S. 1156. A bill to direct the Secretary of Agriculture to make a land exchange in the State of Montana, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HELMS (for himself, Mr. DOLE, Mr. LIEBERMAN, and Mr. MCCAIN):

S. 1157. A bill to authorize the establishment of a multilateral Bosnia and Herzegovina Self-Defense Fund; to the Committee on Foreign Relations.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 1158. A bill to deauthorize certain portions of the navigation project for Cohasset Harbor, Massachusetts, and for other purposes; to the Committee on Environment and Public Works.

By Mr. INOUYE (for himself, Mr. SIMON, Mr. CAMPBELL, and Mr. CONRAD):

S. 1159. A bill to establish an American Indian Policy Information Center, and for other purposes; to the Committee on Indian Affairs.

By Mr. ROCKEFELLER:

S. 1160. A bill to amend the Internal Revenue Code of 1986 to provide that the depreciation rules which apply for regular tax purposes also shall apply for alternative minimum tax purposes; to the Committee on Finance.

By Mr. BAUCUS:

S. 1161. A bill to amend the Internal Revenue Code of 1986 to exempt small manufacturers, producers and importers from the firearms excise tax; to the Committee on Finance.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 1162. A bill to amend the Internal Revenue Code of 1986 to treat academic health centers like other educational institutions for purposes of the exclusion for employer-provided housing; to the Committee on Finance.

By Mr. LEAHY (for himself, Mr. GREGG, Mr. JEFFORDS, Mr. COHEN, and Ms. SNOWE):

S. 1163. A bill to implement the recommendations of the Northern Stewardship Lands Council; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ROCKEFELLER:

S. 1164. A bill to amend the Stevenson-Wydler Technology Innovation Act of 1980 with respect to inventions made under cooperative research and development agreements, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HATCH:

S. 1165. A bill to amend the Internal Revenue Code of 1986 to allow a tax credit for adoption expenses and an exclusion for employer-provided adoption assistance; to the Committee on Finance.

By Mr. LUGAR (for himself, Mr. PRYOR, Mrs. KASSEBAUM, Mr. INOUYE, Mr. COCHRAN, Mr. KERREY, Mr. DOLE, Mr. HEFLIN, Mr. GORTON, and Mr. BREAUX):

S. 1166. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act, to improve the registration of pesticides, to provide minor use crop protection, to improve pesticide tolerances to safeguard infants and children, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. PRESSLER:

S. 1167. A bill to amend the Wild and Scenic Rivers Act to exclude the South Dakota segment from the segment of the Missouri River designated as a recreational river, and for other purposes; to the Committee on Energy and Natural Resources.

S. 1168. A bill to amend the Wild and Scenic Rivers Act to exclude any private lands from the segment of the Missouri River designated as a recreational river, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KEMPTHORNE:

S. 1169. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize construction of facilities for the reclamation and reuse of wastewater at McCall, Idaho, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. PRESSLER (for himself and Mr. BAUCUS):

S. 1170. A bill to limit the applicability of the generation-skipping transfer tax; to the Committee on Finance.

By Mr. MCCONNELL (for himself and Mr. FORD):

S. 1171. A bill to amend the Internal Revenue Code of 1986 to modify the application of the passive loss limitations to equine activities; to the Committee on Finance.

By Mr. ROTH (for himself, Mr. HATCH, and Mr. BAUCUS):

S. 1172. A bill to amend the Revenue Act of 1987 to provide a permanent extension of the transition rule for certain publicly traded partnerships; to the Committee on Finance.

By Mr. GREGG (for himself and Mr. SMITH):

S. 1173. A bill to amend the Internal Revenue Code of 1986 to allow a corporation to elect the pooling method of determining foreign tax credits in certain cases, and for other purposes; to the Committee on Finance.

S. 1174. A bill to amend the Wild and Scenic Rivers Act to designate certain segments of the Lamprey River in New Hampshire as components of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MOYNIHAN (for himself, Mr. D'AMATO, Mr. BRADLEY, and Mr. LAUTENBERG):

S. 1175. A bill to suspend temporarily the duty for personal effect of participants in certain world athletic events; to the Committee on Finance.

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

S. 1176. A bill to direct the Secretary of the Interior to make certain modifications with respect to a water contract with the city of Kingman, Arizona, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HATCH:

S. 1177. A bill to amend the Social Security Act and the Internal Revenue Code of 1986 to provide improved access to quality long-term care services, to obtain cost savings through provider incentives and removal of regulatory and legislative barriers, to encourage greater private sector participation and personal responsibility in financing such services, and for other purposes; to the Committee on Finance.

By Mr. CHAFEE (for himself, Mr. MACK, Mr. THURMOND, Mr. PELL, Mr. BUMPERS, and Mr. LIEBERMAN):

S. 1178. A bill to amend title XVIII of the Social Security Act to provide for coverage of colorectal screening under part B of the medicare program; to the Committee on Finance.

By Mr. ROCKEFELLER:

S. 1179. A bill to amend the Internal Revenue Code of 1986 to provide reductions in required contributions to the United Mine Workers of America Combined Benefit Fund, and for other purposes; to the Committee on Finance.

By Mrs. KASSEBAUM:

S. 1180. A bill to amend title XIX of the Public Health Service Act to provide for health performance partnerships, and for other purposes; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD:

S. Res. 162. A resolution to require each accredited member of the Senate Press Gallery to file an annual public report with the Secretary of the Senate disclosing the member's primary employer and any additional sources of earned outside income; to the Committee on Rules and Administration.

By Mr. PELL (for himself, Mr. STEVENS, and Mr. FORD):

S. Con. Res. 24. A concurrent resolution authorizing the use of the rotunda of the Capitol for a dedication ceremony incident to the placement of a bust of Raoul Wallenberg in the Capitol; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MURKOWSKI:

S. 1144. A bill to reform and enhance the management of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

THE NATIONAL PARK SERVICE ENHANCEMENT ACT

Mr. MURKOWSKI. Mr. President, I rise today to introduce the National Park Service Enhancement Act.

This legislation, when enacted, will revamp the National Park Concession Policy Act by creating a true and equal private/public partnership while offering more competition, less regulation, consistent inter- and intra-agency policies and at the same time increase returns to the Federal Government.

This legislation also addresses fee increases to our national parks, needed improvements to land management employee housing, and the establishment of strict criteria by which areas are considered for national park status.

Finally, the bill sets forth a simplified and cost-saving mechanism by which the Federal Government determines the fee schedules for ski operators who use portions of lands under the jurisdiction of the National Forest System.

The 1916 Organic Act creating the National Park Service gave the agency a dual mission—to care for the Nation's parks in such a way as to preserve the resources for future generations while at the same time providing for public use and enjoyment of the same resources. I must say, Mr. President, that after hearing the General Accounting Office report on the current state of the National Park System, the Service needs major assistance in meeting their legislative mandate and they need to improve their accountability as well. I offer the National Park Service Enhancement Act as a way to help the National Park Service to: First, reap the benefits of viable partnerships with the private

sector; second, become more user-friendly; and third, begin the long road back to being the flagship conservation system that was once the envy of the world.

Mr. President, on March 7 of this year, the General Accounting Office testified at a hearing before the Subcommittee on Parks, Historic Preservation and Recreation that the National Park System is in failing health. The addition of numerous new areas to the System, increased visitation, and unfunded mandates have stretched the financial resources of the Service so far that basic visitor services are being cut, infrastructure maintenance is deferred, and accountability is sorely lacking.

In addition, the National Park Service has other problems it cannot solve under existing law. Many park employees live in Government housing that most of us, even those with Spartan tastes, would find unacceptable as decent living quarters. Yet these employees are afraid that if their housing is brought up to standard, their rent will go beyond the range of their ability to pay. Private companies acting as partners with the National Park Service and other land management agencies to provide needed accommodations, facilities and services to park visitors are subject to ridiculous regulation and redtape under existing laws. With this legislation, I propose to correct this problem. Simply put, if we can't afford to take care of the caretakers, how can we hope to take care of the resources under their charge?

The current park admission and special use fee systems need revamping so that fees are fair for all types of visitors, whether they bring their own car into the parks or arrive by commercial bus.

Mr. President, I would like to give a brief outline of provisions of the National Park Service Enhancement Act, which I believe will solve the problems I just described.

Title I of the bill reforms National Park Service concessions policy. It provides clear definitions of concessioners and commercial use contractors and establishes similar procedures for awarding and managing contracts with both types of businesses. An example of how ridiculous the existing system is comes from my home State of Alaska. At Glacier Bay National Park, commercial cruise ships that come into the bay between June and August operate under 100-page concession contracts; the rest of the year they operate under 2-page commercial use licenses. Two sets of paperwork for one kind of service. The problem is further exacerbated from region to region and from park to park. There is no consistency for the issuance of a simple permit. This legislation, when enacted, provides uniformity and user-friendly systems.

In addition, this title will relieve the National Park Service of having to approve a concessioner's rates and charges for every single sales item and service where nearby competition will allow market forces to set a reasonable price. This alone should free National Park Service concessions specialists from spending weeks deciding what a hot dog should cost at Padre Island National Seashore, only to reach a determination that there is no hot dog to compare it to. My bill, when enacted, will correct this sort of overregulation.

Other key provisions in title I include possessory interest, probably the most controversial aspect of concessions reform. Other legislation introduced would do away with possessory interest. As a former banker, I have to wonder what financial institution is going to loan funds to a business for real estate improvements which are not expected to hold their value? What sense does it make to amortize possessory interest so that all assets constructed or improved by concessioners would eventually be owned by the Government? The National Park Service, by its own admission, has billions of dollars in infrastructure maintenance backlog. Why would we want to add to the backlog when everyone on this floor knows the National Park Service cannot afford to maintain what it already has?

On the issue of competition, discussion has focused on the current preferential right of renewal. I feel very strongly that it is in the best interest of both the National Park Service and the visiting public to maintain continuity where existing concessioners have a track record of good service. My bill creates incentive for high quality service by awarding good concessioners with a credit of extra points to apply toward the total points that the Secretary may award proposals submitted by bidders. There is no reason to have turnover for the sake of turnover—continuation of high quality service only makes sense, and it is good business.

The combination of provisions in title I of this bill should result in higher franchise fees offered by bidders because they know that their investment in improvements will not be depreciated to zero for non-tax purposes, and that they will have incentive to provide superior services to the public. Commercial use contractors will be less subject to inconsistent application of Park Service policy and enjoy the benefits of a binding contract, just as concessioners do.

These provisions add up to good business sense for the private sector, the public, and the National Park Service. Ultimately, they will add up to good sense for the U.S. Forest Service, the Bureau of Land Management, and the U.S. Fish and Wildlife Service as they are directed to adopt consistent regulations for substantially similar commercial and non-recreational uses on lands within their jurisdiction.

Title II amends the Land and Water Conservation Fund Act sections relating to admission, recreation, and special use fees. It is only realistic that actual park users shoulder more responsibility for maintaining the national parks and visitor services provided in the parks than those who are not users. This bill raises fees to a reasonable level for the Golden Eagle Passport, the annual park pass, and establishes a uniform per-visit fee at parks that charge admission fees.

Commercial tour use fees will be set solely according to vehicle capacity, without the addition of a per person charge. This flat fee rate relieves the ranger at the gate to Yosemite National Park from holding up a commercial motor coach for 15 minutes in order to see which riders have Golden Age, Access or Eagle Passports exempting them from additional entrance fees. Multipassenger commerical vehicles will no longer be penalized for what should be recognized as an environmentally sound practice—providing a national park experience to many people at one time while using only a single vehicle. The results are less pollution and less congestion in our busier parks.

Reforming National Park Service fee programs will not make the agency self-supporting. That is not the intent of my legislation. However, current admission fees are below what anyone would reasonably expect. Fees should be more uniformly applied across the System and should contribute to offset diminished appropriations. To that end this bill removes many of the prohibitions on collecting admission fees at certain types of National Park System units. If we are to restore the System, everyone must contribute. Exceptions must be extremely limited or eliminated. What is fair is fair for everyone.

Title III of the National Park Service Enhancement Act relates to ski area permits on national forest lands. It would establish a ski area permit fee that returns fair value to the United States. The fee formula outlined in the bill is simple, equitable and consistent, and will simplify the administrative burdens on both the ski area permittees and the Forest Service personnel who administer the permits.

Title IV will make it much more difficult to add units to the National Park System without careful consideration. The National Park System should be a collection of the finest and most fitting examples of our national heritage, maintained accordingly. Dilution of the System by less than suitable sites threatens to bring the National Park System down to the lowest common denominator.

The National Park Service will develop a comprehensive plan to guide the direction of the National Park System into the next century. The plan will include clarification of the Park Service role and mission in preserving our national heritage in concert with other such efforts by Federal, State, and local entities. New criteria for inclusion of areas in the System will be

developed. Topics and themes not represented in the System will be identified and a priority list for representation developed.

I mentioned the need for housing reform earlier. Title V of the bill will give the Secretaries of Interior and Agriculture greater authority to provide housing for their employees, both within and outside of national park boundaries.

For employees at Dry Tortugas National Park, who live for 8 days at a time on a tiny island, the bill will enable the National Park Service to rent housing on the Florida mainland for them to use when they come off the island for their days off. In the past, rangers and other employees were forced to rent motel rooms at tourist season rates or sleep in their cars just to be able to wash their clothes and buy groceries before going back out to their remote duty stations.

Agencies will be able to work with the private sector to construct, develop, rehabilitate, manage, and lease housing for their employees. This proposal has the potential to remove huge financial and administrative burdens from those agencies. In addition, employees will be assured that their rent, as paid to their Government landlords, will not be more than a reasonable percentage of their pay.

Title VI establishes a system for disposition of receipts collected by the National Park Service as admission, recreation, special use, and franchise fees. As allowed now, parks collecting admission and recreation fees may retain amounts equal to their direct costs of collecting such fees to cover those costs. Receipts equal to those currently going into the general Treasury will continue to be deposited there, as well as half the additional receipts. The other 50 percent of additional receipts will go into a newly established National Park Service account in the Treasury, known as the park improvement fund.

Moneys in the park improvement fund will go back to the national parks to take care of operational and project needs. Seventy-five percent of fund receipts collected at a specific park as part of a particular fee program will go back to that park. The remaining 25 percent will be distributed among other parks that may not collect that type of fee. To ensure accountability, parks must submit requests for spending their returned funds for approval by the Secretary of the Interior, who in turn forwards them to Congress for review.

The final title of the bill renews the recently expired authority for the National Park System Advisory Board and charges it with conducting two important studies. Within a year of enactment of this legislation, the advisory board, working in consultation with the National Park Service, must review most units of the National Park System to determine whether greater or equal resource protection and visitor use could be achieved through alternative management of those areas. Additionally, as part of this study, the advisory board will use the organic legislation of the National Park Service and of its units to develop criteria to guide the Congress and the Secretary of Interior in establishing and supporting new additions to the National Park System. The second task of the advisory board is to review existing visitor services at each unit of the National Park System for adequacy and to identify specific park needs for new or additional services.

Mr. President, I offer this legislation as a way to help the National Park Service, other land management agencies, and even Congress to do the right thing. The National Park System is strained to the breaking point by poorly conceived additions. We must reexamine the definition of a worthy unit and ensure that any additions to the System meet the new definition.

We must assist the National Park Service and other agencies in establishing businesslike, and mutually beneficial relationships with partners in the private sector, including park concessioners and others who provide needed commerical services on public lands. Often these agencies operate with a rather one-sided view of what partnership means. A partnership is a two-way street—this legislation takes us down that road.

Mr. President, the National Park Service Enhancement Act is a course correction which will help the National Park Service get back on track in preserving and protecting our national heritage and allowing and encouraging opportunities for people to enjoy that heritage.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section analysis appear in the RECORD.

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

S. 1144

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Park Service Enhancement Act''.

TITLE I—CONCESSION REFORM

SEC. 101. FINDINGS

In addition to the findings and policy stated in Public Law 89–249 (79 Stat. 969; 16 U.S.C. 20–20G), entitled ''An Act relating to the establishment of concession policies in the areas administered by the National Park Service and for other purposes'' (hereinafter referred to as the ''1965 Act''), the Congress finds that—

(1) provisions of accommodations, facilities, and services to the public in units of the National Park Service by concessioners and commercial use contractors, as defined in section 102(a), will be enhanced by revising the existing policies and procedures for soliciting proposals for concession and commercial use contracts, selecting bidders, and evaluating concession and commercial use operations;

(2) such revisions will result in quality accommodations, services and facilities for public use and enjoyment at reasonable rates if there are proper incentives for capital investment in the construction, rehabilitation and maintenance of those facilities and equipment in the national parks which are for the primary use of concessioners operating therein and that such investment should be provided by private funds to the maximum extent practicable; and

(3) encouragement of such private capital investment requires that a concessioner be accorded a compensable possessory interest in such facilities and equipment.

