need a great deal more time on my own amendment. If the Senator from Vermont speaking on a different subject wants to use some of it, I am happy to yield it to him. Or if the Senator from Illinois wants to yield back all of our time on the amendment I am willing do that.

Mr. SIMON. I would be willing to let the Senator from Vermont speak and then both of us yield back all of our time?

Mr. GORTON. Since this Senator has to yield the floor, he will do that prospectively and authorizes the Senator from Illinois to yield the Senator from Washington's time.

Mr. SIMON. I yield to the Senator from Vermont and we will take it from there.

The PRESIDING OFFICER. The Senator from Vermont is recognized for whatever time necessary.

Mr. JEFFORDS. I request 10 minutes, Mr. President. I want to speak mainly on the bill.

Mr. President, the figures are well known. They come as no surprise. Half of American high school students never go to college. A mere one-quarter of our youngsters obtain post-secondary degrees.

However, unlike most other industrialized nations, we do not have a comprehensive system to prepare this majority of our young Americans to move from high school into high-skilled, well-paid jobs that hold the best hope for our collective future. The sporadic and individualized efforts that are made at this simply are not enough. The result is that high school dropouts and even high school graduates tend to drift from one entry-level and minimum-wage job to the next, until several years after graduation, they begin to acquire the training needed to qualify them for a trade or vocation.

In Germany, Japan and most other industrialized countries, students begin to learn in high school those skills they will need to be successful in the job market. They compete to qualify for prestigious apprenticeship programs. They study, both on the job and in school settings, the theories, skills and other knowledge necessary to advance in their fields.

The simple truth is that the countries which are our major competitors for export markets and jobs are well

ahead of us in this area. Their systems for moving the non-university-bound students from school to productive work are far better organized, and function without the years of unproductive drift that so many American youngsters experience.

Mr. President, this is my 20th year in the Congress of the United States. During that time, I have been on the committees dealing with education in the House and Senate. It is sad, as I look back, to see that we have progressed very little in trying to handle this problem. In fact, we have probably gone backward.

First of all, we have found that a lot of the education which we used to give—vocational education—has now proved to be irrelevant, yet the ability to change those curriculums or to get the schools to provide the kind of education that is necessary in the modern world just has not occurred. We have gone from training program to training program and, over time, we have created more and more model training programs. Yet, this is the first time that we have begun to sit down and to take a look at what we must do in order to coordinate and collect these programs together to do the job.

It is unfortunate that we are here because it is another example of the failure of our educational system. We should not be here. We should not have to do this today. If our educational system was working, we would already have the kind of educational programs which would prepare our young people for work.

So it is sad that we have to be here, but we must. That is what Goals 2000 is all about; it is to reform our educational system so that this program would be unnecessary.

Let me give an example of how really sad the situation is out there. I am on the board of the directors of Jobs for American Graduates. It came about from an experiment in Delaware where they had a program of Jobs for Delaware Graduates. What is sad about it is almost all that program is just teaching young people how to interview for a job. It is not much more than that. It allows them to understand how the system works and how jobs are created, how they are available. But the main thrust of it—and it is a very successful program—is to teach them how to conduct themselves at an interview.

It is sad when you think that our school system not only does not provide the skills necessary to get a high-paying job and the skills necessary in that job, but not even the skills of how to ask for a job.

The School-to-Work Opportunities Act is a bold stroke designed to spur development of such systems throughout the United States that will succeed in teaching those skills, as well as the skills of how to ask for a job. This act will establish a national framework for local partnerships to develop school-to-work programs and make them available to all students. Such programs will combine classroom learning with real world work experience. It will train students in job readiness skills as well as industry-specific occupation skills.

The benefit to young people is clear: In our ever-shrinking world, the need to prepare our future generations to compete and win in the global marketplace is imperative for our continued prominence in world markets. To do so, we must develop and utilize the talents of all our young people far more effectively than we have. For the same reasons, the benefits for American business are no less obvious. Only if they continue to have the best skilled and most capable workers in the world will their corporate futures be secure.

The School-to-Work Opportunities Act will help high schools and community colleges create programs in cooperation with business to develop the academic skills and attitudes toward work that many of our youngsters lack today. Through a set of grants and waivers of certain Federal program requirements, the act would establish a national framework for the development of school-to-work systems, to help youth in all States make the transition from school to the workplace. States and communities would use Federal funds as venture capital to spark the formation of school-to-work programs dedicated to linking the worlds of school and work. Secondary and postsecondary institutions, private and public employers, labor organizations, government, community groups, parents, and students would work together on the programs.

The act would afford States and localities substantial discretion in establishing and implementing comprehensive statewide school-to-work systems. Business partners would have a significant input in crafting and directing these efforts to better reflect their work force, needs, and future trends.

The School-to-Work Opportunities Act has strong bipartisan support. It will encourage States and communities to build meaningful connections between the world of school and the world of work. Just as schools need to change to meet the demands of businesses that are competing in the global economy, our business culture also needs to change to create incentives for students to stay in school and make smooth and productive transitions from school to work.

The future of our youth and of our businesses and, ultimately, of our standard of living depends on developing and utilizing the talents of our non-college-bound young people far more effectively than we have to date.

Twenty-three national groups have endorsed this legislation, including major business groups—the Business Roundtable, the U.S. Chamber of Commerce, the National Association of Manufacturers, and the National Alliance of Business—the AFL-CIO, the U.S. Conference of Mayors, the National Education Association, the American Federation of Teachers, and the National Governors' Association.

In addition, the business community not only actively supports the legislation, many national firms are committing to participate in its programs, including BellSouth, Ford, Kodak, and McDonald's. Countless smaller businesses also are prepared to join in on this effort.

Mr. President, like many of the legislative items that pass through this body, this one is not perfect. But with the benefit of extensive bipartisan input, as well as the cooperation of labor, business, education, and community leaders, its merits certainly far outweigh any shortcomings that remain. I am a cosponsor of this legislation, and I support it heartily. The House of Representatives completed action on this measure in near record time. I encourage my Senate colleagues to do so as well.

Thank you, Mr. President. I yield the floor.

Mr. SIMON. Mr. President, I appreciate the statement by the Senator from Vermont. I appreciate his cosponsorship of this legislation and his efforts. I might add, he fits in the tradition of Senator Aiken from Vermont and Senator Stafford from Vermont as a valued Member of this body.

Mr. President, a point of inquiry. Before Senator GORTON left, he indicated he would yield back his time, but I do not recall that he actually did. If he did yield back his time, I will yield back mine and make the motion in behalf of Senator KENNEDY and myself to table. If he did not yield back the time, we will wait on the motion to table.

The PRESIDING OFFICER. It is the Chair's judgment that the Senator from Washington was willing to yield back his time, subject to the completion of the statement of the Senator from Vermont. So it is now in order for all time to have been yielded back.

Mr. SIMON. Then, Mr. President, in behalf of myself and Senator KENNEDY, I make the motion to table.

The PRESIDING OFFICER. Without objection, all time is yielded back on the Gorton amendment. The Chair informs the Senate that we are now on amendment 1433, the Kassebaum-Dole amendment.

Mr. SIMON. On the previous motion to table, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SIMON. Mr. President, I ask unanimous consent that the pending amendment be set aside so that we may consider the Nickles amendment

that was offered about 1 hour or 45 minutes ago. We have checked that out. It is acceptable now on both sides.

AMENDMENT NO. 1430, AS MODIFIED

The PRESIDING OFFICER. Without objection, amendment No. 1433 is set aside and the Nickles amendment No. 1430 is the pending amendment.

Mr. SIMON. I urge its adoption.

Mrs. KASSEBAUM. I second that.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment, as modified.

The amendment (No. 1430), as modified, was agreed to.

Mr. SIMON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mrs. KASSEBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1425, AS MODIFIED

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent to set aside the Gorton amendment and modify amendment 1425, which is another one of my amendments. For the benefit of those who are listening, I have agreed to a 5-year authorization to the school-to-work bill. Originally, it was an 8-year authorization in the bill. I am very pleased this amendment now will be accepted by making a correction to 5 years. I ask for the consideration of that amendment.

The PRESIDING OFFICER. The Senator needs to ask unanimous consent since we have an agreement on the legislation.

Is there objection to the Senator modifying her amendment? Without objection, it is so modified.

The amendment, with its modification, is as follows:

In section 507(a), strike "7" and insert "4".

Mr. SIMON. Mr. President, it is acceptable. We have had some discussion. I am pleased to join in support of this amendment.

Mrs. KASSEBAUM. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? The question is on agreeing to the amendment, as modified.

The amendment (No. 1425), as modified, was agreed to.

Mr. SIMON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mrs. KASSEBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that Senator DORGAN be added as an original cosponsor to amendment No. 1427, the Pressler amendment.

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

Mr. SIMON. Mr. President, our situation now is that we have two amendments that are still being worked on.

The PRESIDING OFFICER. The Chair advises the Senate that we are back on amendment No. 1433, the Kassebaum-Dole amendment.

Mr. SIMON. Mr. President, I ask unanimous consent that amendment be set aside temporarily.

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

AMENDMENT NO. 1431

Mr. SIMON. I ask unanimous consent that the Kennedy-Simon amendment No. 1431 be accepted at this point. It is agreeable to everyone.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, without objection, it is so ordered.

The amendment (No. 1431) was agreed to.

Mr. SIMON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mrs. KASSEBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMON. Mr. President, we are still negotiating on two amendments, the Coverdell amendment and the Dole amendment. We will have a vote on the Gorton amendment. My colleague from Kansas may correct me, but I think we are down to one vote for sure on an amendment and possibly two others.

Mrs. KASSEBAUM. Mr. President, it is my understanding—we are just trying to check it out—that there also would be a vote required on the Coverdell amendment and possibly on the Dole-Nickles sense-of-the-Senate amendment.

At this point, perhaps it would be in order to ask for the yeas and nays on those two amendments.

Mr. SIMON. If that is necessary to do tonight, we can do that. They are offered. We are negotiating on both. I hope they can be worked out. Senator BYRD is negotiating with Senator COVERDELL. The other one is also being negotiated.

My understanding is that we do not have to ask for the yeas and nays tonight. May I ask the Chair? Is that correct?

The PRESIDING OFFICER. It is not required.

Mrs. KASSEBAUM. Mr. President, I suggest it is better to wait. If it can be worked out, that would be just fine. The only vote that I know of which is ordered is on the Gorton amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. SIMON. I have been advised that we can go ahead and ask for the yeas and nays and then vitiate them if there is an agreement.

The PRESIDING OFFICER. You have to have unanimous consent to do it under a time agreement. Do you want to ask unanimous consent to do it, or do you prefer to wait? It is up to the Senator.

Mr. SIMON. Mr. President, I think we have taken care of this measure as much as we can this evening.

Mr. HARKIN. Mr. President, I rise in support of the School-to-Work Opportunities Act. I would like to commend Senator SIMON for his work on this bill and thank him for working with me on several issues related to the legislation.

Most American employers feel recent high school graduates are not adequately prepared for the current workplace. Further, a recent study found that 90 million Americans are functionally illiterate—that means they do not possess the higher literacy skills needed for the more challenging and technologically related jobs of the future. It is clear that we need to do a better job preparing all students for work.

At the present time, the United States is the only industrialized Nation that does not have a comprehensive school to work transition program. This legislation before us remedies this situation by establishing a national system to assure an effective transition from school to work. The future of our country depends on our ability to compete in the international marketplace and this legislation is vital to ensuring our place in the world.

There is tremendous diversity across the United States and one program will not effectively meet the needs of all students and communities. Therefore, this legislation allows individual States and communities to tailor programs to meet their specific needs and situations. This is especially important to meet the unique needs of rural areas. The legislation makes it clear that school-based enterprises, internships, job shadowing, and academic credit are allowed. This clarification is important for rural schools.

The legislation also recognizes the special difficulties that confront low-income communities and will make special grants for high-poverty areas. The Senate bill lowered the threshold for eligibility to 20 percent. This change will allow 9 low-income Iowa counties to apply for these special grants. These rural counties have unique needs that could be assisted by these special competitive grants.

As chairman of the Subcommittee on Disability Policy I would also like to comment on the implications of this legislation for students and youth with disabilities. The School-to-Work Opportunities Act seeks to provide opportunities to earn credentials and pursue careers for all students, and this certainly includes students with disabilities.

On July 26, 1993, we celebrated the third anniversary of the Americans With Disabilities Act [ADA], an historic civil rights bill which for the first time granted Americans with disabilities equal access to the American dream.

ADA is important because it includes fundamental principles for the development of national policy. ADA is about

breaking down attitudinal or artificial barriers that prevent people with disabilities from participating in the mainstream of American life. ADA means that persons must be judged based on abilities and qualifications, not on the basis of fear, ignorance, or prejudice.

The ADA has provided the Nation with the impetus to reexamine how it is treating individuals with disabilities in all aspects of American life, including during the important transition between school and work. At the same time we are now in the process of reassessing our educational systems for all students. Congress fully recognizes students with disabilities as one part of a larger student population, and has clearly included them in educational reform. It is also critical to include students with disabilities in our nationwide effort to develop systems to provide school-to-work opportunities for American youth.

The School-to-Work Opportunities Act is fully consistent with the ADA and implements the values and precepts of the ADA in the context of school-to-work opportunities. Also, this legislation is fully consistent with and complements the spirit and intent of part B of the Individuals With Disabilities Education Act [IDEA] and the Rehabilitation Act of 1973, including section 504.

The School-to-Work Opportunities Act will serve as an important vehicle for making the promise of ADA a reality for all students with disabilities. Under this legislation, students with the full range of disabilities must be an integral part of all aspects of the school-to-work systems, including career counseling and selection of a career major, planned programs of study and job training that lead to the award of a skill certificate, and data collection and analysis regarding the postprogram outcomes of all students.

In addition, students with disabilities are entitled to the same high expectations, treatment, and leadership offered to their nondisabled peers, including the adoption of effective strategies that provide mechanisms and appropriate paths to the work force and to postsecondary education; an expectation that all students across a broad range of performance will be held to high standards if they are to realize their full potential; an effective and meaningful opportunity to participate in a broad and challenging curriculum and to have access to resources sufficient to address other education and training needs; and the use of assessments or systems of assessments that are used for a purpose for which they are valid, reliable, fair, and free of discrimination—including adaptations and accommodations necessary to permit such participation.

Furthermore, plans developed, reports prepared, and partnerships, panels or councils established must address the needs of students and youth with disabilities and must include information and data on such individuals.

In summary, the School-to-Work Opportunities Act is an important bill which will help all students, including students with disabilities, in completing their high school programs, accessing postsecondary education programs, and entering meaningful employment. This legislation has broad-based support from business, labor, and education. I urge my colleagues to vote for this legislation.

In closing, I would like to commend the chairman of the Labor Committee, Senator KENNEDY, and the chairman of the Subcommittee on Employment and Productivity, Senator SIMON, for their work on this bill, especially their efforts to assure that students with disabilities are fully included.

At this time, I ask for the attention of the Senator from Illinois for the purpose of engaging in a colloquy.

Mr. President, I would like to enter into a colloquy with the distinguished Senator from Illinois, the chair of the Subcommittee on Employment and Productivity, and the chief sponsor of the School-to-Work Opportunities Act of 1994, Senator SIMON. I would like to commend Senator SIMON for his strong leadership on the bill and especially for his commitment to people with disabilities. I appreciate the willingness of Senator SIMON and his staff to work with me and my staff to develop an analysis explaining how the School-to-Work Opportunities Act of 1994 applies to individuals with disabilities. I would like to ask unanimous consent to include this analysis at the end of this colloquy.

Is it the understanding of the Senator from Illinois that this analysis reflects congressional intent regarding the meaning and application of this legislation to students with disabilities?

Mr. SIMON. Absolutely. And I would like to commend the Senator from Iowa [Mr. HARKIN] for his effective leadership on disability policy issues. I have reviewed the analysis of this bill as it applies to people with disabilities and it reflects our intent to assure that students with disabilities are included in all aspects of school-to-work systems.

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

ANALYSIS REGARDING THE APPLICATION OF THE SCHOOL-TO-WORK OPPORTUNITIES ACT OF 1944 TO INDIVIDUALS WITH DISABILITIES

On July 26, 1990, the Americans with Disabilities Act (ADA) was signed into law. The ADA is an omnibus civil rights law that prohibits discrimination on the basis of disability by, among others, employers, and entities providing public and private secondary and postsecondary education.

The ADA is premised on a system of values that forms the basis for our national disability policy. Under the ADA, disability is recognized as a natural part of the human experience and in no way diminishes the right of individuals to live independently, enjoy self-determination, make choices, contribute to society, pursue meaningful careers, and enjoy full inclusion and integration into all aspects of society.

In short, the ADA establishes the basis for a national policy that focuses on the inclusion, independence and empowerment of individuals with disabilities.

The ADA has provided the nation with the impetus to reexamine how it is treating individuals with disabilities in all aspects of American life, including during the important transition between school and work. At the same time we are now in the process of reassessing our educational systems for all students. Congress fully recognizes students with disabilities as one part of a larger student population, and has clearly included them in educational reform. It is also critical to include students with disabilities in our nationwide effort to develop systems to provide school-to-work opportunities for American youth.

Part B of the Individuals with Disabilities Education Act (IDEA) extends to students with disabilities the right to a free appropriate public education based on the unique needs of the student. This Act mandates that, to the maximum extent appropriate, students with disabilities must be educated with students who are not disabled and special classes, separate schooling, or other removal of students with disabilities from regular education environments occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Part B of IDEA requires an Individualized Educational Program (IEP) for each student. IDEA specifies that "the IEP for each student, beginning no later than age 16 (and at a younger age if appropriate) must include a statement of needed transition services. * * *" Transition services means a coordinated set of activities that includes instruction, community experiences, the development of employment and other post-school adult living objectives. Students and parents are encouraged to actively participate in the development of transition goals and objectives. These requirements are designed to ensure that all areas essential to successful postschool adult living for individual students are addressed within their IEP.

The Rehabilitation Act Amendments of 1992 are intended to ensure that the Rehabilitation Act of 1973 is consistent with the precepts of ADA. Provisions were added to ensure that all students who require vocational rehabilitation services receive those services in a timely manner. There should be no gap in services between the education system and the vocational rehabilitation system. During the transition years, the role of the rehabilitation system is to work collaboratively with the educational system and to plan for the student's years after leaving school.

Congress wishes to send a clear and unequivocal message that the School-to-Work Opportunities Act of 1994 is fully consistent with the ADA and implements the values and precepts of the ADA in the context of school-to-work opportunities. Congress also wishes to send the message that this legislation is fully consistent with and complements the spirit and intent of Part B of the Individuals with Disabilities Education Act (IDEA) and the Rehabilitation Act of 1973, including Section 504.

Congress believes that the transition service requirements in IDEA and in the Rehabilitation Act of 1973 provide an appropriate framework for assuring that students with disabilities and their families successfully access and fully participate in all program components of the Act. Further, the Job Training Partnership Act and the Carl D. Perkins Vocational and Applied Technology Education Act include specific provisions to ensure the participation of youth with disabilities in the training and employment programs authorized under these Acts.

It is the expectation of Congress that the School-to-Work Opportunities Act of 1994 will serve as an important vehicle for making the promise of ADA a reality for all students with disabilities. Therefore, under this legislation, students with the full range of disabilities must be an integral part of all aspects of the School-to-Work systems, including career exploration and counseling, planned programs of study and job training that lead to the award of a skill certificate, and data collection and analysis regarding the post-program outcomes of all students.

Congress intends that the exclusion of individuals with disabilities from any aspect of State or local school-to-work systems is unacceptable. This means that students with disabilities are entitled to the same high expectations, treatment, and leadership offered to their nondisabled peers, including:

The adoption of effective strategies that provide mechanisms and appropriate paths to the workforce and to postsecondary education;

An expectation that all students across a broad range of performance will be held to high standards if they are to realize their full potential;

Recognition that involvement and leadership by teachers, related-services personnel, rehabilitation personnel, employers, parents, and students is critical;

An effective and meaningful opportunity to participate in a broad and challenging curriculum and to have access to resources sufficient to address other education and training needs;

The appropriate and innovative use of technology; and

The use of assessments or systems of assessments that are used for a purpose for which they are valid, reliable, fair, and free of discrimination (including adaptations and accommodations necessary to permit such participation).

Furthermore, all students, including students with disabilities, must be part of the system of performance measures and the national evaluation, and that data from students with disabilities must be included in any performance outcome and evaluation system and reports.

Set out below is a more detailed explanation of how specific provisions of S. 1361 apply to youth with disabilities.

FINDINGS

Section 2 of S. 1361 sets out Congressional findings regarding the need for a comprehensive and coherent system of School-to-work opportunities. Section 2(2) states the "a substantial number of American youth, especially disadvantaged students, students of diverse racial, ethnic, and cultural backgrounds, and students with disabilities, do not complete school." Section 2(3) states that "unemployment among American youth is intolerably high * * *"

Congress notes that youth with disabilities are experiencing substantial difficulties in completing their high school programs, accessing postsecondary education programs, and entering meaningful employment. The National Longitudinal Transition Study, funded by the U.S. Office of Special Education and Rehabilitative Services, and conducted by Standard Research Institute in California investigated the post-school outcomes for students with disabilities. This study found that: students with disabilities had a higher drop out rate (36%) than for any other group of young people; fewer than 17% of youth with disabilities had gained access to postsecondary vocational programs three to five years following high school completion; approximately 43% of youth with disabilities remained unemployed three to five years following high school, and of those who are employed, many work only part-time, are receiving low wages, and the vast majority are not receiving medical insurance coverage or other fringe benefits; and for many youth with disabilities, the transition from school has meant sitting idly at home, dependent on family members for support into adulthood. These findings illustrate the lack of a comprehensive system to help youth with disabilities transition to productive adult lives.

With regard to another Congressional finding (6) that "American students can achieve to high standards * * *," Congress notes that youth with disabilities can, and increasingly do participate in postsecondary education programs, employment, and all other aspects of community living. Research and demonstration projects over the last several years have shown that students with disabilities can be successful when appropriate opportunities, supports and services are available. Transition services which promote movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including support employment) continuing and adult education, adult services, independent living, or community participation, are often critical to achieving successful post-school outcomes for students with disabilities. Effective transition services require a high level of coordination and partnership among educators, rehabilitation and human service professionals, students and family members, and employers.

PURPOSES AND CONGRESSIONAL INTENT

Section 3 sets out the Purposes and Congressional Intent of the School-to-Work Opportunities Act. Congress wishes to emphasize that the purposes and intent of this act are of particular relevance to fulfilling, at a minimum, the right to a free appropriate public education for students with disabilities guaranteed by part B of IDEA. This Act can play a significant role for students with disabilities to help them realize the promise of an effective transition from school to work and to productive adult roles.

Section 3(a)(6) specifies that one purpose of the Act is to "help all students attain high academic and occupational standards." Congress believes that high expectations are needed for all students, including students with disabilities. However, Congress recognizes that a range of individual performance will result even when students achieve the high expectations set for them. A method is needed for some students with disabilities that recognizes these students' functional differences, but still provides high expectations.

The majority of students with disabilities are capable, with supports and adaptations, of mastering the standards expected for other students. However, a limited number of students with the most severe cognitive disabilities, may not master all of the high standards, despite specialized instruction, related services, and assistive technology. For these students, the IEP is designed to enable the student to master the standards to the maximum extent possible, and to provide a rigorous and meaningful educational program.

DEFINITIONS

Section 4(2) defines the terms "all students" to include students with disabilities. Congress intends that all efforts supported under this legislation include students and youth with disabilities, including the full range of disabilities.

Section 4(4) defines the term "career major" as a "sequence of courses or field of study that prepares a student for a first job and that—* * * typically includes at least 2 years of secondary education and at least 1 or 2 years of postsecondary education * * *". Congress notes that while "1 or 2 years of postsecondary education" may be "typically" included in a sequence of courses or a field of study, for some youth with disabilities adult training programs or supported employment programs may be more appropriate than formal postsecondary education programs.

The definition of "career major" also states that the courses or fields of study should result in the "award of a high school diploma or its equivalent, such as—(I) a general equivalency diploma; or (II) an alternative diploma or certificate for students with disabilities for whom such alternative diploma or certificate is appropriate); * * *". Congress understands that the great majority of students with disabilities can attain a regular high school diploma with reasonable accommodations. For those particular students with disabilities for whom a regular diploma cannot be attained with reasonable accommodations (as determined by their IEP), an alternative diploma or a certificate is given in lieu of a diploma.

Section 4(8) provides a definition of "partnership" which lists a number of examples of entities which may be included in the local entity responsible for local School-to-Work Opportunities programs. Congress intends that local partnerships include in their membership individuals who are knowledgeable about education services, transition services and/or vocational rehabilitation services for students and youth with disabilities, such as special educators, rehabilitation counselors, related services personnel, parents, representatives of community-based programs, community members and other experts with knowledge and expertise related to individuals with disabilities.

Section 4(20) provides a definition of "workplace mentor" to include "an employee or other individual approved by the employer * * *" For students with disabilities, a workplace mentor may include a coworker, or other individual such as a job coach, employment facilitator, work-study coordinator, special educator, vocational rehabilitation professional, and other individuals who provide specialized training and support to students with disabilities at the worksite. Such supports are readily acknowledged by employers as an effective means of assuring that students with disabilities learn and acquire job skills.

Title I, School-to-Work Opportunities Basic Program Components

Section 102 sets forth the basic requirements of the work-based learning component of the School-to-Work Opportunities program. Section 102(a)(1) requires that "paid work experience" be included as a basic re-

quirement of the work-based learning component. Congress intends that the terms "work" and "employment", as used in this bill include supported employment (as defined in the Rehabilitation Act of 1973) for those youth with disabilities who can benefit from such employment. Supported employment services or extended services have been successful as a means of providing individuals with disabilities, including individuals with the most significant disabilities, meaningful paid employment opportunities.

Section 102(a)(4) states that "instruction in general workplace competencies" is one of the requirements of the work-based learning component. Congress believes that the notion of "general workplace competencies" includes not only job-specific skills development, but also includes the development of social and other related competencies that are essential to successful workforce participation. Instruction in general workplace competencies includes instruction that focuses on social, interpersonal, and communication skills (including instruction in the use of augmentative communication for students who require such instruction), which will enable an individual to successfully interact with co-workers and respond to everyday demands and expectations.

Section 103(1) states that one of the requirements of the school-based learning component is "career exploration and counseling * * * in order to help students who may be interested to identify, select or reconsider, their interests, goals and career majors." This requirement is an important aspect of the program for all students, including students with disabilities. Congress notes the importance of identifying and considering the preferences and interests of the student. When students are given the opportunity to experience different work and career opportunities and to choose the one they want to pursue, the chances of achieving positive outcomes increases.

Congress also wishes to note that students with disabilities should be able to explore and select the same career majors as other students and may not be denied access based solely on their disability. Counselors assisting students with disabilities should be aware of the possible adaptations and accommodations, including environmental accommodations, job accommodations, and assistive technology devices that can increase, maintain or improve the functional capabilities of the student, and make it possible for the student to succeed.

Section 103(2) addresses another aspect of the school-based learning component that requires that an initial selection of a career major must occur "not later than the beginning of the 11th grade." Congress notes that some students with disabilities participate in "ungraded" educational programs. In these cases, the initial selection of a career major must occur not later than the equivalent of 11th grade. This is consistent with Part B of the Individuals with Disabilities Education Act (IDEA) which requires that a student's individualized education program include a statement of the needed transition services for students with disabilities beginning no later than age 16 and when appropriate, beginning at age 14 or younger. Congress notes that age 16 may be too late for many students, particularly those at risk of dropping out and those with the most significant disabilities. Beginning school-to-work transition services at age 14 or even younger could have a significant positive effect on the employment and independent living outcomes for many of those students.

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Section 103(4) specifies that regularly scheduled evaluations must be conducted to identify the strengths and weaknesses of the students and to identify the need for additional learning opportunities. Congress notes that this is consistent with the provisions of part B of IDEA which require that the IEP include "appropriate objective criteria and evaluation procedures and schedules for determining * * * whether instructional objectives are being achieved." For students with disabilities, the evaluations should be based on the objectives included in the IEP.

Section 104(7) specifies the requirement that information regarding post-program outcomes must be collected and analyzed. The systems developed under this Act for collecting and analyzing information regarding post-program outcomes must include information obtained from participants with disabilities. Congress wishes to emphasize the importance of including students with disabilities in these data collection and analysis efforts and notes with great concern the evidence of considerable exclusion of these students from various national and State data collection programs.

Title II, System Development and Implementation

Sections 202(b)(2) and 212(b)(3) include the requirement that the application for a development grant and a State plan must contain a description of how State officials will collaborate in the planning and development of the School-to-Work System. The Act recognizes that development of School-to-Work systems has begun in many States under other Federal legislation. Congress notes that over 30 States have begun "systems change" projects, funded under IDEA and focused on the development of systems to support the transition from school to work for students with disabilities. Congress intends that these projects will be included in States' planning, development and implementation efforts. Congress also encourages States to include among those other appropriate officials, State officials who are responsible for special education services, transition services, vocational rehabilitation services, and other human service agencies and community-based organizations that serve students and youth with disabilities.

Sections 202(b)(3) and 212(b)(4) include parents and students as examples of the types of individuals that should be involved in the planning, development and implementation of the Statewide School-to-Work System. Congress notes the importance of involving parents and students in all aspects of the system, and strongly encourages the involvement of individuals with disabilities and their parents. Community-based organizations are also listed in these sections, and include groups and organizations representing, or providing services for, individuals with disabilities. Congress understands that the extent of involvement of these groups and organizations can have a major effect on the number of individuals with disabilities identified and served.

The Act provides other examples of participants in the planning, development and implementation of the Statewide School-to-Work System, including "related services personnel." Related services personnel include rehabilitation counselors who are responsible for the coordination of the transition provisions in the IEPs under Part B of IDEA. They provide critical services and must be included in the school-to-work process if students with disabilities are going to participate in these programs. Other related services personnel include school counselors, psychologists, speech/language pathologists, audiologists, and social workers.

Also included as possible participants in the planning, development and implementation of the Statewide School-to-Work System are "human service agencies." Human service agencies often provide services that are critical to the successful employment of youth, particularly youth with disabilities. These services might include supported employment, independent living, service coordination, counseling, and transportation.

Sections 202(c)(2), 202(c)(6), and 212(b)(15) require that the State School-to-Work System identify local school-to-work transition programs and describe how the local programs can be coordinated with the State system. Congress expects that the State systems will identify and coordinate with secondary and postsecondary school-to-work programs serving students and youth with disabilities.

Section 202(c)(11) includes as a development activity, "designing challenging curricula * * * that take into account the diverse learning needs and abilities of the student population * * *" Congress believes that a challenging curriculum with high expectations is needed for all students, including students with disabilities. Congress recognizes that a range of individual performance will result, even when students successfully complete the curriculum. A method is needed for some students with disabilities that recognizes these students' diverse learning needs and abilities, but still provides a challenging curriculum.

Congress believes that youth with disabilities must be meaningfully engaged in a challenging curriculum that will assist them in developing competencies to adapt to emerging new technologies, work methods and training programs. Also, teachers and employment specialists must be trained in the unique and diverse competencies and learning needs of students with disabilities, with a broad understanding of continually emerging technology, adaptations, and other supports that are necessary for many students to meet with success at school and work.

Section 202(c)(13) states that activities undertaken to develop a school-to-work system may include analyzing post-high school employment experiences of recent high school graduates and drop-outs. Congress notes the importance of including students with disabilities, and that follow-up should include not only graduates and drop-outs, but students who may be awarded other types of completion certificates.

Section 212(b) describes the information required to be included in the State plan for a School-to-Work system. Section 212(b)(9) specifies that the State Plan must include a description of how the State will ensure effective and meaningful opportunities for all students to participate in the School-to-Work Program. The provision of effective and meaningful opportunities requires the program to take the necessary steps to ensure that students with disabilities have equal access to the School-to-Work Program.

Section 212(b)(11) specifies that the State Plan must contain a description of how the State will ensure opportunities for low achieving students, students with disabilities, and former students who have dropped out of school. Congress urges States to make use of research with respect to the successful demonstration projects, funded by the U.S. Office of Special Education and Rehabilitative Services (OSERS), on school-to-work transition services for students with disabil-

ities. Information on existing demonstration projects is available from the Regional Resource Centers and other OSERS-funded information clearinghouses.

Section 212(b)(12) states that the plan must include a description of "the State's process for assessing the skills and knowledge required in career majors, and awarding skill certificates that take into account the work of the National Skill Standards Board and the criteria established under Goals 2000: Educate America Act." Congress wishes to emphasize that the assessments or system of assessments must provide for the participation of students with diverse learning needs and for the adaptions and accommodations necessary to permit such participation. For some students with disabilities, accommodations may be required such as extended time limits, testing a student in a separate room, large print or braille versions of assessments, or use of a reader, scribe, sign language interpreter, or assistive technology. Generally a student should be provided with the same accommodations in assessment that are provided in instruction. For example if a student learns to perform a task in class with a reader, such accommodation should be provided in assessment.

Section 212(c) describes the requirement for a peer review process for State plans. Congress wishes to ensure that the peer review process includes representation of individuals knowledgeable about issues concerning access, eligibility, and accommodation that enable students with disabilities to fully participate in programs authorized under this Act.

Section 212(f)(2) specifies that the State implementation activities may include conducting outreach activities to support and promote collaboration in School-to-Work opportunities programs by businesses, labor organizations, and other organizations. For some students with disabilities, other organizations might include human services agencies and community-based organizations that could support students' participation in school-to-work programs. Congress recognizes that the often multiple problems of youth and their families must be addressed through collaborative efforts with community agencies and programs. Programs to be implemented through the State's school-to-work opportunities plan will need to reach out and collaborate with the larger network of community service agencies to address the multiple needs of students effectively. Collaboration will require education and community service agencies to establish joint goals and actions, and to pool resources to effectively serve young people and their families.

Section 212 includes the design or adaptation of model curricula as an allowable State implementation activity in section 212(f)(5), and as an allowable activity under State subgrants to partnerships in section 212(h)(2)(D). These curricula must address the needs of all students. As stated earlier, a challenging curriculum with high expectations is needed for all students, including students with disabilities, but a method is needed for some students with disabilities that recognizes these students' diverse learning needs and abilities.

Title IV, National Programs

Section 402 directs the Secretaries of Education and Labor, in collaboration with the States, to establish a system of performance measures for assessing State and local programs, through grants, contracts or otherwise. This section also directs the Secretaries to conduct a national evaluation of the School-to-Work program and requires States to provide periodic reports. Congress notes that all students, including students with disabilities, must be part of the system of performance measures and the national evaluation, and that data from students with disabilities must be included in any performance outcome and evaluation reports. Congress emphasizes the inclusion of students with disabilities because of the evidence of exclusion of these students from National and State data programs.

The System must facilitate and in no way impede the accomplishment of the goals and objectives of this legislation, the ADA, part B of IDEA, and section 504 of the Rehabilitation Act of 1973. For example, the system of performance measures must encourage, not discourage, local educational officials, principals, teachers, and employers to include, not exclude youth with disabilities.

Congress encourages the Secretaries to establish a system of performance measures that collects and reports separate data on students with specific characteristics. This will allow the national evaluation to determine the effectiveness of the School-to-Work program for all students. Congress expects that the report will separately report data applicable to students with disabilities to the extent that separate data are reported for other groups with specific characteristics.

With respect to outcome data for students, Congress notes that it may be worthwhile to consider a broad array of post-school outcomes, beyond the traditional information on employment rates and postsecondary training. An array of outcomes that may be important to consider have been derived through a broad-based consensus process by the National Center for Educational Outcomes at the University of Minnesota.

Section 403(d) authorizes the establishment of a Clearinghouse and Capacity Building Network, referred to as the Clearinghouse. Section 403(d)(3) specifies that the Secretaries "shall coordinate the activities of the Clearinghouse with other similar entities to avoid duplication and enhance the sharing of relevant information." Congress intends that the activities of the network will be coordinated with the related clearinghouses and technical assistance centers authorized under IDEA, including the clearinghouse on postsecondary education for individuals with disabilities, the clearinghouse on children and youth with disabilities, the Federal and Regional Resource Centers, and the project to evaluate the State systems change projects in the area of transition services, under section 626 of IDEA.

Title V, General Provisions

With respect to waivers authorized under sections 502 and 503 of the Act, Congress wishes to make it clear that neither the Secretary of Education, the Secretary of Labor, nor a State agency is authorized under this section to waive any statutory or regulatory requirement under section 504 of the Rehabilitation Act of 1973, the ADA, or Part B of IDEA.

Section 505 addresses the safeguards that apply to the School-to-Work Program. Congress notes that nothing in this Act shall be construed to modify or affect the Fair Labor Standards Act. In an effort to stimulate state and local implementation of school-to-work programming for students with disabilities, the U.S. Department of Education, Office of Special Education and Rehabilitative Services, has developed working agreements with the Social Security Administration to ensure greater use of employment incentives, and the U.S. Department of Labor to provide guidance to educational agencies to ensure that programs are operated in compliance with the Fair Labor Standards Act.

Mrs. FEINSTEIN. Mr. President, I rise in support of S. 1361, the School-to-Work Opportunities Act, of which I am a proud cosponsor. With this legislation, the United States will begin to benefit from a national network of school-to-work transition programs, which many other industrialized countries have used for decades.

THE PROBLEM

My State of California is quickly moving toward a high-skill, high-wage economy, creating a tremendous need for improved school-to-work programs.

In California, it has become increasingly difficult for students without strong work skills or advanced degrees to find good jobs. And yet, most high school curricula and Federal programs are still geared toward college-bound youth; high schools have not been encouraged to engage the interests or address the needs of students who are at risk of dropping out or who are not interested in working toward a bachelor's degree. Instead, these young people typically float from low-wage job to low-wage job, sometimes not gaining full-time employment with full benefits for a number of years.

As the skills demanded in many California workplaces have increased in complexity, employers have been forced to hire workers from other countries or provide their own in-house training programs, because there are so few young people who are prepared to enter these jobs in the computer industry, health care, graphics and printing, and tourism.

SCHOOL-TO-WORK PROGRAMS IN CALIFORNIA

In California, education programs designed for students who are not planning to go on for a 4-year college degree have enjoyed a much-needed resurgence:

First, businesses have become more and more involved in helping schools prepare their future employees;

Second, secondary schools are cooperating closely with community colleges in new ways; and,

Third, experience-based learning is joining traditional classroom teaching as a potent way to engage the interest of at-risk students.

With this new emphasis on job skills, a variety of school-to-work programs help move students from early career awareness activities such as field trips, through internships, summer employment, and structured part-time work experiences during school—all coordinated with classroom learning.

In many areas, these programs have been shown to lower dropout rates, improve academic achievement, increase post-matriculation rates.

DIVERSE PROGRAMS IN CALIFORNIA

Using State and local funds and competitive grant funding from the Council

of Chief State School Officers and the U.S. Department of Labor, California has developed all four of the different school-to-work models that are part of this national legislation.

Career academies: Over 60 career academies, also called career partnerships, provide the foundation on which school-to-work programs are being built in California. Operating as small schools-within-schools of around 100 students, career academies link classroom learning to occupations such as printing, tourism, and health, so that students have work experience and related training before they even graduate from high school. Forging strong links with local employers, many academies include mentoring programs in addition to work experience components.

Tech-Prep: In California, there are also roughly 80 Tech-Prep programs, which link job-related training during the last 2 years of high school education to an associate degree at a local community college. Following the Tech-Prep model, almost all of the State's 107 community colleges have entered into collaboration with over 400 high schools, in order to better coordinate curricula and help smooth the transition from high school to community college.

Youth apprenticeship: Several new youth apprenticeship programs have begun around the State. In youth apprenticeship programs, students work as apprentices in traditional fields such as carpentry and in occupations such as banking that are new to the apprenticeship system in the United States. At the same time, students take related coursework at a high school or technical trade school.

Cooperative education: With the support of regional occupational program career centers, there are roughly 200,000 students participating in cooperative education, which is an established vocational education model that helps students coordinated part time paid and unpaid work during high school.

MODEL CALIFORNIA PROGRAMS

Within the State, there are several school-to-work demonstration projects that have been recognized for their excellence and innovation in Oakland, Fresno, East San Gabriel, and Pasadena.

The Health and Biosciences Academy at Oakland Technical High School is a demonstration project for the California Partnership Academies.

The program was developed through employer interest in the biosciences program in Oakland was originated by the local school district and targets at-risk students in a school-within-a-school setting.

There is a strong emphasis on integrating academic and technical skills, and the curriculum includes both classroom and practical applications.

The East San Gabriel apparel and accessories marketing program is a cooperative education project that recruits high-risk students and makes use of the Federal targeted job tax credit to encourage employers to offer job placements to young people in the program.

The program includes classroom learning, internships, job shadowing opportunities, and part-time work.

The program is coordinated with courses offered at nearby trade and technical schools, and has been shown to reduce dropout rates.

The program has been designated a school-to-work demonstration site and was given an outstanding vocational-technical education project award by the U.S. Secretary of Education in 1990.

The Pasadena Health Academy was the first of seven academies and three preacademies established by Pasadena Unified School District.

Like other academies, the Health Academy teaches the basic academic subjects while incorporating skills and activities related to the professional theme in each lesson.

One day a week, Health Academy students volunteer at local hospitals, and many of them also take class at Pasadena Community College.

CONCLUSION

The need for improved school-to-work transition programs is great. California has developed extensive and innovative programs to fill this need, but thus far Federal funds and programmatic leadership have been insufficient. Funds authorized under this bill will go toward bringing school-to-work programs up to scale in several States. Because of its previous achievements, I feel that California will be a strong contender for one of these grants.

I urge my colleagues to join me in supporting the enactment of the School-to-Work Opportunities Act.

Mr. METZENBAUM. Mr. President, Senator SIMON and I have agreed to correct an error included in the committee report on S. 1361, the School-to-Work Opportunities Act. The error concerns the entities eligible to administer the school-to-work program. As adopted by the Senate Committee on Labor and Human Resources, S. 1361 makes clear that only members of the local partnership may administer the school-to-work program. The report filed by the committee erroneously implies that entities outside of the local partnership may administer the program. I have asked Senator SIMON to make sure that this language is corrected in conference and he has assured me that the final bill and report language will reflect our agreement that only local partnership entities may administer the school-to-work program.

Mr. SIMON. Senator METZENBAUM and I both agree that the committee report language was in error and that the final conference version of the bill should properly reflect the intention of the committee.

Mr. METZENBAUM. I thank my good friend and colleague for his assistance and support.

MORNING BUSINESS

THE KILLING OF PATROLMAN STEVEN MICHAEL SHAW AND THE BATTLE AGAINST GUN VIOLENCE

Mr. PELL. Mr. President, I bring to the Senate's attention today a tragedy which occurred on the streets in Providence this past week and which occurs with frightening and intolerable frequency throughout this country. Last Thursday afternoon, Patrolman Steven Michael Shaw of the Providence Police Department was shot and killed while in the line of duty. By all accounts, Patrolman Shaw was a superior officer who loved his job and who was particularly noted for his engagement in the most difficult aspects of his work. The city of Providence and Rhode Island will greatly miss his service, rendered in the proud tradition of the finest of our police officers: quietly and heretofore unheralded in the public sphere. I extend to Patrolman Shaw's family and friends my heartfelt sympathy in this time of loss and wish to assure them that I and my office stand ready to assist them in whatever manner is possible as they cope with this tragic death.

Mr. President, Patrolman Shaw's death raises yet again the ugly specter of the prevalence of gun violence in our society. We are growing accustomed to hearing of shootings and killings occurring daily in our streets, homes, and neighborhoods. In the case of Patrolman Shaw, he was shot while in pursuit of a robbery suspect who had stolen three purses. Moreover, he was shot while searching the bedroom of a home where a 5-year-old sat watching a children's television program. People are shooting and killing with seemingly no regard at all to human life. Children are carrying guns and weapons to school on a regular basis. What has our society come to? More importantly, why cannot we do anything about it?

Long-term solutions are not easy and the coordination of several different policies will be necessary if anything we do is to have a lasting effect. But it becomes more and more clear to me that with each passing day, we must do what we can in the immediate term to curb the violence facilitated by guns in our society. In this regard, I believe we must push for faster consideration and implementation of reasonable and effective laws which control the proliferation of guns and their use in our society. No other industrialized country in the world permits the ease of access and purchase of guns and ammuni-

tion than we do. And, I believe, not just coincidentally no other industrialized country has even a fraction of the level of gun violence that we do. I fully realize that controlling guns is not the sole magic answer to the problem of gun violence in our society. Nevertheless, as we sort out what else we can do, it borders on the criminal to not go forward with the policy options available now.

Again, I pay tribute to the service that Patrolman Shaw paid to the city of Providence and the State of Rhode Island. I also salute the continuing efforts of the officers which carry on in their jobs in the streets today. We owe it to them and the citizens they protect every effort we can muster here in the Senate to provide safer streets in which to work and live. May the day come before too long where handguns are removed from the public access, as they are all too available now.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

RETIREMENT OF COL. HENRY L. CYR, JR.

Mr. KENNEDY. Mr. President. I am honored to take this opportunity to congratulate Col. Henry L. Cyr, Jr., of Hopedale, MA, upon his retirement later this month from the U.S. Air Force.

In 1967, Colonel Cyr graduated from Holy Cross College in Worcester and became a commissioned officer through the Air Force ROTC program. Since then, Colonel Cyr has served with great distinction in many locations throughout the United States and abroad. Time and again, he and the units he has served have been recognized with some of the highest awards that the Air Force bestows upon its members.

In 1971, Colonel Cyr received the Air Force Outstanding Unit Award given for his work as the first commander of the Air Force Communications Command Non-Commissioned Officer Academy at the Richards-Gebaur Air Force Base in Missouri. From 1978 to 1980, Colonel Cyr was the Chief of the Consolidated Base Personnel Office at Incirlik Air Base in Turkey, where he earned the Humanitarian Service Medal for his assistance in the evacuation of Americans from Iran during that difficult period in our recent history.

Colonel Cyr had served in the Pentagon from 1973 to 1978, and he returned there in 1989. He served as Chief of the Contingency and Joint Matters Division during Desert Shield/Desert Storm. He was also involved in operations in the former Yugoslavia, Somalia, and Haiti, as well as those following the eruption of Mount Pinatubo in the Philippines and Hurricane Andrew in Florida. His efforts helped the Combat Operations Staff earn the Organizational Excellence Award.

I commend Colonel Cyr for his outstanding contribution to the Air Force and the Nation. I also express my gratitude and appreciation to his family—his wife Geraldine; his son Henry, who is following in his father's footsteps as a captain in the Air Force; his daughter Alicia Stenard, who is a school teacher in North Carolina, and his son Matthew, who is a junior at James Madison University in Harrisonburg, VA.

Finally, it has also been a privilege to hear from many of Colonel Cyr's colleagues, who have clearly admired his ability and have enjoyed serving with him. I congratulate Colonel Cyr on his extraordinary service, and I wish him well in the years ahead.

A DIFFERENT APPROACH TO EFFECTIVE EDUCATION

Mr. HATFIELD. Mr. President, as we confront a "Nation at Risk" with new multibillion-dollar education reform measures and as we seek to solve our Nation's education crisis through comprehensive programs, policies and appropriations, it is refreshing to know that there are those in America who provide a quality education without massive Federal assistance.

It is a humble reminder to Federal policymakers that regardless of the resources we put forward, it takes a true commitment to our children to implement meaningful school reform. In the tiny Oregon town of Mitchell, population 185, that commitment is evident on a daily basis. The residents of Mitchell have found that a combination of rural life and old fashioned discipline can translate into a meaningful and practical education for their young people.

Mitchell has turned its public high school into a boarding school. For an additional monthly fee of $75, students live at school in a community of their peers—the experience is viewed as an alternative to expensive private schools. Students are encouraged to make studying a priority, because there are no "hangouts" in Mitchell, just a couple of stores, a gas station, a post office. The Mitchell school district maintains a staff of four teachers—professionals who wear many hats. Michael Carroll, the school superintendent, serves as the principal, athletic director, Spanish teacher, and substitute bus driver.

The staff of the Mitchell School District do not offer any magical secrets as to the school's success, yet currently there is a waiting list of 25 students. Dennis Dalton, math and science teacher, states that "kids learn to get lost in the big schools. There is no way to get lost here. Everybody is noticed."

The Mitchell school district has capitalized on a principle that often gets overlooked in the debate over standards in education, global competitiveness, and tuition vouchers—an honest concern for the student. In Mitchell, the discipline is stricter than in most public schools, but if the students do not want to be there they are welcome to leave. Yet, students are clamoring to get in. Mitchell provides an opportunity, a choice, for students who want it.

I ask unanimous consent that an article detailing this unique school be included in the RECORD following my remarks.

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

RURAL OREGON SCHOOL OFFERS CITY KIDS A CHANCE

(By David Foster)

MITCHELL, OR.—Jaime McLawhorn, 18, needed a change of scene. Her grades were in the gutter and her friends were drifting toward drugs, alcohol and trouble.

When she heard about a public boarding school in this central Oregon town, she thought she might find support here for starting over, far from the temptations of her old school in a Portland suburb.

First, however, she had to find Mitchell.

After a 200-mile drive into the lonely sagebrush hills of Oregon's high desert, Jaime and her mother went straight through town without realizing it.

"It looked like a little ghost town," Jaime recalled. "I said, 'Where are the hangouts? Where's the pizza parlor? Where's the 7-11?'"

Mitchell, population 185, has none of those things. Indeed, Mitchell has not much of anything—and that's precisely the point of an unusual experiment in public education taking place here.

Mitchell has turned its public high school into a boarding school, taking in students from afar and giving them a taste of rural life, some old fashioned discipline, and a chance to stay out of trouble.

"There isn't much to do in Mitchell and we try to make studying a priority," said Michael Carroll, school superintendent. He is also principal, athletic director, Spanish teacher and substitute bus driver.

Students like Jaime, who pay only a $75 monthly dormitory fee, see Mitchell's boarding school as a cheap alternative to private school.

For every student enrolled, Mitchell School District gets $4,500 from the state. By adding dorm students to keep enrollment steady, the high school can pay its four teachers and maintain its programs.

The dorm—three singlewide trailers stuck together near the football field—opened in September 1992. Its 14 beds, half for girls, half for boys, have been filled since February, with a waiting list of 25.

For some new students, the culture shock is severe.

From the school's hillside perch, a potholed road passes 50 or so houses before dropping down to Mitchell's business district: two stores, a gas station, three cafes and a post office.

That's about it. Outside town, cattle and sheep roam the valleys; logging roads climb into the forested hills. Mitchell is a place where they play country western music at school dances, a place where kids can walk

the streets at night, provided they watch for deer bounding by.

It's also a place where people are expected to pull their own weight.

"Kids learn to get lost in the big schools," said Dennis Dalton, math and science teacher. "There's no way to get lost here. Everybody is noticed."

Mitchell is not running a reform school—a record of violence is the one automatic disqualifier for applicants—but discipline is stricter than at most public schools.

Dorm students must do 30 minutes of homework each night before lights go out at 10:15 p.m. for every D, an extra half-hour of homework is required; for every F, one hour.

"If they don't want to be here, then we don't want them," Carroll said. "We're set up for the kid who wants to come here, wants to do well, and wants to get along.

Dorm life revolves around Margaret McDaniel, 44, a divorced mother hired to live there. The kids call her Mom, and she's always home when they get out of school, baking cookies, brokering arguments, bugging them to do their homework. For some students, she provides a sense of security they never got at home.

ALL MUST WORK TOGETHER TO SOLVE CRIME PROBLEM

Mr. HELMS. Mr. President, the North Carolina's General Assembly will convene tomorrow in special session to address the problem of crime. Last week, Governor Hunt was in Washington and he came by to consult with me about his proposed, comprehensive crime package that includes many worthy proposals—some similar to those that some of us have advocated for years.

I hope Governor Hunt will support the outright repeal of the prison cap that is forcing the early release of criminals in North Carolina. Tough prison sentences won't do much good if felons in prison are put back out on the street because of prison caps and prison overcrowding.

Mr. President, I offered an amendment to the Senate's crime bill on November 17 to make it easier to repeal the prison cap and make it tougher for Federal courts to take over State prison systems because of overcrowding. It passed the Senate, 68 to 31, and I hope the amendment will become law.

Mr. President, we must work together to deal with the crime epidemic. The American people are fed up with the crime wave that is taking over our country. Consider this headline in a Raleigh newspaper: "Teenager shot to death outside video store." A 19-year-old man was gunned down while locking up the video store where he was working a second job.

All of us must work together to stop the violence terrorizing our Nation. Criminals no longer fear the law—they know that it's unlikely they'll get caught; if and when caught, they rarely get prison sentences; and if the criminal goes to prison, he knows he'll be out in no time. Criminals laugh at the system.

As the legislators gather in Raleigh, I hope they agree that we can no longer tolerate this lenient system of justice. It's time for drastic action. For starters, we need tough penalties for using a gun in a crime; we need more prisons and we must stop the early release of prisoners.

That is why Senator GRAMM, and I, and others, introduced a bill 2 weeks ago that includes the toughest provisions from the Senate crime bill—provisions that may be kicked out of the final bill. The Gramm-Helms bill gets tough on criminals:

First, it requires a mandatory 10 year prison term if a criminal uses a gun; 20 years if he fires the gun; and a life term if he kills someone; second, it creates 10 regional prisons; third, it contains the three strikes, your out provision—where after a third violent crime a criminal gets life in prison; and fourth, it includes the Helms prison cap amendment that limits the ability of judges to impose caps on prison population—caps that force the early release of prisoners.

This bill says, If you commit a serious crime you will definitely do serious time—no if, ands or buts about it.

Mr. President, I feel strongly that we must keep violent criminals locked up instead of granting them early release. Thousands of criminals are released early and they often strike again, committing murders and rapes that wouldn't have happened if North Carolina did not have a prison cap.

If the State had not had a prison cap, Michael Jordan's father would not have been killed; and two police officers in Charlotte, and Steve Stafford of Winston-Salem, would still be alive. All these murders were committed by criminals who had been given early release.

Some Federal courts have said you can't stack prison bunks three high. What's worse, to stack prison bunks three high or to let killers back on the street to kill innocent citizens like James Jordan, or police officers Andy Nobles and John Burnett?

Mr. President, the Gramm-Helms bill will help keep criminals behind bars. It will create 10 regional prisons and make it more difficult to impose unreasonable prison caps.

Finally, Mr. President, this bill imposes tough sentences on criminals who use guns. If a criminal uses a gun during a crime, he'll get an automatic 10 years in prison; if he shoots the gun, an automatic 20 years in prison—with no parole. This bill will make criminals think twice before they use a gun.

Most of us heard President Clinton's State of the Union Address where he stated the Congress should pass a crime bill. But his Democrat colleagues may drop the most important provisions from the Senate crime bill. The President should insist that his Democrat colleagues in Congress include these provisions in the final bill. It is one thing to talk tough on crime; it's another to do something that will in fact protect society.

I realize that this bill is not a cure all. The moral foundation of this Nation is crumbling. We must also restore the family unit and moral values in this country—values like personal responsibility, discipline and respect for the law.

In the meantime, the Gramm-Helms bill is a step in the right direction.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt stood at $4,516,285,879,522.82 as of the close of business on Friday, February 4. Averaged out, every man, woman, and child in America owes a part of this massive debt, and that per capita share is $17,322.96.

TRIBUTE TO BEATRICE FRIEDMAN

Mr. GRAHAM. Mr. President, on February 14, 1994 the Institute of Human Relations of the American Jewish Committee will honor Beatrice Friedman with their prestigious 1994 human relations award.

Mrs. Friedman is an avid supporter of cultural and Jewish community activities. Her involvement in the Sarasota-Manatee Jewish Federation and the West Coast Symphony are unparalleled.

She is currently treasurer of the Sarasota-Manatee Jewish Federation, vice-chair of the Sarasota-Manatee Foundation, and chair of the federation's leadership circle.

Mrs. Friedman has long played an instrumental role in fundraising for the Sarasota West Coast Symphony. She led the way in a monumental campaign that raised $360,000 in endowment funds for the symphony qualifying the orchestra for a matching grant of $240,000. In addition, she has endowed the principal cellist chair, established a series of concerts in memory of her late husband Allan Friedman, and currently chairs the symphony's endowment committee.

Mrs. Friedman is active in the Albert Einstein Peace Prize Foundation, as well as the American Jewish Committee. Her tireless efforts to help others should serve as an example to us all. She is an exemplary role model, both in the Jewish community and throughout Sarasota.

Mr. President, to Mrs. Beatrice Friedman, I would like to extend my sincerest appreciation. The people of Sarasota are truly fortunate to be in the company of such a devoted and generous philanthropist.

REPORT OF THE BUDGET OF THE UNITED STATES GOVERNMENT FOR FISCAL YEAR 1995—MESSAGE FROM THE PRESIDENT—PM 84

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; referred jointly, pursuant to the order of January 30, 1975, to the Committee on the Budget, and to the Committee on Appropriations.

To the Congress of the United States:

The Federal Year 1995 budget, which I transmit to you with this message, builds on the strong foundation of deficit reduction, economic growth, and jobs that we established together last year. By encouraging private investment—and undertaking public investment to produce more and higher-paying jobs, and to prepare today's workers and our children to hold these jobs—we are renewing the American dream.

The budget continues to reverse the priorities of the past, carrying on in the new direction we embraced last year:

—It keeps deficits on a downward path;

—It continues our program of investment in long-term economic growth, in fighting crime, and in the skills of our children and our workers; and

—It sets the stage for health care reform, which is critical to our economical and fiscal future.

When I took office a year ago, the budget and economic outlook for our country was bleak. Twelve years of borrow-and-spend budget policies and trickle-down economics had put deficits on a rapid upward trajectory, left the economy struggling to emerge from recession, and given middle class taxpayers the sense that their government had abandoned them.

Perhaps most seriously, the enduring American dream—that each generation passes on a better life to its children—was under siege, threatened by policies and attitudes that stressed today at the expense of tomorrow, speculative profits at the expense of long-term growth, and wasteful spending at the expense of our children's future.

A year later, the picture is brighter. The enactment of my budget plan in 1993, embodying the commitment we have made to invest in our future, has contributed to a strengthening economic recovery, a clear downward trend in budget deficits, and the beginnings of a renewed confidence among our people. We have ended drift and broken the gridlock of the past. A Congress and a President are finally working together to confront our country's problems.

Serious challenges remain. Not all of our people are participating in the recovery; some regions are lagging behind the rest of the country. Layoffs continue as a result of the restructuring taking place in American business and the end of the Cold War.

Rising health care costs remain a major threat to our families and businesses, to the economy, and to our progress on budget deficits. Our welfare system must be transformed to encourage work and responsibility. And our Nation, communities, and families face the ever-increasing threat of crime and violence in our streets, a threat which degrades the quality of life for Americans regardless of where they live.

We will confront these challenges this year, by acting on health care reform, welfare reform, and the crime bill now under consideration in the Congress, and by continuing to build on our economic plan, with further progress on deficits, and investments in our people as well as in research, technology, and infrastructure.

WHAT WE INHERITED

When our Administration took office, the budget deficit was high and headed higher—to $302 billion in 1995 and well over $400 billion by the end of the decade.

When our Administration took office, the middle class was feeling the effects of the tax changes of the 1980s, which had radically shifted the Federal tax burden from the wealthy to those less well off. From the late 1970s to 1990, tax rates for the wealthiest Americans had declined, while rates for most other Americans had increased.

When our administration took office, the economy was still struggling to break out of recession, with few new jobs and continuing high interest rates. In 1992, mortgage rates averaged well over eight percent. Unemployment at the end of 1992 stood at 7.3 percent, and barely a million jobs had been added to the economy in the previous four years. The outlook for the future was slow productivity growth, stagnant wages, and rising inequality—as sagging consumer confidence demonstrated.

A NEW DIRECTION

Today, whether it is the deficit, fairness, or the status of the economy, the situation is much improved.

The budget I am submitting today projects a deficit of $176 billion, a drop of $126 billion from where it would have been without our plan. If the declines we project in the deficits for 1994 and 1995 take place, it will be the first time deficits have declined three years running since Harry Truman occupied the Oval Office.

The disciplines we have put into place are working.

We have frozen discretionary spending. Except in emergencies, we cannot spend an additional dime on any program unless we cut it from another part of the budget. We are reducing low-priority spending to fulfill the promise of deficit reduction as well as to fund limited, targeted investments in our future. Some 340 discretionary programs were cut in 1994, and our new budget cuts a similar number of programs. These are not the kind of cuts where you end up spending more money. These are true cuts, where you actually spend less. Total discretionary spending is lower than the previous year—again, in straight dollar terms, with no allowance for inflation.

As for entitlement spending, the Omnibus Budget Reconciliation Act of 1993 achieved nearly $100 billion in savings from nearly every major entitlement program. Pay-as-you-go rules prevent new entitlement spending that is not paid for, and I have issued an executive order which imposes the first real discipline on unanticipated increases in these programs. For the future, health care reform will address the fastest growing entitlement programs—Medicare and Medicaid—which make up the bulk of spending growth in future budgets, and the Bipartisan Commission on Entitlement Reform, which I have established by executive order, will examine the possibility of additional entitlement savings.

While we have imposed tough disciplines, there is one more needed tool. The modified line-item veto, which would provide Presidents with enhanced rescission authority, has already been adopted by the House as H.R. 1578. If enacted, it will enable Presidents to single out questionable items in appropriations bills and require that they be subject to an up-or-down majority vote in the Congress. I think that makes sense, and it preserves the ability of a majority in Congress to make appropriations decisions.

In addition to budget discipline, we made dramatic changes that restored fairness to the tax code. We made the distribution of the income tax burden far more equitable by raising income tax rates on only the richest 1.2 percent of our people—couples with income over $180,000—and by substantially increasing the Earned Income Tax Credit for 15 million low-income working families. Thus, nearly 99 percent of taxpayers will find out this year that their income tax rates have not been increased.

RESULTS

Finally, the most significant result of our commitment to changing how Washington does business is growing economic confidence. Investment is up—in businesses, in residences, and in consumer durables; real investment in equipment grew seven times as fast in 1993 as over the preceding four years. Mortgage rates are at their lowest level in decades. Nearly two million more Americans are working than were working a year ago, twice as great an increase in one year as was achieved in the previous four years combined; and the rate of unemployment at the end of

1993 was down to 6.4 percent, a drop of nearly a full percentage point.

The fundamentals are solid and strong, and we are building for the future with a steady and sustainable expansion.

THE ECONOMIC PLAN

How did all this happen? Our economic plan had three fundamental components:

DEFICIT REDUCTION

First, the introduction and eventual enactment of our $500 billion deficit-reduction plan—the largest in history—brought the deficit down from 4.9 percent of GDP, where it was in 1992, to a projected 2.5 percent of GDP in 1995 and 2.3 percent of GDP in 1999. This substantially eased pressure on interest rates by reducing the Federal Government's demand for credit and by convincing the markets of our resolve in reducing deficits. Those lower interest rates encouraged businesses to invest, and convinced families to buy new homes and automobiles, along with other durable goods.

INVESTMENT

Second, we proposed, and Congress largely provided, a set of fully paid-for measures to encourage private investment (beyond the inducement provided by deficit reduction) and commit public investment to our country's future. The first component was making nine out of ten businesses eligible for tax incentives to invest in future growth—including a major expansion of the expensing allowance for small businesses and a new capital gains incentive for long-term investments in new businesses.

The second component was public investment in the future: in infrastructure, technology, skills, and security. These investments are directed toward preparing today's workers and our children for the new, higher-paying jobs of the modern economy; repairing and expanding our transportation and environmental infrastructure; fighting crime; expanding our Nation's technological base; and increasing our health and scientific research.

Among other things, we greatly expanded the very successful Head Start program and WIC nutrition program for pregnant women, infants, and young children; provided a major increase to fulfill the mandate of the Intermodal Surface Transportation Efficiency Act (ISTEA) authorization; provided initial funding for the National Service Act and new funding for educational reforms and other education and training initiatives; began the process of fulfilling my goal of putting another 100,000 police officers on the streets of our cities and towns; and provided additional resources for urban and rural development.

TRADE

Finally, our long-term economic strategy depends on the expansion of our international trade markets. In 1993, we did more than at any time in the past two generations to open world markets for American products. The ratification of the North America Free Trade Agreement (NAFTA) establishes the largest market in the world. By lowering tariffs on our exports to Mexico, the agreement is going to increase jobs in this country—and, if previous experience is a guide, they will mostly be high-paying jobs.

We also completed work on the Uruguay Round of the General Agreement on Tariffs and Trade (GATT), a worldwide agreement to reduce tariffs and other trade barriers that will also create high-paying jobs and spur economic growth in this country.

In addition, we established the U.S.-Japan Framework for a New Economic Partnership so that we can work to increase Japanese imports of U.S. goods and services and promote international competitiveness. And to relieve unnecessary burdens on U.S. businesses, we eliminated unneeded export controls on certain technology to encourage exports of U.S. high-technology products.

THE YEAR AHEAD

In 1994, we will build on the strong foundation we laid in 1993.

FISCAL DISCIPLINE

We continue to implement the $500 billion in deficit reduction from last year's reconciliation bill. To achieve the required hard freeze in discretionary spending and make needed investments, we propose new cuts in some 300 specific non-defense programs. That includes the termination of more than 100 programs. Many of these savings will be controversial, but we have little choice if we are going to meet our budget goals.

On the other side of the ledger, this budget contains no new tax increases.

NEW INVESTMENT

The investments in this budget continue to target jobs, education, research, technology, infrastructure, health, and crime.

INVESTING IN PEOPLE

First and foremost, the goal of our economic strategy is to provide more and better paying jobs for our people—both today and in the future—and to educate and train them so that they are prepared to do those jobs.

The budget contains a major workforce security initiative to promote job training and reemployment. In the past, government has provided workers who lost their jobs with temporary unemployment benefits to tide them over, and little else. But in this new era, when the fundamental restructuring of our economy is causing permanent layoffs and the virtual shutdown of entire industries, we need to create a reemployment system.

This budget begins the process of establishing that system, which ultimately will give dislocated workers easier access to retraining, job-search, and other services designed not only to help them through a difficult period but also to prepare them to thrive in productive, new jobs.

We also continue to invest in our most precious resource—our children—with proven, effective programs, as well as with new initiatives to confront the problems of a changing society.

We propose to expand funding for the school-to-work program, which will provide apprenticeship training for high school students who do not plan to attend college. And our budget expands the national service program, which gives our young people an opportunity to serve their communities and earn money towards college.

We provide strong support for the Goals 2000 program, which I hope Congress will enact early this year, to help local school systems reform themselves to educate our children for the 21st century. We must set high standards for all of our children, while providing them with the opportunity they deserve to learn.

We also provide major increases for WIC and for Head Start, which we will seek to improve as well. And we significantly expand and better target the Title I program, which focuses on needy children to make sure they can take full advantage of our educational system.

INVESTING IN KNOW-HOW

America has always sought to be the world's leader in science and technology. In some arenas in recent years, we have lost that status. But in the remainder of this decade and in the 21st century, we must be sure that the United States is on the cutting edge of research and technological advances.

To that end, the 1995 budget proposes critical investments in the National Institute of Standards and Technology's Advanced Technology Program; NASA's research, space, and technology programs; the National Science Foundation; the information superhighway, on which the Vice President has worked so hard; and energy research and development.

In addition, I am determined to continue assisting the industries and communities which have supported our Nation's defense as we continue the defense downsizing that began in the mid-1980's and accelerated in the early 1990's with the end of the Cold War.

I am proposing significant investments in the Technology Reinvestment Project, which will work with the private sector to encourage the development and application of dual-use technologies. And the budget also includes additional resources for the Office of Economic Adjustment, which provides planning grants to communities as they convert their local economies to profitable peacetime endeavors.

INVESTING IN PHYSICAL CAPITAL

The Nation's capital infrastructure and the economies of too many urban

and rural communities have suffered too long from neglect. Last year, we began to address these shortfalls, and in 1995, we propose to continue these initiatives.

We propose, first, to continue full funding of core highway programs within the ISTEA transportation authorization act, as well as a substantial increase in Mass Transit Capital Grants. To help provide this level of funding, the budget proposes rescission of many highway demonstration projects, which frequently are an inefficient allocation of taxpayers' dollars.

In addition, we propose to continue the restoration of our environmental infrastructure with investments in the technologies of the future under the Clean Water Act and other environmental programs.

Last year, we enacted legislation to establish urban and rural Empowerment Zones. This year, we will designate those zones, as well as enterprise communities, to attract investment to neglected communities and provide the kinds of services needed to support economic development.

In this budget, HUD outlays for housing assistance, services to the homeless, and development aid to distressed communities will increase substantially, with aid to the homeless nearly doubling from the previous year. Both housing aid to families and aid to the homeless will be restructured to support transitions to economic independence.

I also propose to continue our rural development initiative, with grants and loans that represent a 35-percent increase over the previous year. This assistance will provide for improved rural infrastructure and services, such as water treatment facilities and rural health clinics, increase rural employment, further diversify rural economies, and provide rural housing opportunities by expanding assistance to allow low- and moderate-income residents to become homeowners.

INVESTING IN QUALITY OF LIFE

This budget continues our efforts to enhance environmental protection and preserve our natural resources.

We propose both to strengthen the stewardship of these resources and improve environmental regulatory and management programs. We increase state revolving funds for clean water and drinking water, and we propose the establishment of four ecosystem management pilot projects. In addition, we are proposing significant improvements and reforms in the Superfund program, as well as important international environmental initiatives.

HEALTH CARE REFORM

Enactment of health care reform, with its focus on controlling health care costs, is the key to making even greater progress on deficits. Indeed, if the Congress adopts the Health Security Act in 1994, we believe that deficits will fall to 2.1 percent of GDP in fiscal year 1999, the lowest since 1979.

Of course, deficit reduction is only one reason for health care reform. Providing health security to every American, with a package of comprehensive benefits through private health insurance that can never be taken away, is critical not only to long-term budget restraint but also to long-term economic growth, to the productivity of our workers and businesses, and to the health and peace of mind of all Americans.

With some 58 million Americans lacking insurance at some time during the year, with the estimated 81 million Americans with preexisting conditions paying more, unable to get insurance, or not changing jobs for fear of losing their insurance; with the small businesses that cover their workers—and a majority do—burdened by the skyrocketing cost of insurance, which is 35 percent higher for them than it is for big business and government; and with 76 percent of Americans carrying policies that contain life-time limits, which can leave them without coverage when they need it most—this country is facing a health care crisis. And we must confront it now.

In addition to our health care reform effort, the 1995 budget contains key investments in health care and research. We propose the largest increase ever requested in research funds for the National Institutes of Health. This national treasure not only keeps our Nation in the forefront of health research but has demonstrably saved millions of lives and improved the quality of millions more. The additional investment we propose will help NIH with its research in many areas, from AIDS to heart problems, from mental health to breast cancer.

WELFARE REFORM

A major initiative for my Administration has been and will continue to be overhauling our welfare system. We must reward work, we must give people the wherewithal to work, and we must demand responsibility.

Welfare reform has already begun. The first step was the expansion of the Earned Income Tax Credit last year. That expansion rewards work by ensuring that families with a full-time worker will not live in poverty.

The second stage of welfare reform is health care reform. Our current health care system often encourages those on welfare to stay there in order to receive health insurance through Medicaid. When we require that every worker be insured, that disincentive to work will disappear.

The next element of welfare reform is personal responsibility. Our welfare reform plan will include initiatives to prevent teen pregnancy, ensure that parents fulfill their child support obligations, and try to keep people from going on welfare in the first place. We must remember this: governments do not raise children, parents do.

The ultimate goal of our reforms is to have our people rely on work, not on welfare. Our plan will build on the Family Support Act by providing education, training, and job search and placement for those who need it; it will require people who can work to do so within two years, either in the private sector or community service; it will restore the basic social contract of providing opportunity and demanding responsibility in return.

CRIME

Enactment of the crime bill now being considered in the Congress is also essential, and it should happen quickly. We simply cannot tolerate what is happening in the streets of our cities and towns today. Crime and violence, the proliferation of handguns and assault weapons, the fear that millions of Americans feel when they emerge from their homes at night—and even in the daytime—must be confronted head-on.

We need to toughen enforcement, and we need to provide our local governments with the resources they need to take on the epidemic of violent crime. The crime bill will provide substantial resources, enough to fulfill my commitment to put 100,000 additional police on our streets. This budget funds major pieces of the crime bill, and I urge the Congress not only to approve the authorizing legislation but to provide the financial resources to back it up.

DEFENSE AND INTERNATIONAL AFFAIRS

Profound shifts are taking place in America's foreign relations and defense requirements. When we came into office, we faced dramatically changed international conditions and problems, but we inherited foreign and defense policies and institutions still geared, in many ways, to the conditions and needs of the Cold War.

This budget reflects the major changes we are carrying out in the content, direction, and institutions which ensure that our interests are defended abroad. We are committed to remaining engaged in a world inextricably linked by trade and global communications. The nature of that engagement is changing, however.

We remain committed to maintaining the best trained, best equipped and best prepared fighting force in the world. Thanks to our 1993 Bottom-Up Review of defense, this force is being reshaped to meet the new challenges of the post-Cold War era. We can maintain our national security with the forces approved in the Bottom-Up Review, but we must hold the line against further defense cuts, in order to protect fully the readiness and quality of our forces.

We have put our economic competitiveness at the heart of our foreign policy, as we must in a global economy. We are following the success of NAFTA

and GATT with further market-opening negotiations and intensified focus on the promotion of U.S. exports. We are paying particular attention to the Asian and Pacific markets, which have the most dynamic growth of any region in the world.

We are dedicated to the enlargement of the community of free market democracies, both as a way of ensuring greater security and as a way of expanding economic opportunity. Our programs for the New Independent States of Europe and Central Asia are the centerpiece of this effort.

We are responding aggressively to the new international security challenges that face us: regional conflicts, the proliferation of weapons of mass destruction, the movement of refugees, and the international flow of illegal narcotics. And we are addressing threats to the global environment and rapid population growth with a program to promote sustainable development.

Finally, we are fundamentally reforming and restructuring our international cooperation programs, giving an entirely new post-Cold War structure to our efforts by rewriting the basic legislation that has guided such programs for more than thirty years.

NATIONAL PERFORMANCES REVIEW

The Vice President's National Performance Review (NPR) has paved the way for major reforms of how our government works, which are essential to making government more efficient and responsive. Last year, we began implementing its recommendations. With this budget, that effort shifts into high gear.

First, this budget implements the reduction by 100,000 of Federal positions required by my Executive Order of last year. Indeed, because of discretionary spending constraints, our proposals actually exceed that total by 18,000. In addition, planning has begun on the further downsizing that will be required to implement the remaining portion of the 252,000-position personnel reduction recommended by the NPR. With this downsizing, we will bring the number of Federal employees to the lowest level in thirty years.

To reach these goals, we need to be able to offer incentive packages to those whose positions will be eliminated. This is one of our highest legislative priorities, and it requires attention now. These "buy-out" packages will minimize the need for more costly reductions in force, are less disruptive since they are voluntary, and save the government money in the long run.

The time also has come for swift passage of procurement reform, another of our highest priorities. Streamlining procurement is essential to meeting our personnel downsizing targets. And overhaul of the current, wasteful system can give us significant savings, as well as improved performance by government suppliers.

Further, this budget contains many of the specific programmatic savings proposed by the NPR. These savings have been used in large part to help us meet the discretionary spending freeze.

With my executive order last year, we also began the process of reforming one of the basic functions of government—the regulatory process. Regulations are often necessary to improve the health, safety, environment, and well-being of the American people. Our goal is a more open, more fair, and more honest process that produces smart regulation: rules that impose the least burden and provide the most cost-effective solutions possible.

Finally, all of our departments and agencies have begun to reform their basic operations, including their financial and other administrative practices.

The goal of the NPR is to make government work better and cost less—and to make it more convenient and responsive to those it serves. That is not something that can be completed in one year, in four, or even eight. But we have a responsibility to begin, and that we have done.

CONCLUSION

These are the priorities I seek to pursue in the coming year. Last year, we succeeded in breaking the gridlock that had gripped Washington for far too long. In contrast to past budgets, which lacked credibility, we made sure to use cautious estimates, and we shot straight with the American people.

The results are evident.

We said we would bring the deficit down, and we did. We said we would revitalize the economy, and we did. We said that we would help the private sector to create jobs, and we did. We said that we would reduce the size of the bureaucracy, and we did.

Last year, my Administration and the Congress worked side by side to move our country forward. Let us extend that record of achievement in 1994.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 7, 1994.*

EXECUTIVE AND OTHER COMMUNICATIONS

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

EC-2061. A communication from the General Counsel of the Administrative Conference of the United States, transmitting, pursuant to law, the annual report under the Freedom of Information Act for calendar year 1993; to the Committee on the Judiciary.

EC-2062. A communication from the Chairman of the Federal Mine Safety and Health Review Commission, transmitting, pursuant to law, the annual report under the Freedom of Information Act for calendar year 1993; to the Committee on the Judiciary.

EC-2063. A communication from the Assistant Attorney General, transmitting, a draft of proposed legislation to enable the U.S. to obtain a federal forum in which to defend suits against federal officers and agencies; to the Committee on the Judiciary.

EC-2064. A communication from the Clerk of the U.S. Court of Federal Claims, transmitting, pursuant to law, the report of the judgments of the Court of Federal Claims; to the Committee on the Judiciary.

EC-2065. A communication from the Senior Policy Adviser, U.S. Arms Control and Disarmament Agency, transmitting, pursuant to law, the annual report under the Freedom of Information Act for calendar year 1993; to the Committee on the Judiciary.

EC-2066. A communication from the National Treasurer of American Gold Star Mothers, Inc., transmitting, pursuant to law, the report of financial statements for the years ended June 30, 1992 and 1993; to the Committee on the Judiciary.

EC-2067. A communication from the Director of the Federal Judicial Center, transmitting, pursuant to law, a report entitled "Structural and Other Alternatives for the Federal Courts of Appeals"; to the Committee on the Judiciary.

EC-2068. A communication from the Secretary of Education, transmitting, pursuant to law, notice of the final regulations for State-Administered Workplace Literacy Program and National Workplace Literacy Program; to the Committee on Labor and Human Resources.

EC-2069. A communication from the Secretary of Education, transmitting, pursuant to law, notice of the final regulations for Educational Opportunity Centers Program; to the Committee on Labor and Human Resources.

EC-2070. A communication from the Assistant Secretary of the Department of Education, transmitting, pursuant to law, a report relative to final funding priorities; to the Committee on Labor and Human Resources.

EC-2071. A communication from the Chairman, Department of Health and Human Services Advisory Panel on Alzheimer's Disease, transmitting, pursuant to law, the Panels interim reports for 1993; to the Committee on Labor and Human Resources.

EC-2072. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the fiscal year 1992 Low Income Home Energy Assistance Program; to the Committee on Labor and Human Resources.

EC-2073. A communication from the Secretary of Education, transmitting, pursuant to law, a summary of Chapter 2 annual reports; to the Committee on Labor and Human Resources.

EC-2074. A communication from the Administrator of the Environmental Protection Agency, transmitting, a draft of proposed legislation to amend the Comprehensive Environmental Response, Compensation and Liability Act of 1980, and for other purposes; pursuant to the order of February 7, 1994; referred jointly to the Committee on Environment and Public Works and the Committee on Finance.

EC-2075. A communication from the Chairman of the Harry S. Truman Scholarship Foundation, transmitting, pursuant to law, the annual report of the Foundation for 1993; to the Committee on Labor and Human Resources.

EC-2076. A communication from the Secretary of Education, transmitting, pursuant to law, notice of final priority, selection cri-

teria, and other requirements for the Cooperative Demonstration—School-to-Work Opportunities State Implementation Grants Program; to the Committee on Labor and Human Resources.

EC-2077. A communication from the Secretary of Education, transmitting, pursuant to law, notice of final regulations for the State Student Incentive Grant Program; to the Committee on Labor and Human Resources.

EC-2078. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, a report relative to the 1988 Presidential Primary and General Elections; to the Committee on Rules and Administration.

EC-2079. A communication from the Assistant Secretary of the Interior (Indian Affairs), transmitting, pursuant to law, the report of the plan relative to the Gila River Indian Community of Arizona; to the Committee on Indian Affairs.

EC-2080. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, the annual report for fiscal year 1993 entitled "Jobs Through Exports"; to the Committee on Banking, Housing and Urban Affairs.

EC-2081. A communication from the Deputy Associate Director for Compliance of the Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2082. A communication from the Secretary of the Interior, transmitting, pursuant to law, the report of the 1994 Update to the National Plan for Research in Mining and Mineral Resources; to the Committee on Energy and Natural Resources.

EC-2083. A communication from the Acting Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, the report of incomplete water resources studies; to the Committee on Environment and Public Works.

EC-2084. A communication from the Acting Chief Financial Officer, Department of Energy, transmitting, pursuant to law, the report of compliance activities relative to mixed waste streams for fiscal year 1993; to the Committee on Environment and Public Works.

EC-2085. A communication from the Chairman of the International Trade Commission, transmitting, pursuant to law, a report on trade between the United States and China, the successor states to the former Soviet Union, and other title IV countries during July through September 1993; to the Committee on Finance.

EC-2086. A communication from the Secretary of Labor, transmitting, pursuant to law, the report of trade and employment effects of the Caribbean Basin Economy Recovery Act from 1991 through 1992; to the Committee on Finance.

EC-2087. A communication from the Chief Counsel of the Foreign Claims Settlement Commission, Department of Justice, transmitting, pursuant to law, the annual report for calendar year 1992; to the Committee on Foreign Relations.

EC-2088. A communication from the Assistant Legal Adviser (Treaty Affairs), Department of State, transmitting, pursuant to law, a report of the texts of international agreements and background statements, other than treaties; to the Committee on Foreign Relations.

EC-2089. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report relative to the economic policy and trade practices of each country with which the U.S. has an economic or trade relationship; to the Committee on Foreign Relations.

EC-2090. A communication from the Chief Justice of the Supreme Court of the United States, transmitting, pursuant to law, the report of the proceedings of the Judicial Conference of the United States for September 20, 1993; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

H.R. 3617. A bill to amend the Everglades National Park Protection and Expansion Act of 1989, and for other purposes (Rept. No. 103-224).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. PELL (by request):

S. 1831. A bill to implement the Protocol on Environmental Protection to the Antarctic Treaty, to enact a prohibition against Antarctic mineral resource activities, and for other purposes; to the Committee on Foreign Relations.

By Mr. BYRD:

S. 1832. A bill to rescind certain budget authority proposed to be rescinded in a special message transmitted to the Congress by the President on February 7, 1994, in accordance with title X of the Congressional Budget and Impoundment Control Act of 1974, as amended; to the Committee on the Budget and the Committee on Appropriations, jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

By Mr. KENNEDY (for himself and Mr. WOFFORD):

S. 1833. A bill to amend the Public Health Service Act to provide for the establishment of a voluntary long-term care insurance program, and for other purposes; read the first time.

By Mr. BAUCUS (for himself and Mr. LAUTENBERG) (by request):

S. 1834. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and for other purposes; to the Committee on Environment and Public Works, pursuant to the order of February 7, 1994, for consideration only of matters within that Committee's jurisdiction, provided that if and when reported from Committee, the bill be referred to the Committee on Finance for consideration only of matters within that Committee's jurisdiction for a period not to exceed 30 session days.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for Mr. GRAMM (for himself, Mr. PELL, Mr. BOND, and Mr. JEFFORDS)):

S. Con. Res. 60. A concurrent resolution expressing the sense of the Congress that a postage stamp should be issued to honor the 100th anniversary of the Jewish War Veterans of the United States of America; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PELL (by request):

S. 1831. A bill to implement the Protocol on Environmental Protection to the Antarctic Treaty, to enact a prohibition against Antarctic mineral resource activities, and for other purposes; to the Committee on Foreign Relations.

ANTARCTIC ENVIRONMENTAL PROTECTION ACT OF 1993

• Mr. PELL. Mr. President, by request, I introduce for appropriate reference a bill to implement the Protocol on Environmental Protection to the Antarctic Treaty, to enact a prohibition against Antarctic mineral resource activities, and for other purposes.

This proposed legislation has been requested by the Department of State, and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD, together with a statement of purpose and need, the section-by-section analysis, and the letter from the Assistant Secretary of State for Legislative Affairs, which was received on November 16, 1993.

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

S. 1831

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Antarctic Environmental Protection Act of 1993".

SEC. 2. FINDINGS, PURPOSE, AND POLICY.

(a) FINDINGS.—The Congress finds that—

(1) the Antarctic Treaty and the Protocol on Environmental Protection to the Antarctic Treaty have established a firm foundation for the comprehensive protection of the Antarctic environment, the continuation of international cooperation, and the freedom of scientific investigation in Antarctica;

(2) the Protocol establishes international mechanisms and creates legal obligations necessary for the maintenance of Antarctica as a natural reserve, devoted to peace and science;

(3) the Protocol serves important United States environmental and resource management interests, while at the same time preserving the freedom of scientific investigation in Antarctica;

(4) the Protocol represents an important contribution to the United States' long-term legal and political objectives of maintenance of Antarctica as an area of peaceful international cooperation;

(5) the Protocol institutes environmental impact assessment procedures applicable to United States activities in Antarctica which are consistent with those of the National Environmental Policy Act of 1969;

(6) the prohibition of Antarctic mineral resource activity will contribute to protection of the Antarctic environment and dependent and associated ecosystems by avoiding potential environmental degradation which could result from mineral resource activities;

(7) the Protocol, including the principles contained in Article 3, which is legally binding on the United States, provides a basis for granting residual regulatory authority to address situations not specifically addressed by the provisions of the Protocol; and

(8) Antarctica is a natural reserve, devoted to peace and science.

(b) PURPOSE.—The purpose of this Act is to provide legislative authority to implement, with respect to the United States, the Protocol on Environmental Protection to the Antarctic Treaty.

(c) POLICY.—

(1) It is the national policy of the United States that the protection of the Antarctic environment and dependent and associated ecosystems and the intrinsic value of Antarctica, including its wilderness and aesthetic values and its value as an area for the conduct of scientific research, in particular research essential to understanding the global environment, shall be fundamental considerations in the planning and conduct of all activities in the Antarctic Treaty area.

(2) It is the national policy of the United States that activities in Antarctica are to be planned and conducted so as to limit adverse impacts on the Antarctic environment and dependent and associated ecosystems and avoid—

(A) adverse effects on climate or weather patterns;

(B) significant adverse effects on air or water quality;

(C) significant changes in the atmospheric, terrestrial (including aquatic), glacial, or marine environments;

(D) detrimental changes in the distribution, abundance of productivity of species or populations of species of fauna and flora;

(E) further jeopardy to endangered or threatened species or populations of such species; or

(F) degradation of, or substantial risk to, areas of biological, scientific, historic, aesthetic, or wilderness significance.

(3) It is the national policy of the United States that activities in Antarctica are to be planned and conducted on the basis of information sufficient to allow prior assessments of, and informed judgments about, their possible impacts on the Antarctic environment and dependent and associated ecosystems and on the value of Antarctica for the conduct of scientific research, taking full account of—

(A) the scope of the activity, including its area, duration, and intensity;

(B) the cumulative impacts of the activity, both by itself and in combination with other activities in the Antarctic Treaty area;

(C) whether the activity will detrimentally affect any other activity in the Antarctic Treaty area;

(D) whether technology and procedures are available to provide for environmentally safe operations;

(E) whether there exists the capacity to monitor key environmental parameters and ecosystem components so as to identify and provide early warning of any adverse effects of the activity and to provide for such modification of operating procedures as may be necessary in the light of the results of monitoring or increased knowledge of the Antarctic environment and dependent and associated ecosystems; and

(F) whether there exists the capacity to respond promptly and effectively to accidents, particularly those with potential environmental effects.

(4) It is the national policy of the United States that regular and effective monitoring take place to allow assessment of the impacts of ongoing activities, including the verification of predicted impacts.

(5) It is the national policy of the United States that regular and effective monitoring take place to facilitate early detection of the possible unforeseen effects of activities carried out both within and outside the Antarctic Treaty area on the Antarctic environment and dependent and associated ecosystems.

(6) It is the national policy of the United States that activities in Antarctica be planned and conducted so as to accord priority to scientific research and to preserve the value of Antarctica as an area for the conduct of such research, including research essential to understanding the global environment.

(7) It is the national policy of the United States that activities in Antarctica subject to U.S. jurisdiction take place in a manner consistent with the Protocol, and be modified, suspended or cancelled if they result in or threaten to result in impacts upon the Antarctic environment or dependent or associated ecosystems inconsistent with the Protocol.

SEC. 3. DEFINITIONS.

For purposes of this Act——

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency or an officer or employee of the Environmental Protection Agency designated by the Administrator.

(2) The term "Antarctica" means the area south of 60 degrees south latitude, except that with respect to Antarctic mineral resource activity, the term means the area south of the Antarctic Convergence as defined in section 303 of the Antarctic Marine Living Resources Convention Act of 1984 (16 USC 2342(1)).

(3) The term "Antarctic mineral resource"—

(A) means any nonliving natural nonrenewable resource (or part or product thereof) found in or recovered from Antarctica;

(B) includes fossil fuels and minerals, whether metallic or nonmetallic; and

(C) does not include ice, water, snow, or any mineral resource removed before the date of enactment of this Act.

(4) The term "Antarctic mineral resource activity" means collecting, removing or transporting, or prospecting for, or exportation or development of, an Antarctic mineral resource, except that the term does not include those activities that are undertaken in the course of and that are directly related to—

(A) scientific research;

(B) construction, operation and maintenance of research stations, field camps, or other such facilities; or

(C) providing, with the advance written consent of the recipient institution, an Antarctic mineral resource specimen to a museum or other institution with a similar public function.

(5) The term "Antarctic specially protected area" means an area identified as such under section 6.

(6) The term "Committee for Environmental Protection" means the Committee for Environmental Protection established under Article 11 of the Protocol.

(7) The term "development"—

(A) means any activity, including logistic support, which takes place following exploration, the purpose of which is the exploitation of specific Antarctic mineral resource deposits; and

(B) includes processing, storage, and transport activities.

(8) The term "Director" means the Director of the National Science Foundation or an officer or employee of the Foundation designated by the Director.

(9) The term "exploration"—

(A) means any activity, including logistic support, the purpose of which is the identification or evaluation of specific Antarctic mineral resource deposits for possible development; and

(B) includes exploratory drilling, dredging, and other surface or subsurface excavations undertaken to determine the nature and size of mineral resource deposits and the feasibility of their development.

(10) The term "harmful interference" means—

(A) flying or landing helicopters or other aircraft in a manner that disturbs concentrations of birds or seals;

(B) using vehicles or vessels, including hovercraft and small boats, in a manner that disturbs concentrations of birds or seals;

(C) using explosives or firearms in a manner that disturbs concentrations of birds or seals;

(D) willfully disturbing breeding or molting birds or concentrations of birds or seals by persons on foot;

(E) significantly damaging concentrations of native terrestrial plants by landing aircraft, driving vehicles, walking on them, or by other means; and

(F) any activity that results in significant adverse modification of the habitat of any species or population of native mammal, native bird, native plant or native invertebrate.

(11) The term "historic site or monument" mans any site or monument identified as a historic site or monument by the Director under section 6.

(12) The term "impact" means impact on the Antarctic environment or on dependent or associated ecosystems.

(13) The term "implementing agency" means the Director, the Secretary, the Administrator, the Secretary of the Department in which the Coast Guard is operating, or the Secretary of State, as regulatory responsibilities are vested under this Act.

(14) The term "import" means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, including the 12-mile territorial sea of the United States, whether or not such act constitutes an importation within the meaning of the customs laws of the United States.

(15) The term "native bird" means any member, at any stage of its life cycle (including eggs), of any species of the class Aves which is indigenous to Antarctica or occurs there seasonally through natural migrations, designated by the Director as a native species under section 6, and includes any part of such member.

(16) The term "native invertebrate" means any terrestrial or freshwater invertebrate, at any state of its life cycle, which is indigenous to Antarctica, designated by the Director as such under section 6, and includes any part of such invertebrate.

(17) The term "native mammal" means any member, at any stage of its life cycle, of any species of the class Mammalia, which is indigenous to Antarctica or occurs there seasonally through natural migrations, designated by the Director as a native species under section 6, and includes any part of such member.

(18) The term "native plant" means any terrestrial or freshwater vegetation, including bryophytes, lichens, fungi and algae, at any stage of its life cycle (including seeds and other propagules), which is indigenous to Antarctica, designated as such by the Director under section 6, and includes any part of such vegetation.

(19) The term "non-native species" means any species of animal or plant which is not indigenous to Antarctica.

(20) The term "person" means an individual, partnership, corporation, trust, association, or other entity subject to the jurisdiction of the United States and any department, agency, or other instrumentality of the Federal Government or of any State or local government, and any officer, employee, or agent of any such instrumentality.

(21) The term "prohibited product" means any substance which is designated as such under section 6.

(22) The term "prohibited waste" means any substance which is designated as such under section 6.

(23) The term "prospecting" means any activity, including logistic support, the purpose of which is the identification of Antarctic mineral resource potential for possible exploration and development.

(24) The term "Protocol" means the Protocol on Environmental Protection to the Antarctic Treaty, signed October 4, 1991, in Madrid, and all annexes thereto, and includes any future amendments thereto which have entered into force.

(25) The term "Secretary" means the Secretary of Commerce, or an officer or employee of the Department of Commerce designated by the Secretary.

(26) The term "specifically protected species" means any native species designated as a specially protected species by the Director under section 6.

(27) The term "take" or "taking" means to kill, injure, capture, handle, or molest, a native mammal or bird, or to remove or damage such quantities of native plants that their local distribution or abundance would be significantly affected.

(28) The term "Treaty" and "Antarctic Treaty" mean the Antarctic Treaty signed in Washington, D.C. on December 1, 1959.

(29) The term "United States" means the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, any other commonwealth, territory or possession of the United States, and the Trust Territory of the Pacific Islands.

(30) The term "vessel subject to the jurisdiction of the United States" includes any "vessel of the United States" and any "vessel subject to the jurisdiction of the United States" as those terms are defined in section 303 of the Antarctic Marine Living Resources Convention Act of 1984 (16 USC 2432).

SEC. 4. PROHIBITED ACTS.

(a) IN GENERAL.—It is unlawful for any person—

(1) to engage in, provide assistance (including logistic support) to, or knowingly finance any Antarctic mineral resource activity;

(2) to receive, acquire, transport, offer for sale, sell, purchase, import, export, or have custody, control or possession of any Antarctic mineral resource which that person knows, or in the exercise of due care should have known, was recovered or otherwise possessed as a result of Antarctic mineral resource activity, without regard to the citizenship of the entity that engaged in, or the vessel used in engaging in, the Antarctic mineral resource activity;

(3) to introduce any prohibited product onto land or ice shelves or into water in Antarctica;

(4) to dispose of any waste onto ice-free land areas or into fresh water systems in Antarctica;

(5) to dispose of any prohibited waste in Antarctica;

(6) to engage in open burning of waste in Antarctica after March 1, 1994;

(7) to transport passengers to, from or within Antarctica by any vessel not required to comply with the Act to Prevent Pollution from Ships (33 USC 1901 *et seq.*), unless the person has an agreement with the vessel owner or operator under which the owner or operator is required to comply with Annex IV to the Protocol;

(8) who organizes, sponsors, operates, or promotes a non-governmental expedition to Antarctica, and who does business in the United States, to fail to notify all members of the expedition of the environmental protection obligations of this Act, and of actions which members must take, or not take, in order to comply with those obligations;

(9) to damage, remove, or destroy a historic site or monument;

(10) to refuse permission to any authorized officer or employee of the United States to board a vessel, vehicle, or aircraft of the United States, or subject to the jurisdiction of the United States, for the purpose of conducting any search or inspection in connection with the enforcement of this Act or any regulation promulgated or permit issued under this Act;

(11) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any authorized officer or employee of the United States in the conduct of any search or inspection described in paragraph (10) of this subsection;

(12) to resist a lawful arrest or detention for any act prohibited by this section;

(13) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detention of another person, knowing that such other person has committed any act prohibited by this section;

(14) to violate any regulation promulgated under this Act, or any term or condition of any permit issued to that person under this Act; or

(15) to attempt to commit or cause to be committed any act prohibited by this section.

(b) It is unlawful for any person, unless authorized by a permit issued under this Act—

(1) to dispose of any waste in Antarctica (except as otherwise authorized under the Act to Prevent Pollution from Ships (33 USC 1901 *et seq.*)), including—

(A) to dispose of any waste from land into the sea in Antarctica; and

(B) to incinerate any waste on land or ice shelves in Antarctica, or on board vessels at points of embarcation or debarcation, other than through the use at remote field sites of incinerator toilets for human waste;

(2) to introduce into Antarctica any member of a non-native species;

(3) to enter or engage in activities within any Antarctic specially protected area;

(4) to engage in any taking or harmful interference in Antarctica; or

(5) to receive, acquire, transport, offer for sale, sell, purchase, import, export, or have custody, control or possession of, any native bird, native mammal, or native plant which the person knows, or in the exercise of due care should have known, was taken in violation of this Act.

(c) EXCEPTION FOR EMERGENCIES.—No act described in subsections (a)(4), (a)(5), (a)(6), (a)(7), (a)(9), (a)(14), (a)(15) or subsection (b) shall be unlawful if the person committing the act reasonably believed that he or she did so under emergency circumstances involving the safety of human life or of ships, aircraft, or equipment or facilities of high value, or the protection of the environment.

SEC. 5. PERMITS.

(a) IN GENERAL.—The Director may, in accordance with this section, issue a permit which authorizes the conduct within Antarctica of an act described in section 4(b).

(b) APPLICATIONS FOR PERMITS.—

(1) Applications for permits under this section shall be made in such manner and form, and shall contain such information, as the Director shall by regulation prescribe, and shall be signed by the persons responsible for the activities undertaken under the permit.

(2) The Director shall publish notice in the Federal Register of each application which is made for a permit under this section. The notice shall invite the submission by interested parties, within 30 days (or such other reasonable period greater than 30 days as the Director may determine) after the publication of the notice, of written data, comments, or views with respect to the application. Such application, and any data, comments or views received, shall be made available to the public.

(c) COOPERATION WITH OTHER AGENCIES ON CERTAIN PERMITS.—

(1)(A) If the Director receives an application for a permit under this section requesting authority to undertake any action with respect to—

(i) any native mammal which is a marine mammal within the meaning of section 3(5) of the Marine Mammal Protection Act of 1972 (16 USC 1362(5));

(ii) any native mammal, native bird, native plant, or native invertebrate which is an endangered species or threatened species under the Endangered Species Act of 1973 (16 USC 1531 *et seq.*);

(iii) any native bird which is protected under the Migratory Bird Treaty Act (16 USC 701 *et seq.*);

the Director shall submit a copy of the application to the Secretary or to the Secretary of the Interior, as appropriate (hereinafter in this subsection referred to as the "appropriate Secretary").

(B) After receiving a copy of any application from the Director under subparagraph (A) of this paragraph the appropriate Secretary shall promptly determine, and notify the Director, whether or not any action proposed in the application also requires a permit or other authorization under any law administered by the appropriate Secretary.

(C) If the appropriate Secretary notifies the Director that any action proposed in the application requires a permit or other authorization under any law administered by the appropriate Secretary, the Director may not issue a permit under this section with respect to such action unless such other re-

quired permit or authorization is issued by the appropriate Secretary and a copy thereof is submitted to the Director. The issuance of any permit or other authorization by the appropriate Secretary for the carrying out of any action with respect to any native mammal, native bird, native invertebrate, or native plant shall not be deemed to entitle the applicant concerned to the issuance by the Director of a permit under this section.

(2)(A) If the Director receives an application for a permit under this section requesting authority to undertake an action described in section 4(b)(1), the Director shall submit a copy of the application to the Administrator, and the Director and Administrator shall promptly consult on the application.

(B) The Director shall not issue, or deny the issuance of, a permit under this section with respect to an action described in section 4(b)(1) before consulting with the Administrator.

(3)(A) If the Director receives an application for a permit under this section requesting authority to undertake an action described in section 4(b)(4) in connection with unavoidable consequences of the construction or operation of scientific support facilities, the Director shall submit a copy of the application to the Secretary, and to the Director and the Secretary shall promptly consult on the application.

(B) The Director shall not issue, or deny the issuance of, a permit under this section with respect to such an action without the written concurrence of the Secretary. The Secretary shall inform the Director of such concurrence or denial thereof within 60 days (unless the Secretary and Director agree otherwise) after receiving a copy of the application under paragraph (3)(A) of this subsection.

(4) The Director shall provide the Administrator with a copy of any permit application received for an activity which may be subject to regulations promulgated under section 7(c). The Director shall not issue such a permit without written notice from the Administrator that the applicable requirements of such regulations have been met. The Administrator shall provide the Director with written notice as to whether such requirements have been met within sixty days after receiving a copy of the application.

(d) ISSUANCE OF PERMITS.—As soon as practicable after receiving any application for a permit under this section, or, in the case of any application to which subsection (c) of this section applies, as soon as practicable after the applicable requirements of such subsection are complied with, the Director shall issue, or deny the issuance of, the permit. Within 10 days after the date of the issuance or denial of a permit under this subsection, the Director shall publish notice of the issuance or denial in the Federal Register, including a description of any terms and conditions of the permit.

(e) MODIFICATION, SUSPENSION, AND REVOCATION.—

(1) The Director may modify, suspend, or revoke, in whole or part, any permit issued under this section—

(A) if there is any change in conditions which makes the permit inconsistent with the provisions of this Act or the Protocol;

(B) in any case in which there has been any violation of this Act, including a violation of any regulation promulgated under this Act, or of any term or condition of the permit; or

(C) in order to make the permit consistent with any change made, after the date of issuance of the permit, to any regulation promulgated under section 6.

(2) If consultation with the Administrator was required before issuance of the permit, under subsection (c)(2) of this section, then the Director shall not modify the permit before consulting with the Administrator with respect to the modification.

(3) If the concurrence of the Secretary was required before issuance of the permit, under subsection (c)(3) of this section, then the Director shall not modify the permit without receiving the concurrence of the Secretary with respect to the modification.

(4) The Director shall publish notice of the modification, suspension, or revocation of any permit in the Federal Register within 10 days after the date of the decision, including the reasons for the decision.

(5) Any permit modification, suspension, or revocation under paragraph (1)(B) of this subsection shall be undertaken pursuant to the provisions of section 15.

(f) PERMIT FEES.—The Director may establish and charge fees for processing applications for permits under this section. The amount of the fees shall be commensurate with the administrative costs incurred by the Director in processing the application. Fees received will be credited to the appropriation or appropriations designed by the Director.

(g) TERMS AND CONDITIONS OF PERMITS.—

(1) Each permit issued under this section shall specify.—

(A) the period during which the permit is valid; and

(B) any other terms and conditions the Director considers necessary and appropriate to ensure that any action authorized under the permit is carried out in a manner consistent with this Act and the regulations promulgated under the Act, including appropriate record-keeping, reporting, and compliance monitoring requirements, and other terms and conditions relating to inspection of documents and records.

(2) A permit which authorizes the disposal of any waste in Antarctica shall—

(A) be issued only if the Director determines, after consultation with the Administrator and based on all relevant information, that such disposal will not pose a substantial hazard to human health of the Antarctic environment;

(B) specify the amount of waste which may be disposed of in Antarctica, how the waste shall be managed prior to disposal, and the conditions for the disposal;

(C) authorize the disposal of sewage or domestic liquid wastes from land directly into the sea only if the Director has taken fully into account the provisions of Article 3 of, and Annex III to, the Protocol, and provided that:

(i) the Director has determined that such disposal occurs, if practicable, where conditions exist for initial dilution and rapid dispersal; and

(ii) if generated in large quantities, such waste shall be treated by maceration or a treatment that the Director has determined provides greater environmental protection than does maceration;

(D) authorize the disposal of the by-product of sewage treatment by the rotary biological contacter process or similar processes from land into the sea, provided that the Director has determined that such disposal does not adversely affect the local environment;

(E) authorize the disposal of waste through incineration only if the Director has determined that the incineration will meet the standards established by regulation under section 6; and

(F) not authorize any disposal of prohibited waste in Antarctica.

All determinations by the Director under this paragraph shall be made in consultation with the Administrator.

(3) a permit which authorizes a taking or a harmful interference within Antarctica—

(A) may be issued only for the purpose of providing—

(i) specimens for scientific study or scientific information;

(ii) specimens for museums, herbaria, zoological or botanical gardens, or other educational or cultural institutions or uses; or

(iii) for consequences of scientific activities, or of the construction and operation of scientific support facilities, which the Director has determined are unavoidable; and

(B) shall require that, as determined by the Director—

(i) no more native mammals, native birds, or native plants are taken than are strictly necessary to meet the purposes set forth in subparagraph (A) of this paragraph;

(ii) only small numbers of native mammals or native birds are killed, and in no case more native mammals or native birds are killed from local populations than can, in combination with other permitted takings, normally be replaced by natural reproduction in the following season; and

(iii) the diversity of species, as well as the habitats essential to their existence, and the balance of the ecological systems existing within Antarctica are maintained.

(C) shall specify—

(i) the number and species of native mammals, native birds, native invertebrates, or native plants to which the permit applies; and

(ii) the manner in which the taking or harmful interference shall be conducted (which manner, as determined by the Director, involves the least degree of pain and suffering practicable), the period of time within which it must be conducted, the area in which it must be conducted, and the person who will take the action.