SEC. 102. AMENDMENTS TO THE 1965 ACT

(a) DEFINITIONS.—Section 2 of the 1965 Act (P.L. 89–249 (79 Stat. 969); 16 U.S.C. 20a) is renumbered as section 2, with the following new section inserted before it:

''SEC. 2. As used in this Act,

''(a) 'bidder' means a person, corporation or other entity who has submitted, or may submit, a proposal, whether or not such bidder is also the concessioner or commercial use contractor, respecting the accommodations, facilities or services which are the subject of such proposal;

''(b) 'commercial use contractor' means a person, corporation, or other entity acting under a contract for recurring commercial activities which are generally initiated and terminated outside the park, and are not conducted from permanent facilities within the park: *Provided*, That permanent facilities do not include cabins, tent platforms or other similar structures possessed by commercial use contractors used in connection with guided or outfitted activities;

''(c) 'contract' means a formal, written agreement between the Secretary and the concessioner or commercial use contractor to provide accommodations, facilities, or services at a park;

''(d) 'concessioner' means a person, corporation, or other entity operating from permanent facilities within a park and acting under a contract with the Secretary;

''(e) 'franchise fee' means the fee required by a contract to be paid to the United States, which may be expressed as, but not required to be, a percentage of gross receipts derived therefrom, and which shall be in addition to fees required to be paid to the United States for the use of federally-owned buildings or facilities;

''(f) 'park' means a unit of the National Park System;

''(g) 'proposal' means the complete proposal for a contract offered by a bidder in response to the solicitation for such contract issued by the Secretary;

''(h) 'prospectus' means a document or documents issued by the Secretary and included with a solicitation setting forth the minimum requirements for the award of a contract;

''(i) 'renewal incentive' means a credit of points toward the score awarded by the Secretary to a concessioner or commercial use contractor performing above the satisfactory performance level on such concessioner's commercial use contractor's proposal submitted in response to a solicitation for the renewal of such contract;

''(j) 'Secretary' means the Secretary of the Interior, unless otherwise noted;

''(k) 'selected bidder' means the bidder selected by the Secretary for the award of a concession or commercial use contract until such bidder becomes the concessioner or commercial use contractor under such contract;

''(l) 'solicitation' means a request by the Secretary for proposals in response to a prospectus; and

''(m) 'sound value' means the value of any structure, fixture or improvement, determined upon the basis of reconstruction cost

less depreciation evidenced by its condition and prospective serviceability in comparison with a new unit of like kind, but not to exceed fair market value.''.

(b) Section 3 of the 1965 Act (P.L. 89–249) (79 Stat. 969); 16 U.S.C. 20a) is further amended by striking ''and corporations (hereinafter referred to as 'concessioners')'' and replacing it with '', corporations and other entities.''

(c) Existing section 3(a) is amended by renumbering it as section 4(a) and by striking ''may'' from the first and second sentences and replacing it with ''shall''.

(d) Section 3(b) is renumbered as section 4(b).

(e) RATES AND CHARGES TO THE PUBLIC.—Section 3(c) of the 1965 Act (P.L. 89–249 (79 Stat. 969); 16 U.S.C. 20b(c)) is renumbered as section 4(c) and amended to read as follows:

''(c) In general, rates and charges to the public shall be set by the concessioner or commercial use contractor. A concessioner's or commercial use contractor's rates and charges to the public shall be subject to the approval of the Secretary only in those instances where the Secretary determines that sufficient competition for such facilities and services does not exist within or in close proximity to the park in which the concessioner or commercial use contractor operates. In those instances, the contract shall state that the reasonableness of the concessioner's or commercial use contractor's rates and charges to the public shall be reviewed and approved by the Secretary primarily by comparison with those rates and charges for facilities and services of comparable character under similar conditions, with due consideration for length of season, seasonal variations, average percentage of occupancy, accessibility, availability and costs of labor and materials, type of patronage, and other factors deemed significant by the Secretary.''.

(f) METHOD OF DETERMINING FRANCHISE FEES.—Section 3(d) of the 1965 Act (P.L. 89–249 (79 Stat. 969); 16 U.S.C. 20b(d)) is renumbered as section 4(d) and amended to read as follows:

''(d) Franchise fees, however stated, shall be fixed at the time of commencement of the contract as stated in the selected proposal. The Secretary shall determine the suggested minimum franchise fee in any prospectus in a manner that will provide the concessioner or commercial use contractor with a reasonable opportunity to realize a profit under the contract taken as a whole, commensurate with the capital invested and the obligations assumed. The Secretary may temporarily or permanently reduce franchise fees under a contract if the Secretary determines that such reduction is equitable under the circumstances.''

(g) NEW OR ADDITIONAL SERVICES.—Section 4 of the 1965 Act (P.L. 89–249 (79 Stat. 969); 16 U.S.C. 20c) is renumbered as section 5 and amended by striking '', other than the concessioner holding a preferential rights,'' from the last sentence.

(h) REPEAL OF EXISTING RENEWAL PREFERENCE.—Section 5 of the 1965 Act (P.L. 89–249 (79 Stat. 969); 16 U.S.C. 20d) is repealed: *Provided*, That the renewal of contracts entered into before enactment of this title (including the renewal of expired contracts where the concessioner or commercial use contractor has continued to operate under a temporary extension) shall be subject to such section 5 for the first renewal which becomes effective after the date of enactment of this title.

(i) PROTECTION OF CONCESSIONER'S POSSESSORY INTEREST.—Section 6 of the 1965 Act (P.L. 89–249 (79 Stat. 969); 16 U.S.C. 20e) is amended by:

(1) replacing the fifth sentence with ''Just compensation shall be an amount equal to the sound value of such structure, fixture, or improvement at the time of taking by the United States or expiration of the contract.''; and

(2) striking the last sentence and designating the existing text as subjection (a) and by adding the following subsection (b):

''(b) Not less than twelve months before the expiration of any contract which recognizes a possessory interest, if the amount of compensation shall not have previously been agreed between the Secretary and the concessioner, the concessioner shall submit to the Secretary an independent appraisal of the sound value of the structures, fixtures or improvements in which the concessioner has an investment interest. Such appraisal must be performed by an appraiser with significant experience in the appraisal of assets similar to those valued thereunder, and be conducted and dated as of a date not earlier than eighteen months before the expiration of the concession contract or as of the date of taking, if earlier. In determining the fair market value of any such structure, fixture or improvement which is primarily used for the production of income, such appraiser shall employ the income approach to valuation in a manner consistent with the procedures and assumptions then generally employed for similar income-producing assets by appraisers who are members of the American Institute of Real Estate Appraisers or the Society of Real Estate Appraisers: *Provided*, That such appraisal shall assume a future franchise fee equal to the average annual franchise fee payable by the concessioner during the term of such concessioner's existing contract. With respect to any structure, fixture or improvement which is not primarily used for the production of income, the fair market value shall be equal to the reconstruction cost of such structure, fixture, or improvement, less depreciation evidenced by its condition and prospective serviceability in comparison with a new unit of like kind. Any structures, fixtures, or improvements acquired or constructed after the date of such appraisal in which the concessioner holds an investment interest shall be deemed to have sound values as of the date of such acquisition or construction equal to the concessioner's original cost. The amount to be paid to the concessioner for the concessioner's investment interest on the date of taking by the United States or at the expiration of the contract shall equal the appraised sound value or the concessioner's original cost for newly-constructed or acquired structures, fixtures or improvements, as applicable, increased by the percentage increase in the Consumer Price Index—All Urban Consumers reported by the United States Department of Labor from the month including the date of such appraisal (or the date of construction or acquisition of structures, fixtures or improvements acquired or constructed after the date of such appraisal) to and including the month prior to the date of taking by the United States or expiration of the contract. If the Secretary disagrees with the appraisal submitted by the concessioner, he may present the concessioner with an independent appraisal performed by an appraiser with significant experience in the appraisal of assets similar to those valued thereunder, dated as of the same date as the concessioner's appraisal and prepared in a manner consistent with the manner of preparation of the concessioner's appraisal, as specified above, not less than three months after receipt of the concessioner's appraisal. If the concessioner and the Secretary are unable to agree on the sound value of the concessioner's possessory interest, the Secretary and the concessioner may agree to direct the Secretary's appraiser and the concessioner's appraiser to choose a third appraiser, who shall recommend either the concessioner's appraisal or the Secretary's appraisal as the more accurate appraisal of such sound value to the Secretary. The concessioner shall pay the cost of the concessioner's appraiser and the United States shall pay the cost of the Secretary's appraiser, if any. If a third appraiser is selected as provided above, the cost of such appraiser shall be shared equally by the concessioner and the United States.''.

(j) TECHNICAL AMENDMENTS.—The 1965 Act (P.L. 89–249 (79 Stat. 969); 16 U.S.C. 20) is amended by renumbering existing sections 7 through 9 as sections 11 through 13 accordingly.

(k) COMPETITIVE SELECTION PROCESS, CONTRACTS, AND PERFORMANCE EVALUATION.—The 1965 Act (P.L. 89–249 (79 Stat. 969); 16 U.S.C. 20) is amended by adding a new section 7, 8, 9, and 10 as follows:

''SEC. 7. (a) Except as provided in subsections (b) and (c), and consistent with the provisions of subsection (h), any contract entered in to pursuant to the National Park Service Enhancement Act shall be awarded to the person, corporation or other entity submitting the best proposal as determined by the Secretary, through a competitive selection process. Within 180 days after the date of enactment of the National Park Service Enhancement Act, the Secretary shall promulgate appropriate regulations establishing such process. The regulations shall include provisions for establishing a method or procedure for the resolution of disputes between the Secretary and a concessioner or commercial use contractor in those instances where the Secretary has been unable to meet conditions or requirements or provide such services, if any, as set forth in a prospectus as described below.

''SEC. 7. (b) The provisions in this Act shall be subject to any limitation or special provision contained in the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.). Subject to the provisions of section 1307 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3197), a priority shall be given to commercial use contractors operating cruise ships (defined as motor vessels at or over 6,000 gross tonnage [International Convention System], providing overnight accommodations for all passengers, and operating with itineraries of 3 or more days) who provide tours in Glacier Bay national park which originate in Southeast Alaska.

''(c) Notwithstanding the provisions of subsection (a), the Secretary may award on a noncompetitive basis: (1) a temporary contract for a term of not more than two years if the Secretary determines such an award to be necessary in order to avoid interruption of services to the public at a park or (2) a contract which the Secretary estimates will result in annual gross receipts of no more than $2,000,000, if the Secretary determines that continuity and quality of service, administrative savings, or the lack of potential bidders do not require the solicitation of proposals. Prior to making a determination to award a temporary contract, the Secretary shall take all reasonable and appropriate steps to consider alternative actions to avoid interruption of services.

''(d) Prior to making a solicitation for a contract, other than a contract subject to the provisions of subsection (c) of this section, the Secretary shall prepare a prospectus for such solicitation, shall publish a notice of its availability at least once in such local or national newspapers or trade publications as the Secretary determines appropriate, and shall make such prospectus available upon request to all interested parties. The prospectus shall include, but need not be limited to, the following information: the

suggested minimum requirements for such contract, including the minimum suggested fee, which shall provide the selected bidder with a reasonable opportunity to realize a profit on the selected bidder's operation under the contract; the terms and conditions of the existing contract awarded for such park, if any, including all fees and other forms of compensation provided to the United States by the concessioner or commercial use contractor; other authorized facilities or services which may be included in the proposal; facilities and services to be provided by the Secretary to the concessioner or commercial use contractor, if any, including but not limited to, public access, utilities, and buildings; minimum public services to be offered within a park by the Secretary, including but not limited to, interpretive programs, campsites, and visitor centers; and such other information related to the concession operation or commercial use activity available to the Secretary which is not privileged or otherwise exempt from disclosure under Federal law, as the Secretary determines is necessary to allow for the submission of competitive proposals.

''(e) The Secretary may reject any proposal, notwithstanding the amount of fees offered, even if such proposal meets the minimum requirements established by the Secretary, if he determines that the person, corporation, or entity making such proposal is not qualified, or is likely to provide unsatisfactory services, or that the proposal is not sufficiently responsive to the objectives of protecting and preserving park resources and of providing necessary and appropriate facilities or services to the public at reasonable rates. The Secretary may consider a proposal made by a bidder which fails to meet the suggested minimum requirements included in the prospectus, but shall not award a contract to such a bidder if one or more other proposals have met such minimum requirements unless all such other proposals are rejected. If all proposals submitted are rejected by the Secretary, he shall establish new suggested minimum contract requirements and re-initiate the competitive selection process.

''(f) In selecting the best proposal, the Secretary shall consider the following primary factors: the responsiveness of the proposal to the objectives of protecting and preserving park resources, of providing high quality service to the public, and of providing necessary and appropriate accommodations, facilities and services to the public at reasonable rates; the experience and related background of the bidder, including, but not limited to, such bidder's performance and expertise in providing the same or similar accommodations, facilities or services, in each case taking into account the experience and related background of any entities which are affiliated with the bidder; and the financial capability of the bidder submitting the proposal. The Secretary may also consider such secondary factors as the Secretary deems appropriate, including the proposed franchise fee: Provided, That consideration of revenue to the United States shall be subordinate to the primary factors as set forth above.

''(g) The Secretary shall submit any proposal contract with anticipated annual gross receipts in excess of $5,000,000 or a duration in excess of 10 years to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives. The Secretary shall not ratify any such proposed contract until at least 60 days subsequent to the submission thereof to both Committees.

''(h) To provide proper incentives for concessioners and commercial use contractors to operate in a manner which exceeds the minimum performance requirements of the contract, each concessioner or commercial use contractor who meets the requirements set forth below shall receive an automatic credit of an additional 10% of the maximum points which are available to be awarded by the Secretary to any proposal which is submitted in response to a solicitation for the renewal of such contract or license. In order to receive this renewal incentive, the concessioner or commercial use contractor must have received a performance rating of ''good'' pursuant to section 9(a) for at least fifty percent of the years of the contract term and must not have received an unsatisfactory rating under such contract during any of the five years prior to the renewal thereof. Concessioners and commercial use contractors operating under temporary contract, license or permit extensions granted by the Secretary after expiration of their original contract, license or permit term at the time of enactment of this section shall retain any renewal incentive described above earned under the original contract.

''(i) Notwithstanding the provisions of subsection (h), the Secretary shall grant a preferential right of renewal to a commercial use contractor for a contract which primarily authorizes a such contractor to provide outfitting, guide, river running, or other similar services within a park, and which the Secretary estimates will have annual gross revenues of no more than $1,000,000: *Provided;* That the commercial use contractor has received a performance rating of ''good'' pursuant to section 9(a) for at least fifty percent of the years of the contract term and must not have received an unsatisfactory rating under such contract during the any of the five years prior to the renewal thereof. Commercial use contractors operating under temporary contract, license or permit extensions granted by the Secretary after expiration of their original contract, license or permit term at the time of enactment of this section shall retain any preferential right of renewal described above earned under the original contract.

''SEC. 8. (a) A contract entered into subsequent to enactment of the National Park Service Enhancement Act shall be awarded for a term not to exceed 10 years except that the Secretary may award a contract for a longer term, not to exceed 30 years, if the Secretary determines that it is in the public interest. Where a concessioner or commercial use contractor is required to make substantial investments in structures, fixtures, or improvements in the park, the Secretary shall provide for a contract term that is commensurate with such investments.

''(b) No contract may be transferred, assigned, sold, or otherwise conveyed by a concessioner or commercial use contractor without prior written notification to, and approval of, the Secretary, who shall not unreasonably withhold or delay such approval but shall not approve the transfer, assignment, sale, or conveyance of a contract to any individual, corporation or other entity if the Secretary determines that: (1) such individual, corporation or entity is, or is likely to be, unable to completely satisfy all of the requirements, terms, and conditions of the contract or (2) such transfer, assignment, sale, or conveyance is not consistent with the objectives of protecting and preserving park resources, providing high quality service to the public, and of providing necessary and appropriate facilities or services to the public at reasonable rates. If the Secretary decides to approve a transfer, assignment, sale, or other conveyance of a contract with gross receipts for the most recently completed calendar year in excess of $5,000,000, or with a remaining term in excess of 10 years, he shall notify the Committee on Energy and Natural Resources of the United States Senate and Committee of Resources of the House of Representatives of the request, including, but not limited to, the names of the parties involved in the request. The approval by the Secretary shall not take effect until 60 days subsequent to the notification of both Committees.