All determinations made by the Director under this paragraph in connection with permits for which the concurrence of the Secretary under subsection (c)(3) of this section is required shall be made only with the concurrence of the Secretary.

(4) A permit which authorizes a taking within Antarctica of a member of a specially protected species must meet the requirements contained in paragraph (3) of this subsection, and in addition may be issued only if the Director determines that—

(A) there is a compelling scientific purpose for the taking;

(B) the taking will not jeopardize any existing natural ecological system or the survival or recovery of the species or local population; and

(C) the taking uses non-lethal techniques, if appropriate.

All determinations made by the Director under this paragraph in connection with permits for which the concurrence of the Secretary under subsection (c)(3) of this section is required shall be made only with the concurrence of the Secretary.

(5) A permit which authorizes the introduction of a member of a non-native species into Antarctica—

(A) may not be issued unless the non-native species is listed in Appendix B to Annex II to the Protocol;

(B) shall specify the number, species, and, if appropriate, age and sex of the animals or plants to which the permit applies;

(C) shall specify the precautions to be taken to prevent escape or contact with native fauna and flora;

(D) shall require that any animals or plants to which the permit applies, and any progeny, shall, prior to expiration of the permit, be removed from Antarctica or disposed of by incineration or equally effective means that eliminates risk to native fauna and flora;

(E) shall not permit the importation of dogs or live poultry or other living birds; and

(F) shall require that precautions be taken to prevent the release into the environment of micro-organisms (e.g., viruses, bacteria, parasites, yeasts and fungi) not present in native fauna and flora.

(6) A permit which authorizes entry into and engaging in activities within an Antarctic specially protected area shall—

(A) if a management plan relating to the area has been approved, be issued only—

(i) to enter and engage in activities within the specifically protected area which the Director has determined are in accordance with the requirements of the management plan relating to that area; and

(ii) if accompanied by the relevant sections of the management plan;

(B) if a management plan relating to the area has not been approved, be issued by only—

(i) if entry is necessary to accomplish a compelling scientific purpose which the Director has determined cannot be served elsewhere; and

(ii) if the Director has determined that the actions allowed under the permit will not jeopardize the natural ecological system existing in the area; and

(C) specify—

(i) the extent and location of the specially protected area;

(ii) the activities authorized;

(iii) the period of time within which the authorized activities must be conducted, the area in which they must be conducted, and the person who is authorized to conduct them; and

(iv) other conditions imposed by the management plan, if any.

(7) No permit shall be required for the importation of food into Antarctica, except that—

(A) no live animals may be imported for this purpose;

(B) all plants and animal parts shall be kept under carefully controlled conditions and disposed of in accordance with the provisions of this Act; and

(C) before dressed poultry is packaged for shipment to Antarctica, it shall be inspected for evidence of disease, such as Newcastle's disease, tuberculosis, and yeast infection.

SEC. 6. REGULATIONS.

(a) IN GENERAL.—The Director, the Secretary, the Administrator, the Secretary of the Department in which the Coast Guard is operating, and the Secretary of State shall promulgate, in accordance with this section, such regulations as are necessary and appropriate to implement the provisions of this Act and the Protocol.

(b) REGULATIONS TO BE PROMULGATED BY THE SECRETARY.—The Secretary shall promulgate such regulations relating to Antarctic mineral resource activity as the Secretary deems are necessary and appropriate to implement the provisions of this Act and the Protocol.

(c) REGULATIONS TO BE PROMULGATED BY THE DIRECTOR.—The Director shall promulgate regulations which—

(1) designate as native species—

(A) each species of the class Aves;

(B) each species of the class Mammalia;

(C) each species of plant; and

(D) each species of invertebrate;

which is indigenous to Antarctica or which occurs there seasonally through natural migrations;

(2) specify those actions which must, and those actions which must not, be taken within Antarctica in order to protect, in accordance with the applicable provisions of the Protocol, members of each native species designated under subsection (c)(1) of this section;

(3) designate as a specially protected species any species of native mammal, native bird, native invertebrate, or native plant which is—

(A) listed in Appendix A to Annex II to the Protocol; or

(B) approved by the United States for special protection under the Protocol;

(4) designate as a non-native species that may be introduced into Antarctica only those species listed in Appendix B to Annex II to the Protocol;

(5) identify each area designated as a Antarctic specially protected area or specially managed area under the Protocol, and implement the provisions of the management plan applicable to such area;

(6) identify each historic site and monument—

(A) listed under Article 8 of Annex V to the Protocol; or

(B) approved by the United States for listing as a historic site or monument;

(7) require that any person who organizes, sponsors, operates, or promotes a non-governmental expedition to Antarctica, and who does business in the United States, to notify all members of the expedition of the environmental protection obligations of this Act, and of actions which members must take, or not take, in order to comply with those obligations; and

(8) set forth the form, content, and manner of filing, if applicable, of all notices, reports, declarations, or other documentation which may be required with respect to the carrying out of any act for which a permit is required under this Act.

(d) RESIDUAL REGULATORY AUTHORITY OF THE DIRECTOR.—In addition to the specific authorities set forth in subsection (c) of this section, the Director may promulgate such regulations relating to the conservation of Antarctic fauna and flora or area protection in Antarctica as the Director deems necessary and appropriate to implement the provisions of the Protocol, including but not limited to regulations which address a situation not covered by the annexes to the Protocol or in which a more rigorous or supplemental requirement is necessary.

(e) REGULATIONS TO BE PROMULGATED BY THE DIRECTOR WITH THE CONCURRENCE OF THE ADMINISTRATOR.—The Director, with the concurrence of the Administrator, shall promulgate regulations which—

(1) designate as prohibited products—

(A) polychlorinated biphenyls;

(B) non-sterile soil;

(C) polystyrene beads or chips or similar forms of packaging;

(D) pesticides (other than those required for scientific, medical or hygiene purposes); and

(E) substances which the Parties to the Protocol or Treaty agree should be banned from use in Antarctica;

(2) designate as prohibited waste—

(A) radioactive materials;

(B) electrical batteries;

(C) liquid and solid fuel;

(D) wastes containing harmful levels of heavy metals or acutely toxic or harmful persistent compounds;

(E) polyvinyl chloride, polyurethane foam, polystyrene foam, rubber and lubricating oils, treated timbers and other products which contain additives that could produce harmful emissions if incinerated;

(F) all other plastic wastes, except low density polyethylene containers (such as bags for storing wastes), provided that the capacity exists to incinerate such containers under paragraph (5) of this subsection, in which case such containers shall be incinerated;

(G) fuel drums and other solid, non-combustible wastes (provided that their removal would not result in greater adverse environmental impact than leaving them in their existing locations);

(H) unless incinerated, autoclaved, or otherwise treated to be made sterile—

(i) residues of carcasses of imported animals;

(ii) laboratory culture of micro-organisms and plant pathogens;

(iii) medical wastes; and

(iv) introduced avian products; and

(I) the solid residue of incineration;

(3) provide that—

(A) prohibited waste shall be removed from Antarctica;

(B) sewage, domestic liquid waste, and other liquid waste (other than prohibited waste) shall, to the maximum extent practicable, be removed from Antarctica;

(C) waste at field camps shall be transported to supporting stations or vessels for disposal in accordance with this Act; and

(D) wastes removed from Antarctica shall be disposed of in accordance with applicable domestic and international law;

(4) provide that sewage, domestic liquid waste, and other liquid waste (other than prohibited waste) to the maximum extent practicable are not disposed of onto sea ice, ice shelves, or the grounded ice-sheet, provided that such wastes which are generated by stations located inland on ice shelves or on the grounded ice-sheet may be disposed of in deep ice pits if such disposal is the only practical option, as long as such pits are not located on known ice-flow lines which terminate at ice-free land areas or in areas of high ablation;

(5) if the Director determines, in consultation with the Administrator, through sound waste management planning, to allow incineration as a means of waste disposal, provide standards for incineration which—

(A) to the maximum extent practicable, reduce harmful emissions;

(B) take fully into account the provisions of Article 3 of the Protocol;

(C) are based on the criteria contained in sections 129(a)(2), 129(a)(4), and 129(c) of the Clean Air Act (42 USC 7429(a)(2), (a)(4), and (c)), taking into account the unique circumstances of Antarctic logistics, operations, and the Antarctic environment; and

(D) take into account any emission standards and equipment guidelines which may be recommended by the Committee for Environmental Protection and the Scientific Committee on Antarctic Research.

If it has been determined to use incineration as a means of waste disposal, the Director, in consultation with the Administrator, shall review such determination not later than five years after the initial promulgation of any incineration standards, and at five-year intervals thereafter. Such review shall take into account technological advances in waste disposal and removal, new information concerning effects on human health and the environment, and the state of the Antarctic environment;

(6) provide that all wastes to be removed from Antarctica, or disposed of in Antarctica, shall be stored in such a way as to prevent their release into the environment;

(7) provide, with respect to the United States Antarctic Program and any other United States Government program in Antarctica, in accordance with Articles 8, 9 and 10 of Annex III to the Protocol, for—

(A) the establishment of a waster disposal classification system;

(B) the preparation, and annual review and update, of waste management plans, taking into account Article 1(3) of Annex III to the Protocol; and

(C) other waste management activities of such programs; and

(8) provide that past and present waste disposal sites on land and abandoned work sites of Antarctic activities shall be cleaned up by the generator of such wastes and the user of such sites, provided that—

(A) such regulations shall not require the removal of any structure designated as a historic site or monument, or the removal of any structure or waste material in circumstances where the removal by any practical option would result in greater adverse environmental impact than leaving the structure or waste material in its existing location; and

(B) such regulations shall take into account considerations of practicality, and of the safety of human life.

(f) RESIDUAL REGULATORY AUTHORITY OF THE DIRECTOR WITH THE CONCURRENCE OF THE ADMINISTRATOR.—In addition to the specific authorities set forth in subsection (e) of this section, the Director, with the concurrence of the Administrator, may—

(1) promulgate such regulations relating to waste disposal and waste management in Antarctica as the Director deems necessary and appropriate to implement the provisions of the Protocol, including but not limited to regulations which address a situation not covered by the annexes to the Protocol or in which a more rigorous or supplemental requirement is necessary; and

(2) designate additional items as prohibited products or prohibited waste under subsection (e)(1) and (e)(2) of this section, when the Director determines that such designation is necessary and appropriate to protect human health or the Antarctic environment.

(g) REGULATIONS TO BE PROMULGATED BY THE SECRETARY OF STATE.—The Secretary of State shall promulgate such regulations as are necessary and appropriate to implement, with respect to any person, paragraph 5 of Article VII of the Treaty, pertaining to the filing of advance notifications of expeditions to and within Antarctica, including a requirement for such person to describe how he or she plans to comply with any regulations promulgated under subsection (h) of this section.

(h) REGULATIONS WITH RESPECT TO CONTINGENCY PLANNING AND RESPONSE ACTION.—

(1) The Secretary of the Department in which the Coast Guard is operating in addition to the regulations specified in section 9, shall promulgate, with the concurrence of the Director, such regulations as are necessary and appropriate to implement the provisions of Article 15 of the Protocol with respect to vessels.

(2) The Director shall promulgate such regulations as are necessary and appropriate to implement the provisions of Article 15 of the Protocol with respect to land areas and ice shelves in Antarctica.

(i) RESIDUAL REGULATORY AUTHORITY OF THE SECRETARY OF THE DEPARTMENT IN WHICH THE COAST GUARD IS OPERATING.—In addition to the specific authority set forth in subsection (h) of this section and in section 9, the Secretary of the Department in which the Coast Guard is operating may promulgate such regulations relating to marine pollution in Antarctica as the Secretary of said Department deems necessary and appropriate to implement the provisions of the Protocol, including but not limited to regulations which address a situation not covered by the annexes to the Protocol or in which a more rigorous or supplemental requirement is necessary.

(j) TIME PERIOD FOR REGULATIONS.—The regulations to be promulgated under subsections (c) and (g) of this section shall be promulgated within 24 months after the date of enactment of this Act. The regulations to be promulgated under subsection (e) of this section shall be promulgated within 36 months after the date of enactment of this Act.

SEC. 7. ENVIRONMENTAL IMPACT ASSESSMENT.

(a) FEDERAL ACTIVITIES.—

(1)(A) It is the intent of Congress to implement U.S. obligations under Article 8 of and Annex I to the Protocol by applying the National Environmental Policy Act (42 USC 4321 *et seq.*) to proposals for federal agency activities in Antarctica, as specified in this section.

(B) The obligations contained in section 102(2)(C) of the National Environmental Policy Act (42 USC 4332(2)(C)) shall apply to proposals for federal agency activities occurring in Antarctica and affecting the quality of the human environment in Antarctica or dependent or associated ecosystems, as specified in this section.

(2)(A) Unless an agency which proposes to conduct a federal activity in Antarctica determines that the activity will have less than a minor or transitory impact, or unless a comprehensive environment evaluation is being prepared in accordance with paragraph (2)(C) of this subsection, the agency shall prepare an initial environmental evaluation, in accordance with Article 2 of Annex I to the Protocol.

(B) If the agency determines, through the preparation of the initial environmental evaluation, that the proposed federal activity is likely to have a minor or transitory impact, the activity may proceed if appropriate procedures are put in place to assess and verify the impact of the activity.

(C) If the agency determines, through the preparation of the initial environmental evaluation or otherwise, that a proposed federal activity is likely to have more than a minor or transitory impact, the agency shall prepare a comprehensive environmental evaluation in accordance with Article 3 of Annex I to the Protocol, and shall make such comprehensive environmental evaluation publicly available for comment.

(3) Any agency decision under this section on whether a proposed federal activity, to which paragraph (2)(C) of this subsection applies, should proceed, and, if so, whether in its original or in a modified form, shall be based on the comprehensive environmental evaluation as well as other considerations which the agency, in the exercise of its discretion, deems relevant.

(4) For the purposes of this section:

(A) the term "federal activity" includes, but is not limited to, activities conducted under a federal agency research program in Antarctica, whether or not conducted by a federal agency; and

(B) activities that may have a "significant" impact, within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 USC 4332(2)(C)), are deemed to fall within the category of activities that are likely to have "more than a minor or transitory impact".

(b) FEDERAL ACTIVITIES CARRIED OUT JOINTLY WITH FOREIGN GOVERNMENTS.—

(1) For the purposes of this subsection, "Antarctic joint activity" means any federal activity in Antarctica which is proposed to be conducted, or which is conducted, jointly or in cooperation with one or more foreign governments, as defined in regulations promulgated by such agencies as the President may designate.

(2) Where the Secretary of State, in cooperation with the lead U.S. agency planning an Antarctic joint activity and with the other government or governments involved, determines that a government other than the United States, which has signed or acceded to the Protocol, is coordinating the implementation of environmental impact assessment procedures for that activity, the requirements of subsection (a) of this section shall not apply in respect of that activity.

(3) Determinations under paragraph (2) of this subsection, and agency actions and decisions in connection with assessments of impacts of Antarctic joint activities, shall not be subject to judicial review.

(c) NONGOVERNMENTAL ACTIVITIES.—

(1) The Administrator shall, within 24 months after the date of enactment of this Act, promulgate regulations to provide for—

(A) the environmental impact assessment of nongovernmental activities, including tourism, for which the United States is required to give advance notice under paragraph 5 of Article VII of the Treaty; and

(B) coordination of the review of information regarding environmental impact assessment received from other Parties under the Protocol.

(2) Such regulations shall be consistent with the provisions of Annex I to the Protocol.

(d) DECISION TO PROCEED.—

(1) No decision shall be taken to proceed with an activity for which a comprehensive environmental evaluation is prepared under this section unless there has been an opportunity for consideration of the draft comprehensive environmental evaluation at an Antarctic Treaty Consultative Meeting, provided that no decision to proceed with a proposed activity shall be delayed through the operation of this subsection for more than 15 months from the date of circulation of the draft comprehensive environmental evaluation.

(2) The Secretary of State shall circulate the final comprehensive environmental evaluation, in accordance with Article 3(6) of Annex I to the Protocol, at least 60 days before the commencement of the activity in Antarctica.

(e) CASES OF EMERGENCY.—The requirements set out in this section, and in regulations promulgated under it, shall not apply in cases of emergency relating to the safety of human life or of ships, aircraft, or equipment and facilities of high value, or the protection of the environment, which require an activity to be undertaken without fulfilling these requirements.

(f) JUDICIAL REVIEW. Agency compliance with subsection (a) of this section shall be reviewable under sections 701 *et seq.* of Title 5, subject to the provisions of subsection (b)(3) of this section.

(g) REPORTING.—The Secretary of State and the Administration shall report annually to the Congress regarding implementa-

tion of this section. Their reports shall include information provided under Article 6 of Annex I to the Protocol, copies of all comprehensive environmental evaluations circulated and all public comments received, as well as descriptions of any Antarctic joint activities and the environmental impact documentation associated therewith.

(h) EXCLUSIVE MECHANISM.—Notwithstanding any other provision of law, the requirements of the National Environmental Policy Act as specified in this section shall constitute the sole and exclusive statutory obligations of the federal agencies with regard to assessing the environmental impacts of proposed federal activities occurring in Antarctica.

(i) DECISIONS ON PERMIT APPLICATIONS.—The provisions of this section requiring environmental impact assessments (including initial environmental evaluations and comprehensive environmental evaluations) shall not apply to permitting decisions under section 5.

SEC. 8. MONITORING.

The Director, in consultation with the Administrator, shall promulgate such regulations as are necessary and appropriate, in accordance with Article 8 of and Annex I to the Protocol, to provide for procedures to assess and verify the impact over time of any activity that proceeds following the completion of a comprehensive environmental evaluation and, as appropriate, the impact over time of activities that proceed after a determination that they are likely to have no more than a minor or transitory impact.

SEC. 9. MARINE POLLUTION—AMENDMENTS TO THE ACT TO PREVENT POLLUTION FROM SHIPS, 33 USC 1901 ET SEQ.

(a) REFERENCES.—All references in this section to amendment or repeal mean amendment or repeal of a section, subsection or provision of the Act to Prevent Pollution from Ships (33 USC 1901 et seq.)

(b) DEFINITIONS.—Subsection (a) of section 1901 of Title 33 is amended—

(1) in paragraph (8) by striking "and" after the semicolon;

(2) in paragraph (9) by striking the period and inserting "; and"; and

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

"(10) 'Antarctica' means the area south of 60 degrees south latitude; and

(11) 'Antarctic Protocol' means the Protocol on Environmental Protection to the Antarctic Treaty, signed October 4, 1991, in Madrid, and all annexes thereto, and includes any future amendments thereto which have entered into force."

(c) APPLICATION OF ANNEX IV OF THE PROTOCOL ON ENVIRONMENTAL PROTECTION TO THE ANTARCTIC TREATY.—Section 1901 of Title 33 is further amended by adding a new subsection (c) as follows:

"(c) For the purposes of this chapter, the requirements of Annex IV of the Antarctic Protocol shall apply in Antarctica to all vessels over which the United States has jurisdiction, except for vessels listed in 33 U.S.C. 1902(b)."

(d) ADMINISTRATION.—Subsection (a) of section 1903 of Title 33 is amended by inserting in the first sentence ", Annex IV to the Antarctic Protocol" after "the MARPOL Protocol".

(e) REGULATIONS.—Subsection (b)(1) of section 1903 of Title 33 is amended by inserting ", Annex IV to the Antarctic Protocol" after "the MARPOL Protocol".

(f) VIOLATIONS.—

(1) Subsection (a) of section 1907 of Title 33 is amended by inserting in the first sentence ", Annex IV to the Antarctic Protocol" after "the MARPOL Protocol".

(2) Subsection (b) of section 1907 of Title 33 is amended by striking the fourth and fifth sentences and replacing them with the following:

"With respect to the MARPOL Protocol, upon completion of the investigation, the Secretary shall take the action required by the MARPOL Protocol and whatever further actions he or she considers appropriate under the circumstances. If the initial evidence was provided by a party to the MARPOL Protocol, the Secretary, acting through the Secretary of State, shall inform that party of the action taken or proposed. With respect to Annex IV to the Antarctic Protocol, upon completion of the investigation, the Secretary shall take any actions required by the Antarctic Protocol and whatever further actions he or she considers appropriate under the circumstances."

(g) PENALTIES.—Section 1908 of Title 33 is amended—

(1) in subsection (a) by inserting "Annex IV to the Antarctic Protocol," after "the MARPOL Protocol,";

(2) in subsection (b) by inserting "Annex IV to the Antarctic Protocol," after "the MARPOL Protocol," in both paragraphs (1) and (2);

(3) in subsection (d) by inserting "Annex IV to the Antarctic Protocol," after "the MARPOL Protocol,".

SEC. 10. REPRESENTATIVE TO THE COMMITTEE FOR ENVIRONMENTAL PROTECTION.

(a) The Secretary of State, with the concurrence of the Administrator, the Director and the Secretary, shall designate an officer or employee of the United States to be the United States representative of the Committee for Environmental Protection.

(b) The officer or employee designated shall have the technical qualifications necessary to serve in this capacity.

(c) The United States representative shall receive no additional compensation by reason of service as such representative.

SEC. 11. OVERSIGHT.

(a) REPORT AND ON-SITE INSPECTIONS.—

(1) The Secretary of State, in conjunction with the Administrator and the Secretary, shall, at appropriate intervals of between two and five years, conduct an inspection of the United States Antarctic Program, including on-site inspections of stations, field camps, and operations, and review of any other relevant information, including information received from the Director, with a view to examining the overall compliance of the United States Antarctic Program with this Act and the Protocol.

(2) The inspection of the United States Antarctic Program shall be conducted by a team designated by the Secretary of State, the Administrator, and the Secretary. The team shall comprise no more members than are necessary and appropriate to carry out its mandate, and shall include technically qualified experts, both governmental and non-governmental.

(3) The National Science Foundation shall provide all transportation and logistical support necessary to allow the team to conduct the on-site inspections in Antarctica, and shall cooperate to the fullest extent possible in meeting requests for documents, other information, and assistance necessary for the inspection team to carry out its work. The costs of transportation to and from Antarctica shall be borne by the Department of State, the Environmental Protection Agency, and the Department of Commerce.

(4) The inspection team shall prepare a draft report which documents its findings on the compliance of the United States Antarctic Program with the provisions of this Act and the Protocol, shall specify any examples of failures of compliance, and shall make recommendations. The inspection team shall provide the draft report to the Director for review and comment for a period not to exceed 120 days.

(b) PUBLICATION.—The final report of the inspection team, including any comments by the Director, shall promptly be made public. The Director shall publish notice of the report and the response in the Federal Register.

SEC. 12. STUDY OF ANTARCTIC TOURISM.

The Department of State shall coordinate an interagency study of tourism in Antarctica (including recommendations where appropriate) to determine whether or not additional measures should be taken with respect to Antarctic tourist activities. This study shall be completed within 24 months after the date of enactment of this Act.

SEC. 13. RULE MAKING AND PETITION FOR REGULATIONS.

(a) RULE MAKING.—Promulgation of regulations under this Act shall be in accordance with section 553 of Title 5.

(b) PETITION FOR REGULATIONS.—Any person may petition the implementing agency for the promulgation, amendment, or repeal of any regulation under this Act within its authority. Within 180 days of receipt of such a petition, the implementing agency shall grant or deny the petition. If the petition is denied, the implementing agency shall provide notice of such denial and the reasons therefor. If the petition is granted, the final regulations shall be promulgated within twenty-four months of the granting of the petition.

SEC. 14. JUDICIAL REVIEW AND CITIZEN SUITS.

(a) JUDICIAL REVIEW. Any judicial review of final regulations promulgated under this act, of the denial of any petition for the promulgation, amendment, or repeal of any regulation under this Act, or of any final agency action on any permit under section 5 shall be in accordance with sections 701 through 706 of Title 5, except that—

(1) any petition for such review may be filed only in the United States Court of Appeals for the District of Columbia;

(2) such petition shall be filed within thirty days from the date of notice of final agency action;

(3) action with respect to which review could have been obtained under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement;

(4) only an objection which was raised with reasonable specificity during the period for public comment may be raised during judicial review; and

(5) the filing of a petition for reconsideration shall not postpone the effectiveness of any regulation.

(b) CITIZENS' SUITS.—

(1) Except as provided in paragraph (2) of this subsection, any person may commence a civil action under this subsection on his or her own behalf—

(A) against any person (including (i) the United States, and (ii) any other governmental instrumentality or agency to the extent permitted by the Eleventh Amendment to the Constitution) who is alleged to have violated any permit, regulation, or prohibition which has become effective under this Act, provided that no such action may be brought against any individual, grantee, or grantee institution based on an alleged violation committed while the individual, grantee, or grantee institution was engaged

in scientific research in Antarctica in connection with a federal agency program of research in Antarctica; and

(B) against the implementing agency where there is alleged a failure of the implementing agency to perform any action which, under section 6(j), section 7(c)(1), or section 13(b) is not discretionary with the implementing agency.

The U.S. District Court for the District of Columbia shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such a permit, regulation, or prohibition, or to order the implementing agency to perform such act or duty, as the case may be, and, with respect to actions under subparagraph (A) of this paragraph, shall have jurisdiction to impose appropriate civil penalties not to exceed 50,000 dollars per day for each violation, taking into account the factors in section 16(b). The U.S. District Court for the District of Columbia shall have jurisdiction to compel (consistent with subparagraph (B) of this paragraph) agency action unreasonably delayed. In any such action for unreasonable delay, notice to the implementing agency shall be provided 180 days before commencing such action.

(2) No action may be commenced—

(A) under paragraph (1)(A) of this subsection—

(i) prior to sixty days after the plaintiff has given notice of the alleged violation to the implementing agency and to any alleged violator of the permit, regulation, or prohibition; or

(ii) if the implementing agency has commenced and is diligently prosecuting an enforcement action; or

(B) under paragraph (1)(B) of this subsection, prior to sixty days after the plaintiff has given notice of such action to the implementing agency.

Notice under this paragraph shall be given in such manner as the implementing agency shall prescribe by regulation.

(3) Any person may request the implementing agency to commence an action against any individual, grantee, or grantee institution who is alleged to have violated any permit, regulation, or prohibition which has become effective under this Act, while the individual, grantee, or grantee institution was engaged in scientific research in Antarctica in connection with a federal agency program of research in Antarctica. A copy of such request shall be given to the alleged violator. Within sixty days after such request is made to the implementing agency, the implementing agency shall either—

(A) commence an action against the alleged violator; or

(B) provide to the person making the request a written response that (i) states the implementing agency's decision not to take enforcement action against the alleged violator and (ii) describes any other action the implementing agency has taken or intends to take in connection with the alleged violation.

The response of the implementing agency under paragraph (3)(B) of this subsection shall not be subject to judicial review.

(4) In any action under this subsection, the implementing agency, if not a party, may intervene as a matter of right at any time in the proceeding. A judgment in an action under this subsection to which the United States is not a party shall not, however, have any binding effect upon the United States.

(5) Whenever any action is brought under this subsection, the plaintiff shall serve a copy of the complaint on the Attorney General of the United States and on the implementing agency. No consent judgment shall be entered in an action brought under this subsection in which the United States is not a party prior to 45 days following the receipt of a copy of the proposed consent judgment by the Attorney General and the implementing agency during which time the Government may submit its comments on the proposed consent judgment to the court and parties or may intervene as a matter of right.

(6) Nothing in this subsection shall restrict any right which any person or class of persons may have under any statute or common law to seek enforcement of any permit, regulation, or prohibition, or to seek any other relief.

(c) COSTS OF LITIGATION. In any judicial proceeding under this section, the court may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing or substantially prevailing party whenever the court determines that such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

(d) FEDERAL COMPLIANCE AND WAIVER OF SOVEREIGN IMMUNITY.

(1) Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the federal government (i) having jurisdiction over any facility or site in Antarctica, or (ii) engaged in any activity pursuant to the Protocol, this Act or any regulation promulgated or permit issued hereunder, shall be subject to, and comply with, all federal requirements, both substantive and procedural (including any requirement for permits or reporting or any provisions for injunctive relief and such sanctions as may be imposed by a court to enforce such relief), respecting compliance with this Act and any regulation promulgated or permit issued hereunder, in the same manner and to the same extent, as any person is subject to such requirements, including the payment of reasonable service charges. The federal substantive and procedural requirements referred to in this paragraph include, but are not limited to, all administrative orders and all civil and administrative penalties and fines, regardless of whether such penalties or fines are punitive or coercive in nature or are imposed for isolated, intermittent, or continuing violations. The United States hereby expressly waives any immunity otherwise applicable to the United States with respect to any such substantive or procedural requirement (including, but not limited to, any injunctive relief, administrative order or civil or administrative penalty or fine referred to in the preceding sentence, or reasonable service charge). The reasonable service charges referred to in this paragraph include, but are not limited to, fees or charges assessed in connection with the processing and issuance of permits, renewal of permits, amendments to permits, review of plans, studies, and other documents, and inspection and monitoring of facilities.

(2) Neither the United States, nor any agent, employee, or officer thereof, shall be immune or exempt from any process or sanction of any federal court with respect to the enforcement of any such injunctive relief. No agent, employee, or officer of the United States shall be personally liable for any civil penalty under any section of this Act with respect to any act or omission within the scope of the official duties of the agent, employee, or officer. An agent, employee, or officer of the United States shall be subject to any criminal sanction (including, but not limited to, any fine or imprisonment) under any federal law, but no department, agency, or instrumentality of the federal government shall be subject to any such sanction. The President may exempt any Antarctic facility or activity of any department, agency, or instrumentality in the executive branch from compliance with such a requirement if he determines it to be in the paramount interest of the United States to do so. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his or her reason for granting each such exemption.

SEC. 15. ADMINISTRATIVE ENFORCEMENT.

(a) ADMINISTRATIVE COMPLIANCE ORDERS.—

(1) Whenever, on the basis of any information, the implementing agency determines that any person has violated or is in violation of any requirement of this Act, or any permit issued or regulation promulgated under this Act, such agency may, after notice and opportunity for a hearing in accordance with subsection (c) of this section, issue an order requiring compliance immediately or within a specified time period, or both.

(2) Upon the failure of any person against whom a compliance order is issued to take corrective action within the time specified in the order, and after notice and an opportunity for a hearing in accordance with subsection (c) of this section, the implementing agency may request the Attorney General to institute a civil action in either the U.S. District Court for the District of Columbia or for any district in which such person is found, resides or transacts business to enforce such order.

(b) ASSESSMENT OF PENALTIES.—

(1) Any person who is found by the implementing agency, after notice and opportunity for a hearing in accordance with subsection (c) of this section, to have committed any act prohibited by section 4 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed 50,000 dollars for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by written notice. In determining the amount of such penalty, the implementing agency shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed, and, with respect to the violator, the degree of culpability, any history of prior offenses, any economic benefit derived from the violation, and such other matters as justice may require, to the extent such information is reasonably available to the implementing agency.

(2) The implementing agency may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

(c) HEARINGS.—Hearings for administrative actions under this section shall be conducted

in accordance with section 554 of Title 5. For the purposes of conducting any such hearing, the implementing agency may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person under this subsection, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the implementing agency or to appear and produce documents before the implementing agency, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(d) REVIEW OF ADMINISTRATIVE ACTIONS.—Any person against whom an administrative action has been taken under this section may obtain review thereof in the U.S. District Court for the District of Columbia by filing a complaint in such court within 30 days from the date of such order and by simultaneously sending a copy of such complaint, by certified mail to the implementing agency, the Attorney General and the appropriate United States Attorney. The implementing agency shall promptly file in such court a certified copy of the record upon which the violation was found or such penalty imposed, as provided in section 2112 of Title 28. Such court shall not set aside or remand such order unless there is not substantial evidence in the record, taken, as a whole, to support the finding of a violation or unless the implementing agency's assessment of the penalty constitutes an abuse of discretion. In any such proceeding, the United States may seek to recover the civil penalty assessed under this section.

(e) ACTION UPON FAILURE TO PAY ASSESSMENT.—If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the court has entered final judgment in favor of the implementing agency, the implementing agency shall request the Attorney General of the United States to bring a civil action to recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(f) IN REM JURISDICTION.—Any vessel, vehicle or aircraft (including its gear, furniture, appurtenances, stores, and cargo) used in the commission of an act prohibited by section 4 shall be liable in rem for any civil penalty assessed for such violation under this section and may be proceeded against in any district court of the United States having jurisdiction thereof. Such penalty shall constitute a maritime lien on such vessel which may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

SEC. 16. CIVIL JUDICIAL ENFORCEMENT.

(a) CIVIL JUDICIAL ENFORCEMENT.—Whenever, on the basis of any information, the implementing agency determines that a person has violated or is in violation of any requirement of this Act or any permit issued or regulation promulgated under this Act, such agency may request the Attorney General to commence a civil action in either the U.S. District Court of the District of Columbia, or for any district in which such person is found, resides, or transacts business, for appropriate relief, including a temporary or permanent injunction or to assess and recover a civil penalty not to exceed 50,000 dollars per day for each past or ongoing violation, or both. Each day of continuing violation shall constitute a separate offense.

(b) FACTORS CONSIDERED IN DETERMINING AMOUNT.—In determining the amount of such penalty, the court shall take into account the nature, circumstances, extent, and gravity of the prohibited act committed, and, with respect to the violator, the degree of culpability, and history of prior offenses, any economic benefit derived from the violation, and such other matters as justice may require.

(c) IMMINENT HAZARD.—Notwithstanding any other provision of this Act, upon receipt of evidence that a person's past or present activities may present an imminent and substantial endangerment to human health or the environment in Antarctica, the Director, in consultation with the Administrator, may request the Attorney General to bring suit on behalf of the United States in either the U.S. District Court for the District of Columbia, or for any district in which such person is found, resides, or transacts business, against any person who has contributed to or who is contributing to such activities to restrain such person from such activities, to order such person to take other action as may be necessary, or both. The Director, in consultation with the Administrator, may also take other action under this section, including but not limited to issuing such orders as may be necessary to protect human health or the environment in Antarctica, and undertaking corrective action and recovering costs of such action.

SEC. 17. CRIMINAL OFFENSES.

(a) OFFENSES.—Any person who knowingly commits any act prohibited by section 4 shall, upon conviction, be punished by a fine of not more than $50,000 per day of the violation, or by imprisonment for not more than five years, or by both; except that if in the commission of any such offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any officer or employee of the United States carrying out the powers specified in section 19(b)(1), or places any such officer or employee in fear of imminent bodily injury, the maximum fine shall be as provided in Title 18 and the maximum imprisonment shall be as provided in Title 18 and the maximum imprisonment shall be ten years. Each day of a continuing violation shall constitute a separate offense. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both fine and imprisonment.

(b) FEDERAL JURISDICTION.—There is federal jurisdiction over any offense described in subsection (a) of this section.

(c) OTHER CRIMINAL OFFENSES.—Nothing in this Act shall be construed to limit the jurisdiction of the United States over other criminal offenses which may occur in Antarctica.

SEC. 18. CIVIL FORFEITURE.

(a) IN GENERAL.—Any vessel, vehicle or aircraft (including its gear, furniture, appurtenances, stores and cargo), and any guns, traps, and other equipment used, and any animal, plant, Antarctic mineral resource (or the fair market value thereof), or other property recovered, taken, or possessed, in any manner, including any proceeds thereof, in connection with or as a result of the commission of any act prohibited by section 4 shall be subject to forfeiture to the United States. All or part of such vessel, vehicle or aircraft may, and all of any such animal, plant, or Antarctic mineral resource (or fair market value thereof), shall be forfeited to the United States pursuant to a civil proceeding under this section.

(b) JURISDICTION OF DISTRICT COURTS.—Any district court of the United States shall have jurisdiction, upon application by the Attorney General on behalf of the United States, to order any forfeiture authorized under subsection (a) of this section and any action provided for under subsection (d) of this section.

(c) JUDGMENT.—If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized under this Act or for which security has not previously been obtained under subsection (d) of this section. The provisions of the customs laws relating to—

(1) the seizure, forfeiture, and condemnation of property for violation of the customs law;

(2) the disposition of such property or the proceeds from the sale thereof; and

(3) the remission or mitigation of any such forfeiture;

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this Act, unless such customs law provisions are inconsistent with the purposes, policy, and provisions of this Act, except that all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Customs Services shall, for the purposes of this Act, be exercised or performed by the implementing agency.

(d) PROCEDURE.—(1) Any officer authorized to serve any process in rem which is issued by a court under this Act shall—

(A) stay the execution of such process; or

(B) discharge any property seized pursuant to such process;

upon the receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person (i) delivering such property to the appropriate court upon order thereof, without any impairment of its value, or (ii) paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court. Nothing in this paragraph may be construed to require the implementing agency, except in such agency's discretion or pursuant to the order of a court, to release on bond any seized property or the proceeds from the sale thereof.

(2) Except as provided in subsection (e) of this section, any property seized under this Act may be sold, subject to regulations promulgated by the implementing agency, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

(e) DISPOSAL.—Notwithstanding any other provision of law, upon the forfeiture to the United States of any property or item described in subsection (a) of this section, or upon the abandonment or waiver of any claim to any such property or item, it shall be disposed of by the implementing agency in such manner (including, but not limited to loan, sale, gift or destruction), consistent

with the purposes of the Act, as may be prescribed by regulation; except that no native mammal, native bird, or native plant may be disposed of by sale to the public.

SEC. 19. POWERS OF AUTHORIZED ENFORCEMENT OFFICERS AND EMPLOYEES.

(a) GENERAL RESPONSIBILITY.—The provisions of the Act and of any regulation promulgated or permit issued under this Act shall be enforced by the authorized officers or employees designated by the Director, the Secretary, the Administrator, the Secretary of the Treasury, the Secretary of the department in which the Coast Guard is operating or the Secretary of State. Each such agency may by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels) and facilities of any other department or agency of the United States in the performance of such duties.

(b) SPECIFIC POWERS.—Any officer or employee of the United States who is authorized (by an enforcing agency, or the head of any department or agency of the United States which has entered into an agreement with an enforcing agency under subsection (a) of this section) to enforce the provisions of this Act and of any regulation promulgated or permit issued under this Act may—

(1) secure, execute, and serve any order, warrant, subpoena, or other process, which is issued under the authority of the United States or by any court of competent jurisdiction;

(2) with or without a warrant or other process—

(A) search any person, place, vessel, vehicle, or aircraft subject to the provisions of this Act where there are reasonable grounds to believe that evidence of a violation of this Act will be found;

(B) board, and search or inspect, any vessel, vehicle or aircraft subject to the provisions of this Act;

(C) seize any evidence relating to a violation of this Act;

(D) seize any animal, plant, Antarctic mineral resource, prohibited product or prohibited waste, wherever such item may be found, which is or has been recovered, taken or possessed in violation of this Act;

(E) seize any vessel, vehicle or aircraft subject to the provisions of this Act (including its gear, furniture, appurtenances, stores and cargo), or any guns, traps or other equipment used in, or that reasonably appears to have been used in, a violation of this Act;

(F) detain for inspection and inspect any package, crate, or other container, including its contents, and all accompanying documents, upon importation into or exportation from, the United States; and

(G) arrest any person, if he or she has reasonable cause to believe that such person has committed an act prohibited by section 4;

(2) offer and pay a reward to any person who furnishes information which leads to an arrest, conviction, civil penalty assessment, permit sanction, compliance order, injunction, or forfeiture of property for any violation of any provision of this Act;

(3) make inquiries, and administer to, or take from, any person an oath, affirmation or affidavit, concerning any matter which is related to the enforcement of such provisions; and

(4) exercise any other authority which such officer or employee is permitted by law to exercise.

SEC. 20. MISCELLANEOUS ENFORCEMENT PROVISIONS.

(a) REGULATIONS.—Each agency that has responsibility for implementing and enforcing this Act may promulgate such regulations as may be appropriate to enforce the provisions of this Act and of any regulations promulgated or permits issued under this Act, and charge reasonable fees for the expenses of the United States incurred in carrying out inspections and in transferring, boarding, handling, or storing animals, plants, Antarctic mineral resources and any other property seized or forfeited under this Act.

(b) BURDEN OF PROOF.—In connection with any action alleging a violation of this Act, or implementing regulations, any person claiming the benefit of any exemption or permit shall have the burden of proving that the exemption applies or that the permit is applicable, has been granted, was valid and was in force at the time of the alleged violation.

(c) STATUTE OF LIMITATIONS.—The statute of limitations for initiating an administrative or judicial enforcement proceeding shall begin to run at the time a violation is discovered by any of the authorities listed in section 19 and shall run for a period of five years.

(d) ACTION AGAINST PERMIT.—If any person fails to pay a civil penalty or criminal fine, the implementing agency may suspend or deny any permit issued to or applied for by such person. The implementing agency shall reinstate such permit or permit application upon payment of the penalty or fine and interest thereon at the prevailing rate.

(e) PAYMENT OF STORAGE AND OTHER COSTS.—Notwithstanding any other provision of law, the implementing agency may retain sums it receives as fines, penalties, and forfeitures of property for violations of any provisions of this Act, and shall pay from such sums—

(1) the reasonable and necessary costs it incurs in connection with the seizure and forfeiture of property under this Act, including in providing temporary storage, care, and maintenance of such property pending disposition of any civil or criminal proceeding alleging a violation of any provision of this Act;

(2) to a qualifying person any reward offered under section 19;

(3) any expenses directly related to investigations and civil and criminal enforcement proceedings, including any necessary expenses for equipment, training, travel, witnesses, and contracting services directly related to such investigations or proceedings;

(4) any valid liens or mortgages against any property that has been forfeited;

(5) claims of parties in interest to property disposed of under section 612(b) of the Tariff Act of 1930 (19 U.S.C. 1612(b)) or under other provision of the customs laws, as made applicable by this Act to seizures under this Act, in amounts determined by the implementing agency to be applicable to such claims at the time of seizure; and

(6) reimbursement to any agency for services performed, or personnel, equipment, or facilities utilized, under any agreement entered into under section 19, or any similar agreement authorized by law.

(f) PROCEEDINGS UNDER OTHER LAWS.—Legal proceedings brought under any section of this Act with respect to any act shall not be deemed to preclude proceedings with respect to such act under any other provision of this Act or any other law.

(g) INFORMATION GATHERING AUTHORITY.—For the purposes of enforcing the provisions of this Act, or any permit issued or regulation promulgated under this Act—

(1) the implementing agency may require any person who has undertaken activities in Antarctica to—

(A) furnish information relating to his or her activities in Antarctica; or

(B) sample any wastes, emissions, discharges, or releases; and

(2) the implementing agency or its authorized representative may at reasonable times have access to and copy any records relating to activities in Antarctica, and sample any wastes, emissions, discharges, or releases that such person is required to sample under paragraph (1) of this subsection.

SEC. 21. JUDICIAL ACTIONS.

A district court of the United States which has jurisdiction over any case or controversy arising under the provisions of this Act may, at any time—

(a) enter restraining orders or prohibitions;

(b) issue warrants, process in rem, or other process;

(c) prescribe and accept satisfactory bonds or other security; and

(d) take such other actions as are in the interest of justice.

SEC. 22. FEDERAL AGENCY COOPERATION.

(a) Each federal department or agency whose activities affect Antarctica shall utilize, to the maximum extent practicable, its authorities in furtherance of the purposes of this Act, and shall cooperate with the Director in carrying out the purposes of this Act.

(b) The Director shall consult with the Administrator with respect to enforcement of regulations promulgated under section 6(e), and with respect to determining compliance with the terms and conditions of permits issued under section 5(g)(2).

SEC. 23. RELATIONSHIP TO EXISTING INTERNATIONAL AGREEMENTS, STATUTES, REGULATIONS, AND PERMITS.

(a) IN GENERAL.—Nothing in this Act shall be construed as contravening or superseding the provisions of any treaty or other international agreement, if such treaty or agreement is in force with respect to the United States on the date of enactment of this Act, or the provisions of any statute except as provided in subsections (b) and (c) of this section.

(b) STATUTE.—For purposes of any Antarctic mineral resource, the provisions of this Act prevail over any inconsistent provision of the Deep Seabed Hard Mineral Resources Act (30 USC 1401–1471).

(c) REPEAL OF STATUTES.—The Antarctic Conservation Act of 1978 (16 USC 2401 *et seq.*) and the Antarctic Protection Act of 1990 (16 USC 2461 *et seq.*) are hereby repealed.

(d) SAVINGS PROVISIONS.—

(1) All regulations promulgated under the Antarctic Conservation Act of 1978 (16 USC 2401 *et seq.*) shall remain in effect until the Director, the Secretary, the Administrator, the Secretary of the Department in which the Coast Guard is operating, or the Secretary of State, as the case may be, promulgates superseding regulations under sections 6, 7, or 8.

(2) All permits issued under the Antarctic Conservation Act of 1978 (16 USC 2401 *et seq.*) shall remain in effect until they expire in accordance with the terms of those permits.

SEC. 24. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary for each of fiscal years 1994 and 1995 to carry out this Act.

U.S. DEPARTMENT OF STATE,
Washington, DC, November 15, 1993.

Hon. AL GORE,
President of the Senate.

DEAR MR. PRESIDENT: I have the honor to transmit for the consideration of the Congress a draft bill, entitled the Antarctic En-

vironmental Protection Act of 1993, implementing the Protocol on Environmental Protection to the Antarctic Treaty, and four annexes thereto, done at Madrid on October 4, 1991, and an additional annex done at Bonn on October 17, 1991. The Protocol, with all five annexes, received the advice and consent to ratification of the Senate on October 7, 1992.

The draft bill repeals the Antarctic Conservation Act of 1978 (16 U.S.C. §2401 *et seq.*) and replaces it with legislation which enacts measures to implement the provisions of the Protocol and annexes. It also repeals the Antarctic Protection Act of 1990 (16 U.S.C. §2461 *et seq.*) and creates a new prohibition on mineral resource activities in Antarctica consistent with the Protocol.

The Omnibus Budget Reconciliation Act (OBRA) requires that all revenue and direct spending legislation meet a pay-as-you-go requirement. That is, no such bill should result in an increase in the deficit; and if it does, it will trigger a sequester if not fully offset. Collections and fines in this bill would recover any pay-as-you-go costs, resulting in a net zero pay-as-you-go effect.

We are advised by the Office of Management and Budget that there is no objection to our submission of this legislative proposal to the Congress, and that its enactment would be in accord with the President's program.

Please do not hesitate to contact me if we can be of further assistance.

Sincerely,

WENDY R. SHERMAN,
Assistant Secretary,
Legislative Affairs.

STATEMENT OF PURPOSE AND NEED

The attached draft bill, called the Antarctic Environmental Protection Act of 1993, contains proposed legislation to implement the Protocol on Environmental Protection to the Antarctic Treaty.

THE PROTOCOL

The Antarctic Treaty Consultative Parties adopted and opened for signature the Protocol on Environmental Protection to the Antarctic Treaty, including four annexes, on October 4, 1991, in Madrid.

All 26 Consultative Parties, including the United States, have signed the Protocol. The Consultative Parties adopted an additional annex to the Protocol at Bonn on October 17, 1991. The Senate gave its advice and consent to ratification of the Protocol, including the annexes, on October 7, 1992.

The Protocol builds upon the Antarctic Treaty to extend and improve the Treaty's effectiveness as a mechanism for ensuring the protection of the Antarctic environment. The Protocol is intended to replace existing recommendations under the Treaty addressing the protection of the Antarctic environment, including the Agreed Measures for the Conservation of Antarctic Fauna and Flora. It does not affect other agreements on the Antarctic to which the United States is a party, such as the Convention on the Conservation of Antarctic Marine Living Resources and the Convention on the Conservation of Antarctic Seals.

The Protocol designates Antarctic as a natural reserve, devoted to peace and science. It prohibits mineral resource activities, other than scientific research, in Antarctica. Its annexes, which form an integral part of the Protocol, set out specific rules on environmental impact assessment, conservation of Antarctic fauna and flora, waste disposal and management, the prevention of marine pollution, and area protection and management. The Protocol establishes a Committee for Environmental Protection to provide advice and recommendations to the Antarctic Treaty Consultative Meetings on the implementation of the Protocol, and includes provisions on settlement of disputes.

THE DRAFT LEGISLATION

The draft legislation is called the Antarctic Environmental Protection Act of 1993. The legislation would repeal the Antarctic Conservation Act of 1978 ("ACA"), Pub. L. No. 95-541 (16 U.S.C. §§2401 et seq.) and the Antarctic Protection Act of 1990 ("APA"), Pub. L. No. 101-594 (16 U.S.C. §§2461 et seq.), and replace those Acts with new provisions consistent with the Protocol.

The draft legislation would establish a more comprehensive statutory scheme for the protection of the Antarctic environment than the ACA and APA currently provide. Based upon the Protocol, the legislation would prohibit certain actions, such as Antarctic mineral resource activity, introduction of specified products, and open burning of waste after March 1, 1994. The legislation would allow other actions, such as disposal of waste, entry into specially protected areas, and taking of or harmful interference with Antarctic flora and fauna, only with a permit.

The legislation would authorize the Director of the National Science Foundation ("NSF Director"), the Secretary of Commerce, the Administrator of the Environmental Protection Agency ("EPA Administrator"), the Secretary of State, and the Secretary of the Department in which the Coast Guard operates to promulgate regulations to implement the provisions of the Protocol. In particular, the legislation would, inter alia, provide for:

The NSF Director to promulgate regulations on protection of flora and fauna, and of specially protected areas;

The NSF Director, with the concurrence of the EPA Administrator, to promulgate regulations on waste disposal and management;

The Secretary of Commerce to promulgate regulations on Antarctic mineral resource activity;

The Secretary of State to promulgate regulations on the filing of advance notice of expeditions to and within Antarctica; and

The Secretary of the Department in which the Coast Guard is operating to promulgate regulations on marine pollution.

The legislation would implement the provisions of the Protocol on environmental impact assessment, which are consistent with the National Environmental Policy Act of 1969. The legislation would amend the Act to Prevent Pollution from Ships, 33 U.S.C. §1901 et seq., to implement the Protocol's provisions on marine pollution contained in Annex IV.

The legislation would provide for oversight of the United States Antarctic Program through on-site inspections and reports by governmental and non-governmental experts, with a view to examining the overall compliance of the Program with the legislation and the Protocol. The legislation would provide that the Department of State would coordinate an interagency study to determine whether additional measures should be taken with respect to tourism in Antarctica.

The legislation would provide for effective civil and criminal enforcement, including through administrative compliance orders, assessment of penalties, civil judicial enforcement, and criminal proceedings.

SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

The short title of the proposed legislation is the "Antarctica Environmental Protection Act of 1993."

SECTION 2. FINDINGS, PURPOSE, AND POLICY

The legislation would find, in conformity with Article 2 of the Protocol, that Antarctica is a natural reserve, devoted to peace and science.

The purpose of the bill is to provide legislative authority to implement the Protocol.

The legislation would incorporate the environmental principles of Article 3 of the Protocol as a statement of U.S. national policy.

SECTION 3. DEFINITIONS

The bill draws on the Definitions section of the ACA, but changes some definitions and adds others to conform with the Protocol.

The definition of "person" follows the example of the Antarctic Marine Living Resources Convention Act of 1984 ("AMLR"). The legislation would apply to any natural or corporate person subject to the jurisdiction of the United States, including federal, state or local government entities. The legislation would not change or affect the provisions of the Foreign Sovereign Immunities Act of 1976, Pub. L. 94-583, 90 Stat. 2891.

SECTION 4. PROHIBITED ACTS

Section 4(a) of the bill lists prohibited actions; section 4(b) lists actions that would be prohibited unless carried out with a permit.

Section 4(a)(1) would make it unlawful for any person to engage in, provide assistance to, or knowingly finance any Antarctic mineral resource activity. This provision reflects article 7 of the Protocol, which states: "Any activity relating to mineral resources, other than scientific research, shall be prohibited." This legislation would repeal the APA, which was intended as an interim measure pending entry into force of an international agreement providing an indefinite ban on Antarctic mineral resource activities. Article 7, which has no termination date and is not reviewable for fifty years following entry into force of the Protocol, constitutes such an indefinite ban.

The legislation would prohibit several activities concerning waste in Antarctica. It would be unlawful to: introduce certain specified products; to dispose of certain types of waste, except through removal; to engage in open burning of waste after March 1, 1994; and to dispose of any waste onto ice-free land areas or into fresh water systems. In addition, section 4 (b) of the legislation would prohibit disposal of any waste in Antarctica without a permit, except as otherwise authorized under the Act to Prevent Pollution from Ships. All of these prohibitions are based on provisions of Annex III of the Protocol.

Section 4(b) of the legislation would prohibit any person from introducing into Antarctica any member of a non-native species and from engaging in any taking or harmful interference in Antarctica without a permit, in conformity with Annex II of the Protocol.

Section 4(b) would also prohibit entering specially protected areas without a permit, in conformity with Annex V of the Protocol.