''(c) A successor concessioner or commercial use contractor to whom a contract has been transferred, assignee, sold or conveyed shall be entitled to the benefit of any ''good'' ratings received by the prior concessioner or commercial use contractor during the term of the contract.

''SEC. 9. (a) Within 180 days after the date of enactment of the National Park Service Enhancement Act, the Secretary shall publish regulations establishing reasonable general standards and criteria for evaluating the performance of a concessioner or commercial use contractor on its overall operation under a contract which shall provide for rating of ''unsatisfactory'', '''satisfactory'', and ''good''. The evaluation regulations shall address both operational performance and contract compliance and shall identify both positive and negative aspects of the operation. The standards and criteria for a good rating shall require a level of performance which clearly exceeds the minimum requirements under the contract but which is reasonably attainable by a competent concessioner of commercial use contractor based upon the nature of such concessioner's or commercial use contractor's operation. Prior to entering into a contract, the Secretary and selected bidder will jointly develop rating criteria and standards for each rating under the contract, consistent with such regulations, against which the concessioner or commercial use contractor will be evaluated annually.

''(b) The Secretary shall annually conduct an evaluation of each concessioner and commercial use contractor or commercial use contractor and shall assign an overall rating for each concessioner or commercial use contractor for each year. The procedure for any performance evaluation shall be provided in advance to each concessioner and commercial use contractor, and each shall be entitled to a complete explanation of any rating given. If the Secretary's performance evaluation for any year results in an unsatisfactory rating of the concessioner or commercial use contractor, the Secretary shall so notify the concessioner or commercial use contractor in writing, and shall provide the concessioner or commercial use contractor with a list of the minimum requirements necessary to receive a rating of satisfactory. The Secretary may terminate a contract if the concessioner or commercial use contractor fails to correct and meet the minimum requirements identified by the Secretary within the limitations established by the Secretary at the time notice of the unsatisfactory rating is provided to the concessioner or commercial use contractor. If the Secretary terminates a contract pursuant to this section, the outgoing concessioner may be required to pay for costs incurred by the Secretary associated with prospectus development and bidder proposal evaluation, as well as the difference between the new contract's franchise fee and that paid by the outgoing concessioner, if the new franchise fee is lower.

''(c) The Secretary shall notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives of each unsatisfactory rating and of each contract terminated pursuant to this section.

''SEC. 10. Notwithstanding any other provision of law, each contract awarded by the Department of the Interior for concessioner or

commercial use contractor-provided visitor services performed in whole or in part of a State which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor shall include a provision requiring the concessioner or commercial use contractor to employ, for the purpose of performing that portion of the contract in such State this is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills.''

SEC. 103. ISSUANCE OF CONTRACTS AND NONRECURRING COMMERCIAL/NONRECREATIONAL USE PERMITS BY OTHER LAND MANAGEMENT AGENCIES.

Within two years of the date of enactment of this title, and to the extent practicable, the Secretary of the Interior and Secretary of Agriculture shall adopt procedures consistent with those established by this title for the National Park Service for issuing contracts and nonrecurring commercial/nonrecreational use permits as described herein for substantially similar services and activities taking place on federal lands managed by the United States Forest Service, Bureau of Land Management, and United States Fish and Wildlife Service.

TITLE II—NATIONAL PARK FEES

SEC. 201. FEES.

(a) ADMISSION FEES.—Section 4(a) of the Land and Water Conservation Fund Act of 1965 (P.L. 88–578; 16 U.S.C. 4601–6a(a)), is further amended as follows:

(1) By deleting ''fee-free travel areas'' and ''lifetime admission permit'' from the title of this section.

(2) In the first sentence of paragraph (1)(a)(I), by striking ''$25'' and inserting ''$50''.

(3) By inserting at the end of clause (ii) of paragraph (1)(A) the following: ''Such receipts shall be made available, subject to appropriation, for authorized resource protection, rehabilitation and conservation projects as provided for by subsection (I), including projects to be carried out by the Public Land Corps or any other conservation corps pursuant to the Youth Conservation Corps Act of 1970 (16 U.S.C. 1701 and following), or other related programs or authorities, on lands administered by the Secretary of the interior and the Secretary of Agriculture.''.

(4) In paragraph (a)(1)(B), by striking ''$15'' and inserting ''$25''.

(5) In paragraph (a)(2), by striking the fifth and sixth sentences, and by amending the fourth sentence to read as follows: ''The fee for a single-visit permit at any designated area shall be not more than $6 per person.''.

(6) In paragraph (a)(3), by inserting the word ''Great'' in the third sentence before ''Smoky'', and by striking the last sentence.

(7) In paragraph (a)(4), by striking the second sentence in its entirety and inserting in lieu thereof, ''Such permit shall be nontransferable, shall be issued for a one-time charge of $10, and shall entitle the permittee to free admission into any area designated pursuant to this subsection.''.

(8) In paragraph (a)(4), by amending the third sentence to read as follows: ''No fees of any kind shall be collected from any persons who have a right of access for hunting or fishing privileges under a specific provision of law or treaty or who are engaged in the conduct of official Federal, State, or local government business.''.

(9) In paragraph (a)(5), by striking it in its entirety and insert in lieu thereof: ''The Secretary of the Interior and the Secretary of Agriculture shall establish procedures providing for the issuance of a lifetime admission permit to any citizen of, or person legally domiciled in, the United States, if such citizen or person applies for such permit and is permanently disabled. Such procedures shall assure that such permit shall be issued only to persons who have been medically determined to be permanently disabled. Such permit shall be nontransferable, shall be issued without charge, and shall entitle the permittee and one accompanying individual to general admission into any area designated pursuant to this subsection, notwithstanding the method of travel.''.

(10) In paragraph (a)(6)(A), by striking the paragraph in its entirety and inserting in lieu thereof: ''No later than 18 months after the enactment date of this sentence, the Secretary of the Interior shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the House of Representatives a report on the admission fees proposed to be charged at units of the National Park System. The report shall include a list of units of the National Park System and the admission fee proposed to be charged at each unit. The Secretary of the Interior shall also identify areas where such fees are authorized but not collected, including an explanation of the reasons that such fees are not collected.''.

(11) By striking paragraph (a)(9) in its entirety and by renumbering current paragraph (10) as ''(9)''.

(12) In paragraph (a)(11), by striking all but the last sentence and renumbering it as ''(a)(10)''.

(13) By renumbering paragraph (a)(12) as ''(a)(11)''.

(b) RECREATION FEES.—Section 4(b) of the Land and Water Conservation Fund Act of 1965 (P.L. 88–578; 16 U.S.C. 460*l*–6a(b)), as amended, is further amended as follows:

(1) By striking ''fees for Golden Age Passport permittees'' from the title;

(2) By striking ''personal collection of the fee by an employee or agent of the Federal agency operating the facility,'';

(3) By striking ''Any Golden Age Passport permittee, or'' and insert in lieu thereof ''Any''.

(c) CRITERIA, POSTING AND UNIFORMITY OF FEES.—Section 4(d) of the Land and Water Conservation Fund Act of 1965 (P.L. 88–578; 16 U.S.C. 4601–6a(d)) is amended by deleting from the first sentence, ''recreation fees charged by non-Federal public agencies,'' and inserting in lieu thereof ''fees charged by other public and private entities,''.

(d) PENALTY.—Section 4(e) of the Land and Water Conservation Fund Act of 1965 (P.L. 88–578; 16 U.S.C. 4601–6a(e)) is amended by deleting ''of not more than $100.'' and inserting in lieu thereof, ''as provided by law.''.

(e) TECHNICAL AMENDMENTS.—Section 4(h) of the Land and Water Conservation Fund Act of 1965 (P.L. 88–578; 16 U.S.C. 4601–6a(h)), as amended, is further amended—

(1) by striking ''Bureau of Outdoor Recreation'' and inserting in lieu thereof, ''National Park Service''

(2) by striking ''Natural'' in ''Committee on Natural Resources of the House of Representatives''; and

(3) by striking ''Bureau'' and inserting in lieu thereof, ''National Park Service''.

(f) TIME OF REIMBURSEMENT.—Section 4(k) of the Land and Water Conservation Fund Act of 1965 (P.L. 88–578; 16 U.S.C. 4601–6a(k)) is amended by striking the last sentence in its entirety.

(g) CHARGES FOR TRANSPORTATION PROVIDED BY THE NATIONAL PARK SERVICE.—Section 4(*l*)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–6a(1)) is amended by striking the word ''viewing'' from the section title and inserting in lieu thereof ''visiting'', and by striking the word ''view'' from the first sentence of subparagraph (1) and inserting ''visit'' in lieu thereof.

(h) COMMERCIAL TOUR USE FEES.—Section 4(n) of the Land and Water Conservation Fund Act of 1965 (P.L. 88–578; 16 U.S.C. 4601–6a(n)), as amended, is further amended—

(1) by striking the first sentence of subsection (n)(1) and inserting ''In the case of each unit of the National Park System for which an admission fee is charged under this section, the Secretary of the Interior shall establish, by October 1, 1995, a commercial tour use fee in lieu of a per person admission fee to be imposed on each vehicle entering the unit for the purpose of providing commercial tour services within the unit.''.

(2) by striking the period at the end of subsection (n)(3) and inserting ''with written notification of such adjustments provided to commercial tour operators twelve months in advance of implementation.''.

(i) FEES FOR SPECIAL USES.—Section 4 of the Land and Water Conservation Fund Act of 1965 (P.L. 88–578; 16 U.S.C. 4601–6a)), as amended, is further amended by adding the following at the end thereof:

''(o) FEES FOR COMMERCIAL/NON-RECREATIONAL USES.—Using the criteria established in section 4(d) (16 U.S.C. 4601–6a(d)), the Secretary of the Interior shall establish reasonable fees for non-recurring commercial or non-recreational uses of National Park System units that require special arrangements, including permits. At a minimum, such fees will cover all costs of providing necessary services associated with such use, except that at the Secretary's discretion, the Secretary may waive or reduce such fees in the case of any organization using an area within the National Park System for activities which further the goals of the National Park Service. Receipts equal to the cost of providing the necessary services associated with such use may be retained at the park unit in which the use takes place, and remain available to cover such costs.''.

(j) CONFORMING AMENDMENTS.—The following Public Laws shall be amended as described below—

(1) Section 3 of Public Law 70–805 (45 Stat. 1300), as amended, is further amended by striking the last sentence;

(2) Section 5(e) of Public Law 87–657 (76 Stat. 540; 16 U.S.C. 459c–5), as amended, is hereby repealed;

(3) Section 3(b) of Public Law 87–750 (76 Stat. 747; 16 U.S.C. 398e(b)) is hereby repealed;

(4) Section 4(e) of Public Law 92–589 (86 Stat. 1299; 16 U.S.C. 460bb–3), as amended, is further amended by striking the first sentence;

(5) Section 6(j) of Public Law 95–348 (92 Stat. 487) is hereby repealed;

(6) Section 207 of Public Law 96–199 (94 Stat. 77) is hereby repealed;

(7) Section 106 of Public Law 96–287 (94 Stat. 600) is amended by striking the last sentence;

(8) Section 5 of Public Law 96–428 (94 Stat. 1843) is hereby repealed;

(9) Section 204 of Public Law 96–287 (94 Stat. 601) is amended by striking the last sentence; and

(10) Public Law 100–55 (101 Stat. 371) is hereby repealed.

SEC. 202. CHALLENGE COST-SHARE AGREEMENTS.

The Secretary of the Interior is authorized to negotiate and enter into challenge cost-share agreements with any Stat or local government, public or private agency, organization, institution, corporation, individual, or other entity for the purpose of sharing costs or services in carrying out any authorized

functions and responsibilities of the Secretary with respect to any unit of the National Park System (as defined in section 2(a) of the Act of August 8, 1953 (16 U.S.C. 1c(a)), any affiliated area, or designated National Scenic or Historic Trail.

SEC. 203. COST RECOVERY FOR DAMAGE TO NATIONAL PARK RESOURCES.

Public Law 101–337 is amended as follows:

(1) In section 1 (16 U.S.C. 19jj), by amending subsection (d) to read as follows:

''(d) 'Park system resource' means any living or nonliving resource that is located within the boundaries of a unit of the National Park System, except for resources owned by a non-Federal entity.''.

(2) In section 1 (16 U.S.C. 19jj), by adding at the end thereof the following:

''(g) 'Marine or aquatic park system resource' means any living or non-living resource that is located within or is a living part of a marine or aquatic regimen within the boundaries of a unit of the National Park System, except for resources owned by a non-Federal entity.'.

(3) In section 2(b) (16 U.S.C. 19jj–1(b)), by striking ''any park'' and inserting in lieu thereof ''any marine or aquatic park''.

TITLE III—SKI AREA PERMITS ON NATIONAL FOREST SYSTEM LANDS

SEC. 301. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) Although ski areas occupy less than one-twentieth of one percent of National Forest System lands nationwide, in many rural areas of the United States, ski areas and investments by ski area permittees on National Forest System lands form the backbone of the local economy and a preponderance of the employment base.

(2) Ski area operations and their attendant communities provide revenues to the United States in the form of permit fees, income taxes, and other revenues which are extremely significant in proportion to the limited Federal acreage and Forest Service administration and contractual obligations required to support such operations.

(3) In addition to alpine skiing, many ski area permittees provide multiseason facilities and enhanced access to National Forest System lands, that result in greater public use and enjoyment of such lands than would otherwise occur;

(4) Unlike many other private sector users of Federal Lands, ski areas in almost all cases assume the risk to finance, construct, maintain, and market all recreational facilities and improvements on such lands.

(5) Many ski areas on National Forest System lands operate in an extremely competitive environment with similar facilities located on private or State lands, which requires ski area permittees to maintain a high level of capital investment to upgrade existing facilities and install new facilities (such as lifts, trails, snowmaking and trail grooming equipment, restaurants, and day care centers) to serve the public.

(6) Despite an outward appearance of economic well-being resulting from an intensive capital infrastructure, many ski area operations are marginally profitable due to the competition and capital investments referred to in paragraph (5), weather conditions, insurance premiums, the national economy, and other factors beyond the control of the ski area permittee.

(7) Because of the contributions of ski areas to the economies of the United States and the rural communities in which they are located, and the enhanced use and enjoyment of National Forest System lands resulting from ski areas, it is in the national interest for the United States, where consistent with national forest management objectives, to take actions to promote the long-term economic health and stability of ski areas and associated communities.

(8) The National Forest Ski Area Permit Act of 1986 (U.S.C. 497b) has been of assistance to ski area operations on National Forest System lands by providing longer term lease tenure and contractual stability to ski area permittees, but further adjustments and policy direction and warranted to address problems related to permit fees and fee calculations and conflicts with certain mineral activities.

(b) PURPOSE.—In light of the findings of subsection (a), it is the purpose of this title—

(1) To legislate a ski area permit fee that returns fair market value to the United States and at the same time—

(A) provides ski area permittees and the United States with a simplified, consistent, predictable, and equitable fee formula that is commensurate with long-term planning, financing, and operational needs of ski areas; and

(B) simplifies bookkeeping and other administrative burdens on ski area permittees and Forest Service personnel; and

(2) to prevent future conflicts between ski area operations and mining and mineral leasing programs by withdrawing lands within ski area permit boundaries from the operation of mining and mineral leasing laws.

SEC. 302. SKI AREA PERMIT FEES AND WITHDRAWAL OF SKI AREAS FROM OPERATION OF MINING LAWS.

The National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b) is amended by adding at the end the following new sections:

''SEC. 4. SKI AREA PERMIT FEES.

''(a) SKI AREA PERMIT FEE.—After the date of enactment of this section, the fee for all ski area permits on National Forest System lands shall be calculated, charged, and paid only as set forth in subsection (b) in order to—

''(1) return fair market value to the United States and provide ski area permittees and the United States with a simplified, consistent, predictable, and equitable permit fee;

''(2) simplify administrative, bookkeeping, and other requirements currently imposed on the Secretary of Agriculture and ski area permittees on national forest lands; and

''(3) save costs associated with the calculation of ski area permit fees.

''(b) METHOD OF CALCULATION.—

''(1) DETERMINATION OF ADJUSTED GROSS REVENUE SUBJECT TO FEE.—The Secretary of Agriculture shall calculate the ski area permit fee (SAPF) to be charged a ski area permittee by first determining the permittee's adjusted gross revenue (AGR) to be subject to the permit fee. The permittee's adjusted gross revenue (AGR) is equal to the sum of the following:

''(A) The permittee's adjusted gross revenues from alpine lift ticket and alpine season pass sales plus revenue from alpine ski school operations (LTA+SSA), with such total multiplied by the permittee's slope transport feet percentage (STFP) on National Forest System lands.

''(B) The permittee's adjusted gross revenues from Nordic ski use pass sales and Nordic ski school operations (LTN+SSN), with such total multiplied by the permittee's percentage (NR) of Nordic trails on National Forest System lands.

''(C) The permittee's gross revenues from ancillary facilities (GRAF) physically located on National Forest System lands, including all permittee or subpermittee lodging, food service, rental shops, parking, and other ancillary operations.

''(2) DEPICTION OF FORMULA.—Utilizing the abbreviations indicated in paragraph (1), the calculation of the adjusted gross revenue (AGR) of a ski area permittee is illustrated by the following formula:

''AGR=((LTA+SSA)STFP)+((LTN+SSN)NR) +GRAF

''(3) DETERMINATION OF SKI AREA PERMIT FEE.—The Secretary shall determine the ski area permit fee (SAPF) to be charged a ski area permittee by multiplying adjusted gross revenue determined under paragraph (1) for the permittee by the following percentages for each revenue bracket and adding the total for each revenue bracket:

''(A) 1.5 percent of all adjusted gross revenue below $3,000,000.

''(B) 2.5 percent of all adjusted gross revenue between $3,000,000 and $15,000,000.

''(C) 2.75 percent for adjusted gross revenue between $15,000,000 and $50,000,000.

''(D) 4.0 percent for the amount of adjusted gross revenue that exceeds $50,000,000.

''(4) SLOPE TRANSPORT FEET PERCENTAGE.—In cases where ski areas are only partially located on National Forest System lands, the slope transport feet percentage on national forest land referred to in paragraph (1) is hereby determined to most accurately reflect the percent of an alpine ski area permittee's total skier service capacity which is located on National Forest System land. It shall be calculated as generally described in the Forest Service Manual in effect as of January 1, 1992.

''(5) ANNUAL ADJUSTMENT OF ADJUSTED GROSS REVENUE.—In order to insure that the ski area permit fee set forth in this subsection remains fair and equitable to both the United States and ski area permittees, the Secretary shall adjust, on an annual basis, the adjusted gross revenue figures for each revenue bracket in subparagraphs (A) through (D) of paragraph (3) by the percent increase or decrease in the national Consumer Price Index for the preceding calendar year.

''(c) MINIMUM RENTAL FEE.—In cases where an area of National Forest System land is under a ski area permit but the permittee does not have revenue or sales qualifying for fee payment pursuant to subsection (a), the permittee shall pay an annual minimum rental fee of $2 for each acre of National Forest System land under permit. Rental fees imposed under this subsection shall be paid at the time specified in subsection (d).

''(d) TIME FOR PAYMENT.—Unless otherwise mutually agreed to by the ski area permittee and the Secretary, the ski area permit set forth in subsection (b) shall be paid by the permittee by August 31 of each year and cover all applicable revenues received during the 12-month period ending on June 30 of that year. To simplify bookkeeping and fee calculation burdens on the permittee and the Forest Service, the Secretary shall no later than March 15 of each year provide each ski area permittee with a standardized form and worksheets (including annual fee calculation brackets and rates) to be used for fee calculation and submitted with the fee payment.

''(e) EXCLUSION OF REVENUE OBTAINED OUTSIDE OF NATIONAL FOREST LANDS.—Under no circumstances shall ski area permittee revenue or subpermittee revenue (other than lift ticket, area use pass, or ski school sales) obtained from operations physically located on non-national forest land be included in the ski area permit fee calculation.

''(f) DEFINITIONS.—To simplify bookkeeping and administrative burdens on ski area permittees and the Forest Service, as used in this section, the terms ''revenue'' and ''sales'' shall mean actual income from sales. Such terms shall not include sales of operating equipment, refunds, rent paid to the permittee by sublessees, sponsor contributions to special events or any amounts attributable to employee gratuities, discounts, complimentary lift tickets, or other goods or services (except for bartered goods) for which the permittee does not receive money.

''(g) EFFECTIVE DATE FOR FEES.—The ski area permit fees required by this section shall become effective on July 1, 1995 and cover receipts retroactive to July 1, 1994. If a ski area permittee has paid fees for the 12-month period ending on June 30, 1995, under the graduated rate fee system formula in effect prior to the date of the enactment of this section, such fees shall be credited toward the new ski area permit fee due for that period under this section.

''(h) TRANSITIONAL SKI AREA PERMIT FEES.—

''(1) DETERMINATION OF AVERAGE FEES.—In order to minimize in any one year the effect of converting individual ski areas from the fee system in existence on the date of enactment of this section to the ski area permit fee required by subsection (a), each ski area permittee subject to the new fee shall determine the permittee's average existing fees (AEF) for each year of the three-year period ending on June 30, 1994, and the permittee's proforma average ski area permit fee (ASF) under subsection (a) for each year of that period. Both (AEF) and (ASF) shall be determined by adding together the fee payment made by the ski area or the estimated payment that would have been paid under subsection (a) for each year of that period and dividing by three.

''(2) DETERMINATION OF TRANSITIONAL FEES.—To calculate the ski area permit fee required by subsection (a) for each year in the five-year period ending on June 30, 1999, the Secretary of Agriculture shall divide the ski area permit fee required by subsection (a) by the ASF and then multiply by the AEF. The resulting fee shall be called the Adjusted Base Fee (ABF). After June 30, 1999, all ski areas will pay the ski area permit fee required by subsection (a) without regard to previous fees or rates paid.

''(3) EFFECT OF LOW ABF.—Should the ABF be less than the ski area permit fee required by subsection (a), the ski area permittee shall pay the lesser of the fee required by subsection (a) or the ABF, which shall be adjusted by multiplying the ABF by—

''(A) 1.1 for the fee required to be paid by August 31, 1995;

''(B) 1.2 for the fee required to be paid by August 31, 1996;

''(C) 1.3 for the fee required to be paid by August 31, 1997;

''(D) 1.4 for the fee required to be paid by August 31, 1998; and

''(E) 1.5 for the fee required to be paid by August 31, 1999.

''(4) EFFECT OF HIGH ABF.—Should the ABF be greater than the ski area permit fee required by subsection (a), the ski area permittee shall pay the greater of the fee required by subsection (a) or the ABF, which shall be adjusted by multiplying the ABF by—

''(A) 0.9 for the fee required to be paid by August 31, 1995;

''(B) 0.8 for the fee required to be paid by August 31, 1996;

''(C) 0.7 for the fee required to be paid by August 31, 1997;

''(D) 0.6 for the fee required to be paid by August 31, 1998; and

''(E) 0.5 for the fee required to be paid by August 31, 1999.

''SEC. 5. WITHDRAWAL OF SKI AREAS FROM OPERATION OF MINING LAWS.

''Subject to valid existing rights, all lands located within the boundaries of ski area permits issued prior to, on, or after the date of enactment of this section pursuant to the authority of the Act of March 4, 1915 (16 U.S.C. 497), the Act of June 4, 1897 (16 U.S.C. 473 et seq.), or section 3 of this Act are hereby and henceforth automatically withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments to such laws. Such withdrawal shall continue for the full term of the permit and any modification, reissuance, or renewal of the permit. Such withdrawal shall be canceled automatically upon expiration or other termination of the permit. Upon cancellation of the withdrawal, the land shall be automatically restored to all appropriation not otherwise restricted under the public land laws.''

SEC. 303. STUDY OF SKI AREAS FOR POTENTIAL SALE.

The Secretary of Agriculture shall conduct a study of ski areas on National Forest System lands to determine the feasibility and suitability of selling all or a portion of such lands to the current permittees or other interested parties. The study shall determine and identify whether any continuing need for Federal retention of such lands exists. It shall identify the cost savings and revenues to the Federal government which might accrue as a result of such sales as well as other benefits which might result from the disposal of such lands. In addition, the study shall identify criteria which should be used in considering the sale of such assets. The Secretary shall complete the study within one year from the date of enactment of this title and shall transmit a report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives.

TITLE IV—NATIONAL PARK SYSTEM REFORM

SEC. 401. PREPARATION OF NATIONAL PARK SYSTEM PLAN.

(a) PREPARATION OF PLAN.—The Secretary of the Interior (hereinafter in this title referred to as the ''Secretary''), acting through the Director of the National Park Service, and in consultation with the National Park System Advisory Board, shall prepare a National Park System Plan (hereinafter in this title referred to as the ''plan'') to guide the direction of the National Park System into the next century. The plan shall include each of the following:

(1) Detailed criteria to be used in determining which natural and cultural resources are appropriate for inclusion as units of the National Park System.

(2) Identification of what constitutes adequate representation of a particular resource type and which aspects of the national heritage are adequately represented in the existing National Park System or in other protected areas.

(3) Identification of appropriate aspects of the national heritage not currently represented in the National Park System.

(4) Priorities of the themes and types of resources which should be added to the National Park System in order to provide more complete representation of our Nation's heritage.

(5) A statement of the role of the National Park Service with respect to such topics as preservation of natural areas and ecosystems, preservation of industrial America, preservation of non-physical cultural resources, and provision of outdoor recreation opportunities.

(6) A statement of what areas constitute units of the National Park System and the distinction between units of the system, affiliated areas, and other areas within the system.

(b) CONSULTATION.—During the preparation of the plan under subsection (a), the Secretary shall consult with other Federal land management agencies, State and local officials, the National Park System Advisory Board, resource management, recreation and scholarly organizations and other interested parties as the Secretary deems advisable. These consultations shall also include appropriate opportunities for public review and comment. The plan shall take into consideration the results and recommendations in the management systems report conducted by the National Park System Advisory Board as provided in section 702(a) of this Act.

(c) TRANSMITTAL TO CONGRESS.—Prior to the end of the second complete fiscal year commencing after the date of enactment of this title, the Secretary shall transmit the plan developed under this section to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the House of Representatives.

SEC. 402. STUDY OF THE NEW PARK SYSTEM AREAS.

Section 8 of the Act of August 18, 1970, entitled ''An Act to improve the Administration of the National Park System by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes'' (P.L. 91–383, 84 Stat. 825; 16 U.S.C. 1a–1 and following) as amended, is further amended as follows:

(1) By inserting ''GENERAL AUTHORITY.—'' after ''(a)''.

(2) By striking the second through the sixth sentences of subsection (a).

(3) By striking ''Natural'' from ''Committee on Natural Resources of the United States House of Representatives'' in the eighth sentence.

(4) By redesignating the last two sentences of subsection (a) as subsection (e) and inserting in such sentence before the words ''For the purpose of carrying'' the following:

''(e) AUTHORIZATION OF APPROPRIATIONS.—''.

(5) By inserting the following after subsection (a):

''(b) STUDIES OF AREAS FOR POTENTIAL ADDITION.—(1) At the beginning of each calendar year, the Secretary shall submit to the Committee on Energy and Natural Resources of the United Senate and the Committee on Resources of the House of Representatives a list of areas recommended for study for potential inclusion in the National Park System.

''(2) In developing the list to be submitted under this subsection, the Secretary shall give consideration to those areas that have the greatest potential to meet the established criteria of national significance, suitability, and feasibility. The Secretary shall give special consideration to themes, sites, and resources not already adequately represented in the National Park System as identified in the National Park System Plan to be developed under title IV, section 401 of the National Park Service Enhancement Act. No study of the potential of an area for inclusion in the National Park System may be initiated after the date of enactment of this section, except as provided by specific authorization of an Act of Congress. Nothing in this Act shall limit the authority of the National Park Service to conduct preliminary resource assessments, gather data on potential study areas, provide technical and planning assistance, prepare or process nominations for administrative designations, update previous studies, or complete reconnaissance surveys of individual areas requiring a total expenditure of less than $25,000. Nothing in this section shall be construed to apply to or affect or alter the study of any river segment for potential addition to the national wild and scenic rivers system or to apply to or to affect or alter the study of any trail for potential addition to the national trails system.

''(c) REPORT.—The Secretary shall complete the study for each area for potential inclusion into the National Park System within three complete fiscal years following the date of enactment of specific legislation providing for the study of such area. Each study under this section shall be prepared with appropriate opportunity for public involvement, including at least one public meeting in the vicinity of the area under study, and reasonable efforts to notify potentially affected landowners and State and local governments. In conducting the study, the Secretary shall consider whether the area under study—

''(1) possesses nationally significant natural or cultural resources, or outstanding recreational opportunities, and that it represents one of the most important examples of a particular resource type in the country; and

''(2) is a suitable and feasible addition to the system; and

''(3) what the additional fiscal and personnel costs will be if the area were added to the system.

''Each study shall consider the following factors with regard to the area being studied: the rarity and integrity; whether similar resources are already protected in the National Park System or in other Federal, state or private ownership; the public use potential; the interpretive and educational potential; costs associated with acquisition, development and operation; the socioeconomic impacts of any designation; the level of local and general public support; and whether the unit is of appropriate configuration to ensure long term resource protection and visitor use. Each study shall also consider whether direct National Park Service management or alternative protection by other agencies or the private sector is appropriate for the area. Each such study shall identify what alternative or combination of alternatives would, in the professional judgment of the Director of the National Park Service, be most effective and efficient in protecting significant resources and providing for public enjoyment. The letter transmitting each completed study to Congress shall contain a recommendation regarding the Administration's preferred management option for the area and detail the fiscal and personnel costs if the preferred option is federal management.

''(d) LIST OF AREAS.—At the beginning of each calendar year, along with the annual budget submission, the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the House of Representatives a list of areas which have been previously studied which contain primarily cultural or historical resources and a list of areas which have been previously studied which contain primarily natural resources in numerical order of priority for addition to the National Park System. In developing the list, the Secretary should consider threats to resource values, cost escalation factors, and other factors listed in subsection (c) of this section.''.

TITLE V—LAND MANAGEMENT AGENCY HOUSING

SECTION 501. DEFINITIONS.

As used in this title, the term—

(1) ''public lands'' means Federal lands administrated by the Secretary of the Interior or the Secretary of Agriculture;

(2) ''Secretaries'' means the Secretary of the Interior and the Secretary of Agriculture;

(3) ''housing'' means residential housing available for rent or lease to Federal employees in or near a park or public lands and its associated infrastructure; and

(4) ''employee'' means an employee of the Federal government and their families who by necessity reside in or near a park or public lands for the purposes of the management of those lands, including temporary and seasonal employees and volunteers.

SEC. 502. EMPLOYEE HOUSING.

(a) AUTHORITY.—(1) To promote the recruitment and retention of qualified personnel necessary for the effective management of public lands, the Secretaries are authorized to—

(A) make employee housing available, subject to the limitation set forth in paragraph (2), on or off public lands, and

(B) rent or lease such housing to employees of the respective Department at a reasonable value.

(2)(A) Housing made available to employees on public lands shall be limited to those areas designated fir administrative use.

(B) No private lands or interests therein outside of the boundaries of Federally administered areas may be acquired by any means for the purposes of this title except with the consent of the owner thereof.

(b) DEFINITIONS.—The Secretaries shall provide such housing in accordance with this title and section 5911 of Title 5, United States Code, except that for the purposes of this title, the term—

(1) ''availability of quarters'' (as used in this title and subsection (b) of section 5911) means the existence, within thirty miles of the employee's duty station, of well-constructed and maintained housing suitable to the individual and family needs of the employee, for which the rental rate as a percentage of the employee's annual gross income does not exceed the most recent Census Bureau American Housing Survey median monthly housing cost for renters inclusive of utilities, as a percentage of current income, whether paid as part of rent or paid directly to a third party;

(2) ''contract'' (as used in this title and subsection (b) of section 5911) includes, but is not limited to, ''Build-to-Lease'', ''Rental Guarantee'', ''Joint Development'', or other lease agreements entered into by the Secretary, on or off public lands, for the purposes of sub-leasing to Departmental employees; and

(3) ''reasonable value'' (as used in this title and subsection (c) of section 5911) means the lease rental rate comparable to private rental rates for comparable housing facilities and associated amenities: *Provided*, That the base rental rate as a percentage of the employee's annual gross income shall not exceed the most recent American Housing Survey median monthly housing cost for renters inclusive of utilities, as a percentage of current income, whether paid as part of rent or paid directly to a third party.

(c) Subject to appropriation, the Secretaries may enter into contracts and agreements with public and private entities to provide housing on or off public lands.

(d) The Secretaries may enter into cooperative agreements or joint ventures with local governmental and private entities, either on or off public lands, to provide appropriate and necessary utility and other infrastructure facilities in support of employee housing facilities provided under this Act.