SECTION 5. PERMITS

The legislation would set out terms and conditions on the issuance of permits by the NSF Director for activities otherwise prohibited under section 4(b). The legislation would require the Director to consult with the EPA Administrator before issuing a permit to dispose of waste, and to receive the concurrence of the Secretary of Commerce before issuing

a permit for a taking or harmful interference in connection with the construction or operation of scientific support facilities.

The bill provides that the Director may modify, suspend or revoke any permit where there is a change in conditions that makes the permit inconsistent with the provisions of the legislation or the Protocol.

SECTION 6. REGULATIONS

The legislation would authorize the NSF Director, the Secretary of Commerce, the EPA Administrator, the Secretary of State, and the Secretary of the Department in which the Coast Guard operates to promulgate regulations to implement the provisions of the Protocol. In particular, the legislation would provide for:

The NSF Director to promulgate regulations on protection of flora and fauna, and of specially protected areas, in accordance with specific requirements drawn from Annex II of the Protocol;

The NSF Director, with the concurrence of the EPA Administrator, to promulgate regulations on waste disposal and management, in accordance with specific requirements drawn from Annex III of the Protocol;

The Secretary of Commerce to promulgate regulations on Antarctic mineral resource activity;

The Secretary of State to promulgate regulations on the filing of advance notice of expeditions to and within Antarctica; and

The Secretary of the Department in which the Coast Guard is operating to promulgate regulations on marine pollution.

The legislation would also provide authority to promulgate additional regulations to implement the Protocol, including regulations to address a situation not covered by the annexes to the Protocol or in which a more rigorous or supplemental requirement is necessary.

SECTION 7. ENVIRONMENTAL IMPACT ASSESSMENT

The legislation would implement the provisions of the Protocol on environmental impact assessment of federal agency activities in Antarctica by applying the National Environmental Policy Act of 1969 to the activities, as specified in the legislation.

The Protocol requires environmental impact assessment of non-governmental activities, as well as governmental activities, in Antarctica. The legislation would authorize the EPA Administrator to promulgate regulations to provide for the environmental impact assessment of non-governmental activities, including tourism, consistent with the provisions of Annex I of the Protocol.

SECTION 8. MONITORING

The legislation would authorize the NSF Director, in consultation with the EPA Administrator, to promulgate regulations to provide for procedures to assess and verify the environmental impact of activities that proceed following a determination that they will have more than a minor or transitory impact on the Antarctic environment or dependent and associated ecosystems.

SECTION 9. MARINE POLLUTION

The legislation would amend the Act to Prevent Pollution from Ships, to implement the Protocol's provisions on marine pollution contained in Annex IV.

SECTION 10. REPRESENTATION

The legislation would provide that the Secretary of State, with the concurrence of appropriate agency officials, would appoint the U.S. representative to the Committee for Environmental Protection created under the Protocol.

SECTION 11. OVERSIGHT

The legislation would provide that the Secretary of State, in conjunction with the EPA Administrator and the Secretary of Commerce, will inspect the U.S. Antarctic Program at appropriate intervals of between two and five years. The inspection team will conduct on-site inspections of stations, field camps, and operations, and review any other relevant information, with a view to examining the overall compliance of the U.S. Antarctic Program with the legislation and the Protocol.

The inspection team will prepare a report which documents its findings, specifies any examples of failures of compliance, and makes recommendations. The report, along with any comments by the NSF Director on it, will be made public.

SECTION 12. STUDY OF ANTARCTIC TOURISM

The legislation would provide that the Department of State will coordinate an interagency study to determine whether additional measures should be taken with respect to tourism in Antarctica. The legislation would provide that the study would be completed within 24 months of the date of enactment of the legislation.

SECTION 13. RULE MAKING AND PETITION

The legislation would provide that any person may petition for the promulgation, amendment, or repeal of any regulation. Within 180 days of receipt of the petition, the agency responsible for implementing the legislation shall grant or deny the petition.

SECTION 14. JUDICIAL REVIEW AND CITIZENS' SUITS

The legislation would provide for judicial review of final regulations, the denial of petitions under section 13, and final agency action on any permit. It would also provide for citizens' suits, to help to ensure effective implementation of the provisions of the Act.

SECTION 15. ADMINISTRATIVE ENFORCEMENT

The legislation would provide that when an agency implementing the legislation determines that any person is in violation of any requirement of the Act, or any regulation or permit under it, the agency may issue an order requiring compliance. Any person who commits an act prohibited by the legislation would be liable for a civil penalty up to 50,000 dollars for each day of the violation.

SECTION 16. CIVIL JUDICIAL ENFORCEMENT

An agency which determines that a person has violated any requirement of the Act, or any regulation or permit under it, could request the Attorney General to commence a civil action to assess and recover a civil penalty against the person, up to 50,000 dollars for each day of the violation.

In addition, the legislation would authorize the Director to request the Attorney General to bring suit against any person whose past or present activities may present an imminent and substantial endangerment to human health or the environment in Antarctica, to restrain the person from the activities, or to order the person to take other action as may be necessary.

SECTION 17. CRIMINAL OFFENSES

The legislation would provide that a person is guilty of a criminal offense if he or she knowingly commits any act prohibited by section 4 of the legislation. The offense would be punishable by imprisonment for not more than five years, or a fine, or both.

SECTION 18. CIVIL FORFEITURE

The legislation would provide that any vessel, vehicle or aircraft used in connection with any act prohibited by section 4 would be subject to forfeiture by the United States.

SECTION 19. POWERS OF AUTHORIZED ENFORCEMENT OFFICERS

The legislation would provide that its provisions would be enforced by authorized officers of designated agencies, including the National Science Foundation, the Environmental Protection Agency, the Secretary of Commerce, and the Coast Guard, and would provide the officers specific enforcement authority (such as conducting searches and seizures and making arrest).

SECTION 20. MISCELLANEOUS ENFORCEMENT PROVISIONS

This provision would make clear that agencies with responsibility for implementing and enforcing the legislation may promulgate appropriate regulations to that end. The legislation would provide that the statute of limitations for initiating an administrative or judicial enforcement proceeding will be five years.

SECTION 21. JUDICIAL ACTIONS

This section would provide that courts with jurisdiction over cases arising under the legislation may enter restraining orders, issue warrants, prescribe and accept bonds or other security, or take other actions in the interest of justice.

SECTION 22. FEDERAL AGENCY COOPERATION

This section, which is identical to language in the ACA, would provide that every federal department or agency whose activities affect Antarctica will use its authorities in furtherance of the purposes of the legislation, and will cooperate with the NSF Director in carrying out those purposes.

SECTION 23. RELATIONSHIP TO EXISTING INTERNATIONAL AGREEMENTS AND STATUTES

The bill provides that the legislation shall not be construed to contravene or supersede the provisions of any treaty or other international agreement in force with respect to the United States on the date of enactment of the Act. It also provides that the legislation does not contravene or supersede any statute, with the exception of those specifically listed in this section.

Section 23(b) is intended to assure that the Deep Seabed Hard Mineral Resources Act, 30 U.S.C. §§1401–1471, is not construed to authorize prospecting or the issuance of authorizations to engage in deep seabed mining in Antarctica.

Section 23(c) would repeal the APA (which will expire upon entry into force of the Protocol for the United States) and the ACA, both of which would be superseded by this legislation.

SECTION 24. AUTHORIZATION OF APPROPRIATIONS

The legislation would authorize such sums as may be necessary and appropriate for the fiscal year 1994 and 1995 to carry out the legislation.●

By Mr. BAUCUS (for himself and Mr. LAUTENBERG) (by request):

S. 1834. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and for other purposes; to the Committee on Environment and Public Works, pursuant to the order of February 7, 1994, for consideration only of matters within that committee's jurisdiction, provided that if and when reported from committee, the bill be referred to the Committee on Finance for consideration only of matters within that committee's jurisdiction for a period not to exceed 30 session days.

SUPERFUND REFORM ACT OF 1994

Mr. BAUCUS. Mr. President, I rise, along with Senator LAUTENBERG, to introduce upon the request of the administration, legislation to reform and reauthorize our Nation's Superfund law. President Clinton, Administrator Browner, Secretary Bentsen, and many others in the administration deserve credit for their leadership in proposing much needed reforms to Superfund.

This bill represents a year long effort to study Superfund, pinpoint the problems, and evaluate alternatives for reforming the program. Administrator Browner began the process early last year when she commissioned an advisory group of public and private representatives called the NACEPT group. This group took an honest look at Superfund and made recommendations on how to improve the program.

Also last year the Keystone group, an independent and diverse group of leaders from government, industry, environmental, and civil rights organizations began examining Superfund. In late December, they completed their work, reaching consensus on a proposal that would substantially reform Superfund.

This bill builds on the work and recommendations of NACEPT and the Keystone groups. It recognizes the problems with the existing law and proposes fundamental solutions. It proposes changes to lower litigation costs, achieve more rational and quicker cleanups, ensure that polluters pay their fair share, and strengthen the role of the States and enhance community involvement. It represents an excellent start for congressional action.

FAIR SHARE LIABILITY

One of the most troubling parts of Superfund is its unfair and highly litigious liability system. In 1980, when we passed Superfund we had hoped to quickly and cost-effectively clean up our Nation's most toxic dumps. To accomplish this task, we gave the Environmental Protection Agency broad legal authority to order any polluter at a site to pay for the entire cost of cleaning up that site.

As it now stands, the EPA typically orders the larger polluters to clean up a site. They in turn sue smaller polluters, and their insurance companies, to recover some of the costs. In the end, the courts determine everyone's share.

This liability system has become a cash cow for lawyers and has forced EPA and industry to spend more time and money finding culprits than cleaning up contaminated sites.

The President's bill recognizes these problems and proposes a new system to more fairly allocate costs among polluters. Under the proposal polluters could use an independent arbitrator to determine their fair share. If they don't they would be subject to the full force of the current liability system.

The bill also proposes an exemption from Superfund entirely for the smallest polluters, the so called de micromis parties. It proposes an expedited settlement process for small businesses, de minimis polluters, and municipalities to get them out of the Superfund system more quickly and more fairly by considering their ability to pay. And it caps liability facing municipal waste generators and transporters.

Finally the bill proposes a new insurance settlement fund, financed by insurers to substantially reduce the potential liability and litigation now facing insurers and PRPs.

COMMONSENSE CLEANUPS

Although these liability reforms should make Superfund more fair and less litigious, at the heart of Superfund's problems are slow, costly, unpredictable, ineffective, and often unnecessary cleanups and reluctance on the part of polluters to cleanup sites on their own, or try new technologies.

It takes 9 years to even begin cleaning up a site and decades to finish the job at a cost of almost $30 million per site. We are throwing this money down the drain if we try to return sites to pristine conditions, when that's not technically feasible. Or if we cleanup sites where risks are negligible. The problem is that Cadillac remedies rob resources from sites where health threats are real and they delay all cleanups.

The President's bill seeks to change this. It proposes to expedite cleanups by focusing on the worst problems first rather than concentrating on every problem, large and small, all at once.

It does this by proposing national standards that should provide businesses with certainty and predictability. It gives polluters an incentive to cleanup pollution voluntarily and use innovative technology. It sets cleanup standards that are consistent with the type of land use at the site. It eliminates the controversial reasonable and appropriate requirements that have delayed cleanups. But it preserves legally applicable State cleanup standards and provides a safety net to ensure that highly contaminated areas, known as hot spots, are treated if possible.

ENHANCED STATE AND PUBLIC PARTICIPATION

Finally the bill proposes to significantly expand the role of the public allowing citizens to participate in all parts of the Superfund process where key decisions are made. And it proposes to let States pick up and run the Superfund Program like they can under most other environmental laws.

AN EXCELLENT START

As I said at the outset, this proposal represents an excellent start for congressional action. Last year, Senator LAUTENBERG began the process for Senate action by holding 9 days of Superfund hearings. We heard from dozens of experts. They told us about the problems with the current program and offered suggestions for improvement.

I am pleased that the proposed reforms in the President's bill seems to address many of the concerns raised during Senator LAUTENBERG's hearings.

Next week, on February 10, Senator LAUTENBERG will continue the reauthorization process by holding the first Senate hearing on the administration's bill. And as we begin consideration of this bill, I will pay especially close attention to four areas:

The nonbinding allocations system—that system must not simply transfer today's liability disputes from the courts to independent arbitrators. It must provide enough of an incentive so that PRP's will want to participate. And it must ensure that money will be available to pay for orphan shares if an independent arbitrator decides to allocate some costs to the Fund.

The voluntary insurance settlement fund—it must be both affordable enough to insurers who will pay into the fund, and large enough to entice PRP's to participate in a voluntary settlement.

The State delegation process—it must minimize Federal Government interference with States once they are authorized to run the Superfund Program.

The cleanup goals and remedy section process—it must ensure that remedies will be done quickly, responsibility, and are fully protective of human health and the environment.

Let me stress one final, point. We have a full plate of issues before us this year—the crime bill, health care, and welfare reform, as well as clean water and safe drinking water reauthorizations before my committee.

Given these competing priorities we must continue to work together to broaden the consensus that we now have to fixing Superfund. In that spirit, I will be working with the Administrator, my Senate and House colleagues, and with others who are committed to Superfund reform. And I urge everyone to work together so that we can reach consensus on Superfund this Congress.

Mr. President, I ask unanimous consent that the text of the administration's bill along with a summary be printed in the RECORD.

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

S. 1834

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 "Superfund Reform Act of 1994".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—COMMUNITY PARTICIPATION AND HUMAN HEALTH

Sec. 101. Purposes and objectives.

Sec. 102. Early, direct and meaningful community participation.
Sec. 103. Community working groups.
Sec. 104. Citizen information and access offices.
Sec. 105. Response to comments.
Sec. 106. Multiple sources of risk demonstration projects.
Sec. 107. Assessing risks from multiple sources.
Sec. 108. Multiple sources of risk in priority setting.
Sec. 109. Disease registry and medical care providers.
Sec. 110. Substance profiles.
Sec. 111. Determining health effects.
Sec. 112. Public health and related health activities at National Priorities List sites.
Sec. 113. Health studies.
Sec. 114. Distribution of materials to health professionals and medical centers.
Sec. 115. Grant awards/contracts/community assistance activities.
Sec. 116. Public health recommendations in remedial actions.
Sec. 117. Agency for Toxic Substances and Disease Registry notification.

TITLE II—STATES ROLES

Sec. 201. State authority.
Sec. 202. Transfer of authorities.
Sec. 203. State role in determination of remedial action taken.
Sec. 204. State assurances.
Sec. 205. Siting.
Sec. 206. The National Priorities List.
Sec. 207. The State Registry.

TITLE III—VOLUNTARY RESPONSE

Sec. 301. Purposes and objectives.
Sec. 302. State voluntary response program.
Sec. 303. Site characterization program.

TITLE IV—LIABILITY AND ALLOCATION

Sec. 401. Response authorities.
Sec. 402. Compliance with administrative orders.
Sec. 403. Limitations to liability for response costs.
Sec. 404. Liability.
Sec. 405. Civil proceedings.
Sec. 406. Limitations on contribution actions.
Sec. 407. Scope of rulemaking authority.
Sec. 408. Enhancement of settlement authorities.
Sec. 409. Allocation procedures.

TITLE V—REMEDY SELECTION

Sec. 501. Purposes and objectives.
Sec. 502. Cleanup standards and levels.
Sec. 503. Remedy selection.
Sec. 504. Miscellaneous amendments to section 121.
Sec. 505. Response authorities.
Sec. 506. Removal actions.
Sec. 507. Transition.

TITLE VI—MISCELLANEOUS

Sec. 601. Interagency agreements at mixed ownership and mixed responsibilty facilities.
Sec. 602. Transfers of uncontaminated property.
Sec. 603. Agreements to transfer by deed.
Sec. 604. Alternative or innovative treatment technologies.
Sec. 605. Definitions.
Sec. 606. Conforming amendment.

TITLE VII—FUNDING

Sec. 701. Authorizations of appropriations.
Sec. 702. Orphan share funding.
Sec. 703. Agency for Toxic Substances and Disease Registry.
Sec. 704. Limitations on research, development and demonstration programs.
Sec. 705. Authorization of appropriations from general revenues.
Sec. 706. Additional limitations.

TITLE VIII—INSURANCE

Sec. 801. Short title.
Sec. 802. Environmental Insurance Resolution Fund.
Sec. 803. Financial statements, audits, investigations, and inspections.
Sec. 804. Stay of pending litigation.
Sec. 805. Sunset provisions.
Sec. 806. Sovereign immunity of the United States.
Sec. 807. Effective date.

TITLE IX—TAX

Sec. 901. Amendments to the Internal Revenue Code of 1986.
Sec. 902. Environmental fees and assessments on insurance companies.
Sec. 903. Funding provisions for Environmental Insurance Resolution Fund.
Sec. 904. Resolution Fund not subject to tax.

TITLE I—COMMUNITY PARTICIPATION AND HUMAN HEALTH

SEC. 101. PURPOSES AND OBJECTIVES.

The purposes and objectives of the community participation activities required by this title are to—

(a) inform citizens and elected officials at all levels of government of the existence and status of facilities listed on the National Priority List and contaminated sites identified on State Registries (as established by section 207 of this Act);

(b) provide citizens with information regarding the Superfund identification and cleanup process and maintain lists of technical, health and other relevant experts licensed or located in the state who are available to assist the community;

(c) ensure wide dissemination of and access to information in a manner that is easily understood by the community, considering any unique cultural needs of the community, including presentation of information orally and distribution of information in languages other than English; and

(d) ensure that the President is aware of and considers the views of affected communities.

SEC. 102. EARLY, DIRECT AND MEANINGFUL COMMUNITY PARTICIPATION.

(a) Section 117(e)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, referred to in this Act as "the Act" (42 U.S.C. 9617) is amended by amending the first sentence to read as follows—

"(1) AUTHORITY.—Subject to such amounts as are provided in appropriations Acts and in accordance with rules promulgated by the President, the President may make grants or services available to any group of individuals which may be affected by a release or threatened release of a hazardous substance or pollutant, or contaminant at or from a facility where there is significant response action under this Act including, a site assessment, remedial investigation/feasibility study, or other removal or remedial action.".

(b) Section 117(e) of the Act is amended by striking paragraph (2) and inserting in the following—

"(2) Amount.

"The amount of any grants or services may not exceed $50,000 for a single recipient of grants or services. The President may waive the $50,000 limitation in any case where such waiver is necessary to carry out the purposes of this subsection. Each recipient of grants or services shall be required, as a condition of the grants or services, to contribute at least 20 percent of the total costs of the technical assistance for which such grants and services are made. The President may waive the 20 percent contribution requirement if the grants or services recipient demonstrates financial need, and such waiver is necessary to facilitate public participation in the selection of remedial action at the facility. Not more than one award or grants or services may be made with respect to a single facility, but the grants or services may be renewed to facilitate public participation at all stages of remedial action.".

(c) Section 117 of the Act (42 U.S.C. 9617) is amended by adding after subsection (e) the following new subsections—

"(f) EARLY, DIRECT AND MEANINGFUL COMMUNITY INVOLVEMENT.—President shall provide for early, direct and meaningful community involvement in each significant phase of response activities taken under this Act. The President shall provide the community with access to information necessary to develop meaningful comments on critical decisions regarding facility characterization, risks posed by the facility, and selection of removal and remedial actions. The President shall consider the views, preferences and recommendations of the affected community regarding all aspects of the response activities, including the acceptability to the community of achieving background levels.

"(g) INFORMATION TO BE DISSEMINATED.—In addition to other information the President considers appropriate, the President shall ensure that the community is provided information on the following—

"(1) the availability of a Technical Assistance Grant (TAG) under subsection (e), directions on completing the TAG application, and the details of the application process;

"(2) the possibility (where relevant) that members of a community may qualify to receive an alternative water supply or relocation assistance;

"(3) the Superfund process, and rights of private citizens and public interest or community groups;

"(4) the potential for or existence of a Community Working Group (CWG) established under subsection (i) (as added by the Superfund Reform Act of 1994); and

"(5) an objective description of the facility's location and characteristics, the contaminants present, the known exposure pathways, and the steps being taken to assess the risk presented by the facility.

"(h) PROCESS FOR INVOLVEMENT.—As early as practicable after site discovery, the President shall provide regular, direct, and meaningful community involvement in all phases of the response activities at the facility, including—

"(1) SITE ASSESSMENT.—Whenever practicable, during the site assessment, the President shall solicit and evaluate the concerns and interests of the community likely affected by the facility. The evaluation may consist of face-to-face community surveys, a minimum of one public meeting, written responses to significant concerns, and other appropriate participatory activities.

"(2) REMEDIAL INVESTIGATION/FEASIBILITY STUDY.—During the remedial investigation and feasibility study, the President shall solicit the views and preferences of the community on the remediation and disposition of the hazardous substances, pollutants or contaminants at the site. The community's views and preferences shall be described in the remedial investigation and feasibility

study and considered in the development of remedial alternatives for the facility.".

SEC. 103. COMMUNITY WORKING GROUPS.

Section 117 of the Act (42 U.S.C. 9617) is amended by adding after subsection (h) (as added by this Act) the following new subsection—

"(i) COMMUNITY WORKING GROUPS.—

"(1) CREATION AND RESPONSIBILITIES.—The President shall provide the opportunity to establish a representative public forum, known as a Community Working Group (CWG), to achieve direct, regular and meaningful consultation with community members throughout all stages of a response action. The President shall consult with the CWG at each significant phase of the remedial process.

"(2) INFORMATION CLEARINGHOUSE.—The CWG shall serve as a facility information clearinghouse for the community. In addition to maintaining records of facility status and lists of active citizen groups and available experts, the CWG shall also be a repository for health assessment information and other related health data.

"(3) LAND USE RECOMMENDATIONS.—To establish land use expectations more reliably, and obtain greater community support for remedial decisions affecting future land use, the President shall consult with the CWG on a regular basis throughout the remedy selection process regarding reasonably anticipated future use of land at the facility. The CWG may offer recommendations to the President at any time during the response activities at the facility on the reasonably anticipated future use of land at the facility, taking into account development possibilities and future waste management needs. The President shall not be bound by any recommendation of the CWG. However, when the CWG achieves substantial agreement on the reasonably anticipated future use of the land at the facility, the President shall give substantial weight to that recommendation. In cases where there is substantive disagreement within the CWG over a recommendation regarding the reasonably anticipated future use of land at the facility, the President shall seek to reconcile the differences. In the event of continued substantive disagreement, substantial weight shall be given to the views of the residents of the affected community. Should the President make a determination that is inconsistent with a CWG recommendation on the reasonably anticipated future use of land at the facility, the President shall issue a written reason for the inconsistency.

"(4) MEMBERS.—CWG membership shall not exceed twenty persons. CWG members shall serve without pay. Nominations for CWG membership shall be solicited and accepted by the President. Selection of CWG members shall be made by the President. In selecting citizen participants for the CWG, the President shall provide notice and an opportunity to participate in CWGs to persons who potentially are affected by facility contamination in the community. Special efforts shall be made to ensure that the composition of CWGs reflects a balanced representation of all those interested in facility remediation. In general, it shall be appropriate for the President to offer members of the following groups representation on a CWG—

"(A) Residents and/or landowners who live on or have property immediately adjacent to or near the facility, or who may be directly affected by releases from the facility, with a minimum of one representative of the recipient a grant for technical assistance, if any, awarded under subsection (e);

"(B) Persons who, although not physically as close to the facility as those in the group identified in subparagraph (A), may be potentially affected by releases from the facility;

"(C) Members of the local medical community who have resided in the community for at least five years;

"(D) Representatives of Indian tribes;

"(E) Representatives of citizens, environmental or public interest groups with members residing in the community;

"(F) Local government officials;

"(G) Workers at the facility who will be involved in actual cleanup operations;

"(H) Persons at the facility during response actions;

"(I) Facility owners and the significant PRPs, who, whenever practicable, represent a balance of interests; and,

"(J) Members of the local business community.

"(5) OTHER COMMUNITY VIEWS.—The existence of a CWG shall not affect or diminish any other obligation of the President to consider the views of any person in selecting response actions under this Act.".

SEC. 104. CITIZEN INFORMATION AND ACCESS OFFICES.

Section 117 of the Act (42 U.S.C. 9617) is amended by adding after subsection (i) (as added by this Act) the following new subsection—

"(j) CITIZEN INFORMATION AND ACCESS OFFICES.—

"(1) CREATION AND RESPONSIBILITIES.—The Administrator shall ensure that an independent Citizen Information and Access Office (CIAO) is established in each state and on each tribal land affected by a National Priorities List facility.

"(2) PRIMARY FUNCTIONS.—The primary functions of each CIAO shall be to—

"(A) Inform citizens and elected officials at all levels of government of the existence and status of National Priorities List facilities in the state;

"(B) Provide citizens with information about each phase of the Superfund process, including the site identification, assessment and cleanup phases;

"(C) Ensure wide distribution of information that is easily understood by citizens;

"(D) Serve as a state-wide, or tribal land-wide clearinghouse of information; and

"(E) Assist in the Administrator's efforts to notify, nominate, and select potential Community Working Group members.".

SEC. 105. RESPONSE TO COMMENTS.

Section 117(a) (42 U.S.C. 9617(a)) of the Act is amended by striking "both of" from the phrase immediately preceding paragraph (1) and by inserting after paragraph (2) the following new paragraph—

"(3) Consider the recommendations of any Community Working Group, community members and Technical Assistance Grant recipients established for the facility pursuant to this section. Provide, in writing a response to each significant comment received during the public comment period. The written response shall include an explanation of how the lead agency has used or rejected significant comments of the Community Working Group in its final decision.".

SEC. 106. MULTIPLE SOURCES OF RISK DEMONSTRATION PROJECTS.

Section 117 of the Act (42 U.S.C. 9617) is amended by adding after subsection (j) (as added by this Act) the following new subsection—

"(k) MULTIPLE SOURCES OF RISK DEMONSTRATION PROJECTS.—

"(1) IN GENERAL.—The Administrator shall select at least 10 demonstration projects to be implemented over a five year period, relating to the identification, assessment, management of, and response to, multiple sources of risk in and around designated facilities. These demonstration projects will examine various approaches to protect communities exposed to such multiple sources of risk. The Administrator shall promulgate regulations that set forth the criteria by which demonstration projects will be selected.

"(2) ADDITIONAL HEALTH BENEFITS.—In the course of conducting these demonstration projects, if a distinct pattern of adverse health effects is identified in the surrounding community, the Administrator shall consider the provision of additional health benefits to the affected community, in an effort to improve community health and welfare. Additional benefits may include services such as consultations on health information and health screening, the kind and availability of which will be set forth in regulations promulgated by the Administrator. These benefits shall not duplicate any activities already undertaken at those facilities by the Agency for Toxic Substances and Disease Registry under Section 104(i) of this Act.

"(3) MULTIPLE SOURCES OF RISK.—For the purposes of this section, the term "multiple sources of risk" means—

"(A) health risks from the existence of and exposure to hazardous substances in the vicinity of a facility for which a response action under this Act is considered, which may present risks to persons who are also at risk due to conditions at such a facility; or

"(B) health risks from releases or threatened releases of a hazardous substance, pollutant or contaminant from facilities, permitted or otherwise, in the vicinity of a facility for which a response action under this Act is being considered, which may present risks to persons who are also at risk due to the specific facility for which a response action is being considered.

"(4) CONSISTENCY WITH DESIGNATION OF EMPOWERMENT ZONES.—The Administrator shall, to the maximum extent practicable, select locations for conducting demonstration projects under this subsection that coincide with areas which have been identified as empowerment zones under the Omnibus Budget Reconciliation Act of 1994 (P.L. 103-66).

"(5) RIGHT TO PETITION.—Any person may petition the Administrator to conduct a demonstration project under this subsection at a specified location. Without regard to paragraph (4), the Administrator may grant such a petition if:

"(A) the petition sets out a reasonable basis in fact that the population residing in the vicinity of the specified location may be exposed to multiple sources of risk as described in paragraph (3) and;

"(B) the petition otherwise meets the requirements of regulations promulgated by the Administrator which set forth the criteria by which demonstration projects will be selected.

"(6) REVIEWS OF PETITIONS.—The Administrator's determinations and reviews of petitions under this subsection are committed to the Administrator's unreviewable discretion.

"(7) INTERAGENCY COORDINATION.—The Administrator shall coordinate with other departments or agencies as necessary in carrying out the responsibilities of this subsection.".

SEC. 107. ASSESSING RISKS FROM MULTIPLE SOURCES.

Section 105(a) of the Act (42 U.S.C. 9605(a)) is amended by adding after paragraph (10) the following new paragraph—

"(11) standards and procedures for assessing the risks, and the cumulative impact of such risks, posed by the release or threatened release of hazardous substances, or pollutants, or contaminants from multiple sources of risk (as described in section 117(l)(3) of this Act) in and around a facility, for utilization in response actions authorized by this Act. The demonstration projects authorized under subsection 117(l) of this Act shall be used to help meet the requirements of this subsection.".

SEC. 108. MULTIPLE SOURCES OF RISK IN PRIORITY SETTING.

Section 105(a)(8)(A) of the Act (42 U.S.C. 9605(a)(8)(A)) is amended by adding in the last sentence before "and other appropriate factors" the following: "the presence of multiple sources of risk (described in section 117(l)(3) of this Act) to affected communities,".

SEC. 109. DISEASE REGISTRY AND MEDICAL CARE PROVIDERS.

Section 104(i)(1) of the Act (42 U.S.C. 9604(i)(1)) is amended—

(a) by amending subparagraph (A) to read as follows—

"(A) in cooperation with the States, for scientific purposes and public health purposes, establish and maintain a national registry of persons exposed to toxic substances;"; and

(b) by amending subparagraph (E) by striking "admissions to hospitals and other facilities and services operated or provided by the Public Health Service" and by inserting: "referral to accredited medical care providers".

SEC. 110. SUBSTANCE PROFILES.

Section 104(i)(3) of the Act (42 U.S.C. 9604(i)(3)) is amended by amending the paragraph beginning "Any toxicological profile or revision thereof" to read as follows—

"Any toxicological profile or revision thereof shall reflect the Administrator of ATSDR's assessment of all relevant toxicological testing which has been peer reviewed. The profiles prepared under this paragraph shall be for those substances highest on the list of priorities under paragraph (2) for which profiles have not previously been prepared or for substances not on the listing but which have been found at non-National Priorities List facilities and which have been determined by ATSDR to be of critical health concern. Profiles required under this paragraph shall be revised and republished as necessary, based on scientific need. Such profiles shall be provided to the States and made available to other interested parties.".

SEC. 111. DETERMINING HEALTH EFFECTS.

Section 104(i)(5) of the Act (42 U.S.C. 9604(i)(5)) is amended—

(a) in subparagraph (A) by—

(1) striking "designed to determine the health effects (and techniques for development of methods to determine such health effects) for such substance" and inserting "conducted directly or by means such as cooperative agreements and grants with appropriate public and nonprofit institutions. The research shall be designed to determine the health effects (and techniques for development of methods to determine such health effects) of the substance"; and

(2) redesignating clause (iv) as "(v)", striking "and" after clause (iii), and by inserting new clause (iv) to read as follows—

"(iv) laboratory and other studies which can lead to the development of innovative techniques for predicting organ-specific, site-specific, and system-specific acute and chronic toxicity; and"; and

(b) striking subparagraph (D).

SEC. 112. PUBLIC HEALTH AND PELATED HEALTH ACTIVITIES AT NPL FACILITIES.

Section 104(i)(6) of the Act (42 U.S.C. 9604(i)(6)) is amended by—

(a) amending subparagraph (A) to read as follows—

"(A) The Administrator of ATSDR shall perform a public health assessment or related health activity for each facility on the National Priorities List established under section 105 of this Act. The public health assessment or related health activity shall be completed for each facility proposed for inclusion on the National Priorities List not later than one year after the date of proposal for inclusion, including those facilities owned by any department, agency, or instrumentality of the United States. "; and

(b) in subparagraph (H), striking "health assessment" and "such assessment" each place that they appear and inserting "public health assessment or related health activity".

SAC. 113. HEALTH STUDIES.

Section 104(i)(7)(A) of the Act (42 U.S.C. 9604(i)(7)(A)) is amended to read as follows—

"(A) Whenever in the judgment of the Administrator of ATSDR it is appropriate on the basis of the results of a public health assessment or on the basis of other appropriate information, the Administrator of ATSDR shall conduct a human health study of exposure or other health effects for selected groups or individuals in order to determine the desirability of conducting full scale epidemiologic or other health studies of the entire exposed population.".

SEC. 114. DISTRIBUTION OF MATERIALS TO HEALTH PROFESSIONALS AND MEDICAL CENTERS.

Section 104(i)(14) of the Act (42 U.S.C. 9604(i)(14)) is amended to read as follows—

"(14) In implementing this subsection and other health-related provisions of this Act in cooperation with the States, the Administrator of ATSDR shall—

"(A) assemble, develop as necessary, and distribute to the States, medical colleges, physicians, nursing institutions, nurses, and other health professionals and medical centers, appropriate educational materials (including short courses) on the medical surveillance, screening, and methods of prevention, diagnosis and treatment of injury or disease related to exposure to hazardous substances (giving priority to those listed in paragraph (2)), through means the Administrator of ATSDR considers appropriate; and

"(B) assemble, develop as necessary, and distribute to the general public and to at-risk populations appropriate educational materials and other information on human health effects of hazardous substances.".

SEC. 115. GRANT AWARDS/CONTRACTS/COMMUNITY ASSISTANCE ACTIVITIES.

Section 104(i)(15) of the Act (42 U.S.C. 9604(i)(15)) is amended by—

(a) inserting "(A)" before "The activities";

(b) striking "cooperative agreements with States (or political subdivisions thereof)" and inserting: "grants, cooperative agreements, or contracts with States (or political subdivisions thereof), other appropriate public authorities, public or private institutions, colleges, and universities, and professional associations,";

(c) in the second sentence, inserting "public" before "health assessments"; and

(d) adding a new subparagraph as follows—

"(B) When a public health assessment or related health activity is conducted at a facility on, or a release being evaluated for inclusion on the National Priorities List, the Administrator of ATSDR may provide the assistance specified in this paragraph to public or private non-profit entities, individuals, and community-based groups who may be affected by the release or threatened release of hazardous substances in the environment.".

SEC. 116. PUBLIC HEALTH RECOMMENDATIONS IN REMEDIAL ACTIONS.

Section 121(c) of the Act (42 U.S.C. 9621(c)) is amended by inserting after the phrase "remedial action" the second time it appears the following—

", including public health recommendations and decisions resulting from activities under section 104(i),".

SEC. 117. ATSDR NOTIFICATION.

Section 122 of the Act (42 U.S.C. 9622) is amended by inserting after subsection (m) the following new subsection—

"(n) NOTIFICATION OF ATSDR.—When the Agency for Toxic Substances and Disease Registry (ATSDR) has conducted health related response activities pursuant to section 104(i) in response to a release or threatened release of any hazardous substance that is the subject of negotiations under this section, the President shall notify ATSDR of the negotiations and shall encourage the participation of ATSDR in the negotiations.".

TITLE II—STATE ROLES

SEC. 201. STATE AUTHORITY.

(a) Title I of the Act (42 U.S.C. 9600 et.seq.) is amended by adding after section 126 the following new section—

"SEC. 127. STATE AUTHORITY.

"(a) STATE PROGRAM AUTHORIZATION.—

"(1) IN GENERAL.—At any time after the promulgation of the criteria required by paragraph (3) of this subsection, a State may apply to the Administrator to carry out, under its own legal authorities, response actions and enforcement activities at all facilities listed or proposed for listing on the National Priorities List, or certain categories of facilities listed or proposed for listing on the National Priorities List, within the State. This section shall not apply to any facility owned or operated by a department, agency, or instrumentality of the United States listed on the National Priorities List if, on the date of enactment of the Superfund Reform Act of 1994, an interagency agreement for such facility has been entered into pursuant to section 120(a)(2).

"(2) REQUIREMENTS FOR AUTHORIZATION.—If the Administrator determines that the State possesses the legal authority, technical capability, and resources necessary to conduct response actions and enforcement activities in a manner that is substantially consistent with this Act and the National Contingency Plan at the facilities listed or proposed for listing on the National Priorities List for which it seeks authorization, the Administrator, pursuant to a contract or agreement entered into between the Administrator and the State, may authorize the State to assume the responsibilities established under this Act at all such facilities or categories of facilities. Except as otherwise provided in this Act, such responsibilities include, but are not limited to, responding to a release or threatened release of a hazardous substance or pollutant or contaminant; selecting response actions; expending the Fund in amounts authorized by the Administrator to finance response activities; and taking enforcement actions, including cost recovery actions to recover Fund expenditures made by the State. In an application for authorization, a State shall acknowledge its responsibility to address all response actions at the facilities for which it seeks authorization.

"(3) PROMULGATION OF REGULATIONS.—The Administrator shall issue regulations to determine a State's eligibility for authorization and establish a process and criteria for withdrawal of such an authorization. At a minimum, a State must demonstrate—

(A) that it has a process for allocating liability among potentially responsible parties that is substantially consistent with section 122a of this Act (as added by the Superfund Reform Act of 1994);

(B) that it provides for public participation in a manner that is substantially consistent with section 117 of this Act and the National Contingency Plan;

(C) that it provides for selection and conduct of response actions in a manner that is substantially consistent with section 121 of this Act; and

(D) that it provides for notification of and coordination with trustees in a manner that is substantially consistent with section 104(b)(2) and section 122(j)(1) of this Act.

"(b) REFERRAL OF RESPONSIBILITIES.—

"(1) IN GENERAL.—At any time after the promulgation of the criteria required by paragraph (3) of this subsection, a State may apply to the Administrator to carry out, under its own legal authorities, response actions at a specific facility or facilities listed or proposed for listing on the National Priorities List, within the State.

"(2) REQUIREMENTS FOR REFERRAL.—If the Administrator determines that the State possesses the legal authority, technical capability, and resources necessary to conduct response actions and enforcement activities in a manner substantially consistent with this Act and the National Contingency Plan at the facilities listed or proposed for listing on the National Priorities List facilities for which it seeks referral, the Administrator, pursuant to a contract or agreement entered into between the Administrator and the State, may refer the responsibilities established under this Act to the State for the facilities for which the State seeks referral. Except as otherwise provided in this Act, such responsibilities include, but are not limited to, responding to a release or threatened release of a hazardous substance or pollutant or contaminant; selecting response actions; expending the Fund in amounts authorized by the Administrator to finance response activites; and taking enforcement actions, including cost recovery actions to recover Fund expenditures made by the State.

"(3) PROMULGATION OF REGULATIONS.—The Administrator shall promulgate regulations to determine a State's eligibility for referral and establish a process and criteria for withdrawal of such referral. At a minimum, a State must demonstrate that it meets the requirements described in subsection (a)(3).

"(c) AUTHORIZED USE OF FUND.—At facilities listed on the National Priorities List for which a State is authorized under subsection (a), and at facilities listed on the National Priorities List which are referred to a State under subsection (b), the State shall be eligible for response action financing from the Fund. The Administrator shall ensure that all allocations of the Fund to the States for the purpose of undertaking site-specific response actions are based primarily on the relative risks to human health and the environment posed by the facilities eligible for funding. The amount of Fund financing for a State-selected response action at a facility listed on the National Priorities List shall—

"(1) take into account the number and financial viability of parties identified as potentially liable for response costs at such facility, and

"(2) be limited to the amount necessary to achieve a level of response that is not more stringent than that required under this Act.

A State also may obtain Fund financing to develop and enhance its capacity to undertake response actions and enforcement activities. The Administrator shall establish specific criteria for allocating expenditures from the Fund among States for the purposes of undertaking response actions and enforcement activities at referred and State-authorized facilities, and building state capacities to undertake such response actions and enforcement activities. The Administrator shall develop a program and provide an appropriate level of Fund financing to assist Indian tribes in developing and enhancing their capabilities to conduct response actions and enforcement activities.

"(d) STATE COST SHARE.—As provided in section 104(c)(3)(B) of this Act (as added by the Superfund Reform Act of 1994), a State shall pay or assure payment of 15 percent of the costs of all response actions and program support or other costs for which the State receives funds from the Fund under this section. An Indian tribe authorized to conduct a response actions and enforcement activities or to which facilities have been referred under this section is not subject to the cost-share requirement of this subsection.

"(e) TERMS AND CONDITIONS; COST RECOVERY.—A contract or agreement for a State authorization or referral under this section is subject to such terms and conditions as the Administrator prescribes. The terms and conditions shall include requirements for periodic auditing and reporting of State expenditures from the Fund. The contract or agreement may cover a specific facility, a category of facilities, or all facilities listed or proposed to be listed on the National Priorities List in the State. The contract or agreement shall require the State to seek cost recovery, as contemplated by this Act, of all expenditures from the Fund. Five percent of the monies recovered by the State may be retained by the State for use in its hazardous substance response program, and the remainder shall be returned to the Fund. Before making further allocations from the Fund to any State, the Administrator shall take into consideration the effectiveness of the State's enforcement program and cost recovery efforts.

"(f) ENFORCEMENT OF AGREEMENTS.—If the Administrator enters into a contract or agreement with a State pursuant to this section, and the State fails to comply with any terms and conditions of the contract or agreement, the Administrator, after providing sixty days notice, may withdraw the State authorization or referral, or seek in the appropriate federal district court to enforce the contract or agreement to recover any funds advanced or any costs incurred because of the breach of the contract or agreement by the State.

"(g) MORE STRINGENT STATE STANDARDS.—Under either an authorization or referral, a State may select a response action that achieves a level of cleanup that is more stringent than required under section 121(d) of this Act if the State agrees to pay for the incremental increase in response cost attributable to achieving the more stringent cleanup level. Neither the Fund nor any party liable for response costs shall incur costs in excess of those necessary to achieve a level of cleanup required under section 121(d) of this Act.

"(h) OPPORTUNITY FOR PUBLIC COMMENT.—The Administrator shall make available, for public review and comment, applications for authorization under subsection (a) and applications for referral under subsection (b). The Administrator shall not approve or withdraw authorization or referral from a State unless the Administrator notifies the State, and makes public, in writing, the reasons for such approval or withdrawal.

"(i) PERIODIC REVIEW OF AUTHORIZED STATE PROGRAMS AND REFERRALS.—The Administrator shall conduct a periodic review of authorized State programs and referrals to determine, among other things, whether—

"(1) the response actions were selected and conducted in a manner that was substantially consistent with this Act, the National Contingency Plan, and the contract or agreement between the Administrator and the State;

"(2) the State response costs financed by Fund expenditures were incurred in the manner agreed to by the State, in accordance with the contract or agreement between the Administrator and the State; and

"(3) the State's cost recovery efforts and other enforcement efforts were concluded in accordance with the contract or agreement between the Administrator and the State.

The Administrator, in consultation with the States, shall develop specific criteria for periodic reviews of authorized State programs and referrals. The Administrator shall establish a mechanism to make the periodic State reviews available to the public.

"(j) MODIFICATION OF RESPONSE.—At a facility for which a State selects a response action under an authorization or a referral, the State shall afford the opportunity for public participation in a manner that is substantially consistent with the requirements of section 117(f)-(i) of this Act, and shall give notice of and a copy of the proposed plan for response action to the Administrator. The State also shall give prompt written notice and a copy of the final decision in selecting the response action to the Administrator. Within 90 days from the date of receipt of such notice and final response action decision from the State, the Administrator may issue a notice of a request to modify the State-selected remedy. The Administrator's notice shall be in writing and shall set forth basis for the Administrator's position, and the final date for responding to the Administrator's request, which shall be no less than 90 days from the date of the notice. If the State's response does not resolve the Administrator's concerns to the Administrator's satisfaction, the Administrator may withhold the distribution of Fund monies for the selected response action or may withdraw all or part of the State's authorization or referral.

"(1) EFFECT OF SECTION.—The President shall retain authority to take response actions at facilities listed or proposed for listing on the National Priorities List that are not being addressed by a State under an authorization or referral pursuant to this section. At facilities listed or proposed for listing on the National Priorities List that are being addressed by a State under either an authorization or a referral, the President may take response actions that the President determines necessary to protect human health or the environment, if the State fails, after a request by the Administrator to take such response actions in a timely manner. A State does not have the authority, except pursuant to this section, to take or order a response action, or any other action relating to releases or threatened releases, at any facility listed or proposed for listing on the National Priorities List. This section does not effect the authority of the United States

under this Act to seek cost recovery for costs incurred by the United States.

(b) TRANSITION AND CONFORMING AMENDMENTS.—

(1) Sections 104(c)(5), 104(c)(7), 104(d)(1) and 104(d)(2) of the Act are each amended by inserting after the heading in each paragraph the following—"This paragraph applies only to response actions for which a Record of Decision or other decision document is signed before the date of enactment of the Superfund Reform Act of 1994 and response actions covered by a contract or agreement for which a State has selected, pursuant to the option provided in subsection (c)(3)(C) (as added by the Superfund Reform Act of 1994), the funding requirements set forth in subsection (c)(3)(A) (as amended by Superfund Reform Act of 1994).";

(2) Section 114(a) of the Act is amended by striking "Nothing" and inserting—"Except as otherwise provided in this Act, noting";

(3) Section 12(f)(1) of the Act is amended by striking the existing provisions and inserting—"The President may repeal, no earlier than one year after the promulgation of final regulations under sections 127(a)(3) and 127(b)(3), the regulations issued under this paragraph prior to the date of enactment of the Superfund Reform Act of 1994.";

(4) Section 121(f)(2) of the Act is amended by—

(A) striking "legally applicable or relevant and appropriate" from the second sentence of subparagraph (A); and

(B) striking "subsection (d)(4)" from the second sentence of subparagraph (A) and inserting "subsection (d)(5)(C)";

(5) Section 121(f)(3) of the Act is amended by—

(A) striking "legally applicable or relevant and appropriate" from the second sentence of subparagraph (A); and

(B) striking "subsection (d)(4)" from the second sentence of subparagraph (A) and inserting "subsection (d)(5)(C)"; and

(6) Section 302(d) of the Act is amended by striking "Nothing" and inserting—"Except as otherwise provided in this Act, noting".

SEC. 202. TRANSFER OF AUTHORITIES.

Section 120(g) of the Act (42 U.S.C. 9620(g)) is amended by adding, after "the Environmental Protection Agency," the phrase "and except as provided in section 127,".

SEC. 203. STATE ROLE IN DETERMINATION OF REMEDIAL ACTION TAKEN.

Section 120(h)(3) of the Act (42 U.S.C. 9620(h)(3)) is amended by adding the end thereof the following:

"If the property being transferred is part of a facility subject to a State authorization or a referral under section 127, all demonstrations required by this paragraph to be made to the Administrator shall be made to the appropriate State official.".

SEC. 204. STATE ASSURANCES.

Section 104(c)(3) of the Act (42 U.S.C. 9604(c)(3)) is amended by—

(a) in the beginning of the paragraph after "(3)" inserting "State cost shares for response actions and programs for which Superfund funds may be allocated under this section or section 127 shall be as follows—";

(b) striking "The" before "President" and inserting "(A) For all remedial actions for which a Record of Decision is signed before the date of enactment of the Superfund Reform Act of 1994, the";

(c) redesignating subparagraph (A), (B) and (C) of existing section 104(c)(3) as subparagraphs (1), (2) and (3) respectively; by striking "(i)", wherever it appears and inserting "(I)"; and striking "(ii)" wherever it appears and inserting "(II)";

(d) adding a new subparagraph (B) as follows—

"(B) Subject to the provisions of subparagraph (C), for the costs of all response actions for which a Record of Decision of other decision document is signed after the date that is one year after the effective date of final regulations promulgated under section 127(a)(3) and section 127(b)(3), and for all program or other costs for which Fund money may be allocated to the State pursuant to this section or section 127, the President shall not provide or authorize funding from the Fund unless the State first enters into a contract or agreement with the President providing assurances deemed adequate by the President that the State will pay or assure payment of 15 per cent of all such costs as required by section 127(d). The Administrator may provide funding authorized under this paragraph for a one-year or other period for all costs and facilities in a State; in that event, the State cost share requirement set forth above shall apply to all costs covered by such period."; and

(e) adding a new subparagraph (C) as follows—

"(C) Each State shall have the option of receiving funding for all response action costs and program or other costs for which funding is authorized under this section or section 127 pursuant to either subparagraph (A) or subparagraph (B) of this paragraph. The option selected by the State shall apply to all contracts and agreements signed pursuant to this section or section 127.".

SEC. 205. SITING.

Section 104(c)(9) of the Act (42 U.S.C. 9604(c)(9)) is amended to read as follows—

"(9) SITING.—Effective one year after the date of enactment of the Superfund Reform Act of 1994, the President shall not provide any remedial actions pursuant to this section unless the State in which release occurs submits a report describing its plans for adequate disposal capacity for hazardous wastes, in accordance with guidelines issued by the Administrator.".

SEC. 206. THE NATIONAL PRIORITIES LIST.

(a) Section 105(a)(8)(B) the Act (42 U.S.C. 9605(a)(8)(B)) is amended by striking "as part of the plan", and by inserting before "Within" the sentence "The National Priorities List, and any modifications to the National Priorities List, may be adopted administratively, and without rulemaking.".

(b) Section 105(a)(8) of the Act (42 U.S.C. 9606(a)(8)) is amended by adding after subparagraph (B) the following new subparagraph—

"(C) before determining that a facility is to be listed on the National Priorities List, the Administrator shall publish a notice proposing the facility for listing on the National Priorities List and shall provide an opportunity for public comment. Public notice and opportunity for comment also shall be provided before a decision by the Administrator to remove a facility from the National Priorities List. The Administrator shall establish a procedure under which any person may request that a facility be considered for listing on, or removal from, the National Priorities List. The Administrator has the sole discretion to list or remove a facility on the National Priorities List.".

SEC. 207. THE STATE REGISTRY.

Section 105(a)(8) of the Act (42 U.S.C. 9605(a)(8)) is amended by adding after subparagraph (C) (as added by this Act) a new subparagraph—

"(D) STATE REGISTRY.—Each State shall maintain and make available to the public a list of facilities in the State that are believed to present a current or potential hazard to human health or the environment due to the release or threatened release of hazardous substances or pollutants or contaminants. Each State, in consultation with the Administrator and other appropriate federal agencies, shall prepare such listing, and shall, on an annual basis, publish the State Registry, specifying the governmental agency addressing the facility, and whether the facility is on the National Priorities List.".

TITLE III—VOLUNTARY RESPONSE

SEC. 301. PURPOSES AND OBJECTIVES.

The purposes and objectives of this title are to—

(a) significantly increase the pace of response activities at contaminated sites by promoting and encouraging the development and expansion of State voluntary response programs, and

(b) benefit the public welfare by returning contaminated sites to economically productive uses.

SEC. 302. STATE VOLUNTARY RESPONSE PROGRAM.

Title I of the Act is amended by adding after section 127 (as added by this Act) the following new section—

"SEC. 128. VOLUNTARY RESPONSE PROGRAM.

"(a) IN GENERAL.—The Administrator shall establish a program to provide technical and other assistance to the States to establish and expand voluntary response programs.

"(b) VOLUNTARY RESPONSE PROGRAM.—The Administrator shall assist States to establish and administer a voluntary program that—

"(1) covers all eligible facilities, as defined in subsection (c) of this section, within the State;

"(2) provides adequate opportunities for public participation, including prior notice and opportunity for comment, in selecting response actions;

"(3) provides opportunities for technical assistance for voluntary response actions;

"(4) has the capability, through enforcement or other mechanisms, of assuming the responsibility for completing a response action if the current owner or prospective purchaser fails or refuses to complete the necessary response, including operation and maintenance; and

"(5) provides adequate oversight and has adequate enforcement authorities to ensure that voluntary response actions are completed in accordance with applicable Federal and State laws, including applicable permit requirements and any on-going operation and maintenance or long-term monitoring activities.

"(c) ELIGIBLE FACILITIES.—

"(1) Except as provided in paragraph 2 of this subsection, the term "eligible facility" means a facility or portion of a facility where there has been a release or threat of release of a hazardous substance, pollutant, or contaminant into the environment.

"(2) The term "eligible facility" does not include any of the following—

"(A) a facility at which a remedial investigation and feasibility study is underway, unless the Administrator, in consultation with the State, determines that it is appropriate to allow the response action at such a facility to proceed under a voluntary response program;

"(B) a facility with respect to which a Record of Decision has been issued under section 104 of this Act;

"(C) a facility with respect to which a corrective action permit condition or order has been proposed, issued, modified, or amended

to require implementation of specific corrective measures under section 3004(u), 3004(v), or 3008(h) of the Solid Waste Disposal Act [42 U.S.C. 6924(u), 6924(v), or 6928(h)]:

"(D) a land disposal unit with respect to which a closure notification under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) has been submitted;

"(E) a facility with respect to which an administrative or judicial order or decree concerning the response action has been issued, sought, or entered into by the United States under this Act, the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Toxic Substances Control Act (15 U.S.C. 2601 et seq.) or title XIV of the Public Health Service Act, commonly known as the Safe Drinking Water Act (42 U.S.C. 300(f) et seq.); and

"(F) a facility at which assistance for response activities may be obtained under subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) from the Leaking Underground Storage Tank Trust Fund established under section 9508 of the Internal Revenue Code of 1986.