SEC. 503. SURVEY OF RENTAL QUARTERS.

The Secretaries shall conduct a survey of the availability of quarters at field units under each Secretary's jurisdiction at least every five years. If such survey indicates that government owned or suitable privately-owned quarters are not available as defined in section 502(b)(1) of this title for the personnel assigned to a specific duty station, the Secretaries are authorized to provide suitable quarters in accordance with the provisions of this title. For the purposes of this section, the term ''suitable quarters'' means well-constructed, maintained housing suitable to the individual and family needs of the employee.

SEC. 504. SECONDARY QUARTERS.

(a) If the Secretary of the Interior or the Secretary of Agriculture determines that secondary quarters for employees who are permanently duty stationed at remote locations and are regularly required to relocate for temporary periods are necessary for the effective administration of an area under the jurisdiction of the respective agency, such secondary quarters are authorized to be made available to employees, either on or off public lands, in accordance with the provisions of this title.

(b) Rental rates for such secondary facilities shall be established so that the aggregate rental rate paid by an employee for both primary and secondary quarters as a percentage of the employee's annual gross income shall not exceed the Census Bureau American Housing Survey median monthly housing cost for renters inclusive of utilities as a percentage of current income, whether paid as part of rent or paid directly to a third party.

SEC. 505. SURVEY OF EXISTING FACILITIES.

(a) HOUSING SURVEY.—Within two years after the date of enactment of this title, the Secretaries shall survey all existing government-owned employee housing facilities under the jurisdiction of the Department of the Interior and the Department of Agriculture, to assess the physical condition of such housing and the suitability of such housing for the effective prosecution of the agency mission. The Secretaries shall develop an agency-wide priority listing, by structure, identifying those units in greatest need of repair, rehabilitation, replacement or initial construction, as appropriate. The survey and priority listing study shall be transmitted to the Committees on Appropriations and Energy and Natural Resources of the United States Senate and the Committees on Appropriations and Resources of the United States House of Representatives.

(b) PRIORITY LISTING.—Unless otherwise provided by law, expenditure of any funds appropriated for construction, repair or rehabilitation shall follow, in sequential order, the priority listing established by each agency. Funding available from other sources for employee housing repair may be distributed as determined by the Secretaries.

SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $3,000,000 each year for fiscal years 1996 through 2001 for the purposes of this title.

TITLE VI—DISPOSITION OF FEES

SEC. 601. SPECIAL ACCOUNT.

A special account is hereby established in the Treasury of the United States that shall be called the Park Improvement Fund (hereinafter referred to in this title as ''the fund'').

SEC. 702. COVERING OF FEES INTO PARK IMPROVEMENT FUND.

Notwithstanding section 4(i) of the Land and Water Conservation Fund Act of 1965 (P.L. 88–578; 16 U.S.C. 460*l*–6a(i)), beginning in fiscal year 1996 and in each fiscal year thereafter, fifty percent of all revenues received by the Federal government in excess of the amount that would have been received in 1995 without enactment of this Act from franchise fees, admission, special recreation, commercial tour use, and commercial/nonrecreational use fees shall be covered into the fund; however, the Secretary of the Interior may withhold from the fund such portion of all receipts collected from fees imposed by titles I and II of this Act in such fiscal year as the Secretary determines to be

equal to the fee collection costs for the immediately preceding fiscal year: *Provided,* That such costs shall not exceed 15 percent of all receipts collected from fees imposed under titles I and II of this Act in such immediately preceding fiscal year.

SEC. 603. ALLOCATION AND USE FEES.

(a) ALLOCATION.—Notwithstanding section 4(j) of the Land and Water Conservation Fund Act of 1965 (P.O. 88–578; 16 U.S.C. 460*l*–6a(j)), receipts in the fund from the previous fiscal year shall be available to the Secretary without further appropriation and shall be allocated as follows: each fiscal year, beginning in 1997, seventy-five percent of the total receipts deposited in the fund for the previous fiscal year from each unit of the National Park System collecting franchise, admission, special recreation, commercial tour use or commercial/non-recreational use fees shall be available for expenditure only by that unit. The remaining receipts in the fund may be allocated among units of the National Park System, including those not collecting such fees, as determined by the Secretary.

(b) USE.—Expenditures from the fund shall be used solely for infrastructure and operational needs by units of the National Park System. By January 1 of each year, the Secretary shall provide to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the House of Representatives a list of proposed expenditures from the fund for each unit for that fiscal year and a report detailing expenditures, by unit, for the previous fiscal year.

TITLE VII—NATIONAL PARK SYSTEM ADVISORY BOARD

SEC. 701. NATIONAL PARK SYSTEM ADVISORY BOARD.

Section 3 of the Act of August 21, 1935 (49 Stat. 667; 16 U.S.C. 463) is amended as follows:

(1) In section 3(a) by striking the first three sentences and inserting in lieu thereof, ''There is hereby established a National Park System Advisory Board, whose purpose shall be to advise the Secretary on all matters pertaining to the National Park System. The Board shall advise the Secretary on matters submitted to the Board by the Secretary as well as any other issues identified by the Board. The National Park System Advisory Board, appointed by the Secretary for a term not to exceed four years, shall be comprised of no more than nine persons from among citizens of the United States having a demonstrated commitment to the National Park System. Board members shall be selected to represent various geographic regions, including each of the seven administrative regions of the National Park Service, and to ensure that the Board contains expertise in natural or cultural resource management, recreation use management, land use planning, financial management, and business management. The Board shall include one individual who is a locally elected official representing an area adjacent to a national park system unit, and one individual who owns land inside the boundary of a national park system unit. The Board shall hold its first meeting by no later than the date that is 30 days after the date on which all members of the Advisory Board who are to be appointed have been appointed. Any vacancy in the Board shall not affect its powers, but shall be filled in the same manner in which the original appointment was made. The Board may adopt such rules as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel. All members of the Board shall be reimbursed for travel and per diem in lieu of subsistence expenses during the performance of duties of the Board while away from home or their regular place of business, in accordance with chapter 1 of chapter 57 of title 5, United States Code. With the exception of travel and per diem as noted above, a member of the Board who is otherwise an officer or employee of the United States Government shall serve on the Board without additional compensation.''.

(2) By renumbering section 3(b) as 3(f) and by striking from the first sentence thereof, ''1995'' and inserting in lieu thereof, ''2006''.

(3) By renumbering section 3(c) as 3(g).

(4) By adding the following new sections 3(b) through (e):

''SEC. 3. (b)(1) Subject to such rules and regulations as may be adopted by the Board, the Board shall have the power to—

''(A) appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision of law, relating to the number, classification, and General Schedule rates) of an Executive Director of the Advisory Board and of such other personnel as the Board deems advisable to assist in the performance of the duties of the Board, at rates not to exceed a rate equal to the maximum rate of GS–18 of the General Schedule under section 5332 of such title; and

''(B) procure, as authorized by section 3109 of title 5, United States Code, temporary and intermittent services to the same extent as is authorized by law for agencies in the executive branch, but at rates not to exceed the daily equivalent of the maximum annual rate of basic pay in effect for grade GS–18 of such General Schedule.

''(2) Service of an individual as a member of the Board shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Board, or as an employee of the Board, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, United States Code, or comparable provisions of Federal law.

''(c)(1) The Board is authorized to—

''(A) hold such hearings and sit and act at such times,

''(B) take such testimony,

''(C) have such printing and binding done,

''(D) enter into such contracts and other arrangements,

''(E) make such expenditures, and

''(F) take such other actions,

as the Board may deem advisable. Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board.

''(2) The Board is authorized to establish task forces which include individuals appointed by the Board who are not members of the Board only for the purpose of gathering information on specific subjects identified by the Board as requiring the knowledge and expertise of such individuals. Any task force established by the Board shall be chaired by a voting member of the Board who shall preside at any task force hearing authorized by the Board. No compensation may be paid to members of a task force solely for their service on the task force, but the Board may authorize the reimbursement of members of a task force for travel and per diem in lieu of subsistence expenses during the performance of duties while away from the home, or regular place of business, of the member, in accordance with subchapter 1 of chapter 57 of title 5, United States Code. The Board shall not authorize the appointment of personnel to act as staff for the task force, but may permit the use of Board staff and resources by a task force for the purpose of compiling data and information.

''(d) The provisions of the Federal Advisory Committee Act shall not apply to the Board established under this section.

''(e)(1) The Board is authorized to secure directly from any office, department, agency, establishment, or instrumentality of the Federal Government such information as the Board may require for the purpose of this section, and each such officer, department, agency, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics directly to the Board, upon request made by a member of the Board.

''(2) Upon the request of the Board, the head of any Federal department, agency, or instrumentality is authorized to make any of the facilities and services of such department, agency, or instrumentality available to the Board and detail any of the personnel of such department, agency, or instrumentality to the Board, on a nonreimbursable basis, to assist the Board in carrying out its duties under this section.

''(3) The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.''

SEC. 702. ADVISORY BOARD STUDIES.

(a) MANAGEMENT SYSTEM STUDY.—(1) The Advisory Board, in consultation with the National Park Service, shall conduct a review of each unit of the National Park System, except for those units designated as national parks, to determine whether there are management alternatives that would result in equal or better levels of resource protection, interpretation, and visitor access, use, and enjoyment. The Advisory Board shall review the organic legislation, and history of the National Park Service and its units and shall develop criteria to guide the Congress and the Secretary in the addition of new units to the National Park System. The Advisory Board shall complete its review within one year from the date of enactment of this title and shall transmit its report and recommendations to the Secretary, the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives.

(b) VISITOR SERVICES STUDY.—The Advisory Board, in consultation with the National Park Service, shall conduct an analysis and evaluation of the current conditions and future needs of each unit of the National Park System for adequate visitor service programs. Such analysis and evaluation shall include, but not be limited to, the adequacy of information, education, and concession-provided services, and shall identify those units of the National Park System where new or additional services should be provided. The Advisory Board shall complete its evaluation within one year from the date of enactment of this title and shall transmit its report to the Secretary, the Committee on Energy and Natural Resources of the United States Senate, and the Committee on Resources of the United States House of Representatives.

(c) CONCESSION OVERSIGHT.—The National Park System Advisory Board shall periodically monitor the performance evaluation process as conducted annually by the Secretary for concessioners and commercial use

contractors for effectiveness and objectivity and summarize their findings in an annual report to the Secretary, the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives.

SEC. 703. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the National Park System Advisory Board $700,000 per year to carry out the provisions of this title, in addition to $275,000 for the preparation of the management systems study referred to in section 702(a) of this title and $275,000 for preparation of the visitor services study referred to in section 702(b) of this title.

NATIONAL PARK SERVICE ENHANCEMENT ACT—SECTION-BY-SECTION ANALYSIS

TITLE I—NATIONAL PARK CONCESSIONS REFORM

Section 101 sets forth Congressional findings.

Section 102 amends sections of Public Law 89–249 (79 Stat. 969; 16 U.S.C. 20–20g), entitled ''An Act relating to the establishment of concession policies administered in the areas administered by the National Park Service and for other purposes''.

Subsection (a) renumbers section 2 of the 1965 Act as section 3 and inserts a new section 2 into the 1965 Act which defines terms used in the Act.

Subsection (b) amends section 3 to conform with the definitions in the previous subsection.

Subsection (c) renumbers existing subsection 3(a) as 4(a) and directs the Secretary of the Interior to include certain terms and conditions in contracts.

Subsection (d) renumbers existing subsection 3(b) as 4(b).

Subsection (e) renumbers existing subsection 3(c) as 4(c) and amends it to allow concessioners and commercial use contractors to set their own rates and charges to the public in national parks where sufficient competition for provided facilities and services exists either within or near the park in which the concessioner or commercial use contractor operates. If the Secretary determines that such competition does not exist, the contract will include the mechanism included in the existing law that rates and charges will be compared to those for the nearest comparable facilities and services.

Subsection (f) renumbers existing subsection 3(d) as 4(d) and amends it to fix the franchise fees at the amount stated in the selected proposal at the commencement of the contract and authorizes the Secretary to reduce the franchise fee during the contract term if deemed necessary. The suggested minimum franchise fee will be included by the Secretary in the bid solicitation prospectus, as indicated in subsection 102(k).

Subsection (g) renumbers existing section 4 as section 5 and removes the reference to the renewal preference under prior law which is deleted from this title.

Subsection (h) repeals existing section 5 of the 1965 Act, thereby eliminating preferential right of renewal with the exception of contracts entered into prior to enactment of this title.

Subsection (i) amends section 6 by removing the definition of ''sound value'' as redundant with new text, requires that compensation be paid based on sound value, deletes the last sentence, designates the existing text of the section as subsection (a) and adds a subsection (b). The new subsection outlines the process for determining the value of the concessioner's possessor interest if the value of such interest was not previously agreed upon by the concessioner and the Secretary. The concessioner is directed to submit an independent appraisal of the sound value of the structures, fixtures, or improvements in which the concessioner has an investment interest. If the Secretary disagrees with the appraisal submitted by the concessioner, he may present the concessioner with an independent appraisal. For the concessioner's income-producing structures, fixture, or improvement, the method to be used by the concessioner's appraiser and the Secretary's appraiser, when necessary, shall be the income approach to valuation as is generally used by real estate appraisers; for any structure, fixture or improvement not primarily used for the production of income, the fair market value is calculated as reconstruction cost less depreciation to tie it to the sound value definition, since an income approach is not applicable. If in disagreement over the sound value, the Secretary and the concessioner may direct their appraisers to choose a third appraiser, who will recommend to the Secretary one of the two appraisals as the more accurate. A CPI adjustment is made to cover the period between the date of the appraisal and the date of payment.

Subsection (j) renumbers sections 7 through 9 as sections 11 through 13, respectively.

Subsection (k) adds four new sections, numbered 7 through 10. The new section 7 establishes the selection process for concessioners and commercial use contractors.

Section 7(a) states that a contract shall be awarded to the bidder submitting the best proposal as determined by the Secretary, through a competitive selection process. The Secretary is required to develop regulations establishing the selection process as well as a dispute resolution process where the Secretary has been unable to meet certain conditions or requirements.

Subsection (b) preserves the provisions of the Alaska National Interest Lands Conservation Act (ANILCA), such as those granting preference to Native Corporations and locals for the provision of commercial visitor services in National Park System units in Alaska, and states that subject to rights of operation guaranteed by Section 1307 of ANILCA, a priority shall be given to commercial use contractors operating cruise ships who provide tours in Glacier Bay National Park which originate in Southeast Alaska.

Subsection (c) authorizes the Secretary to award small and temporary contracts noncompetitively.

Subsection (d) outlines the steps used by the Secretary to distribute a prospectus and lists the minimum information to be included in such prospectus, including the minimum suggested franchise fee.

Subsection (e) authorizes the Secretary to consider a proposal which does not meet the suggested minimum requirements but requires that certain conditions be met for the Secretary to award a contract to a bidder submitting such a proposal. The Secretary is authorized to reject proposals which meet the requirements if it is determined that the bidder is not qualified, or is likely to provide unsatisfactory services. If all proposals are rejected, the Secretary must establish new minimum suggested requirements and reinitiate the competitive selection process.

Subsection (f) outlines primary factors for the Secretary's consideration in selecting the best proposal. The proposed franchise fee shall be considered a secondary factor in selecting a bidder.

Subsection (g) requires Congressional notification for any proposed contract over 10 years in length or with projected annual gross receipts greater than $5 million.

Subsection (h) establishes a renewal incentive for concessioners and commercial use contractors who receive performance evaluations, as conducted annually by the Secretary, exceeding the satisfactory level for at least 50% of the years of the contract's terms. Under these provisions, such renewal incentive consists of an automatic credit of an additional 10% of the maximum points that the Secretary may award to a proposal submitted for renewal for a contract.

Subsection (i) provides a preferential right of renewal for commercial use contractors for contracts which primarily provide outfitting, guide, river running, or other similar services and which are expected to produce gross revenues of no more than $1,000,000. In order to receive this preferential right of renewal, such commercial use contractors must receive performance evaluations, as conducted annually by the Secretary, exceeding the satisfactory level for at least 50% of the years of the contract's term, with no unsatisfactory ratings received for any of the five years prior to contract renewal.

The new section 8 relates to length and transferability of contracts. Subsection 8(a) establishes the basic contract term as ten years but authorizes longer terms if the Secretary finds it to be in the public interest. For concessioners required to make substantial investments in structure, fixtures and improvements in a park, the Secretary is required to award a contract term commensurate with the investments made.

Subsection (b) describes the Secretary's reasonable right to approve transfers of contracts, based on the competence and financial capability of the transferee. Congressional notification is required for certain transfers.

Subsection (c) states that in cases of transfer or other contract conveyance, successor concessioners and commercial use contractors are entitled to any ''good'' performance ratings received by the prior holder of the contract.

The new section 9 establishes an annual performance appraisal system for concessioners and commercial use contractors. Subsection 9(a) directs the Secretary to publish regulations for developing reasonable general standards and criteria for evaluating concessioners and commercial use contractors. Performance categories will consist of ''unsatisfactory'', ''satisfactory'', and ''good''. The Secretary and selected bidder will jointly develop specific rating criteria and standards for the contract prior to finalizing the contract.

Subsection (b) directs the Secretary to conduct annual performance evaluations. The Secretary must provide concessioners or commercial use contractors receiving unsatisfactory ratings with written notification, including requirements for improving performance. Contracts may be terminated by the Secretary if a concessioner or commercial use contractor fails to improve performance to the satisfactory level. Should a contract be terminated for continued poor performance, the outgoing concessioner may be required to pay for the cost to the Secretary for a new bid solicitation and evaluation, plus the difference between the old and new franchise fees, if the new fee is lower.

Subsection (c) requires Congressional notification by the Secretary for each unsatisfactory rating and each terminated contract.

The new section 10 directs the Secretary to include local hiring preference provisions in contracts to provide visitor services in noncontiguous states which have unemployment rates exceeding the national average.

Section 103 states that within two years of enacting this title, the Secretaries of Agriculture and the Interior will establish uniform procedures for issuing contracts and nonrecurring commercial/non-recreational use permits for substantially similar activities on Federal lands managed by the U.S.

Forest Service, U.S. Fish and Wildlife Service and Bureau of Land Management which are consistent with this title.

TITLE II—NATIONAL PARK FEES

Section 201 amends the Land and Water Conservation Fund Act of 1965 (P.L. 88–578; 16 U.S.C. 460*l*) to make several modifications to the fee program.

Subsection (a) amends Section 4(a) of the LWCF Act relating to admission fees.

Subparagraph (1) deletes ''fee-free travel areas'' and ''lifetime admission permit'' from the section title as they were previously stricken from the text.

Subparagraph (2) increases the maximum cost the Golden Eagle Passport from $25 to $50;.

Subparagraph (3) authorizes the use of Golden Eagle Passport receipts for authorized protection, rehabilitation, and conservation projects and notes authorization for their use by the Youth Conservation Corps and others.

Subparagraph (4) increases the maximum cost of an annual pass for entry into a single park from $15 to $25;

Subparagraph (5) sets a maximum entrance fee into a park at $6 per person, instead of the present system of charging on a per car basis;

Subparagraph (6) corrects the name of Great Smoky Mountains National Park and removes the prohibition on collection entrance fees at urban units of the National Park System that provide significant outdoor recreational opportunities and have multiple access points.

Subparagraph (7) limits use of the Golden Age Passport, which allows a person 62 years of age or older lifetime free admission into all parks, to the passport holder only, instead of allowing free admission for all persons accompanying the passport holder in a non-commercial vehicle.

Subparagraph (8) prohibits collection of fees from persons with right of access for fishing and hunting privileges under a specific law or treaty or who are engaged in official Federal, State, or local government business.

Subparagraph (9) limits coverage under the Golden Access Passport for the disabled to the individual and one companion, regardless of method of travel.

Subparagraph (10) directs the Secretary to provide to Congress within 18 months after enactment a report outlining the changes to be implemented.

Subparagraph (11) deletes (a)(9), which states specific areas where fees will not be charged. This provides an opportunity to review those areas for possible collection of fees, but does not guarantee that fees will be established.

Subparagraph (12) deletes that portion of (a)(11) which established special rates for Grand Teton, Yellowstone, and Grand Canyon National Parks.

Subparagraph (13) renumbers remaining sections accordingly.

Subsection (b) amends section 4(b) of the LWCF Act to remove personal collection of fees by an employee or agent of the Federal agency from the list of criteria used in determining whether a fee can be charged at a campground, and removes the 50% discount in use fees for those 62 and over, but retains that discount for the disabled.

Subsection (c) amends section 4(d) of the LWCF Act to include comparable recreation fees charged by other public and private entities in the list of criteria for setting recreation fees at Federally managed areas.

Subsection (d) amends section 4(e) of the LWCF Act to change the $100 cap on fines to comply with the Criminal Fine Improvement Act of 1987 (P.L. 100–185), which established maximum fine levels for all Federal petty offenses.

Subsection (e) amends section 4(h) of the LWCF Act to change committee and bureau names to reflect current titles and conditions.

Subsection (f) amends section 4(k) of the LWCF Act to clarify that the non-Federal sale of Golden Eagle Passports may be conducted on a consignment basis.

Subsection (g) amends section 4(*l*) of the LWCF Act by changing the term ''viewing'' to ''visiting''.

Subsection (h) amends section 4(n) of the LWCF Act by directing the Secretary to establish a per vehicle admission fee, based on vehicle occupancy, in lieu of a per person charge for commercial tours and by requiring the Secretary to notify commercial tour operators of changes in the per vehicle fee one year in advance.

Subsection (i) amends section 4 of the LWCF Act to add a new subsection (o). The subsection directs the Secretary to establish reasonable fees for uses of park areas that require special arrangements, such as the filming of movies of television shows. The fee shall at least cover the costs of providing necessary services associated with such use, and the amount covering such costs will remain in the park where such use occurs. The Secretary may reduce or waive the fee for organizations whose activities further the goals of the National Park Service.

Subsection (j) amends a number of Public Laws to lift prohibitions on admission fees at the following units of the National Park System: War in the Pacific National Historical Park; Virgin Islands National Park; Golden Gate National Recreation Area; Statute of Liberty National Monument; Martin Luther King National Historic Site; Point Reyes National Seashore; Biscayne National Park; Dry Tortugas National Park; Channel Islands National Park; and Mount Rushmore National Memorial.

Section 202 authorizes the Secretary to negotiate and enter into challenge cost-share agreements.

Section 203 amends Public Law 101–337, the National Park System Resource Protection Act, to provide for cost recovery for damages at additional units of the National Park System. Public Law 101–337 limited recovery for such damages to marine resources. As amended by section 203, that Act would allow for cost recovery for damages to any living or non-living resource within any park unit.

TITLE III—SKI AREA PERMITS ON NATIONAL FOREST LANDS

Section 301 sets forth Congressional findings and purpose. The purpose of the title is to legislate a ski area permit fee that returns fair market value to the United States and to prevent future conflicts between ski area operations and mining and mineral leasing programs.

Section 302 amends the National Forest Ski Area Permit Act of 1986 (P.L. 99–522, 100 Stat. 3000; 16 U.S.C. 497b) by adding the following new sections as described below.

Section 4(a), as added to Public Law 99–522, states that ski area permit fees shall be calculated, charged, and paid as described in subsection (b) in order to return fair market value to the United States, provide ski area permittees with a simplified, consistent, predictable and equitable permit fee, simplify administrative, bookkeeping and other requirements currently imposed on the Secretary of Agriculture (''Secretary'' in this title) and ski area permittees, and to save costs associated with the calculation of ski area permit fees.

Subsection (b), as added to Public Law 99–522, outlines the method of calculating the ski area permit fee.

Subparagraph (b)(1) directs the Secretary to calculate the ski area permit fee by first determining the permittee's adjusted gross revenue (AGR) to be subject to the fee. The adjusted gross revenue is equal to the sum of the following: The permittee's gross revenues from alpine lift tickets and alpine season pass sales plus alpine ski school operations (LTA+SSA), which are multiplied by the permittee's slope transport fee percentage (STFP) on National Forest System lands where a ski area is partially on federal land and partially on private land. To that, add the sum of gross revenues from Nordic ski use pass sales and Nordic ski school operations (LTN+SSN), which have been multiplied by the percentage of the Nordic trails on National Forest System lands where operations are partially on federal land and partially on private land. To that total, add the permittee's gross revenues from ancillary facilities (GRAF) physically located on National Forest System lands.

Subparagraph (b)(2) uses the previous abbreviations to depict the formula as follows: AGR=((LTA+SSA) x STFP)+((LTN+SSN) x NR)+GRAF.

Subparagraph (b)(3) directs the Secretary to determine the ski area permit fee (SAPF) to be charged a ski area permittee by multiplying the adjusted gross revenue (AGR) as determined above, by percentages based on the ranges in which the AGR falls and by adding the total for each revenue range.

Subparagraph (b)(4) outlines the procedure for calculating the fee for ski areas that are only partially located on National Forest System lands.

Subparagraph (b)(5) directs the Secretary to annually adjust the adjusted gross revenue figures for each revenue bracket by the percent increase or decrease in the national Consumer Price Index for the preceding calendar year.

Subsection (c), as added to Public Law 99–522, states that in cases where an area of National Forest System land is under a ski area permit, but the permittee does not have revenue or sales qualifying for fee payment as outlined above, the permittee shall pay an annual rental fee of $2 for each acre of National Forest System land under permit. Payment shall be made in accordance with the following subsection.

Subsection (d), as added to Public Law 99–522, states that unless otherwise arranged with the Secretary, the ski area permittee shall pay the permit fee by August 31 of each year and cover all applicable revenues received during the 12-month period ending on June 30 of that year. The Secretary is directed to provide each ski area permittee with a standardized form, worksheets, and annual fee calculation brackets and rates.

Subsection (e), as added to Public Law 99–522, excludes ski area permittee or subpermittee revenue generated by operations not located on National Forest System lands from the permit fee calculation.

Subsection (f), as added to Public Law 99–522, defines ''revenue'' and ''sales'' as actual income from sales, excluding sales of operating equipment, refunds, rent paid by sublessees, sponsor contributions, or any amounts attributable to employee gratuities, discounts, complimentary lift tickets, or other goods or services (except for bartered goods) for which the permittee does not receive money.

Subsection (g), as added to Public Law 99–522, establishes July 1, 1995 as the effective date for ski area permit fees as described by this section, to cover receipts retroactive to July 1, 1994. If a ski area permittee has paid fees for the period ending June 30, 1995 under the prior graduated rate fee system formula, such fees will be credited toward the new permit fee due for that period under this section.

Subsection (h), as added to Public Law 99–522, describes transitional ski area permit fees.

Subparagraph (h)(1) states that to minimize the effect of converting individual ski areas from the existing fee system to the one described in this title, each permittee subject to the new fee shall determine their average existing fees (AEF) for each year of the three-year period ending on June 30, 1994, and the permittee's proforma average ski area permit fee (ASF) under subparagraph (a) for each of the three years. Both shall be determined by adding the fee payment made by the ski area or the estimated payment that would have been made under subparagraph (a) for each year of that period and dividing by three.

Subparagraph (h)(2) states that to calculate the ski area permit fee required by subparagraph (a) for each year in the five-year period ending on June 30, 1999, the Secretary shall divide the ski area permit fee required by subparagraph (a) by the ASF and then multiply by the AEF. The resulting fee is called the Adjusted Base Fee (ABF). After June 30, 1999, permittees shall pay the permit fee required by subparagraph (a) without regard to previous fees or rates paid.

Subparagraph (h)(3) states that if the ABF is less than the ski area permit fee required by subparagraph (a), the permittee shall pay the lesser of the fee required by subparagraph (a) or the ABF as adjusted using provided multipliers ranging from 1.1 to 1.5.

Subparagraph (h)(4) states that if the ABF is greater than the fee required by subparagraph (a) or the ABF as adjusted using provided multipliers ranging from 0.5 to 0.9.

Section 5, as added to Public Law 99–522, withdraws all lands located within the boundaries of ski area permits from all forms of appropriation under the mining laws and from disposition under laws pertaining to mineral and geothermal leasing. Withdrawal continues for the full term of the permit, as well as reissuance and renewal. Termination or expiration of the permit shall cancel such withdrawal and restore the land to all appropriation not otherwise restricted under other public land laws.

Section 303 directs the Secretary of Agriculture to conduct a study of ski areas on National Forest System lands to determine the feasibility and suitability of selling all or a portion of such lands to permittees or other interested parties. The study is to include a determination and identification of continuing need for Federal retention of such lands, cost savings, revenues, and other benefits from their sale or disposal, and criteria to be used if the sale of such lands is considered. The Secretary is directed to provide a report to the Senate Committee on Energy and Natural Resources and House Committee on Resources within one year of enactment of this title.

TITLE IV—NATIONAL PARK SYSTEM REFORM

Section 401 describes the preparation of a National Park System Plan (the ''plan'' as referred to in this title).

Subsection (a) directs the Secretary of the Interior (''Secretary'' in this title) to prepare a National Park System Plan to guide the future direction of the National Park System (''System'' as referred to in this title). The plan shall include the following: (1) detailed criteria to determine which natural and cultural resources are appropriate for inclusion as units in the System; (2) identification of what constitutes adequate representation of a particular resource type and which aspects of the national heritage are adequately represented as System units or other protected areas; (3) identification of aspects of the national heritage not represented in the system; (4) priorities of themes and resources which would provide more complete representation of the national heritage if added to the System; (5) a statement of the role of the National Park Service in preserving natural and cultural resources and providing outdoor recreation opportunities; and (6) a statement of what areas constitute units of the National Park System and a distinction between such units, affiliated areas, and other areas within the System.

Subsection (b) directs the Secretary to consult with other Federal agencies, State and local officials, the National Park System Advisory Board, resource management, recreation and scholarly organization and other interested parties as deemed appropriate by the Secretary in preparing the plan, and to include appropriate opportunities for public review and comment.

Subsection (c) directs the Secretary to transmit the plan to the Senate Committee on Energy and Natural Resources and the House Committee on Resources prior to the end of the second complete fiscal year after enactment of this title.

Section 402 amends Public Law 91–383 (16 U.S.C. 1a–1 and following), ''An Act to improve the Administration of the National Park System by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes'' (the ''1970 Act'' as referred to in this title) by modifying existing subsections (a) and (b) and adding new sections (c) through (e).

Subparagraph (1) inserts the heading ''GENERAL AUTHORITY'' after (a).

Subparagraph (2) strikes the second through sixth sentences of subsection (8)(a) of the 1970 Act regarding reports made to Congress by the Secretary on new area studies.

Subparagraph (3) corrects the name of the Committee on Resources of the United States House of Representatives.

Subparagraph (4) redesignates the last two sentences of subsection (a) and (e) and provides a heading, ''AUTHORIZATION OF APPROPRIATIONS'' for (e).

Subparagraph (4) strikes subsection (8)(b) of the 1970 Act and replaces it. New subsection (8)(b) directs the Secretary to submit annually to the Senate Committee on Energy and Natural Resources and the Committee on Resources of the House a list of areas recommended for study for potential inclusion in the System. The subsection further directs the Secretary to give consideration to areas meeting established criteria of national significance, suitability, and feasibility and to themes, sites, and resources not already represented in the National Park System, as noted in section 401 of this Act. Following enactment of this title, studies of potential areas to be included in the System must be authorized by Congress. The National Park Service will retain authority to conduct preliminary assessments, gather data on potential study areas, provide technical and planning assistance, prepare or process nominations for administrative designations, update previous studies, or complete reconnaissance surveys of individuals requiring a total expenditure of less than $25,000. This subsection does not apply to or affect studies on potential additions to the wild and scenic rivers system or the national trails system.

New subsection (8)(c) requires the Secretary to complete each new area study authorized by Congress within three fiscal years of authorization. Public involvement is required during preparation of each study. The Secretary is directed to consider an area's national significance of resources or outstanding recreational opportunities, suitability, feasibility, and costs to administer such an area if added to the System. Additional considerations include: rarity and integrity; existing representation in the System or protection by other agencies or entities; public use, educational, and interpretive potential; acquisition, development and operational costs; socioeconomic impact of any designation; level of public support; and appropriate configuration to ensure long term protection and enjoyment. Each study will also consider whether such area should be managed by the National Park Service or another agency or entity, with a recommendation for protecting resources and providing public use of the area. Each study transmitted to Congress shall include the Administration's preferred management option and projected fiscal and personnel costs if managed by the Federal government.

New subsection (8)(d) directs the Secretary to submit annually to the Senate Committee on Energy and Natural Resources and the House Resources Committee two prioritized lists of areas previously studied, one for areas with primarily natural resources, and one with primarily cultural resources, for possible addition to the National Park System. The Secretary is directed to consider threats to resource values, cost escalation factors and those listed in subsection (c) in developing the lists.

TITLE V—LAND MANAGEMENT AGENCY HOUSING

Section 501 defines certain terms used in the bill.