"(3) A facility listed or proposed for listing on the National Priorities List may be an "eligible facility" if—

"(A) the facility is not a facility identified in paragraph (2);

"(B) the State in which the facility is located has obtained a State authorization or referral under section 127 of this Act; and

"(C) the Administrator concurs in the State's determination to address the facility under its voluntary response program.

"(d) ANNUAL REPORTING.—The Administrator shall report, not later than 1 year after enactment of this Act and annually thereafter, to the Congress on the status of State voluntary response programs including—

"(1) whether the State's voluntary response program continues to meet the criteria set forth in subsection (b) or (c);

"(2) whether the State has adopted procedures to ensure that all response actions completed or undertaken under the State's voluntary response program comply with all applicable Federal and State laws;

"(3) whether public participation opportunities have been adequate during the process of selecting a response action for each voluntary response;

"(4) whether voluntary response actions completed or undertaken under the State voluntary response program have been implemented in a manner that has reduced or eliminated risks to human health and the environment to the satisfaction of the State;

"(5) whether voluntary response actions completed or undertaken under the State voluntary response program at facilities listed or proposed for listing on the National Priorities List were conducted in accordance with section 121(d) of this Act; and

"(6) whether a voluntary response action has increased risk to human health or the environment, and whether a State has taken timely and appropriate steps to reduce or eliminate that risk to human health or the environment.

"(i) STATUTORY CONSTRUCTION.—This section is not intended—

"(1) to impose any requirement on a State voluntary response program existing on or after the date of enactment of this Act; or

"(2) to affect the liability of any person or response authorities afforded under any law (including any regulation) relating to environmental contamination, including this Act (except as expressly provided in section 101(39)(D) (42 U.S.C. 9601(39)(D)), section 107(a)(5)(C) (42 U.S.C. 9607(a)(5)(C)), the Solid Waste Disposal Act (42 U.S.C. 6901 et. seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et. seq.), the Toxic Substances Control Act (15 U.S.C. 2601 et. seq.), or title XIV of the Public Health Service Act, commonly known as the "Safe Drinking Water Act" (42 U.S.C. 300(f) et. seq.).".

SEC. 303. SITE CHARACTERIZATION PROGRAM.

Title I of the Act is amended by adding after section 128 (as added by this Act) the following new section—

"SEC. 129. SITE CHARACTERIZATION TECHNICAL ASSISTANCE PROGRAM.

"(a) IN GENERAL.—The Administrator shall establish a program to provide technical and other assistance to municipalities to conduct site characterizations for facilities at which voluntary response actions are being conducted or are proposed to be conducted pursuant to a State voluntary response program that meets the requirements described in section 127.

"(b) TECHNICAL ASSISTANCE.—In carrying out the program established under subsection (a), the Administrator may provide technical and other assistance to a municipality to conduct a site characterization of a facility within the jurisdiction of the municipality at which voluntary response actions are being conducted or are proposed to be conducted. A municipality requesting technical and other assistance shall provide to the Administrator the following information—

"(1) describing the facility at which voluntary response actions are being conducted or are proposed to be conducted;

"(2) demonstrating the financial need of the owner or prospective purchaser of such a facility for funds to conduct a site characterization;

"(3) analyzing the potential of the facility for creating new businesses and employment opportunities on completion of the response action;

"(4) estimating the fair market value of the site after the proposed or ongoing response action, if a response action is necessary;

"(5) regarding the economic viability and commercial activity on real property—

"(i) located within the immediate vicinity of the affected site at the time of consideration of the application; or

"(ii) projected to be located within the immediate vicinity of the affected site by the date that is 5 years after the date of the consideration of the application;

"(6) regarding the potential of the facility for creating new businesses and employment opportunities on completion of a response action;

"(7) regarding whether the affected site is located in an economically distressed community;

"(8) regarding the presence of multiple sources of risk as described in section 117(k) of this Act; and

"(9) in such form, as the Administrator considers appropriate to carry out the purposes of this section.".

TITLE IV—LIABILITY AND ALLOCATION

SEC. 401. RESPONSE AUTHORITIES.

(a) Section 104(e)(2) of the Act (42 U.S.C. 9604(e)(2)) is amended by deleting the word "cleanup" and inserting the phrase "response action", and inserting after subparagraph (C) the following—

"(D) The nature and extent of all activities and operations at such vessel or facility, including the identity of any persons engaged in, responsible for, controlling, or having the ability to control such activities or operations.

"(E) Information relating to the liability or responsibility of any person to perform or pay for a response action.

"(F) Information that is otherwise relevant to enforce the provisions of this Act."

(b) Section 104(e)(7) of the Act (42 U.S.C. 9604(e)) is amended to read as follows—

"(7) Administrative subpoenas—When it would assist in the collection of information necessary or appropriate for the purposes of implementing this Act, the President may by subpoena require the attendance and testimony of witnesses and the production of reports, papers, documents, answers to questions, and other information that the President deems necessary. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In the event of contumacy or failure or refusal of any person to obey any such subpoena, any district court of the United States in which venue is proper shall have jurisdiction to order any such person to comply with such subpoena. Any failure to obey such an order of the court is punishable by the court as a contempt thereof.

"(8) Confidentiality of information—

"(A) Any records, reports, or information obtained from any person under this section (including records, reports or information obtained by representatives of the President and records, reports or information obtained pursuant to a contract, grant or other agreement to perform work pursuant to this section, but not including documents, reports, compilations, summaries, or other analyses prepared by the President or representatives of the President which reference or incorporate information obtained under this section) shall be available to the public, except as follows:

"(i) Upon a showing satisfactory to the President (or the State, as the case may be) by any person that records, reports or information, or any particular part thereof (other than health or safety effects data), to which the President (or the State, as the case may be) or any officer, employee, or representative has access under this section if made public would divulge information entitled to protection under section 1905 of Title 18 of the U.S. Code, such information or particular portion thereof shall be considered confidential in accordance with the purposes of that section, except that such record, report, document or information may be disclosed to other officers, employees, or authorized representatives of the United States (including government contractors) concerned with carrying out this chapter, or when relevant in any proceeding under this chapter, or, if such records, reports or information are obtained or submitted to the United States (or the State, as the case may be) pursuant to a contract, grant or other agreement to perform work pursuant to this section, to persons from whom the President seeks to recover costs pursuant to this Act.

"(ii) This section does not require that information which is exempt from disclosure pursuant to section 522(a) of Title 5 of the U.S. Code by reason of subsection (b)(5), subsection (b)(6), or subsection (b)(7) of such section, be available to the public, nor shall the disclosure of any such information pursuant to this section authorize disclosure to other parties or be deemed to waive any confidentiality privilege available to the President under any federal or State law.".

SEC. 402. COMPLIANCE WITH ADMINISTRATIVE ORDERS.

(a) Section 106(a) of the Act (42 U.S.C. 9606(a)) is amended by

(1) inserting after the phrase "hazardous substance" the phrase ", or pollutant or contaminant"; and

(2) by adding at the end thereof the following: "The President may amend such orders and issue additional orders, as appropriate, without a subsequent finding of an imminent and substantial endangerment, to complete response action undertaken in response to a release or substantial threat of a release, or to require additional response actions that are necessary or appropriate.".

(b) Section 106(b)(1) of the Act (42 U.S.C. 9606(b)(1)) is amended

(1) by striking out the phrase "to enforce such order", and

(2) by inserting before the period ", or be required to comply with such order, or both, even if another party has complied, or is complying, with the terms of the same order or another order pertaining to the same facility, release or threatened release"; and

(3) by inserting at the end of the paragraph the following—

"For purposes of this title, a 'sufficient cause' requires—

"(A) an objectively reasonable belief by the person to whom the order is issued that the person is not liable for any response costs under section 107 of this title; or

"(B) that the action to be performed pursuant to the order is determined to be inconsistent with the national contingency plan.

The existence or results of an allocation process pursuant to section 122a of this title shall not affect or constitute a basis for a determination of 'sufficient cause.'".

(c) Section 106(b)(2) is amended by moving the second sentence of subsection (b)(2)(A) and redesignating it as subsection (b)(4), and by striking the word "paragraph" in such newly designated subsection (b)(4) and replacing it with the word "subsection".

(d) Section 106(b)(2)(A) of the Act (42 U.S.C. 9602(b)(2)(A)) is amended by striking out the phrase "completion of", and inserting the phrase "the President determines that such person has completed".

(e) Section 106(b)(2)(C) of the Act (42 U.S.C. 9606(b)(2)(C)) is amended by inserting after the words "Subparagraph (D)" the phrase ", or as may be authorized in a settlement entered into under section 122a of this title.".

SEC. 403. LIMITATIONS TO LIABILITY FOR RESPONSE COSTS.

Section 107 of the Act (42 U.S.C. 9607), is amended—

(a) in subsection (a) by inserting—

"(5) Notwithstanding paragraphs (1) through (4) of this subsection, a person who does not impede the performance of response actions or natural resource restoration shall not be liable—

"(A) to the extent liability is based solely on subsection 107(a)(3) or 107(a)(4) of this Act, and the arrangement for disposal, treatment, or transport for disposal or treatment, or the acceptance for transport for disposal or treatment, involved less than five hundred (500) pounds of municipal solid waste (MSW) or sewage sludge as defined in sections 101(41) and 101(44) of this Act, respectively, or such greater or lesser amount as the Administrator may determine by regulation;

"(B) to the extent liability is based solely on subsection 107(a)(3) or 107(a)(4) of this Act, and the arrangement for disposal, treatment, or transport for disposal or treatment, or the acceptance for transport for disposal or treatment, involved less than ten (10) pounds or liters of materials containing hazardous substances or pollutants or contaminants or such greater or lesser amount as the Administrator may determine by regulation, except where—

"(i) the Administrator has determined that such material contributed significantly or could contribute to the costs of response at the facility; or

"(ii) the person has failed to respond fully and completely to information requests by the United States, or has failed to certify that, on the basis of information within its possession, it qualifies for this exception;

"(C) to the extent liability is based solely on subsection 107(a)(1) of this Act, for a release or threat of release from a facility, and the person is a bona fide prospective purchaser of the facility as defined in section 101(39);

"(D) to the extent the liability of a department, agency, or instrumentality of the United States is based solely on section 107(a)(1) or (2) with regard to a facility over which the department, agency, or instrumentality exercised no regulatory or other control over activities that directly or indirectly resulted in a release of threat of a release of a hazardous substance, and—

"(i) all activities that directly or indirectly resulted in a release of threat of a release of a hazardous substance during the period of ownership by the United States occurred prior to 1976;

"(ii) the activities either directly or indirectly resulting in a release or a threat of a release of a hazardous substance at the facility were pursuant to a statutory authority;"

"(iii) such department, agency, or instrumentality of the United States did not cause or contribute to the release or threat of release of hazardous substances or pollutants or contaminants at the facility; and

"(iv) there are persons, other than the United States, who are both potentially liable for the release of hazardous substances or pollutants or contaminants at the facility and fully capable of performing or financing the response action at the facility; or

"(E) to the extent the liability of a federal or state entity or municipality is based solely on its ownership of a road, street, or other right of way or other public transportation route over which hazardous substances are transported, or the granting of a license or permit to conduct business; or

"(F) for more than ten percent of total response costs at the facility, in aggregate, for all persons to the extent their whose liability is based solely on subsections 107(a)(3) or 107(a)(4) of this Act, and the arrangement for disposal, treatment, or transport for disposal or treatment, or the acceptance for transport for disposal or treatment involved only municipal solid waste (MSW) or sewage sludge as defined in sections 101(41) and 101(44), respectively, of this Act. Such limitation on liability shall apply only—

"(i) where either the acts or omissions giving rise to liability occurred before the date thirty-six (36) months after enactment of this paragraph, or the person asserting the limitation institutes or participates in a qualified household hazardous waste collection program within the meaning of section 101(43); and

"(ii) where the disposal did not occur on lands owned by the United States or any department, agency, or instrumentality thereof, or on any tribal land.".

(b) by inserting after subsection (m) the following—

"(n) PROSPECTIVE PURCHASER AND WINDFALL LIEN.—Where there are unrecovered response costs for which an owner of a facility is not liable by operation of subsection 107(a)(5)(C) of this Act, and a response action for which there are unrecovered costs inures to the benefit of such owner, the United States shall have a lien upon the facility for such unrecovered costs. Such lien—

"(1) shall not exceed the increase in fair market value of the property attributable to the response action at the time of a subsequent sale or other disposition of property;

"(2) shall be subject to the requirements for notice and validity established in paragraph (3) of subsection (l) of this section; and

"(3) shall continue until the earlier of satisfaction of the lien, or recovery of all response costs incurred at the facility.".

(c) Section 120 of the Act (42 U.S.C. 9620) is amended by inserting before the word "Facilities" in the title of the section the phrase "Entities And".

(d) Section 120(a)(1) of the Act (42 U.S.C. 9620(a)(1)) is amended—

(1) after the word "title" in the first sentence on inserting the phrase "the right to contribution protection set forth in Sections 113 and 122, when such department, agency or instrumentality resolves its share of liability under this Act and liability for all federal civil and administrative penalties and fines imposed under this Act, regardless of whether such penalties and fines are punitive or coercive in nature or are imposed for isolated or continuing violations.";

(2) by inserting the word "other" before the phrase "person or entity" in the second sentence and by inserting after the second sentence the following new sentence—

"The waiver of immunity in this section does not encompass uniquely governmental actions such as—

"(A) any actions of any department, agency or instrumentality, except for official seizure of or holding title to a facility, taken pursuant to Federal authority to regulate the economy in preparation for, during, or otherwise in connection with war through the use and implementation of national priority rating systems, national wage, profit and price incentives or controls, or otherwise to mobilize the national economy for war-related production; or

"(B) any actions of any department, agency, or instrumentality taken in response to a natural disaster pursuant to the Emergency Flood Control Work Act (33 U.S.C. 701(n)), or the Disaster Relief Act of 1974 (42 U.S.C. 5121 *et seq.*).";

(e) Section 120(a)(4) of the Act (42 U.S.C. 9620(a)(4) is amended—

(1) by inserting "currently" before "owned" in the first sentence;

(2) by inserting after the word "United States" the phrase "in the following circumstances: (A)"; and

(3) by inserting after the word "List" "; (B) when such facilities are included on the National Priorities List but are specifically referred to the State by the Administrator pursuant to the provisions of section 127 of this Act; or (C) when such laws are part of an authorized program approved by the Administrator pursuant to section 127 of this Act, and such facilities are included on the National Priorities List and are to be addressed by the State authorized program pursuant to section 127 of this Act.

"Each department, agency, or instrumentality of the United States shall be subject to State requirements, both substantive and procedural, respecting liability for the costs of responding to releases or threats of releases of hazardous substances of non-federally owned facilities referred to the State

pursuant to section 127 of this Act, or such requirement that are part of a State authorized program for non-federally owned facilities being addressed under a State authorized program pursuant to section 127 of this Act.";

(4) after the word "preceding" by replacing the word "sentence" with "sentences";

(5) at the end of the Section by adding "This waiver of immunity for such facilities shall include all civil and administrative penalties and fines imposed under such laws, regardless of whether such penalties and fines are punitive or coercive in nature or are imposed for isolated or continuing violations. Neither the United States, nor any agent, employee or officer thereof, shall be immune or exempt from any process or sanction of any State or Federal Court with respect to the enforcement of any appropriate relief under such laws, but the United States shall be entitled to remove any action filed in state court against any department, agency, instrumentality, employee or officer of the United States to the appropriate Federal district court. No agent, employee, or officer of the United States shall be personally liable for any civil or administrative penalty under any Federal or State law with respect to any act or omission within the scope of the official duties of the agent, employee, or officer. All funds collected by a State from the Federal Government from penalties and fines imposed for violation of any substantive or procedural requirement referred to in this subsection shall be used by the State only for projects designed to improve or protect the environment or to defray the costs of environmental protection or enforcement.".

(f) Section 120(j)(1) of the Act (42 U.S.C. 9620(j)(1)) is amended before the phrase "with respect to the site" in the second sentence by inserting "or any State law applicable under Section 120(a)(4)".

SEC. 404. LIABILITY.

(a) Section 107(a)(1) of the Act (42 U.S.C. 9607(a)(1)) is amended by striking the word "and" and inserting the word "or";

(b) Section 107(a)(3) of the Act (42 U.S.C. 9607(a)(3)) is amended by striking out the phrase "by any other party or entity,";

(c) Section 107(a)(4) of the Act (42 U.S.C. 9607(a)(4)) is amended—

(1) by inserting a blank line before the phrase "from which there is a release";

(2) by moving the phrase "from which there is a release" to the left margin;

(3) inserting a comma after the phrase "threatened release"; and

(d) Section 107(a)(4)(A) of the Act (42 U.S.C. 9607(a)(4)(A)) is amended by inserting the phrase ", including direct costs, indirect costs, and costs of overseeing response actions conducted by private parties" before the phrase "incurred by the United States".

(e) Section 107(a)(4)(B) of the Act (42 U.S.C. 9607(a)(4)(B)) is amended—

(1) by striking out the word "other" both times it appears; and

(2) by inserting the phrase "other than the United States, a State or an Indian tribe" before the phrase "consistent with the national contingency plan".

(f) Section 107(c)(3) of the Act (42 U.S.C. 9607(c)(3)) is amended—

(1) by inserting the phrase "in addition to liability for any response costs incurred by the United States as a result of such failure to take proper action," after the word "person" the second time it appears.

(2) by striking out the phrase "at least equal to, and not more than" and inserting the phrase "up to";

(3) by striking out the comma after the word "times"; and

(4) by striking out the phrase "any costs incurred by the Fund as a result of such failure to take proper action" and inserting the phrase "such response costs".

(g) Section 107 of the Act (42 U.S.C. 9607(a)(4)(B)) is amended by inserting the phrase ", or pollutant or contaminant" after the term "hazardous substance" or "hazardous substances" wherever they appear in sections 107(a)(2), (3) and (4); 107(b); 107(c); 107(d)(1) and (2); 107(f)(1); 107(i); 107(j); and 107(k)(1)(B).

SEC. 405. CIVIL PROCEEDINGS.

(a) Section 113(a) of the Act (42 U.S.C. 9613(a)) is amended—

(1) by striking out the phrase "upon application by any interested person", and inserting the phrase "by any adversely affected person through the filing of a petition for review"; and

(2) by striking out the phrase "application shall be made", and inserting in lieu thereof "petition shall be filed".

(b) Section 113(b) of the Act (42 U.S.C. 9613(b)) is amended—

(1) before "without regard to the citizenship," by inserting the phrase "or in any manner limiting or affecting the President's ability to carry out a response action under this Title,"; and

(2) by inserting immediately after the first sentence the following sentence—"Any action initiated in any state or local court against the United States (or any department, agency, or instrumentality, officer or employee thereof) pursuant to or under any provision of or authorized by this Title may be removed by the United States to the appropriate federal district court in accordance with Section 1446 of Title 18 of the U.S. Code."

(c) Section 113(g) of the Act (42 U.S.C. 9613(g)) is amended by striking paragraphs (2) and (3) and inserting—

"(2) Actions for recovery of costs.

"Except as provided in Paragraph (3) below, an initial action for recovery of costs referred to in section 107 of this title must be commenced—

"(A) for removal action, within three years after completion of all removal action taken with respect to the facility, including off-site disposal of any removed materials; except that if physical on-site construction of the remedial action is initiated within three years after the completion of all removal action taken with respect to the facility, costs incurred for removal action may be recovered in the cost recovery action brought under subparagraph (B); and

"(B) for a remedial action, within six years after initiation of physical on-site construction of the remedial action.

"In any such action described in this subsection, the court shall enter a declaratory judgment on liability for response costs or damages that will be binding on any subsequent action or actions to recover further response costs or damages. A subsequent action or actions under section 107 of this title for further response costs at the vessel or facility may be maintained at any time during the response action, but must be commenced no later than three years after the date of completion of all response action. Except as otherwise provided in this paragraph, an action may be commenced under section 107 of this title for recovery of costs at any time after such costs have been incurred.

"(3) Contribution—

"An action by a potentially responsible party against another potentially responsible party for recovery of any response costs or damages must be commenced within the later of—

"(A) the time limitations set forth in Paragraph (2) above, or

"(B) where recovery is sought for costs or damages paid pursuant to a judgment or settlement, three years after—

"(i) the date of judgment in any action under this Act for recovery of such costs or damages, or

"(ii) the date of any administrative order or judicial settlement for recovery of the costs or damages paid or incurred pursuant to such a settlement.".

(d) Section 113(g) of the Act (42 U.S.C. 9613(g)) is amended by inserting the following at the end thereof—

"(4) Claims by the United States, States or Indian tribes. Claims by the United States under Section 106, and claims by the United States, a State or Indian tribe under Section 107(a), of this Act shall not be deemed compulsory counterclaims in an action against the United States, a State or an Indian tribe seeking response costs, contributions, damages, or any other claim by any person under this Act.".

(e) Section 113(j)(1) of the Act (42 U.S.C. 9613(j)(1) is amended—

(1) before the phrase "or ordered" by inserting the phrase "or selected by the President pursuant to this Act,"; and

(2) after the phrase "or ordered" by inserting the phrase "or sought".

SEC. 406. LIMITATIONS ON CONTRIBUTIONS ACTIONS.

Section 113 of the Act (42 U.S.C. 9613) is amended—

(a) by amending subsection (f)(1) as follows—

(1) by redesignating the paragraph as subparagraph "(1)(A),";

(2) before the phrase "may seek contribution" by inserting the phrase "who is liable or potentially liable under section 107(a) of this title";

(3) by striking out the phrase "during or following any civil action under section 106 of this title or under section 107(a) of this title", and inserting in lieu thereof the phrase "in a claim asserted under section 107(a)"; and

(4) by deleting the period at the end of the first sentence, and inserting—

"except that there shall be no right of contribution where—

"(i) the person asserting the right of contribution has waived such rights in a settlement pursuant to this Act;

"(ii) the person from whom contribution is sought is liable solely under section 107(a)(3) of this Act, and contributed less than ten pounds or ten liters of material containing hazardous substances at the facility, or such greater or lesser amount as the Administrator may determine by regulation;

"(iii) the person from whom contribution is sought has entered into a final settlement with the United States pursuant to section 122(g).;

(5) before the phrase "this section and the Federal Rules" by inserting the phrase "section 107(a),"; and

(6) by striking out the sentence "Nothing in this subsection shall diminish the right of any person to bring an action for contribution in the absence of a civil action under section 106 of this title or section 107 of this title.".

(b) by inserting after subparagraph (1)(A) the following subparagraph—

"(B) Any person who commences an action for contribution against a person who is not

liable by operation of subsection 107(a)(5) of this Act, or against a person who is protected from suits in contribution by this section or by a settlement with the United States, shall be liable to the person against whom the claim of contribution is brought for all reasonable costs of defending against the claim, including all reasonable attorney's and expert witness fees.".

(c) Section 113(f) of the Act (42 U.S.C. 9613(f)) is amended by striking out paragraph (2), and inserting the following—

"(2) Settlement.

"A person that has resolved its liability to the United States in an administrative or judicially approved settlement shall not be liable for claims by other persons regarding response actions, response costs or damages addressed in the settlement. A person that has resolved its liability to a State in an administrative or judicially approved settlement shall not be liable for claims by persons other than the United States regarding response costs or damages addressed in the settlement for which the State has a claim under this title. Such settlement does not discharge any other potentially responsible persons unless its terms so provide, but it reduces the potential liability of such other persons by the amount of the settlement. The protection afforded by this section shall include protection against contribution claims and all other types of claims, under federal or state law, that may be asserted against the settling party for recovery of response costs or damages incurred or paid by another person, if such costs or damages are addressed in the settlement, but shall not include protection against claims based on contractual indemnification or other express contractual agreements to pay such costs or damages.".

SEC. 407. SCOPE OF RULEMAKING AUTHORITY.

Section 115 of the Act (42 U.S.C. 9615), is amended by redesignating the text of the section as subsection "(a)" and adding a new subsection—

"(b) The authority conferred by this section includes, without limitation, authority to promulgate legislative regulations to define the terms and scope of sections 101 through 405 this Act, inclusive.

"(c) This section confirms, without limitation, authority to promulgate regulations to define the terms of this Act as they apply to lenders and other financial services providers, and property custodians, trustees, and other fiduciaries.".

SEC. 408. ENHANCEMENT OF SETTLEMENT AUTHORITIES.

Section 122 of the Act (42 U.S.C. 9622), is amended—

(a) by striking out subparagraph (e)(3);

(b) by redesignating subparagraphs (e)(4) and (5) as subparagraphs (e)(3) and (4), respectively;

(c) by redesignating subparagraph (e)(6) as a new section 122(o) and by amending redesignated section 122(n)—

(1) by deleting "remedial investigation and feasibility study" and inserting in lieu thereof "response action"; and

(2) by deleting "remedial action" in both places where it appears and inserting "response action";

(d) by inserting at the end of section 122 the following—

"(p) RETENTION OF FUNDS.—If, as part of any agreement under this Chapter, the President will be carrying out any action and the parties will be paying amounts to the President, the President may retain such amounts in interest bearing accounts, and use such amounts, together with accrued interest, for purposes of carrying out the agreement.

"(q) Notwithstanding the limitations on review in section 113(h), and except as provided in subsection (g) of this section, a person whose claim for response costs or contribution is limited as a result of contribution protection afforded by an administrative settlement under this section may challenge the cost recovery component of such settlement only by filing a complaint against the Administrator in the United States District Court within 60 days after such settlement becomes final. Venue shall lie in the district in which the appropriate Regional Administrator has her principal office. Any review of an administrative settlement shall be limited to the administrative record, and the settlement shall be upheld unless the objecting party can demonstrate on that record that the decision of the President to enter into the administrative settlement was arbitrary, capricious, or otherwise not in accordance with law.".

(e) by deleting subsection (f)(1) and inserting in lieu thereof—

"(1) FINAL COVENANTS.—The President shall offer potentially responsible parties who enter into settlement agreements otherwise acceptable to the United States a final covenant not to sue concerning any liability to the United States under this Act, including a covenant with respect to future liability, for response actions or response costs, provided that—

"(A) The settling party agrees to perform, or there are other adequate assurances of the performance of, a final remedial action for the release or threat of release that is the subject of the settlement;

"(B) The settlement agreement has been reached prior to the commencement of litigation against the settling party under section 106 or 107 of this Act with respect to this facility;

"(C) The settling party waives all contribution rights against other potentially responsible parties at the facility; and

"(D) The settling party pays premium that compensates for the risks of remedy failure; future liability resulting from unknown conditions; unanticipated increases in the cost of any uncompleted response action, unless the settling party is performing the response action; and the United States' litigation risk with respect to persons who have not resolved their liability to the United States under this Act, unless all parties have settled their liability to the United States, or the settlement covers 100 percent to the United States' response costs. The President shall have sole discretion to determine the appropriate amount of any such premium, and such determinations are committed to the President's discretion. The President has discretion to waive or reduce the premium payment for persons who demonstrate an inability to pay such a premium.

"(2) DISCRETIONARY COVENANTS.—For all other settlements under this title, the President may, in his discretion, provide any person with a covenant not to sue concerning any liability to the United States under this title, if the covenant not to sue is in the public interest. The President may include any conditions in such covenant not to sue, including but not limited to the additional condition referred to in paragraph (5) of this subsection. In determining whether such conditions or covenants are in the public interest, the President shall consider the effectiveness and reliability of the response action, the nature of the risks remaining at the facility, the strength of evidence, the likelihood of cost recovery, the reliability of any response action or actions to restore, replace or acquire the equivalent of injured natural resources, and any other factors relevant to the protection of human health, welfare, and the environment.";

(f) by striking out the word "remedial", wherever it appears in paragraph (f)(2), and inserting the word "response";

(g) by deleting paragraphs (f)(3) and (f)(4);

(h) by redesignating existing paragraphs (f)(2), (f)(5) and (f)(6) as paragraphs (f)(3), (f)(4), and (f)(5), respectively;

(i) in redesignated subparagraph (f)(5)(A)—

(1) by striking out the word "remedial", and inserting in lieu thereof the word "response";

(2) by deleting "paragraph (2)" in the first clause of the first sentence and inserting "paragraph (1) or (3)" in lieu thereof; and

(3) by deleting "de minimis settlements" and inserting "de minimis and other expedited settlements pursuant to subsection (g) of this section" in lieu thereof;

(4) by striking the phrase "the President certifies under paragraph (3) that remedial action has been completed at the facility concerned", and inserting in lieu thereof the phrase "that the response action that is the subject of the settlement agreement is selected".

(j) by amending redesignated subsection (f)(5)(B)—

(1) by striking "In extraordinary circumstances, the" and inserting the word "The";

(2) by striking the phrase "those referred to in paragraph (4) and";

(3) by inserting "the agreement containing the covenant not to sue provides for payment of a premium to address possible remedy failure or any releases that may result from unknown conditions, and" before the phrase "the other terms"; and

(4) by inserting at the end the following—

"The President may, in his discretion, waive or reduce the premium payment for persons who demonstrate an inability to pay such premium."

(k) by deleting paragraph (g)(1)(A) and inserting in lieu thereof—

"(g) EXPEDITED FINAL SETTLEMENT.—

"(1) Parties Eligible For Expedited Settlement.—Wherever practicable and in the public interest, and as provided in section 122a of this title, the President will as promptly as possible offer to reach a final administrative or judicial settlement with potentially responsible parties who, in the judgment of the President, meet one or more of the following conditions for eligibility for an expedited settlement:

"(A) the potentially responsible party's individual contribution of hazardous substances at the facility is *de minimis*. The contribution of hazardous substances to a facility by a potentially responsible party is *de minimis* if:

"(i) the potentially responsible party's volumetric contribution of materials containing hazardous substances is minimal in comparison to the total volumetric contributions at the facility; such individual contribution is presumed to be minimal if it is one percent or less of the total volumetric contributions at the facility, unless the Administrator identifies a different threshold based on site-specific factors; and

"(ii) the potentially responsible party's hazardous substances do not present toxic or other hazardous effects that are significantly greater than those of other hazardous substances at the facility; or"

(l) by inserting the following after subsection (g)(1)(B)—

"(C) The potentially responsible party's liability is based solely on subsection 107(a)(3)

or 107(a)(4) of this title, and the arrangement for disposal, treatment, or transport for disposal or treatment, or the acceptance for transport for disposal or treatment, involved only municipal solid waste (MSW) or sewage sludge as defined in section 101(41) or 101(44), respectively, of this Act. The Administrator may offer to settle the liability of generators and transporters of MSW or sewage sludge whose liability is limited pursuant to section 107(a)(5)(A) of this title for up to 10 percent of the total response costs at the facility; or

"(D) The potentially responsible party is a small business or a municipality and has demonstrated to the United States a limited ability to pay response costs. For purposes of this provision—

"(i) In the case of a small business, the President shall consider, to the extent that information is provided by the small business, the business' ability to pay for its total allocated share, and demonstrable constraints on its ability to raise revenues.

"(ii) In the case of a municipal owner or operator, the President shall consider, to the extent that information is provided by the municipality, the following factors: (1) the municipality's general obligation bond rating and information about the most recent bond issue for which the rating was prepared; (2) the amount of total available funds (other than dedicated funds); (3) the amount of total operating revenues (other than obligated or encumbered revenues); (4) the amount of total expenses; (5) the amounts of total debt and debt service; (6) per capita income; and (7) real property values. A municipality may also submit for consideration by the President an evaluation of the potential impact of the settlement on essential services that the municipality must provide, and the feasibility of making delayed payments or payments over time. If a municipality asserts that it has additional environmental obligations besides its potential liability under this Act, then the municipality may create a list of the obligations, including an estimate of the costs of complying with such obligations. A municipality may establish an inability to pay through an affirmative showing that such payment of its liability under this Act would either (I) create a substantial demonstrable risk that the municipality would default on existing debt obligations, be forced into bankruptcy, be forced to dissolve, or be forced to make budgetary cutbacks that would substantially reduce current levels of protection of public health and safety, or (II) necessitate a violation of legal requirements or limitations of general applicability concerning the assumption and maintenance of fiscal municipal obligations."

(m) be deleting paragraphs (2) and (3) of subsection (g) and inserting in lieu thereof—

"(2) The determination of whether a party is eligible for an expedited settlement shall be made on the basis of information available to the President at the time the settlement is negotiated. Such determination, and the settlement, are committed to the President's unreviewable discretion. If the President determines not to apply these provisions for expedited settlements at a facility, the basis for that determination must be explained in writing."

"(3) ADDITIONAL FACTORS RELEVANT TO MUNICIPALITIES.—In any settlement with a municipality pursuant to this title, the President may take additional equitable factors into account in determining an appropriate settlement amount, including, without limitation, the limited resources available to that party, and any in-kind services that the party may provide to support the response action at the facility. In considering the value of in-kind services, the President shall consider the fair market value of those services."

(n) by striking in paragraph (g)(4) "$500,000" and inserting "$2,000,000".

(o) by striking paragraph (g)(5) and redesignating paragraph (g)(6) as (g)(5).

(p) by amending paragraph (h) by striking—

(1) the title, and inserting the phrase "Authority to settle claims for penalties, punitive damages and cost recovery"; and

(2) by striking out the phrase "settlement authority".

(q) by amending paragraph (h)(1)—

(1) before the phrase "costs incurred" by inserting the phrase "past and future";

(2) before the phrase "by the United States Government" by inserting the phrase "or that may be incurred";

(3) by inserting after the phrase "if the claim has not been referred to the Department of Justice for further action," the following: "The head of any department or agency with the authority to seek, or to request the Attorney General to seek, civil or punitive damages under this Act may settle claims for any such penalties or damages which may otherwise be assessed in civil administrative or judicial proceedings"; and by striking out "$500,000", and inserting in lieu thereof "$2,000,000".

(r) by striking paragraph (h)(4).

SEC. 409. ALLOCATION PROCEDURES.—

The act is amended by inserting following section 122—

"SEC. 122a. ALLOCATION AT MULTI-PARTY FACILITIES.—

"(a) SCOPE.—

"(1) Except as provided in paragraph (3) of this section, for each non-federally owned facility listed on the National Priorities List involving two or more potentially responsible parties, the Administrator shall:

"(A) initiate the allocation process established under this section for any remedial action selected by the President after the date of enactment of the Superfund Reform Act of 1994, and

"(B) initiate the allocation process established in subsections (c)(2) through (d)(3) of this section for any remedial action selected by the President prior to the date of enactment of the Superfund Reform Act of 1994, when requested by any potentially responsible party who has resolved its liability to the United States with respect to the remedial action or is performing the remedial action pursuant to an order issued under section 106(a) of this title, to assist in allocating shares among potentially responsible parties. The allocation performed pursuant to this subsection shall not be construed to require:

"(i) payment of an orphan share pursuant to subsection (e) of this section; or

"(ii) the conferral of reimbursement rights pursuant to subsection (h) of this section.

"(2) Except as provided in paragraph (3) of this section, the Administrator may initiate the allocation process established under this section with respect to any other facility involving two (2) or more potentially responsible parties, as the Administrator deems appropriate.

"(3) The allocation process established under this section shall not apply to any facility where—

"(i) there has been a final settlement, decree or order that determines all liability or allocated shares of all potentially responsible parties with respect to the facility; or

"(ii) where response action is being carried out by a State pursuant to referral or authorization under section 104(k) of this title.

"(4) Nothing in this section limits or affects—

"(A) the Administrator's obligation to perform an allocation for facilities that have been the subject of partial or expedited settlements;

"(B) the ability of a potentially responsible party at a facility to resolve its liability to the United States or other parties at any time before initiation or completion of the allocation process; or

"(C) the validity, enforceability, finality or merits of any judicial or administrative order, judgment or decree issued, signed, lodged, or entered with respect to liability under this Act, or authorizes modification of any such order, judgment or decree.

"(b) MORATORIUM ON COMMENCEMENT OR CONTINUATION OF SUITS.—

"(1) No person may commence an action pursuant to section 107 of this Act regarding a response action for which an allocation must be performed under subsection (a)(1)(A) of this section, or for which the Administrator has initiated an allocation under subsection (a)(1)(B) or (a)(2) of this section, until 60 days after issuance of the allocator's report under subsection (d)(1) of this section.

"(2) If an action under section 107 of this Act regarding a response for which an allocation is to be performed under this section is pending (A) upon date of enactment of the Superfund Reform Act of 1994, or (B) upon initiation of an allocation under subsection (a)(1)(B) or (a)(2) of this section, the action shall be stayed until 60 days after the issuance of an allocator's report, unless the court determines that a stay will not result in a just and expeditious resolution of the action.

"(3) Any applicable limitations period with respect to actions subject to paragraph (1) shall be tolled from the earlier of—

"(A) the date of listing of the facility on the National Priorities list; or

"(B) the commencement of the allocation process pursuant to this section, until 120 days after the allocation report required by this section has been provided to the parties to the allocation.

"(4) Nothing in this section shall in any way limit or affect the President's authority to exercise the powers conferred by sections 103, 104, 105, 106, or 122 of this title, or to commence an action where there is a contemporaneous filing of a judicial consent decree resolving a party's liability; or to file a proof of claim or take other action in a proceeding under title 11 of the U.S. Code.

"(5) The procedures established in this section are intended to guide the exercise of settlement authority by the United States, and shall not be construed to diminish or affect the principles of retroactive, strict, joint and several liability under this title.

"(c) COMMENCEMENT OF ALLOCATION.—

"(1) RESPONSIBLE PARTY SEARCH.—At all facilities subject to this section, the Administrator shall, as soon as practicable but not later than 60 days after the earlier of the commencement of the remedial investigation or the listing of the facility on the National Priorities List, initiate a search for potentially responsible parties, using its authorities under section 104 of this title.

"(2) NOTICE TO PARTIES.—As soon as practicable after receipt of sufficient information, but not more than eighteen (18) months after commencement of the remedial investigation, the Administrator shall:

"(A) notify those potentially responsible parties who will be assigned shares in the al-

location process and notify the public, in accordance with section 117(d) of this title, of the list of potentially responsible parties preliminarily identified by the Administrator to be assigned shares in the allocation process; and

"(B) provide the notified potentially responsible parties with a list of neutral parties who are not employees of the United States and who the Administrator determines, in his or her sole discretion, are qualified to perform an allocation at the facility.

"(3) SELECTION OF ALLOCATOR.—The Administrator shall thereafter:

"(A) acknowledge the parties' selection of an allocator from the list, or select an allocator from the list provided to the parties if the parties cannot agree on a selection within 30 days of the notice;

"(B) contract with the selected allocator for the provision of allocation services; and

"(C) make available all responses to information requests, as well as other relevant information concerning the facility and potentially responsible parties, to the parties and to the allocator within 30 days of the appointment of the allocator. The Administrator shall not make available any privileged or confidential information, except as otherwise authorized by law.

"(4) PROPOSED ADDITION OF PARTIES.—

"(A) For 60 days after information has been made available pursuant to paragraph 3(C), the parties identified by the Administrator and members of the affected community shall have the opportunity to identify and propose additional potentially responsible parties or otherwise provide information relevant to the facility or such potentially responsible parties. This period may be extended by the Administrator for an additional 30 days upon request of a party.

"(B) Within 30 days after the end of the period specified in paragraph (A) for identification of additional parties, the Administrator shall issue a final list of parties subject to the allocation process, hereinafter the "allocation parties". The Administrator shall include in the list of allocation parties those parties identified pursuant to paragraph (A) in the allocation process unless the Administrator determines and explains in writing that there is not a sufficient basis in law or fact to take enforcement action with respect to those parties under this title, or that they have entered into an expedited settlement under section 122(g). The Administrator's determination is to be based on the information available at the time of the determination and is committed to the Administrator's unreviewable discretion.

"(5) ROLE OF FEDERAL AGENCIES.—Federal departments, agencies or instrumentalities that are identified as potentially responsible parties shall be subject to, and be entitled to the benefits of, the allocation process provided by this section to the same extent as any other party.

"(6) REPRESENTATION OF THE UNITED STATES.—The Administrator and the Attorney General shall be entitled to review all documents and participate in any phase of the allocation proceeding.

"(d) ALLOCATION DETERMINATION—

"(1) SETTLEMENT AND ALLOCATION REPORT.—Following issuance of the list of allocation parties, the allocator may convene the allocation parties for the purpose of facilitating agreement concerning their shares. If the allocation parties do not agree to a negotiated allocation of shares, the allocator shall prepare a written report, with a nonbinding, equitable allocation of percentage shares for the facility, and provide such report to the allocation parties and the Administrator.

"(2) INFORMATION REQUESTS.—To assist in the allocation of shares, the allocator may request information from the allocation parties, and may make additional requests for information at the request of any allocation party. The allocator may request the Administrator to exercise any information-gathering authority under this title where necessary to assist in determining the allocation of shares.

"(3) FACTORS IN THE ALLOCATION.—Unless the allocation parties agree to a negotiated allocation, the allocator shall prepare a nonbinding, equitable allocation of percentage shares for the facility based on the following factors:

"(A) the amount of hazardous substances contributed by each allocation party;

"(B) the degree of toxicity of hazardous substances contributed by each allocation party;

"(C) the mobility of hazardous substances contributed by each allocation party;

"(D) the degree of involvement of each allocation party in the generation, transportation, treatment, storage, or disposal of the hazardous substance;

"(E) the degree of care exercised by each allocation party with respect to the hazardous substance, taking into account the characteristics of the hazardous substance;

"(F) the cooperation of each allocation party in contributing to the response action and in providing complete and timely information during the allocation process; and

"(G) such other factors that the Administrator determines are appropriate by published regulation or guidance, including guidance with respect to the identification of orphan shares pursuant to paragraph (3) of this subsection.

"(4) IDENTIFICATION OF ORPHAN SHARES.—The allocator may determine that a percentage share for the facility is specifically attributable to an "orphan share". The orphan share may only consist of the following:

"(A) shares attributable to hazardous substances that the allocator determines, on the basis of information presented, to be specifically attributable to identified but insolvent or defunct responsible parties who are not affiliated with any allocation party;

"(B) the difference between the aggregate shares that the allocator determines, on the basis of the information presented, are specifically attributable to contributors of municipal solid waste subject to the limitations in section 107(a)(5)(D) of this title, and the share actually assumed by those parties in any settlements with the United States pursuant to subsection 122(g) of this title, including the fair market value of in-kind services provided by a municipality; and

"(C) the difference between the aggregate share that the allocator determines, on the basis of information presented, is specifically attributable to parties with a limited ability to pay response costs and the share actually assumed by those parties in any settlements with the United States pursuant to subsection 122(g) of this title.

The orphan share shall not include shares attributable to hazardous substances that the allocator cannot attribute to any identified party. Such shares shall be distributed among the allocation parties.

"(e) FUNDING OF ORPHAN SHARES.—

"From funds available in the Fund in any given fiscal year, and without further appropriation action, the President shall make reimbursements from the Fund, to eligible parties for costs incurred and equitably attributable to orphan shares determined pursuant to this section, provided that Fund financing of orphan shares shall not exceed $300 million in any fiscal year. Reimbursements made under this subsection shall be subject to such terms and conditions as the President may prescribe.

"(f) TIMING.—

"The allocator shall provide the report required by subsection (d)(1) of this section to the allocation parties and the Administrator within 180 days of the issuance of the list of parties pursuant to subsection (c)(4)(B) of this section. Upon request, for good cause shown, the Administrator may grant the allocator additional time to complete the allocation, not to exceed 90 days.

"(g) SETTLEMENT FOLLOWING ALLOCATION.—

"(1) OBLIGATIONS OF THE UNITED STATES.—The President will accept a timely offer of settlement from a party based on the share determined by the allocator, if it includes appropriate premia and other terms and conditions of settlement, unless the Administrator, with the concurrence of the Attorney General of the United States, determines that a settlement based on the allocator's determinations would not be fair, reasonable, and in the public interest. The Administrator and the Attorney General shall seek to make any such determination within 60 days from the date of issuance of the allocator's report. The determinations of the Administrator and the Attorney General shall not be judicially reviewable.

"(2) If the Administrator and the Attorney General determine not to settle on the basis of the allocation, they shall provide the allocation parties and members of the affected community with a written explanation of the Administrator's determination. If the Administrator and the Attorney General make such a determination, the parties who are willing to settle on the basis of the allocation are entitled to a consultation with an official appointed by the President, to present any objections to the determination, within 60 days after the determination.

"(3) Settlements based on allocated shares shall include:

"(A) a waiver of contribution rights against all parties who are potentially responsible parties for the response action;

"(B) covenants not to sue, consistent with the provisions of section 122(f) of this title, and provisions regarding performance or adequate assurance of performance of response actions addressed in the settlement;

"(C) a premium that compensates for the United States' litigation risk with respect to potentially responsible parties who have not resolved their liability to the United States, except that no such premium shall apply if all parties settle or the settlement covers one 100% of response costs;

"(D) contribution protection, consistent with sections 113(f) and 122(g) of this title, regarding matters addressed in the settlement. Such settlement does not discharge any of the other potentially responsible parties unless its terms so provide, but it reduces the potential liability of the others by the amount of the settlement; and

"(E) provisions through which the settling parties shall receive reimbursement from the Fund for any response costs incurred by such parties in excess of the aggregate of their allocated share and any premia required by the settlement. Such right to reimbursement shall not be contingent on the United States' recovery of response costs from any responsible person not a party to any settlement with the United States.

"(4) The President shall report annually to Congress on the administration of the allocation scheme, and provide information comparing allocation results with actual settlements at multiparty facilities.

"(5) The provisions of this section shall not apply to any offer of settlement made after commencement of litigation by the United States against the offering party under section 107 of this title.

"(h) AUTHORIZATION OF REIMBURSEMENT.—

"In any settlement in which a party agrees to perform response work in excess of its share, the Administrator shall have authority in entering the settlement to confer a right of reimbursement on the settling party pursuant to such procedures as the Administrator may prescribe.

"(i) POST-SETTLEMENT LITIGATION.—

"(1) GENERAL.—The United States may commence an action under section 107 against any person who has not resolved its liability to the United States following allocation, on or after 60 days following issuance of the allocator's report. In any such action, the potentially responsible parties shall be liable for all unrecovered response costs, including any federally-funded orphan share identified in accordance with subsection (d)(4). Defendants in any such action may implead any allocation party who did not resolve its liability to the United States. The Administrator and the Attorney General shall issue guidelines to ensure that the relief sought against de minimis parties under principles of joint and several liability will not be grossly disproportionate to their contribution to the facility. The application of such guidelines is committed to the discretion of the Administrator and the Attorney General.

"(2) In commencing any action under section 107 following allocation, the Attorney General must certify, in the complaint, that the United States has been unable to reach a settlement that would be in the best interests of the United States.

"(3) ADMISSIBILITY OF ALLOCATOR'S REPORT.—The allocator's report shall not be admissible in any court with respect to a claim brought by or against the United States, except in its capacity as a nonsettling potentially responsible party, or for the determination of liability. The allocator's report, subject to the rules and discretion of the court, may be admissible solely for the purpose of assisting the court in making an equitable allocation of response costs among the relative shares of nonsettling liable parties.

"(4) OTHER AUTHORITIES UNAFFECTED.—Nothing in this section limits or in any way affects the exercise of the President's authority pursuant to sections 103, 104, 105, or 106.

"(5) COSTS.—

"(A) The costs of implementing the allocation procedure set forth in this section, including reasonable fees and expenses of the allocator, shall be considered necessary costs of response.

"(B) The costs attributable to any funding of orphan shares identified by the allocator pursuant to subsection (d)(4) also shall be considered necessary costs of response, and shall be recoverable from liable parties who do not resolve their liability on the basis of the allocation.

"(6) REJECTION OF SHARE DETERMINATION.—In any action by the United States under this title, if the United States has rejected an offer of settlement that is consistent with subsections (g)(1) and (g)(3) of this section and was presented to the United States prior to the commencement of the action, the offeror shall be entitled to recover from the United States the offeror's reasonable costs of defending the action after the making of the offer, including reasonable attorneys' fees, if the ultimate resolution of liability or allocation of costs with respect to the offeror, taking into account all settlements and reimbursements with respect to the facility other than those attributable to insurance or indemnification, is as or more favorable to the offeror than the offer based on the allocation.

"(j) PROCEDURES.—

"The Administrator shall further define the procedures of this section by regulation or guidance, after consultation with the Attorney General.".

TITLE V—REMEDY SELECTION AND CLEANUP STANDARDS

SEC. 501. PURPOSES AND OBJECTIVES.

The purposes and objectives of this title are to—

(a) ensure that remedial actions under the Act are protective of human health and the environment;

(b) provide consistent and equivalent protection to all communities affected by facilities subject to remedial action; and,

(c) ensure that the national goals, national generic cleanup levels, and the national risk protocol required by this title are developed through a process based on substantial public input and, where appropriate, on consensual decision-making.

SEC. 502. CLEANUP STANDARDS AND LEVELS.

Section 121(d)(1)-(2)(C)(i) of the Act (42 U.S.C. 9621(d)) is amended to read as follows—

"(d) DEGREE OF CLEANUP.—

"(1) PROTECTION OF HUMAN HEALTH AND THE ENVIRONMENTS.—A remedial action selected under this section or otherwise required or agreed to by the President under this Act shall be protective of human health and the environment. In order to provide consistent protection to all communities, the Administrator shall promulgate national goals to be applied at all facilities subject to remedial action under this Act.

"(2) GENERIC CLEANUP LEVELS.—The Administrator shall promulgate, as appropriate, national generic cleanup levels for specific hazardous substances, pollutants, or contaminants, based on the national goals established in paragraph (1). A cleanup level shall—

"(A) reflect reasonably anticipated future land uses,

"(B) reflect other variables which can be easily measured at a facility and whose effects are scientifically well-understood to vary on a site-specific basis, and

"(C) represent concentration levels below which a response action is not required.

"(3) SITE-SPECIFIC METHODS TO ESTABLISH CLEANUP LEVELS.—Notwithstanding the promulgation of national generic cleanup levels under subsection (d)(2) and nationally-approved generic remedies under subsection (b)(4) of this section, the Administrator may, as appropriate, rely on a site-specific risk assessment to determine the proper level of cleanup at a facility, based on the national goals established in paragraph (1) and the reasonably anticipated future land uses at the facility. This may occur if a national generic cleanup level has not been developed or to account for particular characteristics of a facility or its surroundings. In establishing site-specific cleanup levels, the President shall consider the views of the affected community in accordance with section 117 of this Act.

"(4) RISK ASSESSMENT.—The Administrator shall promulgate a national risk protocol for conducting risk assessments based on realistic assumptions. After promulgation, risk assessments underlying the degree of cleanup and remedy selection processes shall use the national risk protocol.

"(5) FEDERAL AND STATE LAWS.—

"(A) A remedial action shall be required to comply with the substantive requirements of—

"(i) any standard, requirement, criterion, or limitation under any federal environmental or facility siting law that the President determines is suitable for application to the remedial action at the facility; and

"(ii) any promulgated standard, requirement, criterion, or limitation under any state environmental law specifically addressing remedial action that is adopted for the purpose of protecting human health or the environment with the best available scientific evidence through a public process where such a law is more stringent than any such federal cleanup standard, requirement, criterion, or limitation, or the cleanup level determined in accordance with the requirements of this section.

"(B) Procedural requirements of federal and state standards, requirements, criteria, or limitations, including but not limited to permitting requirements, shall not apply to response actions conducted on-site. In addition, compliance with such laws shall not be required with respect to return, replacement, or redisposal of contaminated media or residuals of contaminated media into the same medium in or very near existing areas of contamination on-site.

"(C) The President may select a remedial action meeting the requirements of paragraph (1) that does not attain a level or standard of control at least equivalent to the federal or State standards, requirements, criteria, or limitations as required by paragraph (A), if the President finds that—

"(i) the remedial action selected is only part of a total remedial action that will attain such level or standards of control when completed:

"(ii) compliance with such requirements at that facility will result in greater risk to human health and the environment than alternative options;

"(iii) compliance with such requirements is technically impracticable from an engineering perspective;

"(iv) a generic remedy under section (b)(4) has been selected for the facility;

"(v) the remedial action selected will attain a standard of performance that is equivalent to that required under the standard, requirement, criterion, or limitation identified under (A)(i) and (A)(ii) through use of another approach;

"(vi) with respect to a State standard, requirement, criterion, or limitation, the State has not consistently applied (or demonstrated the intention to consistently apply) the standard, requirement, criterion, or limitation in similar circumstances as other remedial actions within the State; or

"(vii) in the case of a remedial action to be undertaken solely under section 104 using the Fund, a selection of a remedial action that attains such level or standards of control will not provide a balance between the need for protection of public health and welfare and the environment at the facility under consideration, and the availability of amounts from the Fund to respond to other facilities which present or may present a threat to public health or welfare or the environment, taking into consideration the relative immediacy of such threat.