Section 502(a)(1) authorizes the Secretary of the Interior and the Secretary of Agriculture (the ''Secretaries'') to make employee housing available, subject to the limitations in set forth in paragraph (2) on or off public lands (defined as lands administered by either Secretary), and to rent or lease such housing to employees of the respective Department at a reasonable value.

Paragraph (a)(2) provides that housing made available on public lands shall be limited to those areas designated for administrative use and that no private lands or interests therein outside the boundaries of Federally administered areas may be acquired for the purposes of this title without the consent of the owner.

Subsection (b) directs the Secretaries to provide such housing in accordance with this title and section 5911 of Title 5, United States Code, except that the terms ''availability of quarters,'' ''contract,'' and ''reasonable value'' shall have the meanings set forth in this subsection. Significantly, ''reasonable value'' is defined to mean the base rental rate comparable to private rental rates for comparable housing facilities and associated amenities, so long as the rate (as a percentage of the employee's annual gross income) shall not exceed the median monthly housing cost for renters as a percentage of current income, listed in the Census Bureau's American Housing Survey.

Subsection (c) authorizes the Secretaries, subject to appropriation, to enter into contracts and agreements with public and private entities to provide employee housing on or off public lands.

Subsection (d) permits the Secretaries to enter into cooperative agreements or joint ventures with local governmental and private entities, on or off public lands, to provide appropriate and necessary utility and other infrastructure facilities in support of employee housing.

Section 503 directs the Secretaries to conduct a survey of the availability of quarters at field units under each Secretary's jurisdiction at least every five years. If such survey indicates that government-owned or suitable privately-owned quarters are not available (as that term is defined in section

502(b)(1) for the personnel assigned to a specific duty station, the Secretaries are authorized to provide suitable quarters in accordance with the provisions of this title.

As used in this section, the term ''fields units'' includes administrative units that are located in national parks, national wildlife refuges, national forest districts, BLM resource areas, and other similar field areas. Specifically excluded from the definition are central offices, such as Washington, D.C. headquarters offices and regional and state offices.

Section 504(a) authorizes the Secretaries to make secondary quarters available to employees who are permanently stationed at remote locations and are regularly required to relocate for temporary periods (such as at Channel Islands National Park or Dry Tortugas National Park).

Subsection (b) states that rental rates for such secondary facilities shall be established so that the aggregate rental rate paid by the employee for both primary and secondary quarters as a percentage of the employee's annual gross income shall not exceed the median monthly housing cost for renters as a percentage of current income, listed in the Census Bureau's American Housing Survey.

Section 505(a) requires the Secretaries, within two years after the date of enactment of this title, to survey all existing government-owned employee housing facilities under the jurisdiction of the Department of the Interior and the Department of Agriculture to assess the physical condition of such housing and the suitability of such housing for the effective prosecution of the agency mission. The Secretaries are required to develop an agency-wide priority listing, by structure, identifying those units in greatest need for repair, rehabilitation, replacement or initial construction. The survey is to be transmitted to the appropriate Congressional Committees.

Subsection (b) provides that expenditures of any funds appropriated for construction, repair or rehabilitation shall follow in sequential order the priority listing established in subsection (a), unless otherwise provided by law.

Section 506 authorizes $3,000,000 each year for fiscal years 1996–2001.

TITLE VI—DISPOSITION OF FEES

Section 601 establishes a special account in the Treasury called the Park Improvement Fund (''the fund'' as used in this title).

Section 602 states that beginning in fiscal year 1996 and in each following fiscal year, 50% of all revenues received by the Federal government over the amount that would have been received in 1995 without enactment of this Act from franchise fees, admission, special recreation, commercial tour use, and commercial/non-recreation use fees shall be covered into the fund. The Secretary of the Interior (''Secretary'' as used in this title) is authorized to withhold from the fund the portion of fees equal to fee collection costs for the previous fiscal year, not to exceed 15% of the total fees collected in accordance with title I and II of this Act.

Section 603(a) states that receipts in the fund from the previous fiscal year shall be available to the Secretary without further appropriation. The allocation is a 75/25% split, with 75% of the total receipts deposited from each unit of the National Park System collecting the types of fees noted above made available to that unit for expenditure. The remaining 25% may be allocated among all units of the National Park System, including those not collecting such fees.

Subsection (b) states that fund expenditures shall only be for infrastructure and operational needs of units of the National Park System, and directs the Secretary to compile a list of proposed expenditures from the fund for each unit that fiscal year by January 1 of each year. Such list and a report of expenditures for the previous fiscal year, by unit, shall be provided to the Senate Committee on Energy and Natural Resources and the House Committee on Resources.

TITLE VII—NATIONAL PARK SYSTEM ADVISORY BOARD

Section 701 amends section 3 of Public Law 74–292 (44 Stat. 666; 16 U.S.C. 463) as amended, to establish National Park System Advisory Board, as described below.

Amended section 3(a) establishes a National Park System Advisory Board, with 9 members selected by the Secretary for terms not to exceed 4 years. The section outlines the general composition of the Board, and authorizes the Board to establish rules and procedures. Board members shall not receive compensation except for travel and per diem reimbursement when traveling to perform Board-related duties.

Existing section 3(b) is renumbered as 3(f) and changed to reflect January 1, 2006 as the termination date for the Board.

Existing section 3(c) is renumbered as 3(g).

The new section 3(b) outlines the powers of the Board which include authorization to appoint an executive director and other staff as needed to carry out the duties of the Board.

The new section 3(c) authorizes the Board to hold hearings, enter into contracts, make such expenditures, and establish task forces.

The new section 3(d) exempts the Board from the provisions of the Federal Advisory Committee Act.

The new section 3(e) authorizes the Board to secure information from any office, department, agency, establishment or instrumentality of the Federal government and directs such Federal entities to provide such requested information to the extent permitted by law. This subsection also authorizes the head of any Federal department, agency or instrumentality to make facilities, services, and personnel of such department, agency or instrumentality available to the Board on a nonreimbursable basis, and authorizes the Board to use the United States mails in conducting its duties.

Section 702 outlines studies and annual reports that the Board is charged with conducting and providing to Congress and the Secretary of the Interior.

Subsection (a) directs the Board in consultation with the National Park Service, to conduct a management system study, to be completed one year from enactment of this title and transmitted to the Secretary, the Senate Committee on Energy and Natural Resources, and the House Resources Committee. The study shall consist of a review of each unit of the National Park System, excepting units designated as national parks to determine if alternative management would result in equal or better visitor services and resource protection. The Board is also directed to review the organic legislation and history of the National Park Service and its units and to develop criteria to guide the Congress and the Secretary in adding new units to the National Park System.

Subsection (b) directs the Board, in consultation with the National Park Service, to analyze and evaluate the current conditions and future needs of each unit of the National Park System for adequate visitor services. The Board is also directed to identify units where new or additional services should be provided. This evaluation is to be completed and referred to the Secretary, the Senate Committee on Energy and Natural Resources, and the House Committee on Resources within one year after the enactment of this section.

Subsection (c) directs the Board to monitor the effectiveness and objectivity of the Secretary's program of annual performance evaluations for concessioners and commercial use contractors operating under contracts in units of the National Park System and to provide their summarized findings to the Secretary, the Senate Committee on Energy and Natural Resources, and the House Committee on Resources on an annual basis.

Section 703 authorizes an annual appropriation of $700,000, in addition to $275,000 to conduct the management system study and $275,000 to conduct the visitor services study.

By Mr. FAIRCLOTH (for himself, Mr. DOLE, and Mr. ABRAHAM):

S. 1145. A bill to abolish the Department of Housing and Urban Development and provide for reducing Federal spending for housing and community development activities by consolidating and eliminating programs, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE HOUSING OPPORTUNITIES AND EMPOWERMENT ACT

Mr. FAIRCLOTH. Mr. President, on this day 30 years ago, the Department of Housing and Urban Development was created. Today, however, I have introduced legislation, along with Senators DOLE and ABRAHAM that will dramatically reform our Nation's housing policy and in the process, eliminate the Department of Housing and Urban Development.

Mr. President, HUD was created in 1965. When it was created, the purpose of this Department was to revitalize our urban areas and provide safe, decent housing for all Americans.

Mr. President, in short, HUD has been an enormous failure. Since 1965, HUD has spent hundreds of billions of dollars. Yet today, despite this massive spending, we are no better off.

Mr. President, when considering whether we should reinvent HUD or end it, each of us has to ask ourselves these questions: Are our inner cities better off than they were 30 years ago?

Is the state of public housing better today than it was 30 years ago?

Is housing more affordable today?

Has homelessness been reduced? In my view it was not even a problem 30 years ago.

The answers to these questions is no—absolutely no to all of them.

In fact our cities are more decayed and more dangerous today than ever.

Solving these problems was supposed to be HUD's mission. In each, it has failed miserably.

Imagine if we applied a performance standard like this in the private sector. Would any business that had not met its goals in 30 years still be in business. No, of course not, it would have gone out of business long ago, and HUD should have gone.

HUD is a massive bureaucracy with over 11,000 employees. It has over 240 housing programs—so many that the Secretary of HUD did not even know he had that many. HUD has over $192 billion in unused budget authority.

HUD has even entangled the American taxpayer in 23,000 long-term contracts that run until the year 2020.

These are contingent liabilities that will have to be met by the taxpayers of this country.

HUD's spending is increasing so rapidly that by the year 2000, housing assistance will be the largest discretionary spending function in our budget.

Frankly, knowing all of this, I do not think we can afford not to abolish HUD. We have to stop it and soon. We have to end it and we need to do it soon.

The bill I am introducing today will save $17 billion in budget authority over the next 5 years. We need these kind of real savings if we have any hope of reducing this deficit. When compared to the Cisneros budget figures, I am told by the Congressional Budget Office that this bill will save $88 billion as compared to its reinvention.

Mr. President, beyond eliminating HUD, this bill reforms housing policy that, in my opinion, will dramatically improve the state of housing in the United States.

This bill ends subsidies to public housing, but provides housing vouchers to individuals. This way, people will no longer be trapped in substandard public housing, instead they can choose to live where they want—in the kind of housing they want.

They will, for the first time, have the freedom to choose, and this is what the vouchers will do.

The legislation will also create block grants for housing, community development, and special populations. The critical element here is that there will not be a HUD in Washington that will micromanage everything the States and localities do with the funds. Because of this, the money will be better spent.

Finally, Mr. President, the bill will reform FHA so that it must risk share with the private sector. This will avoid FHA problems of the past, like fraud, and putting people in homes they cannot afford, knowing they cannot afford them when they put them in those houses, but that are 100-percent insured by the taxpayers.

Now, the private sector's money will be at stake, and because of this, FHA will function better.

Mr. President, on this day, 30 years ago, August 10, 1965, President Johnson signed the bill creating HUD.

When he signed the bill, he said the new HUD ''would defeat the enemy of decay that exists in our inner cities.''

Thirty years later, this much we know—the enemy of decay is not a $26 billion bureaucracy in Washington, which is what HUD is.

To end decay in our cities we need hard work, traditional values, and two-parent families and not government handouts. These things will fight decay in our Nation's cities—not HUD.

I want to thank my colleagues, especially Senator DOLE who has been a leader on this issue, and Senator ABRAHAM. I would urge my colleagues to join us on this bill so that we can really reform housing policy—not just tinker with it on the margins. This bill will do it, and I ask for the support of my colleagues.

By Mr. LEAHY (for himself, Mr. COHEN, Mr. D'AMATO, Mr. JEFFORDS, Mr. KERRY, Mr. LIEBERMAN, and Mr. MOYNIHAN):

S. 1146. A bill to amend the Internal Revenue Code of 1986 to clarify the excise tax treatment of draft cider; to the Committee on Finance.

EXCISE TAX LEGISLATION

Mr. LEAHY. Mr. President, today I am introducing tax legislation designed to stimulate the apple industry in the United States. I am pleased that Senators COHEN, D'AMATO, JEFFORDS, KERRY, LIEBERMAN, and MOYNIHAN are joining me as original cosponsors of this bill. This legislation contains a couple of technical changes to a bill I introduced earlier this year, S. 401.

This bill will revise the Federal excise tax on hard apple cider, more commonly known as draft cider, to beer tax rates. As the ranking member of the Senate Agriculture Committee, I believe this small tax change will be of great benefit to cider makers and apple growers across the country.

Draft cider is one of the oldest categories of alcoholic beverages in North America. Back in colonial times, nearly every innkeeper served draft cider to his or her patrons during the long winter. In fact, through the 19th century, beer and draft cider sold equally in the United States.

Recently, draft cider has made a comeback in the United States and around the world. Our tax law, however, unfairly taxes draft cider at a much higher rate than beer despite the two beverages sharing the same alcohol level and consumer market. This tax treatment, I believes, creates an artificial barrier to the growth of draft cider. My legislation will correct this inequity.

Present law taxes draft cider, regardless of its alcohol level, as a wine at a rate of $1.07 per gallon. My bill would clarify that draft cider containing not more than 7 percent alcohol would be taxed at the beer rate of 22.6 cents per gallon.

I believe this tax change would allow draft cider producers to compete fairly with comparable beverage makers. As draft cider grows in popularity, apple growers around the Nation should prosper because draft cider is made from culled apples, the least marketable apples.

The growth of draft cider should convert these least marketable apples, which account for about 20 percent of the entire U.S. apple production, into a high value product, helping our struggling apple growers. Indeed, I have received letters from officials at 10 State agriculture departments—Arizona, Connecticut, Georgia, Maine, Massachusetts, New Hampshire, New York, Pennsylvania, Vermont and Virginia—supporting the taxing of draft cider at the beer rate because this change would allow apple farmers in their States to reap the benefits of an expanded culled apple market.

I have also heard from the Northeast McIntosh Apple Growers Association, the New York Apple Association, the New England Apple Council and many apple farmers, processors and cider producers that support revising the excise tax on draft cider.

I believe this small tax change will have a large positive impact on the Nation's apple industry. I urge my colleagues to support it.

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

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

S. 1146

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

SECTION 1. CLARIFICATION OF TAX TREATMENT OF DRAFT CIDER.

(a) DRAFT CIDER CONTAINING NOT MORE THAN 7 PERCENT ALCOHOL TAXED AS WINE.—Subsection (b) of section 5041 of the Internal Revenue Code of 1986 (relating to imposition and rate of tax) is amended by adding at the end the following new paragraph:

''(6) On draft cider derived primarily from apples or apple concentrate and water, containing no other fruit product, and containing at least one-half of 1 percent and not more than 7 percent of alcohol by volume, 22.6 cents per wine gallon.''

(b) EXCLUDED FROM SMALL PRODUCER CREDIT.—Paragraph (1) of section 5041(c) of the Internal Revenue Code of 1986 (relating to credit for small domestic producers) is amended by striking ''subsection (b)(4)'' and inserting ''paragraphs (4) and (6) of subsection (b)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply on and after the date of the enactment of this Act.

By Mr. HOLLINGS:

S. 1148. A bill to revitalize the American economy and improve enforcement of the trade laws of the United States, and for other purposes; to the Committee on Finance.

THE ECONOMIC REVITALIZATION ACT OF 1995

Mr. HOLLINGS. Mr. President, I rise today to introduce a bill to revive the economy and restore our preeminence in manufacturing. During the cold war, this Nation willingly subordinated its economic interests in order to maintain the Western alliance against communism. Forty-five years of commitment and sacrifice paid off when the Berlin Wall collapsed and democracy triumphed over totalitarianism.

Now we have entered a new era of global competition in which power and influence will be derived from economic strength, not through the barrel of a gun or the tip of a missile. This Nation now faces fierce competition for market share in the international economy. To compete in the global marketplace, we must devote the same degree of commitment and sacrifice to restoring our economic strength as we devoted to the cold war.

At the beginning of the cold war, President Truman had the vision and foresight to create the institutions that would unify the West and stand as a bulwark for freedom. To coordinate policy, the National Security Council would serve as the broker between the Departments of State and Defense.

Now in the post-cold war era where economic competition is preeminent, we need to have the same coordination as our economic policy. That is why this legislation creates an Economic Security Council to set the course for U.S. economic policy.

Mr. President, restoring our economic strength will also require that we rethink the failed policies of the past. Last week, the last American manufacturer of television sets was sold to South Korea's LG Industries. The sale was the culmination of two decades of failed trade policy. To no avail, Zenith tried to use our antidumping laws to half the predatory pricing by their competition. They tried to use the antitrust laws and faced the unseemly specter of the Justice Department appearing on behalf of the foreign manufacturer. Despite promising developments in high definition television, Zenith succumbed after 6 straight years of losses. Now HDTV will be produced by the Koreans. In this new era of economic competition, we can no longer afford to sit idly by while American industry withers under the relentless assault of foreign predatory trade practices.