The President shall publish such findings, together with an explanation and appropriate documentation.".

SEC. 503. REMEDY SELECTION.

Section 121(b) of the Act (42 U.S.C. 9621(b) is amended to read as follows—

"(b) GENERAL RULES.—

"(1) SELECTION OF PROTECTIVE REMEDIES.—Remedies selected at individual facilities shall be protective of human health and the environment. Whether a response action requires remediation through treatment, containment, a combination of treatment and containment, or other means, shall be determined through the evaluation of remedial alternatives.

"(2) LAND USE.—In selecting a remedy, the President shall take into account the reasonably anticipated future uses of land at a facility as required by this Act.

"(3) APPROPRIATE REMEDIAL ACTION.—

"(A) The President shall identify and select an appropriate remedy utilizing treatment, containment, other remedial measures, or any combination thereof, that is protective of human health and the environment and achieves the degree of cleanup determined under section 121(d), taking into account the following factors—

"(i) the effectiveness of the remedy;

"(ii) the long-term reliability of the remedy, that is, its capability to achieve long-term protection of human health and the environment;

"(iii) any risk posed by the remedy to the affected community, to those engaged in the cleanup effort, and to the environment:

"(iv) the acceptability of the remedy to the affected community; and

"(b) the reasonableness of the cost of the remedy in relation to the preceding factors (i) through (iv).

"(B) INNOVATIVE REMEDIES.—If an otherwise appropriate treatment remedy is available only at a disproportionate cost and the President determines that an appropriate treatment remedy is likely to become available within a reasonable period of time, the President may select an interim containment remedy. A selected interim containment remedy shall include adequate monitoring to ensure the continued integrity of the containment system. If an appropriate treatment remedy becomes available within that period of time, that remedy shall be required.

"(C) HOT SPOTS.—In evaluating a facility for a permanent containment remedy, if the President determines, based on standard site investigation, that a discrete area within a facility is a 'hot spot' (as defined in this paragraph), the President shall select a remedy for the hot spot with a preference for treatment, unless he determines, based on treatability studies and other information, that no treatment technology exists or such technology is only available at a disproportionate cost. In such instances the President shall select an interim containment remedy for a hot spot subject to adequate monitoring to ensure its continued integrity and shall review the interim containment remedy within five years to determine whether an appropriate treatment remedy for the hot spot is available. For purposes of this paragraph, the term 'hot spot' means a discrete area within a facility that contains hazardous substances that are highly toxic or highly mobile, cannot be reliably contained, and present a significant risk to human health or the environment should exposure occur.

"(4) GENERIC REMEDIES.—In order to streamline the remedy selection process, and to facilitate rapid voluntary action, the President shall establish, taking into account the factors enumerated in subsection (b)(3)(A), cost-effective generic remedies for categories of facilities, and expedited procedures that include community involvement for selecting generic remedies at an individual facility. To be eligible for selection at a facility, a generic remedy shall be protective of human health and the environment at that facility. When appropriate, the President may select a generic remedy without considering alternative remedies.".

SEC. 504. MISCELLANEOUS AMENDMENTS TO SECTION 121.

(a) Section 121(c) of the Act (42 U.S.C. §9621(c)) is amended by striking out the word "initiation", and inserting in lieu thereof the phrase "completion of all physical on-site construction".

(b) Section 121(d) of the Act is further amended by—

(1) redesignating paragraph (2)(C)(ii) as paragraph "(6)(A)";

(2) redesignating paragraph (2)(C)(iii) as paragraph "(6)(B)";

(3) striking "clauses (iii) and (iv)" in redesignated paragraph (6)(A) and inserting "subparagraph (B)";

(4) striking paragraph (2)(C)(iv);

(5) redesignating paragraph (3) as paragraph "(7)" and amending it to read as follows—

"(7) In the case of any removal or remedial action involving the transfer of any hazardous substance or pollutant or contaminant off-site, such hazardous substance or pollutant or contaminant shall be transferred to a facility which is authorized under applicable Federal and state law to receive such hazardous substance or pollutant or contaminant and is in compliance with such applicable Federal and state law. Such substance or pollutant or contaminant may be transferred to a land disposal facility permitted under Subtitle C of the Solid Waste Disposal Act only if the President determines that both of the following requirements are met—

"(A) The unit to which the hazardous substance or pollutant or contaminant is transferred is not releasing any hazardous waste, or constituent thereof, into the groundwater or surface water or soil.

"(B) All such releases from other units at the facility are being controlled by a corrective action program approved by the Administrator under subtitle C of the Solid Waste Disposal Act.

The President shall notify the owner or operator of such facility of determinations made under this paragraph."; and

(6) striking paragraph (4).

(c) Section 121(e) of the Act (42 U.S.C. 9621(e)) is amended by—

(1) in paragraph (1) inserting in the first sentence "or permit application" before "shall be required"; and by adding at the end thereof the following: "Furthermore, no Federal, State or local permit or permit application shall be required for on-site or off-site activities conducted under section 311(b).";

and

(2) striking paragraph (2).

(d) Section 121(f) of the Act (42 U.S.C. 9621(f)) is amended by adding after paragraph (3) (as amended by this Act) the following new paragraph—

"(4) A State may enforce only those Federal or State legally applicable standards, requirements, criterion, or limitations to which the Administrator has determined the remedial action is required to conform under this Act. Where the parties agree, the consent decree may provide for administrative enforcement. Each consent decree shall also contain stipulated penalties for violations of the decree in the amount not to exceed $25,000 per day. Such stipulated penalties shall not be construed to impair or affect the authority of the court to order compliance with the specific terms of any such decree.".

SEC. 505. RESPONSE AUTHORITIES.

(a) Section 104(b)(1) of the Act (42 U.S.C. §9604(b)(1) is amended by—

(1) inserting "actions," before "studies";

(2) striking ", to recover the costs thereof, and" and inserting "or"; and

(3) striking the "." after "Act" and inserting "and shall be entitled to recover the costs thereof.".

(b) Section 104(j) of the Act (42 U.S.C. §9604(j)) is amended by—

(1) in paragraph (1) by striking "remedial", and inserting "response";

(2) striking paragraph (2);

(3) redesignating paragraph (3) as paragraph "(2)" and striking "estate" and inserting "property"; and

(4) by inserting after paragraph (2) (as redesignated by this Act) the following new paragraph—

"(4) DISPOSAL AUTHORITY.—The President is authorized to dispose of any interest in real property acquired for use by the Administrator under this subsection by sale, exchange, donation or otherwise and any such interest in real property shall not be subject to any of the provisions of Section 120 except the notice provisions of Section 120(h)(1). Any moneys received by the President pursuant to this subparagraph shall be deposited in the Fund.".

SEC. 506. REMOVAL ACTIONS.

(a) Section 104(c)(1) of the Act is amended in subparagraph (C) as follows—

(1) strike "$2,000,000" and insert "$6,000,000";

(2) strike "12 months" and insert "three years"; and

(3) strike "consistent with the remedial action to be taken" and insert "not inconsistent with any remedial action that has been selected or is anticipated at the time of the removal action.";

(b) Section 117 of the Act is amended by adding after subsection (k) (as added by this Act) the following new subsection—

"(1) REMOVAL ACTIONS.—Whenever the planning period for a removal action is expected to be greater than six months, the Administrator shall provide the community with notice of the anticipated removal action and a public comment period of no less than thirty days.".

SEC. 507. TRANSITION.

The provisions of this title shall become effective on the date of enactment of this Act and shall apply to all response actions for which a Record of Decision or other decision document is signed after the date of enactment of the Act.

TITLE VI—MISCELLANEOUS

SEC. 601. INTERAGENCY AGREEMENTS AT MIXED OWNERSHIP AND MIXED RESPONSIBILITY FACILITIES.

Section 120(e) of the Act (42 U.S.C. 9620(e)) is amended by—

(a) inserting after paragraph (3) the following new paragraph—

"(4) A provision allowing for the participation of other responsible parties in the response action.; and

(b) inserting after paragraph (6) the following new paragraphs—

"(7) EXCEPTION TO REQUIRED ACTION.—No department, agency, and instrumentality of the United States that owns or operates a facility over which the department, agency, or

instrumentality exercised no regulatory or other control over activities that directly or indirectly resulted in a release or threat of a release of a hazardous substance shall be subject to the requirements of paragraphs (1) through (6) except (5)(F) and (G) of this subsection if the department, agency, or instrumentality demonstrates to the satisfaction of the Administrator that—

"(A) no department, agency, or instrumentality was the primary or sole source or cause of a release or threat of release of a hazardous substance at the facility;

"(B) the activities either directly or indirectly resulting in a release or threat of release of a hazardous substance at the facility were pursuant to a statutory authority and occurred prior to 1976; and

"(C) the person or persons primarily or solely responsible for such release or threat of release are financially viable, and capable of performing or financing the response action at the facility.

In the event the above conditions are not met, the applicable terms of section 120(e) apply to the department, agency, or instrumentality of the United States at the facility. Upon determination by the Administrator that a department, agency, or instrumentality qualifies for the exception provided by this paragraph, the head of such department, agency, or instrumentality may exercise enforcement authority pursuant under section 106 (in addition to any other delegated authorities). To the extent a person who has been issued an order under the authority of this paragraph seeks reimbursement under the provisions of section 106, the relevant department, agency, or instrumentality, and not the Fund, shall be the source of any appropriate reimbursement. If the Administrator determines that the relevant department, agency, or instrumentality has failed to seek the performance of response actions by responsible parties within 12 months after the facility has been listed on the National Priorities List, the Administrator may void the exception provided by this paragraph and the applicable provisions or section 120(e) would apply to the department, agency or instrumentality at the facility.

SEC. 602. TRANSFERS OF UNCONTAMINATED PROPERTY.

Section 120(h)(4)(A) of the Act (42 U.S.C. 9620(h)(4)(A)) is amended by striking the words "stored for one year or more,".

SEC. 603. AGREEMENTS TO TRANSFER BY DEED.

Section 120(h) of the Act (42 U.S.C. 9620(h)) is amended by adding after paragraph (5) the following new paragraph:

"(6) AGREEMENTS TO TRANSFER BY DEED.—Nothing in this subsection shall be construed to prohibit the head of the department, agency, or instrumentality of the United States from entering into an agreement to transfer by deed real property or facilities prior to the entering of such deed.".

SEC. 604. ALTERNATIVE OR INNOVATIVE TREATMENT TECHNOLOGIES.

Section 111(a) of the Act of 1980 is amended by adding after paragraph (6) the following new paragraph—

"(7) ALTERNATIVE OR INNOVATIVE TREATMENT TECHNOLOGIES.—

"(A) When a party potentially liable under this Act undertakes a response action pursuant to an administrative order or consent decree, and employs an alternative or innovative technology that fails to achieve a level of response required under this Act, the Administrator may use the Fund to reimburse no more than fifty percent of response costs incurred by the potentially liable party in taking other actions approved by the Administrator to achieve these required levels of response. The Administrator shall issue guidance on the procedures and criteria to be used in determining whether a remedial technology constitutes an alternative or innovative technology for purposes of this subsection, and the appropriate level of funding for response activities that are necessary to achieve a level of response required under this Act. The Administrator shall review and update such guidance, as appropriate.".

SEC. 605. DEFINITIONS.

Section 101 of the Act (42 U.S.C. 9601)) is amended by—

(a) in paragraph (1) striking the "." after "Act" and inserting "and includes the cost of enforcement activities related thereto.";

(b) in paragraph (10)(H) striking "subject to" and inserting "in compliance with";

(c) in paragraph (14) inserting after "Congress" the phrase ", unless such waste contains a substance that is listed under any other subparagraph of this paragraph";

(d) in paragraph (20) by—

(1) in subparagraph (A) inserting after "similar means to" the phrase "the United States (or any department, agency, or instrumentality thereof), or";

(2) in subparagraph (D) by inserting—

(A) after "does not include" the phrase "the United States (or any department, agency, or instrumentality thereof), or"; and,

(B) before "any State" the phrase "any department, agency, or instrumentality of the United States, or"; and

(3) in subparagraph (D) by striking "a" after "such" and inserting "department, agency, or instrumentality of the United States, or";

(4) by adding after subparagraph (D) the following new subparagraphs—

"(E) The term "owner or operator" shall include a trust or estate, but does not include a person who holds title to a vessel or facility solely in the capacity as a fiduciary, provided that such person—

"(i) does not participate in the management of a vessel or facility operations that result in a release or threat of release of hazardous substances; and

"(ii) complies with such other requirements as the Administrator may set forth by regulation.

"(F) The term "owner or operator" shall not include the United States or any department, agency or instrumentality of the United States or a conservator or receiver appointed by a department, agency or instrumentality of the United States, which acquired ownership or control of a vessel or facility (or any right or interest therein)—

(i) in connection with the exercise of receivership or conservatorship authority or the liquidation or winding up of the affairs of any entity subject to a receivership or conservatorship, including any subsidiary thereof; or

(ii) in connection with the exercise of any seizure or forfeiture authority; or

(iii) pursuant to an act of Congress specifying the property to be acquired,

provided, that the United States, or conservator or receiver appointed by the United States does not participate in the management of the vessel or facility operations that result in a release or threat of release of hazardous substances and complies with such other requirements as the Administrator may set forth by regulation.";

(e) in paragraph (23) adding at the end of the paragraph the following—"The terms 'remove' or 'removal' are not limited to emergency situations and include actions to address future or potential exposures and, provided such actions are consistent with the requirements of this Act, actions obviating the need for a remedial action.";

(f) in paragraph (25) striking "related thereto", and inserting "and oversight activities related thereto when such activities are undertaken by the President.";

(g) in paragraph (29) striking the "." after "Act" and inserting ", except that the term "hazardous substance" shall be substituted for the term "hazardous waste" in the definitions of "disposal" and "treatment.";

(h) in paragraph (33) striking "; except that the", and inserting ". The";

(i) adding after paragraph (38) the following new paragraphs—

"(39) BONA FIDE PROSPECTIVE PURCHASER.—The term "bona fide prospective purchaser" means a person who acquires ownership of a facility after enactment of this provision, and who can establish by a preponderance of the evidence that—

"(A) all active disposal of hazardous substances at the facility occurred before that person acquired the facility;

"(B) the person conducted a site audit of the facility in accordance with commercially reasonably and generally accepted standards and practices. The Administrator shall have authority to develop standards by guidance or regulation, or to designate standards promulgated or developed by others, that satisfy this subparagraph. In the case of property for residential or other similar use, a site inspection and title search that reveal no basis for further investigation satisfy the requirements of this subparagraph;

"(C) the person provided all legally required notices with respect to the discovery or release of any hazardous substances at the facility;

"(D) the person exercised due care with respect to hazardous substances found at the facility and took reasonably necessary steps to address any release or threat of release of hazardous substances and to protect human health and the environment. The requirements of due care and reasonably necessary steps with respect to hazardous substances discovered at the facility shall be conclusively established where the person successfully completes a response action pursuant to a State voluntary response program, as defined in section 127 of this title; and

"(E) the person provides full cooperation, assistance, and facility access to those responsible for response actions at the facility, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response action at the facility; and

"(F) the person is not affiliated with any other person liable for response costs at the facility, through any direct or indirect familial relationship, or any contractual, corporate, or financial relationship other than that created by the instruments by which title to the facility is conveyed or financed.

"(40) FIDUCIARY.—

"(A) Except as provided in subparagraph (B), the term "fiduciary" means a person who owns or controls property—

"(i) as a fiduciary within the meaning of section 3(31) of the Employee Retirement Income Security Act of 1974, or as a trustee, executor, administrator, custodian, guardian, conservator, or receiver acting for the exclusive benefit of another person; and

"(ii) who has not previously owned or operated the property in a non-fiduciary capacity.

"(B) The term 'fiduciary' does not include any person described in subparagraph (A)—

"(i) who acquires ownership or control of property to avoid the liability of such person or any other person under this Act; or

"(ii) who owns or controls property on behalf of or for the benefit of a holder of a security interest.

"(41) MUNICIPAL SOLID WASTE.—The term 'municipal solid waste' means all waste materials generated by households, including single and multi-family residences, and hotels and motels. The term also includes waste materials generated by commercial, institutional, and industrial sources, to the extent such wastes (A) are essentially the same as waste normally generated by households or (B) were collected and disposed of with other municipal solid waste or sewage sludge as part of normal municipal solid waste collection services, and, regardless of when generated, would be considered conditionally exempt small quantity generator waste under section 3001(d) of the Solid Waste Disposal Act (42 U.S.C. 6921(d)). Examples of municipal solid waste include food and yard waste, paper, clothing, appliances, consumer product packaging, disposable diapers, office supplies, cosmetics, glass and metal food containers, elementary or secondary school science laboratory waste, and household hazardous waste (such as painting, cleaning, gardening, and automotive supplies). The term 'municipal solid waste' does not include combustion ash generated by resource recovery facilities or municipal incinerators, or waste from manufacturing or processing (including pollution control) operations not essentially the same as waste normally generated by households.

"(42) MUNICIPALITY.—The term "municipality" means a political subdivision of a State, including cities, counties, villages, towns, townships, boroughs, parishes, school districts, sanitation districts, water districts, and other public entities performing local governmental functions. The term also includes a natural person acting in the capacity of an official, employee, or agent of a municipality in the performance of governmental functions.

"(43) QUALIFIED HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM.—The term "qualified household hazardous waste collection program" means a program established by an entity of the federal government, a state, municipality, or Indian tribe that provides, at a minimum, for semiannual collection of household hazardous wastes at accessible, well-publicized collection points within the relevant jurisdiction.

"(44) SEWAGE SLUDGE.—The term "sewage sludge" means solid, semisolid, or liquid residue removed during the treatment of municipal waste water, domestic sewage, or other waste water at or by publicly-owned or federally-owned treatment works.

"(45) SITE CHARACTERIZATION.—The term "site characterization" means an investigation that determines the nature and extent of a release or potential release of a hazardous substance, pollutant or contaminant, and that includes an on-site evaluation and sufficient testing, sampling and other field data gathering activities to analyze whether there has been a release or threat of a release of a hazardous substance, pollutant or contaminant, and the health and environmental risks posed by such a release or threat of release. The investigation also may include review of existing information (available at the time of the review), an off-site evaluation, or other measures as the Administrator deems appropriate.

"(46) VOLUNTARY RESPONSE.—The term "voluntary response" means a response action—

"(A) undertaken and financed by a current owner or prospective purchaser under a voluntary response program; and

"(B) with respect to which the current owner or prospective purchaser agrees to pay all State oversight costs.".

SEC. 606. CONFORMING AMENDMENT.

Section 126(a) of the Act (42 U.S.C. 9626(a)) is amended by adding, after "section 104(i) (regarding health authorities," the phrase "section 127 (regarding State authority), section 120 (regarding voluntary response actions),".

TITLE VII—FUNDING

SEC. 701. AUTHORIZATION OF APPROPRIATIONS.

Sec. 111(a) of the Act is amended by striking "$8,500,000,000 for the 5-year period beginning on October 17, 1986, and not more than $5,100,000,000 for the period commencing October 1, 1991, and ending September 30, 1994" and inserting "$9,600,000,000 for the period commencing October 1, 1994 and ending September 30, 1999".

SEC. 702. ORPHAN SHARE FUNDING.

Section 111(a) is amended by adding after paragraph (7) (as added by this Act) the following new paragraph—

"(8) ORPHAN SHARE FUNDING.—Payment of orphan shares pursuant to section 122a(e) of this Act.".

SEC. 703. AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY.

Sec. 111(m) of the Act is amended to read as follows—

"(m) There shall be directly available to the Agency for Toxic Substances and Disease Registry to be used for the purpose of carrying out activities described in subsection (c)(4) of this section and section 104(i) of this Act not less than $80,000,000 per fiscal year for each of fiscal years 1995, 1996, 1997, 1998, and 1999. Any funds so made available which are not obligated by the end of the fiscal year in which made available shall be returned to the Fund.

SEC. 704. LIMITATIONS ON RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAMS.

Sec. 11(n) of the Act is amended to read as follows—

"(1) section 311(B).—For each of the fiscal years 1995, 1996, 1997, 1998, and 1999, not more than $20,000,000 of the amounts available in the Fund may be used for the purposes of carrying out the applied research, development, and demonstration program for alternative or innovative technologies and training program authorized under section 311(b) of this title (relating to research, development, demonstration) other than basic research. Such amounts shall remain available until expended.

"(2) Section 311(a).—From the amounts available in the Fund, not more than the following amounts may be used for the purposes of section 311(a) of this title (relating to hazardous substance research, demonstration, and training activities)—

(A) for fiscal year 1995 $40,000,000,
(B) for fiscal year 1996 $50,000,000,
(C) for fiscal year 1997 $55,000,000,
(D) for fiscal year 1998 $55,000,000,
(E) for fiscal year 1999 $55,000,000.

No more than 10 percent of such amounts shall be used for training under section 311(a) of this title for any fiscal year.

"(3) Section 311(d).—For each of the fiscal years 1995, 1996, 1997, 1998, and 1999, not more than $5,000,000 of the amounts available in the Fund may be used for the purposes of section 311(d) of this title (relating to university hazardous substance research centers).".

SEC. 705. AUTHORIZATION OF APPROPRIATIONS FROM GENERAL REVENUES.

Section 111(p)(1) of the Act is amended to read as follows—

"(1) IN GENERAL.—The following sums are authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to the Hazardous Substance Superfund:

"(A) for fiscal year 1995 $250,000,000,
"(B) for fiscal year 1996 $250,000,000,
"(C) for fiscal year 1997 $250,000,000,
"(D) for fiscal year 1998 $250,000,000,
"(E) for fiscal year 1999 $250,000,000.

In addition there is authorized to be appropriated to the Hazardous Substance Superfund for each fiscal year an amount equal to so much of the aggregate amount authorized to be appropriated under this subsection (and paragraph (2) of section 131(b) of this title) as has not been appropriated before the beginning of the fiscal year involved."

SEC. 706. ADDITIONAL LIMITATIONS.

Section 111 of the Act is amended by adding after subsection (p) the following new subsections—

"(q) ALTERNATIVE OR INNOVATIVE TREATMENT TECHNOLOGIES.—For each of the fiscal years 1995, 1996, 1997, 1998, and 1999, not more than $40,000,000 of the amounts available in the Fund may be used for the purposes of subsection (a)(7) of this section (relating to alternative or innovative treatment technologies).

"(r) CITIZEN INFORMATION AND ACCESS OFFICES.—For each of the fiscal years 1995, 1996, 1997, 1998, and 1999, not more than $50,000,000 of the amounts available in the Fund may be used for the purposes of section 117(j) of this Act (relating to citizen information and access offices).

"(s) MULTIPLE SOURCES OF RISK DEMONSTRATION PROJECTS.—For the period commencing October 1, 1994 and ending September 30, 1999, not more than $30,000,000 of the amounts available in the Fund may be used for the purposes of section 117(k) of this Act (relating to multiple sources of risk demonstration projects).".

TITLE VIII—ENVIRONMENTAL INSURANCE RESOLUTION FUND

SEC. 801. SHORT TITLE.

This title may be cited as the "Environmental Insurance Resolution and Equity Act of 1994".

SEC. 802. ENVIRONMENTAL INSURANCE RESOLUTION FUND.

(a) ENVIRONMENTAL INSURANCE RESOLUTION FUND ESTABLISHED.—

There is hereby established the Environmental Insurance Resolution Fund (hereinafter referred to as the "Resolution Fund").

(b) OFFICES.—The principal office of the Resolution Fund shall be in the District of Columbia or at such other place as the Resolution Fund may from time to time prescribe.

(c) STATUS OF RESOLUTION FUND.—Except as expressly provided in this title, the Resolution Fund shall not be considered an agency or establishment of the United States. The members of the Board of Trustees shall not, by reason of such membership, be deemed to be officers or employees of the United States.

(d) BOARD OF TRUSTEES.—

(1) IN GENERAL.—The Resolution Fund shall be administered by a Board of Trustees (Board).

(2) MEMBERSHIP.—The board shall consist of—

(A) GOVERNMENTAL MEMBERS.—

(i) The Administrator of the Environmental Protection Agency.

(ii) The Attorney General of the United States.

(B) PUBLIC MEMBERS.—Five public members appointed by the President not later than 60 days after the date of enactment of this title, not less than two of whom shall represent insurers subject section _ of the Internal Revenue Code of 1986, and not less than two of whom shall represent eligible persons defined in subsection (g)(2)(A). The public members shall be citizens of the United States.

(C) EX-OFFICIO MEMBER.—The Secretary of the Treasury shall serve as an ex officio member of the Board.

(3) CHAIR.—The Chair of the Board shall be designated by the President from time to time from among the members described in paragraph (2)(A). No expenditure may be made, or other action taken, by the Resolution Fund without the concurrence of the Chair of the Board.

(4) COMPENSATION.—Governmental members of the Board shall serve without additional compensation. Public members of the Board shall, while attending meetings of the Board or while engaged in duties related to such meetings or other activities of the Board pursuant to this title, be entitled to receive compensation at the rate of $200 per day, including travel time. While away from their homes or regular places of business, members of the Board shall be allowed travel and actual, reasonable and necessary expenses to the same extent as officers of the United States.

(5) TERM OF PUBLIC MEMBERS.—Public members of the Board shall serve for a term of 5 years, except that such members may be removed by the President for any reason at any time. A public member whose term has expired may continue to serve on the Board until such time as the President appoints a successor. The President may reappoint a public member of the Board, but no such member may consecutively serve more than two terms.

(6) VACANCIES.—A vacancy on the Board shall be filled in the same manner as the original appointment, except that such appointment shall be for the balance of the unexpired term of the vacant position.

(7) QUORUM.—Four members of the Board shall constitute a quorum for the conduct of business.

(8) MEETINGS.—The Board shall meet not less than quarterly at the call of the Chair. Meetings of the Board shall be open to the public unless the Board, by a majority vote of members present in open session, determines that it is necessary or appropriate to close a meeting. The Chair shall provide at least 10 days notice of a meeting by publishing a notice in the Federal Register and such notice shall indicate whether it is expected that the Board will consider closing all or a portion of the meeting. Nothing in this paragraph shall be construed to apply to informal discussions or meetings among Board members.

(e) OFFICERS AND EMPLOYEES.—

(1) CHIEF EXECUTIVE OFFICER; CHIEF FINANCIAL OFFICER.—

(A) The Resolution Fund shall have a Chief Executive Officer appointed by the Board who shall exercise any authority of the Resolution Fund under such terms and conditions as the Board may prescribe.

(B) The Resolution Fund shall have a Chief Financial Officer appointed by the Board.

(2) COMPENSATION.—No officer or employee of the Resolution Fund may be compensated by the Resolution Fund at an annual rate of pay which exceeds the rate of basic pay in effect from time to time for level I of the Executive Schedule under section 5312 of title 5, United States Code. No officer or employee of the Resolution Fund, other than a member of the Board, may receive any salary or other compensation from any source other than the Resolution Fund for services rendered during the period of employment by the Resolution Fund.

(3) POLITICAL TEST OR QUALIFICATION.—No political test or qualification shall be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, and employees of the Resolution Fund.

(4) ASSISTANCE BY FEDERAL AGENCIES.—The Attorney General, the Secretary of the Treasury, and the Administrator of the Environmental Protection Agency, may to the extent practicable and feasible, and in their sole discretion, make personnel and other resources available to the Resolution Fund. Such personnel and resources may be provided on a reimbursable basis, and any personnel so provided shall not be considered employees of the Resolution Fund for purposes of paragraph (2).

(f) POWERS OF RESOLUTION FUND.—Notwithstanding any other provision of law, except as provided in this title or as may be hereafter enacted by the Congress expressly in limitation of the provisions of this paragraph, the Resolution Fund shall have power—

(1) to have succession until dissolved by Act of Congress;

(2) to make and enforce such bylaws, rules and regulations as may be necessary or appropriate to carry out the purposes of this title;

(3) to make and perform contracts, agreements, and commitments;

(4) to settle, adjust, and compromise, and with or without consideration or benefit to the Resolution Fund release or waive in whole or in part, in advance or otherwise, any claim, demand, or right of, by, or against the Resolution Fund;

(5) to sue and be sued, complain and defend, in any State, Federal or other court;

(6) to determine its necessary expenditures and the manner in which the same shall be incurred, allowed, and paid, and appoint, employ, and fix and provide for the duties, compensation and benefits of officers, employees, attorneys, and agents, all of whom shall serve at the pleasure of the Board;

(7) to invest funds, through the Secretary of the Treasury, in interest bearing securities of the United States suitable to the needs of the Resolution Fund; *provided*, that interest earned on such investments shall be retained by the Resolution Fund and used consistent with the purposes of this title;

(8) to hire or accept the voluntary services of consultants, experts, advisory boards, and panels to aid the Resolution Fund in carrying out the purposes of this title; and

(9) to take such other actions as may be necessary to carry out the responsibilities of the Resolution Fund under this title. Nothing in this subsection or any other provision of this title shall be construed to permit the Resolution Fund to issue any evidence of indebtedness or otherwise borrow money.

(g) RESOLUTION OF DISPUTES BETWEEN INSUREDS AND INSURERS.

(1) IN GENERAL.—The Resolution Fund shall offer a comprehensive resolution described in this subsection with respect to all eligible costs of an eligible person at eligible sites.

(2) DEFINITIONS.—

(A) ELIGIBLE PERSON.—For purposes of this subsection, the term "eligible person" means any individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity or governmental unit (including any predecessor in interest or any subsidiary thereof) that satisfies the following criteria:

(i) STATUS AS POTENTIALLY RESPONSIBLE PARTY.—An eligible person—

(I) shall have been named at any time as a potentially responsible party pursuant to the Comprehensive Environmental Response, Compensation and Liability Act with respect to an eligible site on the National Priority List in connection with a hazardous substance that was disposed of on or before December 31, 1985; or

(II) is or was liable, or alleged to be liable, at any time for removal (as defined in section 101(23) of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601(23)) at any eligible site in connection with a hazardous substance that was disposed of on or before December 31, 1985.

(ii) INSURANCE COVERAGE.—An eligible person shall have demonstrated, to the satisfaction of the Resolution Fund, that such person had entered into a valid contract for comprehensive general liability (including broad form liability, general liability, commercial general liability, and excess or umbrella coverage) or commercial multi-peril (including broad form property, commercial package, special multi-peril, and excess or umbrella coverage) insurance coverage——

(I) for any seven years in any consecutive 14 year period prior to January 1, 1986; or

(II) in the case of a person that has been in existence for less than 14 years prior to January 1, 1986, for at least one-half of such years of existence.

For purposes of this clause, a valid contract for insurance shall not include any contract for insurance with respect to which a person has entered into a settlement with an insurer providing, or where a judgment has provided, that the contract has been satisfied and that such person has no right to make any further claims under such contract.

(B) ELIGIBLE COSTS.—

(i) IN GENERAL.—For purposes of this subsection, the term "eligible costs" means costs described in clause (ii) or (iii) incurred with respect to a hazardous substance that was disposed of on or before December 31, 1985—

(I) for which an eligible person has not been reimbursed; or

(II) for which an eligible person has been reimbursed and that are the subject of a dispute between the eligible person and an insurer.

(ii) NPL SITES.—With respect to an eligible site described in subparagraph (C)(i), eligible costs means costs described in clause (i)—

(I) of response (as defined in section 101(25) of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601(25));

(II) for natural resources damages; or

(III) to defend potential liability

(including, but not limited to, attorney's fees, costs of suit, consultant and expert fees and costs, and expenses for testing and monitoring)

(iii) NON-NPL SITES.—With respect to an eligible site described in subparagraph (C)(ii), eligible costs means costs described in clause (i)—

(I) of removal (as defined in section 101(23) of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601(23)); or

(II) to defend potential liability (including, but not limited to, attorney's fees, costs of

suit, consultant and expert fees and costs, and expenses for testing and monitoring).

(iv) LIMIT ON ELIGIBLE COSTS.—

(I) Except as provided in subclause (II), the eligible costs of an eligible person may not exceed—

(aa) $15,000,000 in the case of an eligible person that has demonstrated insurance coverage pursuant to subparagraph (A)(ii)(I); or

(bb) an amount equal to one-seventh of $15,000,000 for each year of insurance coverage, in the case of an eligible person that has demonstrated insurance coverage pursuant to subparagraph (A)(ii)(II).

(II) The limitation on eligible costs provided in subclause (I) shall not apply to an eligible person that, when filing a request for a resolution offer with the Resolution Fund, presents evidence to the satisfaction of the Resolution Fund that the limits on valid contracts of insurance (including per occurence, aggregate, primary, excess or other limits) of such eligible person prior to January 1, 1986, cumulatively exceed the amount determined pursuant to subclause (I) without reference to any time period. For purposes of this clause, a valid contract for insurance shall not include any contract for insurance with respect to which an eligible person has entered into a settlement with an insurer providing, or where a judgment has provided, that the contract has been satisfied and that such eligible person has no right to make any further claims under such contract.

(C) ELIGIBLE SITE.—For purposes of this subsection, the term "eligible site" means—

(i) any site or facility placed on the National Priority List at any time, at which a hazardous substance was disposed of on or before December 31, 1985; or

(ii) any site or facility subject to a removal (as defined in section 101(23) of the Act (42 U.S.C. 9601(23)) conducted pursuant to such Act at any time, at which a hazardous substance was disposed of on or before December 31, 1985.

For purposes of this subparagraph, the term "facility" shall have the same meaning as provided in section 101(9) of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601(9)).

(D) STATE.—For purposes of this subsection, the term "State" shall have the same meaning as provided in section 101(27) of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601(27)).

(3) RESOLUTION OFFERS.—

(A) IN GENERAL.—The Resolution Fund shall offer one comprehensive resolution to each eligible person. The offer shall—

(i) be for a percentage of all of the eligible costs of such eligible person incurred in connection with all eligible sites, determined pursuant to paragraph (4); and

(ii) state the limitation on eligible costs, if any, applicable to the eligible person pursuant to paragraph (2)(B)(ii).

(B) REQUEST FOR RESOLUTION OFFERS.—An eligible person shall file a request for resolution from the Resolution Fund in such form and manner as the Resolution Fund shall prescribe. No such request shall be deemed received by the Resolution Fund where before the date final regulations concerning State percentage categories are published in the Federal Register pursuant to paragraph (4)(B)(iii). The Resolution Fund shall make an offer of resolution, determined pursuant to paragraph (4), to each eligible person that has filed a request for an offer of resolution not later than 180 days after the receipt of a complete request as determined by the Resolution Fund.

(C) REVIEW OF RESOLUTION OFFERS.—No resolution offer made by the Resolution Fund shall be subject to review by any court.

(4) DETERMINATION OF RESOLUTION OFFERS.—

(A) IN GENERAL.—The Resolution Fund shall determine a resolution offer—

(i) in the case of an eligible person that has established only one State litigation venue pursuant to subparagraph (C), by applying the State percentage determined pursuant to subparagraph (B)(iii) to the established State litigation venue;

(ii) in the case of an eligible person that has established two or more State litigation venues pursuant to subparagraph (C), each site with respect to which a State litigation venue has been established shall be accorded equal value and the applicable percentage shall be the weighted average of all established State litigation venues; or

(iii) in the case of an eligible person that has not established any State litigation venue pursuant to subparagraph (C)—

(I) if the eligible person has potential liability in connection with only one hazardous waste site, by applying the State percentage determined pursuant to subparagraph (B)(iii) to the State in which the site is located; or

(II) if the eligible person has potential liability in connection with more than one hazardous waste site, each site shall be accorded equal value and the applicable percentage shall be the weighted average of all States in which the sites are located.

(B) STATE PERCENTAGE.—

(i) IN GENERAL.—The Congress finds that as of January 1, 1994, State law generally is more favorable to eligible persons that pursue claims concerning eligible costs against insurers in some States, that State law generally is more favorable to insurers with respect to such claims in some States, and that in some States the law generally favors neither insurers nor eligible persons with respect to such claims or that there is insufficient information to determine whether such law generally favors insurers or eligible persons with respect to such claims. The Congress further finds that considerations of equity and fairness require that resolution offers made by the Resolution Fund must vary to reflect the relative state of the law among the several States.

(ii) PROPOSED REGULATIONS.—The Resolution Fund shall examine the law in each State as of January 1, 1994. Not later than 120 days after the date of enactment of this title, the Resolution Fund shall publish in the Federal Register a notice of proposed rulemaking soliciting public comment for 60 days and classifying States into the following percentage categories:

(I) 20 percent, in the case of the ten States in which the Resolution Fund determines that State law generally is most favorable to insurers relative to the other States;

(II) 60 percent, in the case of the ten States in which the Resolution Fund determines that State law generally is most favorable to eligible persons relative to the other States; and

(III) 40 percent, in the case of all other States.

(iii) FINAL REGULATIONS.—

(I) Not later than 60 days after the close of the public comment period, the Resolution Fund shall publish in the Federal Register final regulations providing State classifications.

(II) The State classifications provided in the final rule shall govern all resolution offers made by the Resolution Fund and shall not be subject to amendment by the Resolution Fund.

(III) Notwithstanding any other provision of law, the final regulations promulgated by the Resolution Fund pursuant to this clause shall not be subject to review by any court.

(C) LITIGATION VENUE.—For purposes of this subsection, litigation venue is considered established with respect to an eligible person if—

(i) on or before December 31, 1993, the eligible person had pending in a court of competent jurisdiction a complaint or cross complaint against an insurer with respect to eligible costs at an eligible site; and

(ii) no motion to change venue with respect to such complaint was pending on or before January 31, 1994.

(5) ACCEPTANCE OR REJECTION OF RESOLUTION OFFER.—

(A) IN GENERAL.—

(i) An eligible person may, when submitting a request for a resolution to the Resolution Fund, make a written irrevocable election to accept any resolution to be made by the Resolution Fund.

(ii) An eligible person that does not make an election pursuant to clause (i) shall, within 60 days of the receipt of a resolution offer from the Resolution Fund, notify the Resolution Fund in writing of its irrevocable acceptance or rejection of such offer. An eligible person who does not so accept or reject a resolution offer within 60 days shall be deemed to have made an irrevocable election to reject the offer and the provisions of subparagraph (C) shall apply.

(B) RESOLUTION OFFER ACCEPTED.—An eligible person that accepts a resolution offered by the Resolution Fund shall be subject to the provisions of this paragraph.

(i) WAIVER OF INSURANCE CLAIMS.—The Resolution Fund shall not make payments to an eligible person unless the eligible person agrees in writing, subject to reinstatement described in clause (ii)—

(I) to waive any existing and future claims against any insurer for eligible costs; and

(II) to stay or dismiss each claim pending against an insurer for eligible costs.

(ii) REINSTATEMENT OF INSURANCE CLAIMS.—

(I) If the Resolution Fund fails to timely fulfill its obligations to an eligible person under the terms of an accepted resolution offer, such eligible person shall be entitled to reinstate any claim under a contract for insurance with respect to eligible costs.

(II) STATUTE OF LIMITATION TOLLED.—Notwithstanding any other provision of Federal or State law, any Federal or State statute of limitation concerning the filing or prosecution of an action by an eligible person against an insurer, or by an insurer against an eligible person, with respect to eligible costs shall be tolled during the pendency of the stay of pending litigation established by section 804(a).

(iii) PAYMENT OF RESOLUTION OFFERS.—

(I) PRE-RESOLUTION COSTS.—The Resolution Fund shall make equal annual payments over a period of eight years for eligible costs incurred by an eligible person on or before the date such person accepts a resolution offer pursuant to subparagraph (A)(i) or (ii), and interest shall not accrue with respect to such eligible costs. The Resolution Fund may, in its sole discretion, make such payments over a shorter period if the aggregate eligible costs do not exceed $50,000. An eligible person shall submit to the Resolution Fund documentation of such costs as the Resolution Fund may require. The initial payment to an eligible person under this subclause shall be made not later than 60 days

after the receipt of documentation satisfactory to the Resolution Fund.

(II) POST-RESOLUTION COSTS.—The Resolution Fund shall make payments for eligible costs incurred by an eligible person after the date such person accepts a resolution offer pursuant to subparagraph (A)(i) or (ii) to the eligible person, or to a contractor or other person designated by the eligible person, subject to such documentation as the Resolution Fund may require. Payments under this subclause shall be made not later than 60 days after the receipt of documentation satisfactory to the Resolution Fund.

(III) ADJUSTMENT FOR DEDUCTIBLE OR SELF INSURANCE.—In the case of an eligible person that has submitted to the Resolution Fund, as proof of status as an eligible person, a contract for insurance described in paragraph (2)(A)(ii) that is subject to a self-insured retention or a deductible, payment to such eligible person pursuant to a resolution shall be reduced by the amount of such self-insured retention or deductible, except that such reduction shall not exceed the amount of one self-insured retention or one deductible that the eligible person would have been required to pay with respect to one claim for eligible costs under the terms of the contracts for insurance submitted. In the event that the eligible person submitted more than one contract for insurance, any such reduction shall be made with respect to the lowest of the amounts of self-insured retentions and deductibles.

(IV) ADJUSTMENT FOR CERTAIN DUTY-TO-DEFEND COSTS.—If an insurer has incurred and paid costs pursuant to a duty-to-defend clause contained in a contract for insurance described in paragraph (2)(B), and such costs are the subject of a dispute between the eligible person and an insurer, the payment of a resolution to an eligible person shall be reduced by such amount, and the Resolution Fund shall pay such amount to the insurer. If such cost were paid by the insurer on or before the date the eligible person accepted a resolution offer made by the Resolution Fund, payment to an insurer under this subclause shall be made in equal annual installments over a period of eight years, and interest shall not accrue with respect to such costs. The Resolution Fund may, in its sole discretion, make such payments over a shorter period if the aggregate costs do not exceed $50,000.

(C) RESOLUTION OFFER REJECTED; LITIGATION OF INSURANCE CLAIMS.—

(i) ADMISSIBILITY OF RESOLUTION OFFER.—No resolution offered by the Resolution Fund shall be admissible in any legal action by an eligible person against an insurer or by an insurer against an eligible person.

(ii) INSURER ACTION AGAINST ELIGIBLE PERSON.—Any eligible person that rejects a resolution offer, litigates a claim with respect to eligible costs against an insurer, and obtains a final judgment that is less favorable than the resolution offered by the Resolution Fund, shall be liable to such insurer for 20 percent of the reasonable costs and legal fees incurred by the insurer in connection with such litigation after the resolution was offered to the eligible person. The district courts of the United States shall have original jurisdiction of all such actions, without regard to amount or value. The court shall reduce any award to an insurer in any such action by the amount, if any, of such costs and legal fees recovered by the insurer pursuant to State law or court rule. Nothing in this clause shall be construed to limit or affect in any way the application of State law, or the rule of any court, to such costs or legal fees.

(iii) REIMBURSEMENT TO INSURER.—In the case of an eligible person that rejects a resolution offer, litigates a claim with respect to eligible costs against one or more insurers, and obtains a final judgment against any such insurer, the Resolution Fund—

(I) shall reimburse to such insurer or insurers the lesser of the amount of the resolution offer made to the eligible person or the final judgment; and

(II) may, if the resolution offer exceeded the final judgment, reimburse the insurer or insurers for unrecovered reasonable costs and legal fees, except that the total reimbursement under this subclause may not exceed the amount of the resolution offer to the eligible person.

Reimbursements pursuant to this clause shall be subject to such documentation as the Resolution Fund may require and shall made by the Resolution Fund not later than 60 days after receipt by the Resolution Fund of a complete request for reimbursement as determined by the Resolution Fund.

(6) PAYMENTS CONSIDERED PURSUANT TO INSURANCE CONTRACT.—Payments made by the Resolution Fund pursuant to a resolution offer shall be deemed payments made by an insurer under the terms and conditions of a contract of insurance or in settlement thereof. Nothing in this paragraph shall be construed to affect in any way the issue of whether the liability limits of a contract of insurance has been satisfied.

(7) RESOLUTION PROCESS NOT ADMISSION OF LIABILITY.—No provision of this title, and no action by an eligible person undertaken in connection with any provision of this title shall in any way constitute an admission of liability in connection with the disposal of hazardous substance.

(8) REGULATIONS.—

(A) PROCEDURES AND DOCUMENTATION.—Not later than 120 days after the date of enactment of this title, the Resolution Fund shall publish in the Federal Register for public comment of not more than 60 days interim final regulations concerning procedures and documentation for the submission of requests for resolution offers and the payment of accepted resolution offers. Not later than 60 days after the close of the public comment period, the Resolution Fund shall publish in the Federal Register final regulations concerning such procedures and documentation, which may be amended by the Resolution Fund from time to time.

(B) OTHER REGULATIONS.—The Resolution Fund may prescribe such other regulations, rules and procedures as the Resolution Fund deems appropriate from time to time.

(C) JUDICIAL REVIEW.—No regulation, rule or procedure prescribed by the Resolution Fund pursuant to this paragraph shall be subject to review by any court except to the extent such regulation, rule or procedure is not consistent with a provision of this title.

(h) JURISDICTION OF FEDERAL COURTS.—Notwithstanding section 1349 of title 28, United States Code:

(1) The Resolution Fund shall be deemed to be an agency of the United States for purposes of sections 1345 and 1442 of title 28, United States Code.

(2) All civil actions to which the Resolution Fund is a party shall be deemed to arise under the laws of the United States, and the district courts of the United States shall have original jurisdiction of all such actions, without regard to amount or value.

(3) Any civil or other action, case or controversy in a court of a State, or in any court other than a district court of the United States, to which the Resolution Fund is a party may at any time before the trial thereof be removed by the Resolution Fund, without the giving of any bond or security, to the district court of the United States for the district and division embracing the place where the same is pending, or, if there is no such district court, to the district court of the United States for the district in which the principal office of the Resolution Fund is located, by following any procedure for removal of causes in effect at the time of such removal.

(4) No attachment or execution shall be issued against the Resolution Fund or any of its property before final judgment in any State, Federal, or other court.

(i) REPORTS.—

(1) ANNUAL REPORTS.—The Resolution Fund shall report annually to the President and the Congress not later than January 15 of each year on its activities for the prior fiscal year. The report shall include—

(A) A financial statement audited by an independent auditor; and

(B) a determination of whether the fees and assessments imposed by section of the Internal Revenue Code of 1986 will be sufficient to meet the anticipated obligations of the Resolution Fund.

(2) SPECIAL REPORTS.—The Resolution Fund shall promptly report to the President and the Congress at any time the Resolution Fund determines that the fees and assessments imposed by section of the Internal Revenue Code of 1986 will be insufficient to meet the anticipated obligations of the Resolution Fund.

(j) FALSE OR FRAUDULENT STATEMENTS OR CLAIMS.—

(1) CRIMINAL PENALTIES.—

(A) For purposes of section 287 of title 18, United States Code (relating to false claims), the Resolution Fund shall be considered an agency of the United States and any officer or employee of the Resolution Fund shall be considered a person in the civil service of the United States.

(B) For purposes of section 1001 of title 18, United States Code (relating to false statements or entries), the Resolution Fund shall be considered an agency of the United States.

(2) CIVIL PENALTIES.—Officers and employees of the Resolution Fund shall be considered officers and employees of the United States for purposes of section 3729 of title 31, United States Code (relating to false claims).

SEC. 803. FINANCIAL STATEMENTS, AUDITS, INVESTIGATIONS AND INSPECTIONS.

(a) IN GENERAL.—The financial statements of the Resolution Fund shall be prepared in accordance with generally accepted accounting principles and shall be audited annually by an independent certified public accountant in accordance with the auditing standards issued by the Comptroller General. Such auditing standards shall be consistent with the private sector's generally accepted auditing standards.

(b) INVESTIGATIONS AND OTHER AUDITS.—The Inspector General of the Environmental Protection Agency is authorized to conduct such audits and investigations as the Inspector General deems necessary or appropriate. For purposes of the preceding sentence, the provisions of the Inspector General Act of 1978 shall apply to the Resolution Fund and to the Inspector General to the same extent as they apply to the Environmental Protection Agency.

SEC. 804. STAY OF PENDING LITIGATION.

(a) IN GENERAL.—

(1) Except as provided in this section, enactment of this title operates as a stay, ap-

plicable to all persons other than the United States, of the commencement or continuation, including the issuance of employment of process or service of any pleading, motion, or notice of any judicial, administrative, or other action with respect to claims for indemnity or other claims arising from a contract for insurance described in section 802(g)(2)(A)(ii) concerning insurance coverage for eligible costs as defined in section 802(g)(2)(B)(i).

(2) Nothing in paragraph (1) shall be construed to apply to the extent the issuance or employment of process or service of any pleading, motion, or notice, of any judicial, administrative, or other action with respect to claims for indemnity or other claims does not concern eligible costs (as defined in section 802(g)(2)(B)(i)) or a contract for insurance described in section 802(g)(2)(A)(ii). An eligible person (as defined in section 802(g)(2)(A)) may move to sever claims not involving eligible costs from claims involving eligible costs and may proceed with the prosecution of claims not involving eligible costs.

(b) TERMINATION OF STAY.—

(1) PENDING OFFER OF RESOLUTION.—The stay established by subsection (a) shall terminate with respect to an eligible person upon the earlier of—

(A) the rejection of a resolution offer by such eligible person pursuant to section 802(g)(5)(A); or

(B) the failure of the Resolution Fund to timely fulfill the terms of a resolution offer accepted by such eligible person.

(2) EXPIRATION OF RESOLUTION OFFERS.—No stay established by subsection (a) shall be effective after May 31, 2000.

(c) OTHER STAYS.—Nothing in this section shall be construed to limit or affect in any way the discretion of any judicial, administrative, or other entity to maintain or impose a stay that is not required by subsection (a) but that will otherwise serve the ends of justice by staying a judicial, administrative or other action pending the acceptance or rejection of a resolution offer pursuant to section 802(g)(5)(A).

(d) AUTHORITY OF UNITED STATES UNAFFECTED.—Nothing in this section shall be construed to limit or affect in any way the discretion or authority of the United States or any party to commence or continue an allocation process, cost recovery, or other action pursuant to the authority of sections 101–122a of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601–9622a).

SEC. 805. SUNSET PROVISIONS.

(a) AUTHORITY TO ACCEPT REQUEST FOR RESOLUTION.—The authority of the Resolution Fund to accept requests for resolution shall terminate after September 30, 1999.

(b) AUTHORITY TO OFFER RESOLUTIONS.—The authority of the Resolution Fund to offer resolutions to eligible persons shall terminate after March 31, 2000.

(c) CONTINUING OBLIGATIONS.—Nothing in this section shall be construed to limit or affect in any way the authority of the Resolution Fund—

(1) to make payments pursuant to resolution offers made on or before March 31, 2000; or

(2) to reimburse insurers with respect to litigation commenced or continued in connection with a resolution offer made on or before March 31, 2000, that was rejected by an eligible person or not acted upon by an eligible person as provided in section 802(g)(5)(A).

SEC. 806. SOVEREIGN IMMUNITY OF THE UNITED STATES.

No obligation or liability of the Resolution Fund shall constitute an obligation or liability of the United States, or of any department, agency, instrumentality, officer, or employee thereof. No person shall have a cause of action of any kind against the United States, or any department, agency, instrumentality, officer, or employee thereof with respect to any obligation, liability, or activity of the Resolution Fund.

SEC. 807. EFFECTIVE DATE.

The provisions of this title shall become effective on the date of enactment of this title.

TITLE IX—TAXES

SEC. 901. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

(a) Section 59A(e)(1) of the Internal Revenue Code of 1986, (26 U.S.C. 59A(e)(1) is amended by striking "January 1, 1996" and inserting "January 1, 2001".

(b) Section 4611(e) of the Internal Revenue Code of 1986 (26 U.S.C. 4611(e)) is amended—

(1) in paragraph (1), by striking "December 31, 1986" and inserting instead "December 31, 1995";

(2) in paragraph (2)—

(A) by striking "December 31, 1993 or December 31, 1994" and inserting instead "December 31, 1998 or December 31, 1999";

(B) by striking "December 31, of 1994 or 1995, respectively" and inserting instead "December 31 of 1999 or 2000, respectively"; and

(C) by striking "1994 or 1995" the last place it appears and inserting instead "1999 or 2000";

(3) in paragraph (3)(A), by striking "January 1, 1987, and ending December 31, 1995" and inserting instead "January 1, 1996, and ending December 31, 2000"; and

(4) in paragraph (3)(B)—

(A) in the title thereof, by striking "January 1, 1996" and inserting "January 1, 2001"; and

(B) by striking "Fund before January 1, 1996" and inserting instead "Fund before January 1, 2001".

SEC. 902. ENVIRONMENTAL FEES AND ASSESSMENTS ON INSURANCE COMPANIES.

(a) IN GENERAL.—The Internal Revenue Code 1986 is amended by inserting after section the following new section:

SEC. . ENVIRONMENTAL FEES AND ASSESSMENTS ON INSURANCE COMPANIES.

[Reserved]

(b) CLERICAL AMENDMENT.—The table of sections for chapter of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section the following:

"Sec. . Environmental Fees and Assessments on Insurance Companies.".

SEC. 903. FUNDING PROVISIONS FOR ENVIRONMENTAL INSURANCE RESOLUTION FUND.

(a) IN GENERAL.—

(1) Except as provided in section 802(f)(7) of this Act, all expenditures of the Resolution Fund shall be paid out of the fees and assessments imposed by section of the Internal Revenue Code.

(2) Except as may be expressly authorized by the Secretary of the Treasury, all funds of the Resolution Fund shall be maintained in the Treasury of the United States. The Secretary may provide for the disbursement of such funds to the Resolution Fund or on behalf of the Resolution Fund under such procedures, terms and conditions as the Secretary may prescribe.

(b) TRANSFER TO RESOLUTION FUND.—The Secretary of the Treasury shall transfer to the Resolution Fund on October 1 of fiscal years 1995, 1996, 1997, 1998 and 1999, an amount equal to the fees and assessments anticipated to be collected pursuant to section of the Internal Revenue Code of 1986 during the then current fiscal year.

(c) ADJUSTMENTS.—In each succeeding fiscal year the Secretary of the Treasury shall adjust the amounts transferred pursuant to paragraph (2) to reflect actual collections of fees and assessments during the prior fiscal year, except that with respect to the transfer made on October 1, 1999, the Resolution Fund shall reimburse the Secretary the amount of such transfer subsequently determined by the Secretary to have exceeded actual collections of fees and assessments during such fiscal year.

SEC. 904. RESOLUTION FUND NOT SUBJECT TO TAX.

The Resolution Fund, including its capital, reserves, surplus, security holdings, and income shall be exempt from all taxation now or hereafter imposed by the United States (including any territory, dependency or possession thereof) or any State, county, municipality or local taxing authority.

SUMMARY OF S. 1834

TITLE I.—COMMUNITY PARTICIPATION AND HUMAN HEALTH CONCERNS

A. COMMUNITY INVOLVEMENT

1. Issue

Many communities near Superfund sites, including low income, minority and Indian communities, feel that they are not provided with the opportunity to fully participate in the Superfund process. These and other communities believe that the program does not address local concerns adequately when addressing risk or determining the method and level of cleanup, particularly with respect to future use of land. The public is often skeptical of the government's willingness to give serious consideration to community concern. Affected stakeholders sometimes voice concern that opportunities for their involvement in site activities come too late in the process and that their input has little impact on cleanup decisions. There is a general consensus that opportunities for earlier, direct and regular community involvement would enhance the communities' participation throughout the cleanup process.

2. General Overview of the Proposal

The Administration's proposal is based on the principle that communities must be involved in the cleanup process from the time a site is discovered to the time it is finally remediated. The Administration's proposal sets out several innovative methods for getting communities involved in the cleanup process. Community work Groups (CWG) would be formed to promote early, direct and meaningful public participation throughout the Superfund process. In addition, communities' access to information would be facilitated through the establishment of Citizen Information and Access Offices (CIAOs) in each state and tribal land affected by a Superfund site.

Soliciting and evaluating community views would occur as early as during the site assessment stage of the Superfund process. The communities' views and preferences on remedies would also be solicited earlier (i.e., prior to the feasibility study), providing an upfront opportunity to participate in and influence the remedy selection process. Their views could then be considered in the development of remedial alternatives for the site. Considering the public's recommendations once a preferred remedial action is proposed would continue to occur.

a. Community Work Groups.—The CWG would serve as a site information clearinghouse for the affected community, assist in establishing land use expectations more reliably, and obtain greater community support for remedial decisions affecting future land use. As a result, the community's preference with respect to land use would be considered in the development of remedial alternatives for the site.

The proposed bill establishes a hierarchy for considering future land use recommendations. When the CWG reaches consensus on future land use, their recommendations would be given substantial weight in remedy selection. If there is substantive disagreement within the CWG, then the government would attempt to reconcile the differences. If disagreement continues, then substantial weight would be given to the views of residents of the affected community.

The remedy selection process has also been modified to account for the community's acceptance of a remedial alternative, during the evaluation of alternatives, including the alternative's ability to achieve the community's preferred future land use. Accordingly, the opportunity for community input is more meaningful in that it occurs prior to the proposal of a preferred remedial action plan by the government. In addition, by requiring the government to prepare a written explanation when it makes decisions that are inconsistent with the CWG's recommendations on a significant issue, the government's accountability to the affected community with respect to its decision-making is increased.

The proposed bill contains guidelines for establishing CWG's (See, Section 103). The CWG membership should generally not exceed twenty people who serve on the board without pay. The Administrator would solicit nominations and make the ultimate selection of CWG members. Notice and opportunity to participate would be given to people who potentially are affected by site contamination in the community. Special efforts would also be made to ensure that the composition of the CWG reflects the racial, ethnic and economic makeup of the community. The government would attend and participant in CWG meetings as appropriate, but would not serve on the board. This would allow the CWG to function independently of the government, while providing access to government officials when needed.

b. Citizens Information and Access Offices.—The CIAO would provide citizens and elected officials with information on NPL and ensure wide distribution of information that is easily understood by citizens. The CIAO would also assist in notifying, nominating and selecting potential CWG members. CIAO program funding could not exceed $50 million per year. Funds would be distributed based on a formula using such factors as the number and complexity of sites.

These proposed changes to the current Superfund law would enhance and increase community input into the decision-making process by providing opportunities for earlier, direct and regular community involvement. Establishing CWGs and CIAOs plays a critical role in accomplishing this objective. Changes in the remedy selection process have also been made which increase the significance of community acceptance in determining an appropriate remedy for a site.

c. Technical Assistance Grants.—The proposal amends the current law to expand the concept of technical assistance grants to include the granting of services in addition to funds.

B. ENVIRONMENTAL JUSTICE PROPOSAL

1. Issue

Environmental Justice focuses on the needs of disadvantaged communities. These communities face not only risks from uncontrolled toxic waste sites, but also from multiple sources of pollution (e.g., air emissions from nearby manufacturing plants). EPA, however, has not traditionally taken into account multiple environmental stresses from sources other than the site when setting priorities and evaluating risk under the Superfund program.

2. General Overview of the Proposal

The Administration's proposed amendments to CERCLA seek to respond to evidence that disadvantaged communities, whether urban, rural or tribal, bear a disproportionate share of environmental risk. Priority setting would be changed to account for the presence of disproportionate risk. In addition, demonstration projects would be used to advance methodologies for assessing cumulative risk.

a. Multiple Sources of Risk in Priority Setting.—Under this proposal, the hazard ranking system (HRS), the model used to determine sites eligible for the National Priorities List (NPL), would be amended to explicitly take into account the presence of multiple sources of risk and cumulative risk to minority and low income populations in priority setting. Sites that are placed on the NPL qualify for additional funding to address long-term risks. The current HRS does not take into account cumulative risk from sources other than the site under consideration. In addition, the current HRS is biased against including urban sites on the NPL, since most urban areas obtain drinking water from public water supplies. These changes in the HRS would tip the balance in favor of placing such sites on the NPL, rather than rejecting them.

The National Oil and Hazardous Substances Contingency Plan would also be amended to develop methodologies for assessing the cumulative risk from multiple sources. Advances must be made in the science of risk assessment to improve such methodologies. Therefore, demonstration projects are also proposed to support the development of these methodologies.

b. Demonstration Projects.—The proposed demonstration projects are part of a five year program of study relating to multiple sources of risk and cumulative risk. The program is concerned with identifying and assessing multiple sources of risk. Locations for demonstration projects would coincide with areas designated as empowerment zones, to the extent practicable. This program would be coordinated with Housing and Urban Development and other appropriate departments or agencies.

The Administration also proposes to authorize EPA to conduct a five year study and demonstration project relating to the provision of additional health related benefits (e.g., health screening, medical care) at a selected number of sites in an effort to increase community acceptance and satisfaction with actions taken at these sites.

By taking into account cumulative risk from multiple sources in priority setting and making strides in the area of identifying and assessing such risk, the Administration places increased emphasis on responding to environmental issues of disadvantaged communities that bear a disproportionate share of environmental risk.

TITLE II.—STATE ROLE

A. STATE INVOLVEMENT ISSUES

1. Issue

The federal government has primary responsibility for implementing the Superfund program, and it has exclusive access to money in the Superfund. States, however, play a significant role in the program's implementation. CERCLA currently provides for State involvement in virtually every aspect of the program. For example, State standards apply to all cleanups, and States must pay a share of cleanup cost and provide assurances to conduct operation and maintenance activities at federally-funded, non-federal facility sites. State involvement in Superfund cleanups, however, has been the subject of much controversy. Due to overlapping authority and responsibility, federal and State governments often disagree over the degree to which sites should be cleaned up and the remedy to be used. These disagreements contribute to the cost and duration of cleanups, and they result in substantial confusion among stakeholders. Although EPA, States and Potentially Responsible Parties (PRPs), have differing opinions of the problem, they would generally agree that having dual sovereigns exercise some control at each Superfund site creates uncertainly and duplication of effort and increases both government and PRP transaction costs. In addition, all three would support changes to CERCLA that would leverage Federal, State and private resources to address the maximum number of contaminated sites possible.

2. General Overview of the Proposal

The Administration's proposal would enhance the state role in Superfund and limit the duplication between the federal and state governments at specific sites by establishing a principle that only one government entity would have responsibility for each site. States would be offered the opportunity to assume responsibility and authority for the cleanup of specific sites. States could elect to take on clean up responsibilities at all sites or categories of sites, depending on their interest and the capabilities of their program. EPA would work with the States to help them develop the capacity to take on more responsibility. States that did take on clean up responsibilities would be given access to federal funds under certain conditions. To support this larger role, a State would be required to have in place a clean up program substantially consistent with the federal program.

a. Authorization and Referral.—This proposal provides for increased State involvement in response actions for NPL Sites and federal facility sites through either site-specific referrals or State program authorization. Under either scheme, States will take lead response roles, select remedies, and have access to the Fund to finance a portion of necessary response costs. This proposal would provide for meaningful public participation at various stages of the referral and State program authorization processes, in order to ensure public accountability for State expenditure of Federal response action dollars at referred sites and in authorized programs. Finally, more positive State-EPA and State-PRP relationships may result with the recognition that many States have adequate authorities and capabilities to proceed in a lead role at NPL sites with minimum EPA oversight.

EPA will provide funding for referred sites and authorized programs through a grant with the State. The grants would include non-site-specific program support and re-

sponse action funds. The State would be required to provide cost share when receiving federal funds through such grant. Currently, States are responsible for ten percent (10 percent) matching funds for federally-funded remedial actions only and are fully responsible for operation and maintenance requirements at such sites. EPA would consider cost recovery and the effectiveness of a State's enforcement program in allocating additional funds to the State. EPA would conduct biannual performance reviews of State programs and response actions at referred and authorized programs to determine whether continued funding is appropriate. EPA would also retain discretion to withdraw authorization or referral for all or part of a State program.

State program authorization would provide States with programs that are substantially consistent with the Federal program with the opportunity to take the lead role at all NPL sites within the State. Authorized States need not take the lead at all NPL sites, but may address a category or categories of sites (as defined by EPA). However, authorized States choosing to address particular categories of sites will be responsible for all phases of response at all NPL sites within the category or categories of sites.

To obtain authorization or site-specific referral, States must have a program with the statutory and administrative authority, as well as technical capability and resources, to conduct the full range of response activities (including enforcement) in a manner substantially consistent with the Federal program under CERCLA and the NCP. For example, the State must demonstrate that it has a process for allocating liability among responsible parties, provides for public participation and provides for CERCLA quality cleanups.

At all authorized and referred sites, States will select remedies and have access to Superfund monies for response activities. Fund-financed remedial actions will be limited to Federal funding amounts necessary to achieve CERCLA cleanup requirements, and will be subject to a state cost share. The State may enhance a remedy beyond CERCLA requirements, but will be required to pay for all of the excess costs necessary to achieve those standards.

EPA would have the opportunity to review any proposed plan for a remedial action before the State selects the remedy. The State also would give EPA a copy of the final selected remedy. Within ninety (90) days, EPA may request a modification to the remedy. If EPA's concerns were not adequately addressed by the State, EPA could withhold funding or withdraw all or part of the State's authorization, or both.

As mentioned above, to ensure public accountability for State expenditures of Federal dollars, EPA would review State programs on a bi-annual basis. The review would be used to determine if: 1) response actions were conducted in a manner consistent with the Federal program; 2) Federal funds were utilized in the manner agreed to during the funding process; and 3) the State's cost recovery and other enforcement efforts were adequate.

TITLE III.—VOLUNTARY RESPONSE

A. STATE VOLUNTARY PROGRAM

1. Issue

The universe of sites requiring cleanup is much larger than either EPA or State environmental agencies can address alone. With limited resources, EPA and the States have focused their efforts on maximizing risk reduction at those sites posing the greatest threat to human health and the environment. Although many non-NPL/medium risk sites are being addressed by other federal agencies and several State programs, there still exists a substantial backlog of low- and medium-risk sites that are not currently being addressed by any governmental agency. The resultant delays in addressing such sites can prolong exposure to environmental risks and restrict economic redevelopment in those areas.

2. Proposal

The Administration's proposal maintains a "worst sites first" approach to achieve maximum risk reduction, while assisting State and private parties to clean up sites that may not pose as great a risk, but which have significant economic redevelopment potential. By working with the States to help them enhance existing voluntary cleanup programs and develop new ones, EPA can also leverage its resources to increase the speed and number of cleanups at contaminated sites. Given the fact that most voluntary cleanups are driven by local economic redevelopment concerns, EPA believes that States are in the best position to oversee such efforts.

B. ECONOMIC REDEVELOPMENT PROPOSAL

1. Issue

At contaminated sites, uncertainty about future tort, third party, and CERCLA liability, as well as uncertainty about cost, cleanup standards, and the length of time needed for cleanup often create barriers to the redevelopment of these sites—regardless whether the site is of federal or state concern. This situation deters investment in such sites. As a result, at times, affected communities may suffer such adverse economic effects as declining property values and increasing unemployment rates. Furthermore, since the poor and many minority groups tend to be concentrated in older urban centers or rural areas where polluted real estate is usually found, they may bear disproportionately greater health and environmental risks.

2. General Overview of the Proposal

The Administration's proposal is designed to reduce the current Superfund-related obstacles to the redevelopment of contaminated sites. It changes provisions of the current law that discourage prospective purchasers from investing in contaminated property and banks from lending money for such purposes. The Administration's proposal contains a conditional exemption from liability for bona fide prospective purchasers of contaminated property. Since CERCLA liability is often noted as a key factor in freezing the market for industrial and commercial properties, this exemption would provide certainty for these parties, thereby providing an incentive to bring contaminated property back into productive use.

Prospective purchasers' liability would be limited if a person: acquired the property subsequent to disposal of hazardous substances; conducted a site audit and in the case of property for residential or noncommercial use, a site inspection and title search revealed no basis for further investigation; provided proper notification of releases of hazardous substances; exercised due care and took reasonably necessary steps to address the release or threatened release of hazardous substances and to protect human health and the environment; and provides cooperation, assistance and site access to those responsible for response actions. To prevent against sham transactions, a bona fide prospective purchaser cannot be affiliated with any other person liable for response costs.

To protect against unjust enrichment the government could place a lien on the property. The lien would be based on the fair market value that response action increases the value of the property, (*e.g.*, the net difference between the value of the property prior to and following the response action). The lien would continue until it is satisfied or all response costs are recovered, whichever is sooner.

TITLE IV.—THE LIABILITY SCHEME

A. PROPOSALS TO INCREASE FAIRNESS AND REDUCE TRANSACTION COSTS IN IMPLEMENTING THE LIABILITY SCHEME

1. Issues

The Superfund statute makes those who caused or were associated with contamination liable to finance or conduct cleanup. Liability is strict, joint and several, and retroactive. EPA has used the statute to obtain a large proportion of current cleanups. The liability scheme has resulted in 72% of new Remedial Actions being undertaken by responsible parties in the 1992 fiscal year, up from a 37% liable party share in FY 87. EPA has obtained over $8 billion in responsible party commitments to do response work since 1980. Many claim that the Superfund liability scheme has positively modified behavior respecting waste disposal.

Notwithstanding CERCLA's role in, effecting privately funded cleanups on a large scale, many criticize the statute. Criticisms fall roughly into three groups. First, liable parties commonly complain that the strict, joint and several, retroactive liability scheme is unfair, principally on grounds that it imposes costs on a liable party which may exceed its proportional "share" of the costs of clean up, and that it imposes liability for acts which may have been legal when taken. The impact on small waste contributors generally may be most acute, because often they are least able to bear the costs of cleanup.

Second, parties often complain that implementation of the statute imposes heavy transaction costs on them. These costs primarily arise from disputes between and among liable parties over their allocation of cost shares, often by way of contribution litigation, and secondarily from coverage disputes between liable parties and their insurers.

Finally, many complain about the broad scope of the liability scheme, and about its unintended effects. For example, one of the unintended effects of the Superfund liability scheme is that many truly small waste contributors, who are technically liable but rarely the subject of EPA enforcement, are drawn into litigation through contribution suits brought by large liable parties. Municipalities which are generators and transporters of Municipal Solid Waste ("MSW") also claim that they are unintended victims of the liability scheme. Finally, prior to promulgation of EPA's lender rule, lenders claimed their normal lending practices could be chilled in some cases because of potential Superfund liability exposure, and trustees complain about potential liability exposure in their activities.

2. Overview of the Proposal

In addition to the government's proposed allocation scheme set forth in IV.B. below, the proposal makes adjustments to the Superfund liability scheme to increase the scheme's overall fairness and efficiency and to reduce transaction costs for all, especially those least able to bear them.

To increase the liability scheme's overall fairness and efficiency, and to reduce trans-

action costs, the Administration recommends making substantial improvements in the manner in which the current liability scheme is implemented while retaining the core elements of the scheme. Such improvements include exemptions for "de micromis" parties, expedited settlements for *de minimis* parties, limits on the liability of MSW generators and transporters, protection for lenders and trustees, a mandatory cost allocation process (including assignment to the government of a major portion of the "orphan share"), and decisively greater opportunities for finality in settlement. Specific proposals for these improvements follow in succeeding sections.

3. Specific Proposals

a. Truly Tiny Parties ("De Micromis" Parties)

i. Issue

EPA as a matter of practice generally does not pursue truly small volume waste contributors, principally on grounds of equity, and also because it is not an efficient use of the government's enforcement resources. However, liable parties sometime do. To date, this problem has arisen largely in municipal/industrial "co-disposal" landfill cases where generators of chemical or industrial wastes have brought contribution actions against large numbers of small parties who contributed only trash or other MSW. These contribution actions are premised on generic studies which show that MSW contains small quantities of hazardous substances. In such cases, the resulting litigation and other transaction costs can overwhelm the truly small volume parties, and are likely to far exceed the allocable share of each such party, even if liability can be established. The Administration therefore believes that truly small volume waste contributors should receive protection against such actions both as a matter of equity, and as a means of eliminating transaction costs which are not justified by the likely recovery from these parties.

ii. Proposal

The Administration proposes to provide exemption from liability special treatment to "de micromis" parties, but to distinguish between contributors of MSW on the one hand, and contributors of hazardous substances generally on the other. Cutoffs of five hundred (500) pounds of MSW, and ten (10) pounds or liters of hazardous substances, respectively, would be established. "De micromis" MSW contributors whose contributions fell below the MSW cutoff would have an absolute exemption from CERCLA liability. "De micromis" non-MSW contributors whose contributions fell below the non-MSW cutoff would be wholly exempt from third-party contribution actions and would be exempt unless their contribution significantly contributed to response costs.

b. De Minimis Parties

i. Issue

CERCLA authorizes expedited settlements with de minimis parties. In adding this provision to CERCLA in 1986, the Congress recognized the need to provide small volume waste contributors an early opportunity to fully resolve their liability for a site to avoid both the full impact of CERCLA's joint and several liability scheme and the transaction costs incurred in monitoring site activities and defending against contribution claims.

However, the absence of information required to make the statutory determination of eligibility, uncertainties in the statutory text concerning the level of information needed for this determination, and the resources required to negotiate de minimis party settlements have resulted in an under-utilization of these authorities. As a result, many de minimis waste contributors have had to incur costs in monitoring developments at Superfund sites and have been subjected to third party contribution actions with their attendant high transaction costs. In addition, under-utilization of the de minimis settlement authority has been an impediment to reaching an expeditious overall settlement with the larger waste contributors.

ii. Proposal

The Administration proposes amendments to make it substantially easier for EPA to settle with de minimis waste contributors earlier in the site remediation process. Among other things, the amendments would require that the government need only show that the individual contributor's contribution, not the collective contribution of the entire de minimis contributor class, is minimal in comparison to the total waste contributions; and that the contributor's waste is not significantly more toxic than other wastes.

Moreover, to ensure greater use of this authority, EPA would be required, when it rejects a written request for a de minimis settlement, to explain in writing why use of this authority is inappropriate.

c. Lenders and Trustees

i. Issue

While CERCLA §101(20)(A) exempts persons who, without participating in the management of a facility, hold indicia of ownership in the facility primarily to protect a security interest, questions regarding the judicial interpretation of this "security interest" exemption have generated uncertainty within the financial and lending communities. In particular, uncertainty exists with regard to the extent to which a secured creditor may undertake activities to oversee the affairs of a person whose facility is encumbered by a security interest without incurring CERCLA liability. Specifically, there is concern over whether actions commonly taken by a secured creditor ("lender")—such as monitoring facility operations; requiring compliance with legal requirements and compliance-related activities; refinancing or undertaking loan workouts; providing financial advice; and undertaking other similar actions that may affect the financial, management, and operational aspects of a business—may constitute evidence that the lender is "participating in the management of a facility."

In April 1992, EPA promulgated its Final Rule on Lender Liability. The Final Rule defined and amplified the meaning of the key terms of the statutory exemption. In addition to clarifying the meaning of the terms and providing a "bright line" liability standard, the overall goals of the final rule were: (1) to allow lenders to work with their borrowers, without necessarily incurring liability; (2) to preserve a lender's traditional remedy—foreclosure; and (3) to ensure that the benefits of a taxpayer-financed cleanup inure to the benefit of the public, and not to the private lender.

Lending institutions and others who act as trustees have expressed concern about the potential CERCLA liability of trustees. In particular, concern has been expressed about the potential liability of "passive trustees," i.e., those who perform ministerial tasks pursuant to trust instruments but exercise little or no control over the management of trust property. Since these trustees often hold legal title to the trust property, there is a risk that they will be found personally liable as "owners" under §107(a)(1) when response costs are incurred at property held in trust.

ii. Proposal

The Administration proposes an amendment to §101 of CERCLA to explicitly state that the term "owner or operator" does not include persons who hold title to a site solely as a trustee, custodian, or fiduciary as required by law, provided that they do not contribute to the release or threatened release of hazardous substances and are not affiliated with a liable party, other than through a custodian or fiduciary role, provided that they comply with any requirements that EPA establishes for such parties through regulation.

The Administration's legislation also would clarify EPA's authority to issue regulations interpreting the limitations on liability of lenders.

d. Municipal Solid Waste ("MSW") Contributors

i. Issue

The principal question is whether generators and transporters of MSW and municipal sewage sludge ("MSS") should be treated differently than other liable parties at Superfund sites. Superfund does not specifically address generators or transporters of MSW and accordingly does not exempt them from potential liability for cleanup costs. The law imposes liability on, among others, a person who arranged for the disposal or treatment of hazardous substances. Studies indicate that ordinary household waste may contain a small percentage of a variety of hazardous substances. In December 1989, EPA issued the Interim Municipal Settlement Policy ("Policy"), which stated that EPA would not pursue generators or transporters of MSW under Superfund absent site-specific information that there were hazardous substances present from industrial, commercial, or institutional processes. This statement was an exercise of enforcement discretion and not an interpretation of the statute.

Although EPA generally has not pursued MSW generators or transporters, the Policy did not prevent other responsible parties from pursuing them for contribution. Municipalities and private generators and transporters of MSW have been sued or threatened with third-party litigation by private parties who believe that MSW contains hazardous substances and also contributes significantly to the costs of Superfund remedies due to the large volume disposed of at sites. Such actions have caused or have the potential to cause substantial transaction and remediation costs that exceed what the Administration believes to be the MSW generators' or transporters' fair contribution to site cleanup.

ii. Proposal

"De Micromis" MSW Contributors. *See* Part IV. A. 3. a. "De Micromis" Parties above.

Non-"De Micromis" MSW Contributors. The Administration proposes to provide settlement opportunities to MSW generators and transporters through the expedited settlement process (See Allocating Cost Shares, Part B below), with the MSW liability limited in aggregate to not more than 10% of the total cost of cleanup at the site. If the allocable share attributable to MSW exceeds the share assumed by such parties in any settlement with the federal government, the

difference would be assigned to the orphan share.

The proposal provides contribution protection to an MSW contributor that settles with the United States. This approach would also specify that parties that do not elect to settle in this manner will be placed in the general cost allocations process.

e. Municipal Owners and Operators

i. Issue

The principal question is whether municipal owners and/or operators of Superfund sites should be treated differently than private owner/operators because they provided a public service in owning/operating landfills and because they may experience ability to pay problems.

ii. Proposal

While the Administration proposes no adjustment to the liability of municipal owners and operators, the Administration recognizes the unique circumstances of municipal owner/operators and is committed to provide relief to those parties through expedited settlements based on ability to pay. The proposal also contains an explanation of the factors which may be relevant in determining such parties' ability to pay. A municipal party's provision of "in-kind" services may also be taken into account (considered at fair market value).

f. Authority to Ensure Finality of Settlements

i. Issue

Existing CERCLA settlement authorities do not permit immediately effective releases from liability in most cases, which is contrary to most parties' expectations in settling litigation. Conditioning this aspect of settlement on success of the chosen remedy protects the Fund but can leave parties open to future claims many years later. Responsible parties contend that since EPA selects the remedy, it should bear the risk that the remedy will not work.

The current statute also restricts EPA's settlement authority by requiring EPA to include in all but "extraordinary circumstance" settlements a reopener provision for future liability based on unknown site conditions. Responsible parties claim that this "statutory reopener", in effect, imposes perpetual liability and serves as a disincentive to settlement.

ii. Proposal

The Administration proposes to amend CERCLA in a manner that will strike an appropriate balance between the competing interests of providing finality to settling parties while protecting the Fund against the need to fund future remedial actions. The first amendment will provide that the government's covenant not to sue for future liability will become effective upon entry of the consent decree, but will remain in effect only so long as the settling parties are in compliance with the decree. A second amendment would empower EPA to enter into settlements with complete and final covenants not to sue for future liability—without statutory reopeners—where, among other things such covenants are in the public interest and where the settlors pay a premium for the risks of remedy failure and unknown conditions.

g. Liability of Federal Agencies

i. Mining sites

(i). Issue

It can be argued that the United States may be liable under Section 107 of CERCLA as the past or present "owner" of public lands subject to "unpatented mining claims" under the General Mining Law of 1872, pursuant to which private parties engaged in mining activities on such lands which caused or contributed to the release of hazardous substances. The United States' "ownership" interest is unlike that of a private party's. For example, once a mining claim was asserted, the miner effectively controlled full use of the property, and the United States could not prevent or manage the mining activities. Upon request of a miner with a valid claim, the United States was statutorily compelled to grant a "patent" (*i.e.*, deed) to the property. In addition, it was not until, passage of the Federal Land Policy and Management Act ("FLPMA") that the United States was conferred an ability to "manage" the mining activities permitted on federally-held lands.

CERCLA §120 imposes certain requirements upon federal agencies, including the requirement that they enter into interagency agreements ("IAGs") with EPA; and include in annual budget submissions a review of alternative funding that might be used to provide for cleanup costs.

(ii). Proposal

The Administration's bill proposes that the United States be exempt from liability under CERCLA when its ownership interest and/or involvement with a mining site is solely as a result of its statutorily compelled land management functions; and the act of disposal giving rise to CERCLA liability occurred before 1976. The Administration's bill also proposes that for unpatented sites, the United States remains subject to Section 120, and will finance response activity where it is unable to locate viable PRPs. The bill provides that in any event, the United States' potential operator or "arranger" liability under Section 107 remains intact.

ii. Liability for penalties at sites owned by non-federal PRPs

(i). Issue

The present statute explicitly waives sovereign immunity in Sections 120(a) and 122(1), and renders federal agencies liable for penalties regarding federal facilities. The present statute does not clearly waive immunity for penalties arising at private party sites.

(ii). Proposal

The Administration's bill proposes a Miscellaneous Amendment explicitly waiving sovereign immunity in CERCLA so as to render the United States liable for all civil and stipulated penalties under CERCLA, whether or not it owns the Site.

iii. Natural disasters

(i). Issue

CERCLA liability may deter governmental entities and/or their contractors from responding to natural disasters on contaminated lands.

(ii). Proposal

The Administration's bill proposes a Miscellaneous Amendment explicitly stating that the waiver of sovereign immunity does not extend to the United States when it is responding to natural disasters on contaminated lands. (We anticipate that this Administration bill ultimately will extend this protection to state and local governments and possibly their contractors.)

iv. Co-response agency

(i). Issue

Federal agencies, such as the U.S. Coast Guard, the U.S. Army Corps of Engineers, and EPA, in implementing response action, as mandated by CERCLA and/or the Clean Water Act, may be subject to CERCLA liability.

(ii). Proposal

The Administration's bill proposes a Miscellaneous Amendment, explicitly stating that the waiver of sovereign immunity contained in section 120(a) does not extend to federal agencies implementing response action pursuant to CERCLA and/or the Clean Water Act.

v. War-time economic regulatory control

(i). Issue

The United States may be held liable for activities taken by a private party because of its regulation of the economy during wartime.

(ii). Proposal

The Administration's bill proposes a miscellaneous amendment explicitly stating that the waiver of sovereign immunity does not extend to the United States' economic regulation of industry during war-time.

B. REDUCING TRANSACTION COST AND INCREASING FAIRNESS IN THE ALLOCATION OF COST SHARES

1. Issue

CERCLA's liability regime now operates to ensure prompt settlement of government-initiated actions and expeditious initiation of cleanup by private parties. The Administration's proposal preserves the incentives the current scheme creates for environmental compliance and responsible handling of hazardous substances. The reforms ensure the pace of cleanup proceeds expeditiously and provides incentives for private party action. Similarly, the proposal decreases the total transaction costs.

There is, however, much justified criticism of the status quo. Many complain of the unfairness of a regime that permits parties to be held liable for more than what they regard as their "share." In addition, government-initiated litigation often commences a second round of private party litigation seeking contribution from other PRPs at the site. Due to the limited information on which allocation can be based and the magnitude of the liability, negotiation and litigation among PRPs on issues relating to allocating costs often is protracted and can generate considerable transaction costs. There is a legitimate federal interest in reducing the transaction costs that CERCLA occasions. A second and related concern is the extent to which contribution actions generate litigation involving certain parties for which the costs of protracted litigation are not justified by the likely recovery from those parties. These parties include "de micromis" and *de minimis* contributors to a site, parties of extremely limited means, municipalities and other contributors of extremely small amounts of household hazardous waste.

2. Proposal

The Administration proposes an early, expeditious and obligatory cost allocation process, for NPL sites with more than two parties, reinforced by appropriate incentives to settle and disincentives to litigate. The Administration regards this as the best approach to the problem of transaction costs and increasing fairness, because the proposal should substantially curtail current contribution litigation and wrangling over allocation of costs without creating a new and potentially expensive and time-consuming formal administrative or judicial process. The proposal places a moratorium on the commencement of cost recovery and con-

tribution suits until the allocation process is concluded. The allocation process must start no later than eighteen (18) months after the commencement of the remedial investigation/ feasibility study. To initiate the allocation process, EPA would notice potentially responsible parties that may be assigned shares and provide such parties with a list of neutral allocators. The allocation will be governed by published regulations based on the Gore factors. PRPs may elect to include natural resource damages in the allocation process. EPA would provide the opportunity for the allocation parties to voluntarily settle their cost shares. Failing that, the allocator would issue an allocation scheme based on percentage shares of responsibility, including orphan shares. The Federal Government would accept any settlement offer based on the allocation scheme, provided that such offer include appropriate premia and terms and conditions of settlement, unless it determined that such settlement was not fair, reasonable and in the public interest.

Settling PRPs may receive a final release from future liability for remedy failure and undiscovered risks, provided that among other things, they pay a premium and there are adequate assurances for performance of a final remedial action.

The proposal provides incentives to settle on the basis of the allocation, and disincentives to litigate, including the availability of orphan share funding and greater finality for settling parties, and the imposition of joint and several liability and fee-shifting on nonsettling parties. It also requires settling parties to waive their right to seek contribution, thus limiting transaction costs associated with litigation primarily to those incurred from government initiated claims against recalcitrant parties.

The proposal also provides an opportunity for early settlement with those parties for whom the benefit of litigation or participation in allocation greatly exceeds their liability or ability to pay. This includes *de minimis* waste contributors, parties with limited financial means, and generators and transporters of MSW.

The Administration proposes to fund shares of non-viable and limited ability to pay parties up to $300 million a year.

TITLE V.—REMEDY SELECTION

A. SPEEDING CLEANUPS, CUTTING COST

1. Issue

Protracted and costly site cleanups are a result of a number of factors under the current approach for selecting remedies. The law currently does not specify a standard level of cleanup nationwide; instead it establishes a complex cleanup framework under which applicable or relevant and appropriate state and federal standards are used to set cleanup levels on a site-by-site basis. This site-by-site determination encumbers remedy selection by constraining EPA's ability to draw on the last thirteen years of experience in determining appropriate remedies.

2. General Overview of the Proposal

The Administration's proposal is premised on the principle that all communities are entitled to receive the same protection from carcinogenic and non-carcinogenic health risks. Establishing national generic cleanup levels is at the core of achieving this concept. Reduced cleanup cost would result from establishing national cleanup levels by eliminating inefficient site-by-site decision making, wherever possible. An ancillary benefit of national cleanup levels is that they would promote the use of generic remedies by fixing the endpoints that categories of remedies would need to meet. Generic remedies tap into experience gained from remediating similar sites and obviate the need for extensive study.

B. CLEANUP LEVELS

1. Issue

Determining the standards for cleanups has been a matter of recurring concern. At present, remedies require compliance with "applicable" or "relevant and appropriate" requirements of other federal and more stringent state environmental laws ("ARARs"). As a result, ARARs are used to establish cleanup levels. Where no ARAR exists, cleanup levels are determined by site specifically using risk assessment methodologies to achieve a goal of protectiveness.

The use of ARARs has been identified as a principal cause of delay in cleanups (because of disputes between regulators over interpretation). Furthermore, while ARARs sometime provide suitable cleanup standards, in some cases ARARs increase costs of remedies significantly without a commensurate level of risk reduction. Moreover, mandatory compliance with "relevant and appropriate" requirements imposes conditions on Superfund remedies that are not applied in similar cases outside the CERCLA context.

Since ARARs are not generally available for soil, one of the key media impacted at Superfund sites, most sites require a site-specific, risk-based determination of soil cleanup levels under the current system. Also, the lack of soil cleanup standards is an impediment to voluntary cleanups, since it is difficult for private parties to predict the level of cleanup necessary to eliminate the need for regulatory action later.

Insufficient standardization in risk-based approaches for determining cleanup levels has resulted in concerns regarding consistency and has also hindered voluntary cleanup. Although it is evident that certain site conditions necessitate some degree of flexibility in determining appropriate cleanup levels.

2. Proposal

The Administration's proposal increases predictability and consistency in determining cleanup levels to encourage voluntary cleanups; ensures that cleanup levels are suitable for application at Superfund sites to increase the cost-effectiveness of remedies; and greatly simplifies the process for determining such levels, to improve efficiency. These objectives are accomplished by developing national goals, national generic cleanup levels and a national risk assessment protocol which would ensure that remedial actions are protective of human health and the environment.

National generic cleanup levels would be developed for specific chemicals. The cleanup levels would reflect different land uses (e.g., different chemical-specific cleanup levels for residential and industrial land uses). Cleanup levels could also be calculated using site-specific parameters that are known to vary on a site-specific basis (e.g., pH, depth of groundwater, etc.). The national generic cleanup levels would also represent a level below which a response action is not required.

Where appropriate, the Administrator could rely on a site-specific risk assessment to determine the protective level of cleanup for a site. A national risk protocol for conducting risk assessment would be used in this instance.

Remedies would comply with the substantive requirements of any federal environmental facility and siting law that is suitable for application to a remedial action at the site; and any state requirement that specifically addresses remedial action that is more stringent than any federal requirement, unless waivers are invoked. As a result, sites located in States with more stringent cleanup levels would be remediated to the State levels instead of federal national generic cleanup levels or federal site-specific risk-based cleanup levels, unless waivers are invoked. Waivers are consistent with those in the current statute, with an additional waiver for when a generic remedy is selected at a site.

C. REMEDY SELECTION PROCESS

1. Issue

There is a widely held perception that Superfund remedies are excessively costly. Many believe that remedies incur substantial costs without achieving a commensurate degree of risk reduction, and that some remedies are based on unnecessarily stringent land uses. There also is general agreement that the existing remedy selection process needs to be streamlined to simplify and expedite the selection of remedies to achieve in faster risk reduction at sites.

The current remedy selection process derived from the statutory mandates and preferences requires that remedial actions meet two threshold criteria: protectiveness of human health and the environment and ARARs. Remedial alternatives that meet the two threshold criteria are evaluated using five balancing criteria: permanence, treatment, short-term risk, implementability and cost. The remedial alternative that provides the best balance between these criteria is to be preferred. State and community acceptance of the preferred remedial action is then considered prior to the selection of a remedy.

Although the preferred remedy could be modified based on State and community acceptance, this raises concern that the communities' views are solicited too late in the process to be fully meaningful.

2. Proposal

The Administration's proposal continues to mandate that all remedies must be protective of human health and the environment and attacks the three factors under the current remedy selection process that drive the cost of remediation: ARARs, the mandate for permanence to the maximum extent practicable, and the preference for treatment.

The role of ARARs would be modified as discussed above. The mandate for permanence would be eliminated and instead, the long-term reliability of a remedy would be considered. This change would place permanent treatment remedies and containment remedies on a level playing field, instead of favoring treatment for all waste other than hot spots. The proposal specifically limits the preference for treatment to hot spots. Hot spots are areas of hazardous substances that are highly toxic or highly mobile, cannot be reliably contained, and would present a significant risk to human health or the environment should exposure occur. When a treatment remedy is not available or is too costly and it is likely that a less costly treatment remedy would become available within a reasonable period of time, interim containment could be selected. Any interim containment remedy would include adequate monitoring to ensure the continued integrity of the containment system. When an appropriate treatment remedy becomes available it would be selected and implemented.

Under the proposal, remedies would continue to utilize treatment, containment,

other remedial measures, or any combination of such measures. The appropriate remedial approach would be determined on a site-specific basis by applying modified remedy selection criteria. The remedy selection nine criteria would be changed and reduced to five, to streamline the remedy selection process. An appropriate remedy that is protective of human health and the environment would be determined by considering the remedy's: (1) effectiveness; (2) long-term reliability, that is, its capability to achieve long-term protectiveness of human health and the environment; (3) implementation risk; (4) acceptability to the affected community; and (5) cost in relation to the preceding factors. Under this approach, both cost and community acceptance would play a greater role than they presently do.

To further streamline remedy selection and facilitate rapid voluntary action, generic remedies for categories of sites would be established taking into account the factors enumerated above. Expedited procedures that include community involvement would also be developed for selecting generic remedies at individual sites.

A number of other changes are proposed to allow for early, direct and meaningful community involvement as described above. These changes include the opportunity to establish Community Work Groups (CWG) and Community Information Access Offices. Through the CWG, communities would play a larger role in making land use recommendations at sites. (A more detailed description of the issues and proposed changes to address community involvement is presented in Part I A.2.a.).

D. REMOVAL ACTIONS

1. Issue

While the streamlined remedy selection process described above would accelerate risk reduction activities, a need to use removal actions to achieve immediate risk reduction would remain. Certain statutory constraints need to be changed to enhance the effectiveness of employing removal actions to accomplish rapid risk reduction.

2. Proposal

To facilitate the effective use of removal authority the dollar limit on Fund-financed removals would be increased from $2 million to $6 million; and the time for completion would be expanded from one year to three years. Additionally, the proposal modifies the waiver from these limitations to clarify that a waiver could be used where the nature of the long-term remedial action was uncertain or where it was expected that the removal would make remedial action unnecessary.

The statutory definition of removal would be clarified to remove the ambiguity of whether removal authority is limited to emergency situations or short term actions. Finally, to address concerns that increased use of removal authority may reduce public participation, a public comment period of thirty (30) days would be required whenever the planning period for a removal action exceeds six months.

TITLE VIII.—ENVIRONMENTAL INSURANCE RESOLUTION FUND

A. INSURANCE TRANSACTION COST

1. Issue

Under the current law, high transaction costs result from disputes between insurers and insureds arising out of the liability imposed by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA). These disputes between insurance companies and insureds concern the applicability of contracts of insurance to liability under CERCLA which often result in protracted litigation.

2. Proposal

The Administration's proposal establishes the Environmental Insurance Resolution Fund. The Fund is funded solely by fees imposed on insurance companies; the Fund will offer holders of insurance policies comprehensive resolutions of their CERCLA claims against insurance companies. The Fund is structured to eliminate the vast majority of litigation between insurers and insureds and expedite the availability of funds for response actions.

The Fund will offer one comprehensive resolution of all eligible costs of an eligible person at eligible sites.

An eligible person is a person (1) who is a PRP at an NPL site or is subject to liability for a removal at a non-NPL site and (2) who holds or held certain insurance coverage.

Eligible costs are (1) response, natural damages, and duty-to-defend costs incurred at an eligible NPL site, and (2) removal and duty-to-defend costs incurred at a non-NPL site. All costs must be incurred in connection with the disposal of a hazardous substance on or before December 31, 1985. Eligible costs of an eligible person are capped at $15 million, unless the eligible person can demonstrate a greater level of insurance coverage.

Resolution offers made by the Fund shall be for a stated percentage of all eligible costs incurred by eligible persons at eligible sites.

First, the Fund will by regulation classify each state into one of three percentage categories based on how State insurance law applies to disputes between insurers and insureds with respect to superfund liability. The percentage category is 60 percent for the 10 States in which the law is most favorable to insureds; 20 percent for the 10 States in which the law is most favorable to insurers; and 40 percent for all other States. The final regulation issued by the Fund shall not be subject to judicial review.

Second, the Fund will determine the appropriate State percentage applicable to an eligible person. If an eligible person had established litigation venue in one State, the percentage category of that State will govern the resolution offer. If an eligible person had established more than one State litigation venue, the State percentage will be the average of the State percentages, weighted according to the number of eligible sites located in such States. If an eligible person has only one eligible site but had not established a litigation venue in any State, the State in which the site is located will determine the resolution percentage. If an eligible person has more than one eligible site and had not established a State litigation venue, the State percentage will be the average of the State percentages in which the sites are located, weighted according to the number of sites located in those states.

Litigation venue is deemed established if, on or before December 31, 1993, an eligible person had pending in a court of competent jurisdiction a complaint or cross complaint against an insurer with respect to eligible costs at an eligible site, and no motion to change venue with respect to such complaint was pending on or before January 31, 1994.

An eligible person must accept or reject a resolution within 60 days; an eligible person who does not do so is deemed to have rejected the offer.

An eligible person who accepts a resolution must agree to waive any future claims against an insurer for eligible costs, and to stay or dismiss each claim pending against an insurer for such costs. Any such claim may be reinstated upon failure of the Fund to timely fulfill its obligations under the resolution. Applicable statutes of limitation with respect to such claims are tolled during the pendency of the stay of pending litigation established by the title.

Payment of eligible costs pursuant to a resolution are (1) made over 8 years with respect to such costs incurred on or before the date the resolution is accepted and (2) payable within 60 days with respect to such costs incurred after the date the resolution is accepted.

Payment of eligible costs is reduced once to the extent of the insurance deductible or self-insured retention of an eligible person.

Eligible duty-to-defend costs that have previously been paid by an insurer, and that are the subject to a dispute between the insurer and the eligible person, are payable to the insurer.

If an eligible person rejects a resolution offer and successfully litigates against an insurer, the Fund will reimburse the insurer for the lesser of the resolution offer or the final judgment obtained against the insurer. The Fund may reimburse the insurer for litigation expenses if the final judgment is less favorable than the resolution offered by the Fund except that the total reimbursement to an insurer may not exceed the resolution offered by the Fund. If the litigation is unsuccessful, or the final judgment is less favorable than the resolution offered by the Fund, the insurer has a cause of action against the eligible person for 20 percent of the reasonable costs and legal fees incurred by the insurer in connection with the litigation.

No provision of Title VIII, and no action by an eligible person pursuant thereto, constitutes an admission of liability in connection with the disposal of a hazardous substance.

The Fund shall report annually to the President and the Congress on its activities. Such reports must contain a financial statement audited by an independent auditor and an assessment whether the fees collected by the Fund will be sufficient to meet its anticipated obligations. In addition, the Fund is required promptly to report to the President and the Congress at any time it determines that the fees collected by the Fund will be insufficient to meet its anticipated obligations.

The Fund shall be considered an agency of the United States for purposes of certain criminal and civil penalties relating to false or fraudulent statements or claims.

Financial statements of the Fund shall be prepared in accordance with generally accepted accounting procedures, and shall be audited annually by an independent auditor.

The Inspector General of the Environmental Protection Agency may conduct audits and investigations of the Fund.

Title VIII provides for an automatic stay of the commencement or continuation of all actions arising from a contract of insurance concerning insurance coverage for eligible costs.

The authority of the Fund to accept requests for resolutions expires after September 30, 1999, and to make resolution offers after March 31, 2000.

Obligations or liabilities of the Fund shall not constitute obligations or liabilities of the United States.-

FUNDING OF ENVIRONMENTAL INSURANCE RESOLUTION REFORM

I. PROPOSAL

Approximately 70 percent of the Environmental Insurance Resolution Fund ("the

Fund") would be funded by a "environmental insurance resolution fee" that would be imposed on net premiums written by domestic and foreign insurers and reinsurers for contracts providing certain U.S. commercial liability insurance during the period from 1971 through 1985.

Approximately 30 percent of the Fund would be funded through an "environmental insurance resolution assessment" on premiums from certain commercial insurance of U.S. risks currently written by domestic and foreign insurers.

This proposal would raise revenue of $2.5 billion over five years, with approximately $1.75 billion attributable to the environmental insurance resolution fee and $.75 billion attributable to the environmental insurance resolution assessment.

II. ENVIRONMENTAL INSURANCE RESOLUTION FEE

The environmental insurance resolution fee (EIRF) would be determined by multiplying a fee funding rate of 0.19 percent by the sum of the company's adjusted net premiums written for contracts or agreements providing (i) insurance, (ii) proportional reinsurance, and (iii) nonproportional reinsurance in each case with respect to qualified commercial coverage (as defined below) of U.S. risks during the fifteen-year period beginning on January 1, 1971 and ending on December 31, 1985.[1] The Secretary of the Treasury will have the authority to adjust the rate should actual collections differ from anticipated collections.

A. Net premiums written for qualified commercial insurance contracts

Net premiums written for qualified commercial insurance contracts means net premiums written for contracts providing insurance of qualified commercial coverage of U.S. situs risks ("qualified commercial contracts") computed on the basis of the annual statement approved by the National Association of Insurance Commissioners (NAIC).

Qualified commercial coverage means insurance coverage that was, or should have been, categorized in the NAIC annual statement as "commercial multiperil" or "other liability" lines of business. However, contracts included in the "other liability" line of business that insured only certain types of coverage unrelated to commercial liability (and thus could not generate exposure to environmental insurance claims) would be excluded. For example, medical malpractice insurance would be an excluded coverage.

B. Net premiums written for proportional reinsurance of qualified commercial coverage

Premiums related to proportional reinsurance (i.e., first dollar pro rata reinsurance) are identified by line of business. Accordingly, net premiums written for proportional reinsurance of qualified commercial coverage means net premiums written for reinsurance on a proportional basis of qualified commercial coverage computed either on the basis of the annual statement approved by the National Association of Insurance Commissioners (NAIC), or on the books and records of the reinsurer, if the premiums are not allocated in the annual statement to lines of business.

C. Net premiums written for nonproportional reinsurance of qualified commercial coverage

When insurance coverage is reinsured on a nonproportional basis (i.e., reinsurance in excess of a retention by the ceding company), the reinsurer does not separately report net premiums written by line of business on the annual statement. Thus, net premiums written related to such reinsurance would be determined using a formula based on the insurance industry's ceded premiums for qualified commercial coverage from January 1, 1971 through December 31, 1985.

To derive the net premiums written related to nonproportional reinsurance of qualified commercial coverage, a reinsurance ratio of 21 percent (or otherwise as determined by the Secretary) would be multiplied by the net premiums written, as reported on the NAIC annual statement (or equivalent computational basis if an NAIC annual statement was not prepared or nonproportional reinsurance premiums were not separately identified on the annual statement), for the nonproportional reinsurance line(s) of business.

D. Adjusted net premiums written

In determining the adjusted net premiums written from 1971 through 1985, the sum of net premiums written for qualified commercial insurance contracts and for proportional and nonproportional reinsurance of qualified commercial coverage for each year during the period would be adjusted by an inflation factor. This adjustment would restate all premiums to 1985 dollars.

E. Foreign insurers and reinsurers

If the underwriting income on a contract issued or reinsured by a foreign person, including a nonresident alien, from 1971 through 1985 was not effectively connected with a U.S. trade or business (or attributable to a U.S. permanent establishment, deemed permanent establishment, or fixed base), such person would be subject to an environmental insurance fee, in lieu of the EIRF unless an election described below were made.

The environmental insurance fee would be imposed on the aggregate limit of liability on each and any type of casualty insurance contract insuring or reinsuring U.S. risks (a "qualified casualty contract"). In the case of proportional reinsurance, the aggreate limit of liability on the contract (or qualified portion thereof) would equal the percentage actually placed through reinsurance. The fee would be withheld and remitted to the Internal Revenue Service (IRS) by the U.S. premium payor.

Foreign persons could elect to be subject to the EIRF instead of the environmental insurance fee. If such an election were made, the EIRF would apply in the same manner as it applies to U.S. insurers and reinsurers. The foreign persons would be required to enter into a closing agreement with the IRS to ensure collection of the fee.

F. Exemptions from environmental insurance resolution fee

A company would not be subject to the EIRF if it had a de minimis amount of total net premiums written from January 1, 1971 through December 31, 1985 for qualified commercial contracts or coverage.

In addition, companies that could demonstrate to the IRS that they have no potential exposure to claims for environmental liability based on the type of insurance contracts written or reinsured during 1971 through 1985 would not be subject to the EIRF. For example, it is anticipated that a company whose total net premiums from 1971 through 1985 for qualified commercial contracts were from the insurance of commercial multiperil risks, medical malpractice liability risks, and insurance agents' and brokers' liability risks would be able to demonstrate that it is subject to the EIRF only on the premiums related to the commercial multiperil risks. A company seeking to demonstrate that it is not subject to the EIRF would be required to provide documentation in its initial report (discussed below).

G. Subsequent adjustments for factors

Any adjustments to the funding rate or the reinsurance ratio would be applied prospectively in the computation of a company's EIRF. For example, adjustments could be required because of the unknown application of the exemptions, outcome of the elections by foreign insurers and reinsurers not engaged in a U.S. trade or business, and insufficient collections.

H. Administration and effective date

The EIRF would be computed for each calendar year, or part thereof, commencing with the first day of a month beginning 120 days after the date of enactment.

On the first filing with the IRS, each company would be required to report its net and adjusted net premiums written for the insurance, proportional reinsurance, and nonproportional reinsurance of qualified commercial coverage separately for each calendar year from 1971 through 1985 (the "initial report"). The initial report would include a reconciliation for each year of the net premiums written for the "other liability" line of business as reported on the annual statement to the company's net premiums written for commercial general liability insurance policies included in such line of business.

The environmental insurance fee would be imposed on qualified casualty contract coverage for periods beginning the first day of a month beginning 120 days after the date of enactment.

I. EIRF follows business

The EIRF would follow the insurer (or its assets and liabilities should it cease to exist) in any corporate reorganization.

If after December 31, 1985, but prior to February 2, 1994, the company disposed of qualified commercial contracts, through an assumption reinsurance transaction or loss portfolio transfer whereby the reinsurer became solely liable on the contracts transferred, the company will be permitted to reduce its net premiums written for purposes of computing the EIRF by the net written premiums generated from the transferred insurance business from 1971 through 1985, provided that the company reports the amount of such net written premiums to the reinsurer and the reinsurer includes such premiums in its base for purposes of its EIRF computation.

III. ENVIRONMENTAL INSURANCE RESOLUTION ASSESSMENT

The environmental insurance resolution assessment (EIRF) would be determined by multiplying an assessment funding rate of 0.30 percent by the company's gross premiums written for commercial insurance contracts.[2] The Secretary could adjust the rate should actual assessment collections differ from those anticipated.

The EIRA would apply in the same manner with respect to commercial insurance contracts written by foreign insurers of U.S. risks and would be collected through withholding in the case of contracts, the underwriting income on which would not be effectively connected with a U.S. trade or business (or attributable to a U.S. permanent establishment, deemed permanent establishment, or fixed base).

A. Gross premiums written for commercial insurance contracts

Gross premiums written for commercial insurance contracts means gross premiums

Footnotes at end of article.

written for contracts providing insurance of commercial coverage. Gross premiums written would be computed on the basis of the annual statement approved by the NAIC (as reported in Schedule T) or on an equivalent basis.

Commercial coverage means insurance coverage that is, or would be, categorized in the NAIC annual statement as "commercial multiperil," "fire," or "other liability" lines of business. However, contracts that insure only certain types of coverage unrelated to commercial liability included in the "other liability" line of business would be excluded.

B. Effective date

The EIRA would apply to gross premiums written for commercial insurance contracts issued after date to enactment.

IV. FUNDING INCREASE

The Fund would assess annually and report promptly to the President and Congress whether its collections from the EIRF, EIRA, and environmental insurance fee will be sufficient to meet the Fund's anticipated obligations. If there is an anticipated shortfall, the rates used to determine the EIRF, EIRA, and environmental insurance fee could be adjusted to increase revenue in subsequent years by 40 percent so that up to an additional 4.2 billion could be collected in each of the third, forth, and fifth years.

V. MISCELLANEOUS

Broad anti-abuse rules would be provided, including rules that would prevent reclassification, recharacterization, or relabeling of insurance coverage or abusive transfers of business between affiliates, and any other rules necessary to carry out the proposal.

The EIRF and EIRA would be deductible for tax purposes under Section 162 as an ordinary and necessary business expense and each would be remitted quarterly to the IRS under administrative rules similar to those that govern the remittance of excise taxes.

VI. ENVIRONMENTAL INSURANCE RESOLUTION FUND EXEMPT FROM TAX

The Fund would be exempt from Federal income tax under Section 501.

FOOTNOTES

[1] The fee funding rate of .19 percent is estimated to generate revenue of $1,750 million over five years. This rate would be adjusted in later years, if necessary.

[2] The assessment funding rate of .30 percent is estimated to generate revenue of $750 million over five years. This rate could be adjusted in later years, if necessary.

Mr. LAUTENBERG. Mr. President, I am pleased to join Chairman BAUCUS in sponsoring legislation that will reform the Superfund hazardous waste site cleanup program and promote economic redevelopment in our communities.

As chairman of the Senate Superfund Subcommittee, and representing the State that has the most Superfund sites in the country, I believe this legislation will provide both environmental and economic benefits to the communities, businesses, environmentalists, State, and local governments who are affected by the program—and whose recommendations are reflected in this bill.

Mr. President, the Environmental Protection Agency has so far discovered over 1,300 Superfund sites around the Nation. Some 73 million Americans live within 4 miles of those sites, and numerous studies have shown that people living near these sites suffer significantly higher risks of cancer, birth defects, and other serious health problems.

Their problems are only compounded by the economic devastation that these communities face, as property values are devalued and they are unable to leave the very sites that are poisoning them.

My home State of New Jersey, unfortunately, has the most Superfund sites of any State in the Nation. Our industrial legacy has caused contamination that threatens our fragile drinking water sources and stalls the economy of our State.

This situation cries out for relief. And the Superfund law was supposed to provide that relief. But the law has clearly fallen short of its promise since it was first enacted in 1980.

In the first few years, EPA Administrator Anne Gorsuch resigned and the head of the EPA Superfund Program, Rita Lavelle, went to jail because of charges that the Reagan administration was trying to gut the program.

In 1986, Congress reauthorized the law with numerous improvements, but only over administration objections which stalled action until the program's authority lapsed and cleanups were forced to a standstill.

When I assumed the chairmanship of the Senate Superfund Subcommittee in 1987, I held the first of 23 oversight hearings, revealing major problems in the implementation of the program. I also commissioned numerous General Accounting Office and EPA Inspector General investigations, and pursued with the administration the complaints from communities and businesses about the way the program was being run.

In 1989, Senator DURENBERGER and I issued a major report with numerous recommendations for reforms in the program. Our work fell on deaf ears, and it is only since last year that the White House and EPA have shown a willingness and interest in reforming the program.

My hearings and investigations disclosed numerous abuses in the program.

We found hundreds of instances of municipalities and small businesses being sued, while EPA stood by idly, as industrial polluters tried to spread the cost of cleanup to innocent parties who had sent ordinary household garbage to landfills that later became Superfund sites. I introduced legislation, which was passed twice by the Senate, to provide relief to these small businesses and municipalities.

We found lending being chilled and economic redevelopment stalled because banks feared that they would inherit Superfund liability if they made a loan to a company and took contaminated property as collateral. Again, I supported legislation, which passed the Senate, to provide relief to these lenders, and authored legislation to promote voluntary cleanups and economic redevelopment of contaminated properties.

And we found communities being shut out of the cleanup process, litigation costs skyrocketing, and bickering between the Federal EPA and the States as they oversaw the program.

Of course, there have been many accomplishments in the Superfund Program. EPA has secured over $8.3 billion of work from the responsible parties, completed cleanup at over 217 sites, performed over 3,000 emergency removal actions, and screened some 35,000 sites for potential Superfund status. In New Jersey, over three-quarters of our 108 sites are beyond the study phase and half the subsites in the State have been completely cleaned up.

But the controversy remains.

When I began Superfund reauthorization hearings last year, I announced four principles that would guide me—and continue to guide me—as we revamp the law. Those principles are:

First, to speed up cleanups; second, to make the law fairer, particularly for municipalities and small businesses; third, to spend more money on cleanups and less on litigation; and fourth, to eliminate waste, fraud, and abuse from the program.

The legislation that we are introducing today represents a giant step forward toward accomplishing these four goals.

First, cleanups will be streamlined, speeded up, and made less costly by using presumptive, cookie-cutter remedies for certain well-studied types of sites; fostering voluntary cleanups and private market redevelopment of fallow contaminated land; eliminating duplication that has led to bickering, delays, and wasteful expense between the State and Federal Government in overseeing cleanups; and promoting innovative technology for cleaning up sites more efficiently and cost-effectively.

Second, the bill will cap the liability of small businesses and municipalities who sent ordinary household garbage to landfills that became Superfund sites. Municipal owners or operators of Superfund sites will not be required to pay more than they can afford—so we don't sacrifice police or fire protection services as a result of the unfunded mandates imposed by the Federal Government. The bill will also exempt from liability the truly tiny de micromis parties, and provide a special, early-out settlement opportunity for small businesses and de minimis contributors of waste. For the first time, EPA will be expressly required to give relief to small businesses when it negotiates these early-out settlements.

Third, the bill will eliminate literally thousands of lawsuits that often

drag on for years as parties try to determine their respective shares of liability. Those lawsuits will be replaced with a single, out-of-court forum at each site where a neutral arbitrator will decide each party's fair share of liability. Nonsettlors will remain subject to the full force of joint and several liability.

Fourth, the bill will vastly expand the role of communities in deciding how their sites will get cleaned up. Community working groups, with broad representation from the local community, will be created to assure involvement by interested citizens earlier and more often in the cleanup process. Technical assistance grants, that allow citizens to hire expert advisors on the cleanup process, will be made available much earlier in the site investigation process.

And statewide citizen information and access offices will serve as a clearinghouse and resource center for communities in the State.

Fifth, the bill will incorporate the voluntary cleanup legislation that I introduced last year and provide relief to lenders, trustees, and prospective purchasers of these sites so that the private market will once again invest in these properties and free communities of the economic stigma of contamination.

I would also like to highlight an area in the bill that is still evolving. Insurers have testified that they are facing as much as $50 billion of potential Superfund exposure, and need certainty as to the liability that they are facing. This provision, establishing an insurance trust fund, was developed by the administration in discussions with insurers and policyholders. It is an effort to provide certainty to insurers—something they've said they desire—without jeopardizing cleanups or infringing on the rights of their policyholders.

I understand that many insurers and policyholders have informed the President that these provisions are a strong starting point, and that they share the goal of ending the wasteful litigation between insurers and policyholders. I also understand that these insurers view it as important that any solution to this issue be fair and reasonable for the affected parties.

All these changes will fundamentally reform the program. EPA has estimated that these reforms will slash private sector litigation costs, and cut cleanup costs by one-quarter. But it will not be easy to enact these changes.

The last time we reauthorized Superfund, the resistance of the administration delayed enactment of the law until the program lapsed and cleanups came to a halt. The continuing resistance of the Bush administration to push for reform created a climate where it was impossible to improve the situation.

In fact, the only Superfund liability legislation to pass the Senate apart from the overall reauthorization has been legislation that I authored to provide relief from frivolous litigation to taxpayers, small businesses, and municipalities, and another bill that I supported to relieve lenders of undue Superfund burdens and encourage lending.

So we will need the continuing support of the President, and a bipartisan effort to bring about the changes that business, environmentalists, State, and local governments want.

Mr. President, as we plunge into the reauthorization process, we must never forget what this is all about. People are suffering from cancer, birth defects, miscarriages, and all the financial and emotional trauma of being continually exposed to the chemicals that are causing these problems. We have a duty to reform the system and allow our citizens to get on with their lives.

I urge my colleagues on both sides of the aisle, and the environmental and business community, to build on the consensus that has been developed so far and enact new Superfund law by the end of this year. With the continuing leadership of Senators BAUCUS, CHAFEE, and DURENBERGER, whose participation to date has been invaluable, we will move quickly into the legislative process and strive to produce the new law. There are 73 million Americans counting on us.

ADDITIONAL COSPONSORS

S. 455

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 455, a bill to amend title 31, United States Code, to increase Federal payments to units of general local government for entitlement lands, and for other purposes.

S. 1505

At the request of Mr. HATFIELD, the name of the Senator from Tennessee [Mr. MATHEWS] was added as a cosponsor of S. 1505, a bill to amend the Federal Land Policy and Management Act of 1976 to enhance the management of Federal lands, and for other purposes.

S. 1690

At the request of Mr. PRYOR, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 1690, a bill to amend the Internal Revenue Code of 1986 to reform the rules regarding subchapter S corporations.

S. 1814

At the request of Mr. DASCHLE, the names of the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Nebraska [Mr. EXON] were added as cosponsors of S. 1814, a bill to amend the Internal Revenue Code of 1986 to provide that a taxpayer may elect to include in income crop insurance proceeds and disaster payments in the year of the disaster or in the following year.

S. 1825

At the request of Mr. BUMPERS, the name of the Senator from Tennessee [Mr. MATHEWS] was added as a cosponsor of S. 1825, a bill to authorize collection of certain State and local taxes with respect to the sale, delivery, and use of tangible personal property.

SENATE JOINT RESOLUTION 41

At the request of Mr. SIMON, the names of the Senator from Mississippi [Mr. LOTT], the Senator from Wyoming [Mr. WALLOP], the Senator from Indiana [Mr. COATS], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of Senate Joint Resolution 41, a joint resolution proposing an amendment to the Constitution of the United States to require a balanced budget.

SENATE JOINT RESOLUTION 146

At the request of Mr. WOFFORD, the names of the Senator from Ohio [Mr. GLENN], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Joint Resolution 146, a joint resolution designating May 1, 1994, through May 7, 1994, as "National Walking Week."

SENATE JOINT RESOLUTION 161

At the request of Mr. BUMPERS, the names of the Senator from North Carolina [Mr. HELMS], the Senator from Virginia [Mr. WARNER], the Senator from Nevada [Mr. REID], the Senator from New York [Mr. MOYNIHAN], the Senator from Vermont [Mr. JEFFORDS], the Senator from Rhode Island [Mr. PELL], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Maine [Mr. MITCHELL], the Senator from Alaska [Mr. STEVENS], the Senator from Arkansas [Mr. PRYOR], the Senator from Georgia [Mr. NUNN], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 161, a joint resolution to designate April 1994, as "Civil War History Month."

SENATE CONCURRENT RESOLUTION 35

At the request of Mr. WOFFORD, the names of the Senator from Montana [Mr. BAUCUS], the Senator from Mississippi [Mr. COCHRAN], the Senator from New York [Mr. D'AMATO], the Senator from Missouri [Mr. DANFORTH], the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Vermont [Mr. JEFFORDS], the Senator from Mississippi [Mr. LOTT], and the Senator from Kentucky [Mr. MCCONNELL] were added as cosponsors of Senate Concurrent Resolution 35, a concurrent resolution to express the sense of the Congress with respect to certain regulations of the Occupational Safety and Health Administration.

SENATE CONCURRENT RESOLUTION 60—JEWISH WAR VETERANS' 100-YEAR ANNIVERSARY STAMP

Mr. DOLE (for Mr. GRAMM, for himself, Mr. PELL, Mr. BOND, and Mr. JEFFORDS) submitted the following concurrent resolution; which was read twice and referred to the Committee on Governmental Affairs:

S. CON. RES. 60

Whereas the Jewish War Veterans of the United States of America, an organization of patriotic Americans dedicated to highlighting the role of Jews in the United States Armed Forces, will celebrate 100 years of patriotic service to the Nation on March 15, 1996;

Whereas thousands of Jews have proudly served the Nation in times of war;

Whereas thousands of Jews have died in combat while serving in the United States Armed Forces;

Whereas, in World War II alone, Jews received more than 52,000 awards for outstanding service in the United States Armed Forces, including the Medal of Honor, the Air Medal, the Silver Star, and the Purple Heart;

Whereas, in World War II alone, over 11,000 Jews died in combat while serving in the United States Armed Forces;

Whereas members of the Jewish War Veterans of the United States of America have volunteered over 10,000,000 hours at veterans' hospitals; and

Whereas honoring the sacrifices of Jewish veterans is an important component of recognizing the strong and patriotic role Jews have played in the United States Armed Forces; Now, therefore, be it

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

(1) a postage stamp should be issued to honor the 100th anniversary of the Jewish War Veterans of the United States of America; and

(2) the Citizens' Stamp Advisory Committee of the United States Postal Service should recommend to the Postmaster General that such a postage stamp be issued.

• Mr. GRAMM. Mr. President, I am pleased today to join with my colleagues, Senator PELL, Senator BOND, and Senator JEFFORDS, to introduce the companion resolution to House Concurrent Resolution 199. This resolution expresses the sense of Congress supporting the issuance of a stamp commemorating the 100th anniversary of a notable veterans organization, the Jewish War Veterans of the United States of America.

The Jewish War Veterans is the oldest active veterans organization in America. The Jewish people have a long and illustrious history of military service to this country in defense of our freedoms, including duty during the Revolutionary War. Jewish soldiers have won 15 Congressional Medals of Honor, and in World War II alone were presented over 52,000 awards for gallantry on the field of battle.

The service of Jewish veterans did not stop when they hung up their uniforms. Jewish War Veterans has sponsored a broad range of community and philanthropic activities, including summer camp opportunities for underprivileged children, college scholarships, senior citizen housing, and many veterans rehabilitation and service programs. Members of the Jewish War Veterans have volunteered over 10 million hours at veterans hospitals.

I urge my colleagues to join us as cosponsors of this resolution to congratulate the Jewish War Veterans of the United States of America on a century of dedicated service to America and our communities.•

AMENDMENTS SUBMITTED

SCHOOL-TO-WORK OPPORTUNITIES ACT OF 1993

KASSEBAUM AMENDMENTS NO. 1424–1425

Mrs. KASSEBAUM proposed two amendments to the bill (S. 1361) to establish a national framework for the development of School-to-Work Opportunities systems in all States, and for other purposes; as follows:

AMENDMENT NO. 1424

Insert after section 504 the following new section:

SEC. 504A. COMBINATION OF FEDERAL FUNDS BY STATES.

(a) IN GENERAL.—

(1) PURPOSES.—The purposes of this section are—

(A) to integrate activities under this Act with State school-to-work transition activities carried out under programs; and

(B) to maximize the effective use of resources.

(2) COMBINATION OF FUNDS.—To carry out such purposes, a State that receives assistance under title II may carry out activities necessary to develop and implement a statewide School-to-Work Opportunities system with funds obtained by combining—

(A) Federal funds under this Act; and

(B) other Federal funds made available from among programs under—

(i) the provisions of law listed in section 502(b); and

(ii) the Job Training Partnership Act (29 U.S.C. 1501 et seq.).

(b) USE OF FUNDS.—A State may use the Federal funds combined under subsection (a) under the requirements of this Act, except that the provisions relating to the matters specified in section 502(c), and section 503(c), that relate to the program through which the funds described in subsection (a)(2)(B) were made available, shall remain in effect with respect to the use of such funds.

(c) ADDITIONAL INFORMATION IN APPLICATION.—A State seeking to combine funds under subsection (a) shall include in the application of the State under title II—

(1) a description of the funds the State proposes to combine under the requirement of this Act;

(2) the activities to be carried out with such funds;

(3) the specific outcomes expected of participants in school-to-work activities; and

(4) such other information as the Secretaries may require.

In section 510, in the section heading, strike "SEC. 510." and insert "SEC. 511.".

In section 509, in the section heading, strike "SEC. 509." and insert "SEC. 510.".

In section 508, in the section heading, strike "SEC. 508." and insert "SEC. 509."

In section 507, in the section heading, strike "SEC. 507." and insert "SEC. 508.".

In section 506, in the section heading, strike "SEC. 506." and insert "SEC. 507.".

In section 505, in the section heading, strike "SEC. 505." and insert "SEC. 506.".

In section 504A, in the section heading, strike "SEC. 504A." and insert "SEC. 505.".

In section 303(a)(1), strike "507(b)" and insert "508(b)".

In section 401(a), strike "507(c)" and insert "508(c)".

In section 401(b), strike "507(c)" and insert "508(c)".

In section 402(a), strike "507(c)" and insert "508(c)".

In section 402(b), strike "507(c)" and insert "508(c)".

In section 402(d), strike "507(c)" and insert "508(c)".

In section 403(b), strike "507(c)" and insert "508(c)".

In section 403(c), strike "507(c)" and insert "508(c)".

AMENDMENT NO. 1425

In section 507(a), strike "7" and insert "2".

GREGG AMENDMENT NO. 1426

Mr. GREGG proposed an amendment to the bill S. 1361, supra; as follows:

AMENDMENT NO. 1426

At the appropriate place in title V, insert the following:

SEC. . ADDITIONAL FEDERAL REQUIREMENTS.

(a) PURPOSE.—The purpose of this section is to ensure that the funds provided under this Act cannot be utilized by the Federal Government to contribute to an unfunded Federal mandate.

(b) REQUIREMENTS.—Subject to subsection (c) and notwithstanding any other provision of Federal law, no provision of Federal law shall require a State, in order to receive funds under this Act, to comply with any Federal requirement, other than a requirement of this Act as in effect on the effective date of this Act.

(c) RULE OF CONSTRUCTION.—Any provision of Federal statutory or regulatory law, in effect on or after the effective date of this Act, shall be subject to subsection (b) unless such law explicitly excludes the application of subsection (b) by reference to this section.

PRESSLER (AND DORGAN) AMENDMENT NO. 1427

Mr. PRESSLER (for himself and Mr. DORGAN) proposed an amendment to the bill S. 1361, supra; as follows:

AMENDMENT NO. 1427

At the end of section 202, add the following:

(d) GRANTS TO CONSORTIA.—

(1) IN GENERAL.—The Secretaries may make grants under subsection (a) to consortia of Congressional Districts with low population densities, to enable each such consortium to complete development of comprehensive, statewide School-to-Work Opportunities systems in each of the Congressional Districts comprising the consortium. Each such system shall meet the requirements of this Act for such a system, except as otherwise provided in this subsection.

(2) AMOUNT.—The amount of a development grant under this subtitle to a consortium may not be greater than the product of—

(A) $1,000,000; and

(B) the number of Congressional Districts in the consortium,

for any fiscal year.

(3) APPLICATION.—For purposes of the application of this subtitle to a consortium:

(A) GOVERNOR.—References to a Governor shall be deemed to be references to an official designated by the consortium to carry out the duties of a governor under this subtitle.

(B) STATE.—References to a Congressional District shall be deemed to be references to the consortium.

(C) OFFICIAL.—References to an official of a State shall be deemed to be references to such an official of any of the States comprising the consortium.

(4) DEFINITION.—As used in this subsection, the term "consortia of Congressional Districts with low population densities" means a consortia of Congressional Districts, each Congressional District of which has an average population density of less than 20.0 persons per square mile, based on 1993 data from the Bureau of the Census.

At the end of section 212, add the following:

(i) GRANTS TO CONSORTIA.—

(1) IN GENERAL.—The Secretaries may make grants under subsection (a) to consortia of Congressional Districts with low population densities, to enable each such consortium to implement a comprehensive, statewide School-to-Work Opportunities systems in each of the Congressional Districts comprising the consortium. Each such system shall meet the requirements of this Act for such a system, except as otherwise provided in this subsection.

(2) AMOUNT.—The amount of an implementation grant under this subtitle to a consortium may not be—

(A) greater than the product of—

(i) the maximum amount described in subsection (e); and

(ii) the number of Congressional Districts in the consortium,

for any fiscal year; or

(B) less than the product of—

(i) the minimum amount described in subsection (e); and

(ii) the number of Congressional Districts in the consortium,

for any fiscal year.

(3) APPLICATION.—For purposes of the application of this subtitle to a consortium:

(A) GOVERNOR.—References to a Governor shall be deemed to be references to an official designated by the consortium to carry out the duties of a Governor under this subtitle.

(B) STATE.—References to a State shall be deemed to be references to the consortium.

(C) OFFICIAL.—References to an official of a State shall be deemed to be references to such an official of any of the States comprising the consortium.

(4) WAIVERS.—In order for a consortium that receives a grant under this section to receive a waiver under title V with respect to a State, the State and officials of the State shall comply with the applicable requirements of title V for such a waiver.

(5) DEFINITION.—As used in this subsection, the term "consortia of States with low population densities" means a consortia of States, each State of which has an average population density of less than 12.30 persons per square mile, based on 1993 data from the Bureau of the Census.

In section 301(2), insert ", and to implement such programs in States with low population densities," after "in high poverty areas of urban and rural communities".

In section 301(2), insert "or in States with low population densities" after "designated high poverty areas".

In section 303, strike the title and insert the following:

"SEC. 303. SCHOOL-TO-WORK OPPORTUNITIES PROGRAM GRANTS IN HIGH POVERTY AREAS AND IN STATES WITH LOW POPULATION DENSITIES.".

In section 303(a)(1), insert "and to partnerships to implement such programs in States with low population densities" after "in high poverty areas".

In section 303(a)(2), strike "DEFINITION.—" and insert "HIGH POVERTY AREA.—".

At the end of section 303(a), add the following:

"(3) STATE WITH A LOW POPULATION DENSITY.—For purposes of this subsection, the term 'State with a low population density' means a State with an average population density of less than 12.30 persons per square mile, based on 1993 data from the Bureau of the Census.".

In section 507(b), strike "HIGH POVERTY AREAS.—" and insert "HIGH POVERTY AREAS AND STATES WITH LOW POPULATION DENSITIES.—".

THURMOND (AND OTHERS) AMENDMENT NO. 1428

Mr. THURMOND (for himself, Mr. CHAFEE, Mr. COATS, Mr. DURENBERGER, and Mr. GREGG) proposed an amendment to the bill S. 1361, supra; as follows:

On page 7, between lines 8 and 9, insert the following:

(9) encourage the development and implementation of programs that will provide paid high-quality, work-based learning experiences;

On page 7, line 9, strike "(9)" and insert "(10)".

On page 7, line 16, strike "(10)" and insert "(11)".

On page 7, line 20, strike "(11)" and insert "(12)".

On page 17, line 14, strike "paid".

On page 31, between lines 18 and 19, insert the following:

(9) describe the extent to which the School-to-Work Opportunities system will include programs that will provide paid high-quality, work-based learning experiences;

On page 31, line 19, strike "(9)" and insert "(10)".

On page 31, line 23, strike "(10)" and insert "(11)".

On page 32, line 5, strike "(11)" and insert "(12)".

On page 32, line 10, strike "(12)" and insert "(13)".

On page 32, line 17, strike "(13)" and insert "(14)".

On page 32, line 23, strike "(14)" and insert "(15)".

On page 33, line 3, strike "(15)" and insert "(16)".

On page 33, line 7, strike "(16)" and insert "(17)".

On page 33, line 9, strike "(17)" and insert "(18)".

On page 34, line 21, strike "and".

On page 35, line 2, strike "system;" and insert "system; and".

On page 35, between lines 2 and 3, insert the following:

(4) give priority to applications that describe systems that include programs that will provide paid high-quality, work-based learning experiences;

On page 38, between lines 18 and 19, insert the following:

(D) describes the extent to which the program will provide paid high-quality, work-based learning experiences;

On page 38, line 19, strike "(D)" and insert "(E)".

On page 38, line 23, strike "(E)" and insert "(F)".

On page 39, line 1, strike "(F)" and insert "(G)".

On page 44, line 13, strike "(10)" and insert "(11)".

On page 46, line 20, strike "(10)" and insert "(11)".

GORTON AMENDMENT NO. 1429

Mr. GORTON proposed an amendment to the bill S. 1361, supra; as follows:

At the appropriate place in the Committee amendment, add the following:

TITLE —JOB TRAINING PARTNERSHIP ACT

SEC. 1. PRIORITY FOR PLACEMENT IN PRIVATE SECTOR JOBS UNDER SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAM OF JOB TRAINING PARTNERSHIP ACT.

(a) IN GENERAL.—

(1) PLACEMENT AND CERTIFICATION.—Section 253 of the Job Training Partnership Act (29 U.S.C. 1632) is amended—

(A) by redesignating subsection (d) as subsection (e); and

(B) by inserting after subsection (c) the following new subsection:

"(d) PLACEMENT IN PRIVATE SECTOR JOBS.—

"(1) IN GENERAL.—Notwithstanding section 141(k), in providing on-the-job training, work experience programs, and any other employment or job training activity under this section, a service delivery area shall give priority to placing participants in unsubsidized employment in the private sector.

"(2) SUBSIDIZED EMPLOYMENT.—

"(A) IN GENERAL.—Notwithstanding section 141(k), a service delivery area may place participants in subsidized employment in the private sector.

"(B) EDUCATIONAL SERVICES.—Any employer that places participants in subsidized employment in the private sector shall establish a work schedule for the participants that accommodates the needs of the participants to receive educational services identified in the service strategy of the participants under section 253(c)(2).

"(3) ASSURANCE.—An employer who desires to place participants in employment in the private sector through a program carried out under this part within a service delivery area shall provide an assurance to the administrative entity serving the area that the employer—

"(A) will employ the participants for the duration of the program carried out under this part; and

"(B) will not terminate the employment of such participants prior to the end of such program, other than for cause.

"(4) SPECIAL RULE.—Nothing in this section shall be construed to require a service delivery area to place participants in subsidized employment in the private sector.

"(5) WAGES.—In making funds available under this part to private for-profit employers to pay for the wages of participants placed in subsidized employment by such employers under this part, no service delivery area may use funds made available under this part to contribute more than an amount equal to the product of—

"(A) 40 percent of the applicable minimum wage under section 6 of the Fair Labor Standards Act (29 U.S.C. 206); and

"(B) the number of such participants, toward such wages.".

(b) CONFORMING AMENDMENTS.—Paragraphs (37) and (39) of section 4 of the Job Training Partnership Act (29 U.S.C. 1503) are amended by striking "section 253(d)" and inserting "section 253(e)".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect as if included in the Job Training Reform Amendments of 1992.

NICKLES AMENDMENT NO. 1430

Mr. NICKLES proposed an amendment to the bill, S. 1361, supra; as follows:

Beginning on page 67, line 6, strike "such sums as may be necessary for each of the 7 succeeding fiscal years to carry out this Act." and insert in lieu thereof "$308,000,000 for fiscal year 1996; $316,000,000 for fiscal year 1997; $324,000,000 for fiscal year 1998; and $341,000,000 for fiscal year 1999."

KENNEDY (AND SIMON) AMENDMENT NO. 1431

Mr. SIMON (for Mr. KENNEDY, for himself and Mr. SIMON) proposed an amendment to the bill, S. 1361, supra; as follows:

On page 45, line 9, after the word "authorized", insert the following: "and encouraged".

COVERDELL AMENDMENT NO. 1432

Mrs. KASSEBAUM (for Mr. COVERDELL) proposed an amendment to the bill S. 1361, supra; as follows:

At the appropriate place in title V, insert the following new section:

SEC. . DELAY OF SPENDING FOR SCHOOL-TO-WORK OPPORTUNITIES PROGRAMS UNTIL FISCAL YEAR 1994 EMERGENCY DEFICIT INCREASE IS ELIMINATED.

(a) PROHIBITION ON APPROPRIATIONS.—Notwithstanding any other provision of this Act, Congress shall not appropriate funds under section 507 until the Director of the Office of Management and Budget certifies that the total amount of deficit increase for fiscal year 1994 resulting from budget authority contained in supplementary appropriations Acts and declared to be emergency spending under section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(D)(I)) has been eliminated through rescissions and transfers of funds.

(b) PROHIBITION ON OBLIGATION.—Notwithstanding any other provision of this Act, no funds that were appropriated for a program under this Act prior to the date of enactment of this Act shall be obligated for the program until the date of the certification described in subsection (a).

(c) ENFORCEMENT.—

(1) POINT OF ORDER.—Prior to the date of the certification described in subsection (a), it shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report providing appropriations under section 507.

(2) WAIVER OR SUSPENSION.—Paragraph (1) may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

DOLE (AND NICKLES) AMENDMENT NO. 1433

Mrs. KASSEBAUM (for Mr. DOLE, for himself and Mr. NICKLES) proposed an amendment to the bill S. 1361, supra; as follows:

At the appropriate place in title V, insert the following:

SEC. . SENSE OF THE SENATE.

It is the sense of the Senate that the Congress should fund programs under this Act, for fiscal years 1996 through 2002, solely from the savings resulting from efforts of the Department of Labor, the Department of Education, and other Federal agencies, to eliminate, consolidate, or streamline, duplicative or ineffective education or job training programs in existence on the date of enactment of this Act.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for my colleagues and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony on the fiscal year 1995 budget requests for the Department of the Interior and the U.S. Forest Service.

The hearing will take place on Thursday, February 24, 1994, at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building, First and C Streets, NE., Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510, attention: Sam Fowler.

For further information, please contact Sam Fowler of the committee staff at 202-224-7569.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

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For further information please contact Sam Fowler of the committee staff at 202-224-7569.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. PELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, February 8, 1994, at 12 p.m. to hear nominees Wesley W. Egan, Jr., Ambassador to Jordan, and Robert H. Pelletreau, Jr., Assistant Secretary of State for Near Eastern Affairs.

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

ADDITIONAL STATEMENTS

THE UNION CAMP CORP.

• Mr. SIMON. Mr. President, today I am proud to recognize the Union Camp Corp. of Des Plaines, Chicago, and Normal, IL, for its commitment to a cleaner environment.

Union Camp Corp. has become a leader in the use of innovative technologies to improve the quality of the environment. The company has significantly reduced its solid waste output and increased its use of recycled products.

Through its land legacy program, Union Camp donated 84,000 acres of forest land to national wildlife refuges and State parks. Union Camp's Eastover, SC mill earned the Environmental Protection Agency's recognition for the best water quality from among 33 bleached kraft mills throughout the Nation. In addition, Union Camp was honored as Company of the Year by American Papermaker magazine.

Mr. President, the importance of American industry's strong commitment to improving the environment cannot be overstated. Industry and private citizens alike must get involved if we are to see progress toward a clean, safe environment for ourselves and future generations.

I commend Union Camp Corp. for its efforts, and I look forward to continued progress in our efforts to instill environmental awareness in all Americans.•

THE ADMINISTRATION'S FRANKENSTEIN EXPORT CONTROL PROPOSAL

• Mr. D'AMATO. Mr. President, I rise today to again comment on the administration's export control proposal, or should I say, the lack thereof.

For the second time, Mr. President, the administration has canceled a hearing before the Senate Banking Committee's International Finance Subcommittee to introduce its proposal to reform the Export Administration Act. That hearing was to take place on Wednesday, February 9, 1994.

As I detailed on Friday, I am very concerned that the administration will

allow the formation to occur of a weak successor regime to CoCom, which is due to expire on March 31, 1994, and that frail replacement will relegate multilateral export controls to the tenet of "national discretion." In this sense, national discretion will really mean that each nation is left on its own, with no real prior notification, no veto power, and no real power to prevent any other member of the system from sending technology to some nation that will use it for violent or destructive purposes.

This is unfortunate and I fear that it will lead to events that we will later regret. I can only hope that the administration does not place this Nation in the future, in the unenviable position of having to deal with a Frankenstein nation, bred, nurtured and empowered by the United States—and of course bent on doing our Nation or its interests, irreparable harm.

Mr. President, I ask that the text of the article, "The Perils of Perry & Co.," which appeared in the Washington Post, on Sunday, February 6, 1994, be included in its entirety following the conclusion of my remarks.

The article follows:

[From the Washington Post, Feb. 6, 1994]

THE PERILS OF PERRY AND CO.—ARE THEY SOFT ON NUCLEAR PROLIFERATION FOR THE SAKE OF THE ARMS INDUSTRY?

(By Gary Milhollin)

"Sensible and safe." That was the verdict of the New York Times and almost everyone else when President Clinton nominated William Perry last month to be secretary of defense. In fact, for all the impression of blandness he conveyed as he sailed through last week's Senate confirmation hearings, some of Perry's views are deeply troubling—especially those on the spread of nuclear arms.

Perry makes no secret of his hostility to export controls. When he was being confirmed a year ago as Les Aspin's deputy, he told the Senate Armed Services Committee that it was a "hopeless task" to control technology that is "dual-use"—capable of making nuclear weapons or long-range missiles, but also having civilian applications. Perry said "it only interferes with a company's ability to succeed internationally."

But dual-use technology is precisely what Saddam Hussein imported from the West during the 1980s to build his nuclear, chemical and missile programs. This puts Perry's views in opposition to those of, for example, U.N. inspectors in Iraq. Without "strict maintenance of export controls by the industrialized nations," the inspectors have warned in their reports, Saddam will revive his war machine.

The Iraqis, for example, claimed that they needed high-performance vacuum furnaces to cast artificial limbs for soldiers injured in the war with Iran. But U.N. inspectors found that the Iraqis used these furnaces to cast nuclear bomb components.

Almost everything needed to make a nuclear weapon is dual-use and current export laws reflect that fact. The Iraqis bought dual-use isostatic presses to shape nuclear bomb parts, dual-use mass spectrometers to sample bomb fuel and dual-use electron beam welders to increase the range of Scud missiles. There is no hope of stopping development of an Iraqi bomb without controlling such exports.

Curiously, Perry and his lineup of ex-academics make the Pentagon weaker now on the proliferation issue than it was under Presidents Reagan or Bush. During the tenure of Defense Secretary Richard Cheney, the Pentagon listened carefully to industry—a natural thing for Republicans—but never agreed to junk export controls. It even dug in its heels and blocked deals that State and Commerce wanted to approve.

Now, under Perry, there appears to be no institutional counterweight to the pro-export pressure of industry and its allies in the Commerce and State departments. A Pentagon expert on clandestine trade complains that "under Perry, the Pentagon is de-controlling things faster than we can track the ships carrying them."

"We are trying to figure out how to bomb the things the United States is now exporting," says one longtime Pentagon arms-control specialist. A key congressional aide asserts that Perry, a former electronics executive, "wants to protect the defense industry, so he is trying to cushion the blow from the current budget cuts. Unfortunately, that translates into lowering the gates for exports."

Perry's office last week was called repeatedly for a response but declined to comment.

None of the several Pentagon staff members interviewed for this article agreed to be named, but they did agree, in the words of one, that "we now have four layers of bosses who don't believe in export controls." The reference is to the Perry team: Frank Wisner, an undersecretary; Ashton Carter, an assistant secretary, and Mitchell Wallerstein, Carter's deputy.

For the past year, Wisner has been scaling back the export controls on missile technology—controls laboriously built up under Reagan and Bush. The new policy is to sell large rocket technology immediately to Australia, Italy and Spain, and eventually to Argentina, South Korea and Taiwan.

The rockets are meant to be used as satellite launchers, and their sale is supposed to entice more countries to join the Missile Technology Control Regime, a pact among the major industrial countries to curb missile exports. But Pentagon rocket experts ridicule the idea; they call it "missiles for peace."

The Pentagon fought the idea under Bush, for good reason. Selling other countries rockets in exchange for a promise not to sell missiles is like giving people donuts to join the health club. Space rockets can perform the same missions as ICBMs.

Nor do countries without missile industries need to acquire launchers: It is much cheaper to hire another country's launcher to put up satellites than to build one's own. This point is beyond dispute—it was amply supported in a Pentagon-sponsored RAND study in mid-1993. Finally, there is the risk the U.S. rocket technology could wind up in Iran, Iraq or Libya because buyers like Spain and Italy cannot control their own exports.

In August, the Senate's five leading experts on arms control protested Wisner's plan in a letter to the White House. In the letter, Sens. Jeff Bingaman, John Glenn, Jesse Helms, John McCain and Claiborne Pell warned that space launchers "are essentially indistinguishable" from missiles and predicted that Wisner's plan would "eviscerate the Missile Technology Control Regime."

The senators have picked up support recently from the CIA. In a secret study declassified last November, the CIA found that a space launcher "could be converted relatively quickly by technologically advanced countries (in about one or two years) to a surface-to-surface missile." This bit of caution applies precisely in the case of Spain, which, according to Defense News and Jane's Defense Weekly, is developing a three-state missile capable of reaching Morocco or Algeria.

Ashton Carter, a former Harvard professor, has been named assistant secretary for nuclear security and counter-proliferation. "Counter" rather than "non" proliferation is the new Pentagon credo. It emphasizes high-tech military solutions to cure proliferation after it happens, rather than diplomacy and export controls to prevent it in the first place.

In a September briefing, Carter tried to explain this idea to congressional aides who specialize in defense issues. After saying in effect that he was not interested in export controls, one of these aides recalls, he shocked his listeners by proposing that the United States give nuclear weapon safety devices (the electronic "locks" that make warheads safe to handle) to nuclear weapon aspirants like Pakistan.

Carter, asked last week to comment on the reported conversation, declined to do so. Carter, according to one of his staff, apparently did not know that such aid to Pakistan would violate the Nuclear Nonproliferation Treaty, which bars the United States from helping other countries build the bomb.

According to several members of his staff, this mistake was typical of Carter, whom they term naive. In a recent discussion of India's two reactors at Tarapur, Carter proposed that the United States start selling them nuclear fuel. The reactors are in jeopardy of shutting down this year because France, which is now fueling them, is cutting off supplies to countries such as India that reject the Nonproliferation Treaty. Carter apparently did not know that the United States itself fueled the reactors until 1982, when further U.S. supply became illegal under the U.S. Nuclear Nonproliferation Act.

Counter-proliferation also means targeting new countries with U.S. missiles and bombs—not a promising idea. U.S. planes did not destroy a single operational Scud missile during the Gulf War, despite around-the-clock trying. Nor did U.S. Patriot missiles knock down many Scuds in the air. Nor did U.S. planes destroy Saddam's nuclear weapons program—the Pentagon did not know where it was. And if war should erupt on the Korean peninsulas, our pilots will have no greater chance of hitting Pyongyang's stock of nuclear fuel. Instead of an effective strategy, counter-proliferation appears to be mostly a ploy for rescuing the Pentagon's Cold War budget.

Carter was not a hit at the Capitol Hill briefing; the Senate Armed Services and appropriations committees refused to fund his counter-proliferation project. A member of Carter's own staff used a colorful phrase to describe the policy: "The Clinton people believe the cure for proliferation is an enema delivered by a B-52."

Carter's deputy is Mitchell Wallerstein, formerly at MIT, whose new job is to figure out how to target U.S. nuclear warheads on Third World bomb makers. But Wallerstein has no background in nuclear weapons or strategy. His only relevant experience was at the National Academy of Sciences, where he led industry-dominated studies decrying export controls.

In the opinion of a senior Pentagon analyst, the new policy contains a "logical dis-

connect." Outgoing Secretary Aspin warned in October that if rogue nations get the bomb, they "may not be deterrable" by U.S. nuclear weapons. But, says the analyst, "if these nations are 'undeterrable,' we should be willing to pay a high price to stop them from getting the bomb. Yet we are not willing to pay the price of export controls, which is one of the best ways to stop them."

Industry appears to have convinced the Clinton administration that dropping export controls will create jobs, but export controls have only a microscopic effect on employment. The total American economy was about $6 trillion in 1992. Of that, only 7.5 percent ($448 billion) was exported as goods. And of the exports, less than $24 billion, fourtenths of one percent of the economy even went through export licensing. Finally, only $790 million worth of export applications were denied—that is about one-hundredth of 1 percent of the U.S. economy and less than half the cost of a B-2 bomber.

The real impact of export controls is strategic. They can buy the time needed to turn a country off the nuclear weapons path. Argentina and Brazil agreed to give up nuclear weapons mainly because of the costs that export controls imposed upon them. And in Iraq, secret documents found by the U.N. showed that export controls on dual-use equipment seriously hampered the Iraqi nuclear weapon design team. Dual-use controls are not hampering India's effort to build an ICBM.

At last week's brief confirmation hearing, Perry should have been asked why he is abandoning export controls, as well as these questions: If regulating dual-use exports is as "hopeless" as he says, why is the U.N. monitoring such exports in Iraq? Why did the Bush administration decide to deny such exports to Iran? Why has Perry ignored the objections of the five senators who want to stop the spread of missile technology?

We are now passing the third anniversary of the Gulf War. Have we already forgotten its lesson? U.S. pilots died to bomb equipment that Western companies sold Saddam. As one Pentagon official puts it: "When you talk about export controls, you're not talking about politics, you're talking about body bags."•

REGARDING BORDER PATROL

• Mr. McCAIN. Mr. President, last week on Thursday, February 3, the Attorney General made a significant announcement regarding the border patrol and our Nation's priorities. Ms. Reno and Immigration and Naturalization Service Commissioner Doris Meissner outlined their plan to strengthen enforcement of our immigration laws and to safeguard her borders.

The highlight of this plan, as it was announced, was strengthening the border patrol. Specifically, for 1994, San Diego border patrol strength will be increased by 40 percent, the equivalent of some 300 agents and 97 support staff. The El Paso, TX border will receive 50 new agents and 44 support staff.

The Attorney General stated that this action will "stop the revolving door on the border . . . by a strategy of deterrence through prevention."

Mr. President, this is not a national plan to stop the revolving door; it is a plan to curb illegal immigration into California and Texas. It is a plan designed to garner 86 electoral votes and keep a Senate seat in Democratic hands.

Mr. President, the money the Senate appropriated for the border patrol last year was intended to augment our Nation's efforts to control illegal immigration across our Southwest frontier. That frontier is more, much more, than just California and Texas.

After the Senators from Arizona and New Mexico publicly noted this unfair, irrational distribution of agents, the Border Patrol appears to have slightly changed its original policy.

According to INS and the Border Patrol, Arizona will now receive 33 new support staff, but no new agents. New Mexico will receive 5 new support staff. My staff has also been told that all new agents are being forced to sign mobility clauses in their employment contracts—clauses that would allow the Border patrol to move agents from one region to another.

The Border Patrol told my staff that Arizona need not worry about increased illegal immigration because if it were to occur—and they admit it will—that agents could be moved to Arizona. Unfortunately, these are simply hollow words.

Mr. President, when my staff asked Border Patrol officials what criteria would be used to determine when agents would be shifted from one region to another—for example from California to Arizona—my staff was told there was no official criteria and that such moves would be made at the policy level when determined to be appropriate. In others words, when the politics of the situation merit a shift in agents, the Attorney General's office will comply.

Mr. President, the people of Arizona have a right to know when our border patrol problems merit the concern of Border Patrol officials. I expect that the Attorney General's office will be forthcoming with specifics regarding this issue.

Under the Attorney General's plan the revolving door at San Diego will be closed. Nothing however will be done at this time in Arizona. In meetings with my staff, Border Patrol officials admit that this action will result in a shift of illegal border crossings from California to Arizona. This appears to be a shortsighted, politically expedient solution to our immigration problems.

It is the political aspect of this solution that particularly concerns me.

Not only was Arizona and New Mexico ignored in the distribution of agents, it has come to my attention that the two Senators from California were briefed in advance on this subject. Yet the staffs and Senators from Arizona and New Mexico were not briefed until last Friday afternoon.

Mr. President, for the information of those at the Attorney General's office and the Border Patrol, the Southwest border is comprised of four States: Arizona, New Mexico, California, and Texas. The Arizona-Mexico border is three times the length of the California-Mexico border and has more border crossing stations. I would hope that the Attorney General and all other officials concerned with that border would remember that each State on the border has equal concerns that must be addressed.

The needs of the people and of this country must be put ahead of what appears to be a political agenda. It is discouraging and disheartening that the Attorney General's office and the Department of Justice is acting in such an overtly political fashion. Of all Federal agencies, the Department of Justice should be above politics.

Standing outside of the Supreme Court there is a great statute of Justice, with blindfold around her eyes. I hope we will aspire to that principle at the Department of Justice and in all areas including immigration.•

EXECUTIVE SESSION

Mr. PELL. Mr. President, I ask unanimous consent the Senate now proceed to executive session.

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

CLOTURE MOTION

Mr. PELL. Mr. President, I send a cloture motion on Executive Calendar No. 536 to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Executive Calendar No. 536, M. Larry Lawrence to be Ambassador of the United States to Switzerland:

Harlan Mathews, Barbara Boxer, Dianne Feinstein, Charles S. Robb, John D. Rockefeller, Dennis DeConcini, David L. Boren, Bob Graham, David Pryor, Paul Simon, J.R. Biden, John Breaux, Dale Bumpers, Daniel Inouye, John F. Kerry, George Mitchell.

LEGISLATIVE SESSION

Mr. PELL. Mr. President, I ask unanimous consent the Senate return to legislative session.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. PELL. Mr. President, I ask unanimous consent the Senate proceed to

executive session to consider the following nomination:

Charles B. Curtis, to be Under Secretary of Energy.

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

CHARLES B. CURTIS TO BE UNDER SECRETARY OF ENERGY

The legislative clerk read the nomination of Charles B. Curtis, of Maryland, to be Under Secretary of Energy.

Mr. PELL. I further ask unanimous consent the nominee be confirmed; any statements appear in the RECORD as if read; upon confirmation the motion to reconsider be laid upon the table; that the President be immediately notified of the Senate's action; and the Senate return to legislative session.

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

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

SEISMIC RETROFIT OF BRIDGES ACT OF 1994

Mr. PELL. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar 361, S. 1789, a bill to permit the use of funds under the highway bridge replacement and rehabilitation program for seismic retrofit of bridges; that the bill be read a third time, passed, and the motion to reconsider be laid upon the table.

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

The bill (S. 1789) was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S. 1789

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

SECTION 1. SEISMIC RETROFIT OF BRIDGES.

Section 144 of title 23, United States Code, is amended—

(1) in the third sentence of subsection (d), by inserting before the period at the end the following: ", except that a State may carry out a project for seismic retrofit of a bridge under this section without regard to whether the bridge is eligible for replacement or rehabilitation under this section"; and

(2) in subsection (e), by adding at the end the following new sentence: "The use of funds authorized under this section to carry out a project for the seismic retrofit of a bridge shall not affect the apportionment of funds under this section.".

UNANIMOUS-CONSENT AGREEMENT MODIFIED—S. 1361

Mr. PELL. Mr. President, I ask unanimous consent with respect to the unanimous-consent agreement regarding disposition of H.R. 2884, the agreement be modified as follows: once the language of S. 1361, as amended, is inserted, H.R. 2884 be advanced to third reading; that the Senate then proceed to vote on passage of H.R. 2884; with all other provisions of the agreement governing H.R. 2884 remaining in effect.

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

UNANIMOUS-CONSENT AGREEMENT —AMENDMENT NO. 1429

Mr. PELL. Mr. President, I ask unanimous consent that a vote on Senator SIMON's motion to table Senator GORTON's amendment, No. 1429, occur tomorrow morning upon the disposition of Senator JEFFORDS' amendment No. 1420, and that no amendments be in order to Senator GORTON's amendment.

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

UNANIMOUS CONSENT AGREEMENT—AMENDMENT NO. 1391, AS MODIFIED

Mr. PELL. Mr. President, I ask unanimous consent that Senator BYRD's amendment No. 1391, adopted earlier to S. 1150, be modified with a change I now send to the desk.

The PRESIDING OFFICER. Without objection, the amendment will be so modified.

The amendment, with its modification, is as follows:

On page 76, strike line 24, and insert the following: "described in title I by improving teaching and learning and students' mastery of basic and advanced skills to achieve a higher level of learning and academic accomplishment in English, math, science, U.S. history, geography, foreign languages and the arts, civics, government, economics, physics, and other core curricula,".

MEASURE READ FOR FIRST TIME—S. 1833

Mr. PELL. Mr. President, I understand that S. 1833 was introduced earlier today by Senator KENNEDY. I ask that the bill be read for the first time.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1833) to amend the Public Health Service Act to provide for the establishment of a voluntary long-term care insurance program, and for other purposes.

Mr. PELL. I now ask for its second reading.

Mrs. KASSEBAUM. Mr. President, on behalf of the Republican leadership, per agreement, I object.

The PRESIDING OFFICER. Objection is heard. The bill will be read for the second time on the next legislative day.

UNANIMOUS-CONSENT AGREEMENT —COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT OF 1980

Mr. PELL. Mr. President, I ask unanimous consent that for the remainder of the 2d session of the 103d Congress, when the Senate receives a message from the President transmitting legislation amending the Comprehensive Environmental, Response, Compensation and Liability Act of 1980—Superfund—the message should be referred jointly to the Committees on Environment and Public Works, and Finance.

I further ask unanimous consent that when a bill amending the Comprehensive Environmental Response, Compensation and Liability Act of 1980 is introduced by request, the bill shall be referred to the Committee on Environment and Public Works, for consideration only of matters within that committee's jurisdiction; provided further that when the bill is reported from the committee, it shall be referred to the Committee on Finance for consideration only of matters within that committee's jurisdiction for a period not to exceed 30 days.

Further, I ask unanimous consent that if any other legislation reauthorizing the Superfund is received from the House, which primarily encompasses the President's message, the bill should be referred to the Committee on Environment and Public Works for consideration only of matters within the committee's jurisdiction; provided further that when the Committee on Environment and Public Works reports the bill amending the Comprehensive Environmental Response, Compensation and Liability Act of 1980, with or without amendments, the bill should be referred to the Committee on Finance, for a period not to exceed 30 session days, for the purpose of considering only matters within the jurisdiction of the Committee on Finance.

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

UNANIMOUS-CONSENT AGREEMENT VITIATED—AMENDMENT NO. 1429 TO S. 1361

Mr. PELL. Mr. President, I move that we vitiate the request I made with respect to the vote on Senator SIMON's motion to table Senator GORTON's amendment No. 1429.

So the motion was agreed to.

UNANIMOUS-CONSENT AGREEMENT—AMENDMENT NO. 1429 TO S. 1361

Mr. PELL. Mr. President, I ask unanimous consent that tomorrow morning, upon the disposition of Senator JEFFORD's amendment No. 1421, the Senate resume consideration of S. 1361

and vote on Senator SIMON's motion to table Senator GORTON's amendment No. 1429; and that no amendments be in order to Senator GORTON's amendment.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

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

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

PROGRAM

Mr. PELL. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:15 a.m., Tuesday, February 8; that, following the prayer, the Journal of proceedings be deemed approved to date; and the time for the two leaders reserved for their use later in the day; that the Senate then resume consideration of S. 1150, the Education 2000 bill, with the time until 10 o'clock equally divided and controlled between Senators KENNEDY and KASSEBAUM or their designees; that the Senate stand in recess from 12:30 p.m. until 2:15 p.m. in order to accommodate the respective party conferences.

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

RECESS UNTIL TOMORROW AT 9:15 A.M.

Mr. PELL. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 7:11 p.m., recessed until tomorrow, Tuesday, February 8, 1994, at 9:15 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate February 7, 1994:

DEPARTMENT OF ENERGY

CHARLES B. CURTIS, OF MARYLAND, TO BE UNDER SECRETARY OF ENERGY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.