Mr. President, a cost structure revolution has taken place in the international marketplace. In industry after industry, markets have been cartelized. By controlling distribution networks and reaping monopoly rewards in home markets, foreign companies have engaged in relentless dumping into our market. By holding down their fixed costs, these companies have been driving American companies out of business.

To attack these predatory trade practices, this bill class on us to improve our antidumping laws to prevent the circumvention of dumping orders and to make it easer for industries to prevail in threat cases. it also updates the enforcement of the antitrust laws. The antitrust laws were written to prevent the Carnegies, Morgans and Mellons from dominating the economy. In a global economy, the concentration of economic power stretches across borders. My bill amended the antitrust laws to enable U.S. companies to attack the anti-competitive practices that keep them out of foreign markets.

Mr. President, not all the problems that afflict our economy are the product of foreign competition. Many of our wounds are self-inflicted. Our securities laws need to be updated to emphasize the creation of patient capital—long-term shareholders who will stick with a company over the long haul. With that in mind, my bill calls for the elimination of quarterly reporting requirements which force U.S. companies to focus on short-term investments to enhance shareholder value rather than long-term investment to improve competitiveness.

Furthermore, this bill attacks the enemy within—those former U.S. Government officials who turn around and represent foreign interests at the expense of U.S. workers. As a remedy, this bill places a 5-year ban on lobbying by former officials who work for foreign interests. And to jumpstart research and development spending which now lags behind our competitors, the bill reestablishes the permanent research and development tax credit. It is paid for by imposing an import surcharge to eliminate our enormous trade deficits.

Finally, I need to say a word about reorganization of Government. Some have come to Washington with one goal in mind—to tear down the Government. Our mission should not be to tear it down but to make it work. For example, there are those who advocate eliminating the Commerce Department. But in this new era of global competition, that would be the same as eliminating the Department of Defense during the cold war.

Instead of destroying the Commerce Department, we should be strengthening the Department and turn it into a real Department of Trade and Industry. We should move the Export-Import Bank and the Overseas Private Investment Corporation into the Department to provide exporters with one-stop shopping. This would create a powerful export promotion agency to compete with the economic powerhouses on the Pacific rim.

Mr. President, for 20 years real wages have stagnated in America. We have lost 2 million manufacturing jobs and lost an edge in critical technologies. Once the land of opportunity, America is now a country with the worst income distribution in the industrial world.

Unless we wake up from our economic daydream, we will find ourselves a two-tiered society divided between rich and poor. Let's go to work to rebuild our economy and renew the American dream.

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

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

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Economic Revitalization Act''.

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Economic Security Council.

TITLE I—ANTIDUMPING AND COUNTERVAILING DUTY LAWS

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TITLE II—ADJUSTMENT TO IMPORT COMPETITION

Sec. 201. Import relief.

TITLE III—INTERNATIONAL UNFAIR TRADE PRACTICES

Sec. 301. Identification of trade liberalization priorities.
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Sec. 303. National Trade Estimate.

TITLE IV—PROVISIONS RELATING TO IMPORTS

Sec. 401. Child labor.
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TITLE V—NEGOTIATING AUTHORITY

Sec. 501. Negotiation of agreements regarding tariff barriers.
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TITLE VI—MISCELLANEOUS PROVISIONS

Sec. 601. Scofflaw penalties for multiple customs law offenders.
Sec. 602. Authority to establish manufacturing subzones.
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Sec. 604. Representation or advising of foreign persons.
Sec. 605. Payment of certain customs duties.
Sec. 606. Application of antitrust laws.
Sec. 607. Elimination of quarterly reports.
Sec. 608. Secretary of Labor to publish quarterly reports of runaway plants.
Sec. 609. Mandatory Exon-Florio review of sale of critical technology company.
Sec. 610. Additional IRS agents for transfer pricing cases.
Sec. 611. Transfer of ITC functions to Commerce Department; Termination of ITC.
Sec. 612. Transfer of Overseas Private Investor Corporation and Export-Import Bank to Commerce Department.
Sec. 613. Establishment of NOAA as Independent Agency.
Sec. 614. Surcharge on imports; research and development tax credit.

SEC. 3. ECONOMIC SECURITY COUNCIL.

(a) ESTABLISHMENT.—There is established in the Executive Office of the President a council to be known as the Economic Security Council (hereinafter in this section referred to as the ''Council'').

(b) MEMBERSHIP OF THE COUNCIL.—(1) The Council shall be composed of—

(A) the President;
(B) the Vice President;
(C) the Secretary of State;
(D) the Secretary of the Treasury;
(E) the Secretary of Defense;
(F) the Secretary of Agriculture;
(G) the Secretary of Commerce;
(H) the Secretary of Labor;
(I) the United States Trade Representative; and
(J) any other appropriate Federal official appointed by the President to serve on the Council.

(2) The President shall preside over meetings of the Council. In the President's absence, the President may designate a member of the Council to preside in the President's place.

(c) FOUNCTIONS OF THE COUNCIL.—The Council shall advise the President with respect to the integration of national and international policies relating to economics and trade so as to enable the President and the departments and agencies of the Federal Government to cooperate more effectively.

(d) EMPLOYEES OF THE COUNCIL.—The Council shall have a staff to be headed by an Executive Secretary who shall be appointed by the President. The Executive Secretary, subject to the direction of the Council and in accordance with the provisions of title 5, United States Code, may appoint and fix the compensation of such personnel as may be necessary to perform such duties as may be prescribed by the Council in connection with the performance of its functions.

(e) RECOMMENDATIONS AND REPORTS.—

(1) IN GENERAL.—The Council shall, from time to time, make such recommendations and such other reports to the President as the Council considers to be appropriate or as the President may require.

(2) ANNUAL TESTIMONY BEFORE SENATE COMMITTEES.—The Executive Secretary shall present testimony not less often than once each year before the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, and the Committee on Finance of the Senate, on a date and topic to be established by the committees.

TITLE I—ANTIDUMPING AND COUNTERVAILING DUTY LAWS

SEC. 101. PROPRIETARY INFORMATION.

Section 777 of the Tariff Act of 1930 (19 U.S.C. 1677f) is amended—

(1) by striking subsection (b)(1)(B)(ii) and inserting the following:

''(ii) a statement that the information should not be released under administrative protective order.'';

(2) by striking subparagraph (A) of subsection (c)(1) and inserting the following:

''(A) IN GENERAL.—Upon receipt of an application (before or after receipt of the information requested), which describes with particularity the information requested and sets forth the reasons for the request, the administering authority and the Commission may make proprietary information submitted by any other party to the investigation available under a protective order described in subparagraph (B).'';

(3) by striking subparagraphs (C), (D), and (E) of subsection (c)(1);

(3) by inserting after ''paragraph (1),'' in subsection (c)(2) the following: ''or the Commission denies a request for proprietary information submitted by the petitioner or an interested party in support of the petitioner concerning the domestic price or cost of production of the like product,''; and

(5) by striking subsections (d) and (e) and redesignating subsections (f) through (i) as (d) through (g), respectively.

SEC. 102. DOWNSTREAM DUMPING.

(a) IN GENERAL.—Subtitle D of title VII of the Tariff Act of 1930 (19 U.S.C. 1677 et seq.) is amended by inserting immediately after section 771B the following:

SEC. 771C. DOWNSTREAM DUMPING.

''(a) DEFINITIONS.—As used in this section—

''(1) DOWNSTREAM DUMPING.—The term 'downstream dumping' means a course of conduct in which a product is routinely used as a significant part, component, assembly, subassembly, or material in the manufacture or production of merchandise subject to investigation under subtitle B, and such product is purchased at a price that—

''(A) is lower than the generally available price of the product in the country of manufacture or production, or

''(B) is lower than the price at which the product would be generally available in the country of manufacture or production but for the artificial depression of of such general available price by reason of any subsidy or other sales at below foreign market value.

''(2) SIGNIFICANT PART.—The term 'significant part' means a part the cost of which constitutes not less than 20 percent of the total cost of the product.

''(b) INCLUSION OF AMOUNT ATTRIBUTABLE TO DOWNSTREAM DUMPING.—If the administering authority determines, during the course of such an investigation, that downstream dumping is occurring or has occurred with respect to any such product, the administering authority, in calculating the amount of any antidumping duty on such merchandise, shall include an amount equal to the difference between—

''(1) the price at which the product was purchased, and

''(2) either—

''(A) the generally available price (referred to in subsection (a)(1)) of the product, or

''(B) the price (referred to in subsection (a)(2)) of the product that would pertain, but for the artificial depression,

whichever is appropriate.

''(c) SCOPE OF INQUIRY OF ADMINISTERING AUTHORITY.—The administering authority is not required, in undertaking such an investigation, to consider the presence of downstream dumping, beyond that state in the manufacture or production of the class or kind of merchandise that immediately precedes the final manufacturing or production stage before export to the United States, unless reasonably available information indicates that such dumping has occurred or is occurring before such immediately preceding stage and is having or has had a substantial effect on the price of the merchandise.''.

(b) IMPOSITION OF ANTIDUMPING DUTIES.—Section 731(2) of the Tariff Act of 1930 (19 U.S.C. 1673(2)) is amended—

(1) by striking ''or'' at the end of subparagraph (A)(ii);

(2) by inserting ''or'' at the end of subparagraph (B); and

(3) by inserting after subparagraph (B) the following:

''(C) an industry producing a product used in the manufacture or production of the foreign merchandise has been materially injured or threatened with material injury, or the establishment of such an industry in the United States has been materially retarded,''.

(c) DEFINITION OF INTERESTED PARTY.—Subparagraphs (C), (D), (E), and (F) of section 771(9) of the Tariff Act of 1930 (19 U.S.C. 1677(9) (C), (D), (E), and (F)) are each amended by inserting immediately after ''product'' the following: ''or a product that is used in the manufacture or production of a like product''.

(d) CONFORMING AMENDMENT.—The table of contents for title VII of the Tariff Act of 1930 is amended by inserting immediately after the item relating to section 771B the following:

''Sec. 771C. Downstream dumping.''.

SEC. 103. APPLICATION OF THE COUNTERVAILING DUTY LAW TO NONMARKET ECONOMIES.

Section 771(5) of the Tariff Act of 1930 (19 U.S.C. 1677(5)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (C);

(2) by striking ''subparagraph (A)'' in subparagraph (C), as so redesignated, and inserting ''subparagraphs (A) and (B)''; and

(3) by inserting immediately after subparagraph (A) the following:

''(B) SUBSIDIES IN NONMARKET ECONOMY COUNTRIES.—Benefits that would constitute a countervailable subsidy under subparagraph (A) shall be treated as a subsidy if provided to an enterprise or industry, or group of enterprises or industries, in a nonmarket economy country. In such cases, the amount of the subsidy is equal to the difference between the price at which the merchandise under investigation is sold in the United States, and the weighted average of the prices at which such or similar merchandise, for market economy countries selected by the administering authority as being at a stage of economic development comparable to that of the country under investigation, is sold either—

''(i) for consumption in the home market of those countries, or

''(ii) to other countries, including the United States,

as such prices are established by public and private statistical information, by information supplied by cooperating industries in such selected countries, and by price information submitted by the petitioner and not rebutted by the foreign producer.''.

SEC. 104. DETERMINATIONS OF INJURY IN ANTIDUMPING AND COUNTERVAILING DUTY INVESTIGATIONS.

(a) IMPACT ON AFFECTED DOMESTIC INDUSTRY.—Section 771(7)(C)(iii) of Tariff Act of 1930 (19 U.S.C. 1677(7)(C)(iii)) is amended—

(1) by striking ''(B)(iii)'' and inserting in lieu thereof ''(B)(i)(III)''; and

(2) by striking the last sentence and inserting in lieu thereof the following: ''In evaluating such factors, the Commission shall consider what effect other factors, including the existence of a national economic recovery, have had upon such factors, and whether an increase in the sale of imports compared to sales of domestic products indicates that there is a likelihood that such declines will occur.''.

(b) STANDARD FOR MATERIAL INJURY DETERMINATION.—Section 771(7)(E)(ii) of the Tariff Act of 1930 (19 U.S.C. 1677(7)(E)(ii)) is amended by striking the period at the end and inserting the following: ''; except that factors other than those enumerated in subparagraph (B)(i) shall not alone be the basis for a determination of the Commission that there is no material injury or threat of material injury to United States producers.''.

(c) THREAT OF MATERIAL INJURY.—Section 771(7)(F)(i) of the Tariff Act of 1930 (19 U.S.C. 1677(7)(F)(i)) is amended—

(1) by striking ''and'' at the end of subclause (VIII);

(2) by striking the period at the end of subclause (IX); and

(3) by adding at the end thereof the following:

''(X) capital formation and capital market constraints that result from dumping.''.

SEC. 105. CIRCUMVENTION OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS.

(a) MERCHANDISE COMPLETED OR ASSEMBLED IN UNITED STATES.—Section 781(a) of the Tariff Act of 1930 (19 U.S.C. 1677j(a) is amended—

(1) by adding ''and'' at the end of paragraph (1)(A)(iii);

(2) by striking ''and'' at the end of paragraph (1)(B);

(3) by striking paragraphs (1)(C) and (1)(D);

(4) by striking paragraph (2) and redesignating paragraph (3) as paragraph (2);

(5) by redesignating subparagraphs (B) and (C) of paragraph (2) as subparagraphs (C) and (D), respectively; and

(5) by inserting immediately after paragraph (2)(A), as redesignated, the following new subparagraph:

''(B) the value of the imported parts and components referred to in paragraph (1)(B) or the value of imported parts and components from another country that were utilized in the production or manufacture of the merchandise which was the subject of such order or finding,''.

(b) MERCHANDISE COMPLETED OR ASSEMBLED IN OTHER FOREIGN COUNTRIES.—Section 781(b) of the Tariff Act of 1930 (19 U.S.C. 1677j(b)) is amended—

(1) by adding ''and'' at the end of paragraph (1)(B);

(2) by striking paragraphs (1)(C) and (1)(D);

(3) by redesignating subparagraph (E) as subparagraph (C);

(4) by striking paragraph (2) and redesignating paragraph (3) as paragraph (2);

(5) by redesignating subparagraphs (B) and (C) of paragraph (2), as redesignated, as subparagraphs (C) and (D), respectively; and

(5) by inserting immediately after paragraph (2)(A), as redesignated, the following new subparagraph:

''(B) the value of the imported parts and components referred to in paragraph (1)(B) or the value of imported parts and components from another country that were utilized in the production or manufacture of the merchandise which was the subject of such order or finding,''.

SEC. 106. PRIVATE RIGHT OF ACTION.

(a) UNFAIR COMPETITION.—(1) Section 801 of the Act of September 8, 1916 (15 U.S.C. 72), is amended to read as follows:

''SEC. 801. (a) No person shall import or sell within the United States any article manufactured or produced in a foreign country if—

''(1) such article is imported or sold within the United States at a United States price which is less than the foreign market value or constructed value of such article; and

''(2) such importation or sale—

''(A) causes or threatens material injury to industry or labor in the United States; or

''(B) prevents, in whole or in part, the establishment or modernization of any industry in the United States.

''(b) Any interested party who shall be injured in his business or property by reason of an importation or sale in violation of this section may bring a civil action in the district court of the District of Columbia or in the Court of International Trade against any manufacturer or exporter of such article or any importer of such article into the United States who is related to such manufacturer or exporter.

''(c) In any action brought under subsection (b), upon a finding of liability on the part of the defendant, the plaintiff shall—

''(1)(A) be granted such equitable relief as may be appropriate, which may include an injunction against further importation into, or sale or distribution within, the United States by such defendant of the articles in question, or (B) if such injunctive relief cannot be timely provided or is otherwise inadequate, recover damages for the injuries sustained; and

''(2) recover the costs of the action, including reasonable attorney's fees.

''(d) The standard of proof in any action filed under this section is a preponderance of the evidence. Upon a prima facie showing of the elements set forth in subsection (a), or upon a final determination adverse to the defendant by the Department of Commerce or the United States International Trade Commission under section 735 of the Tariff Act of 1930 (19 U.S.C. 1673d) relating to imports of the article in question for the country in which the manufacturer of the article is located, which final determination shall be considered a prima facie case for purposes of this Act, the burden of rebutting such prima facie case shall be upon the defendant.

''(e) Whenever it shall appear to the court that justice requires that other parties be brought before the court, the court may cause them to be summoned, without regard to where they reside, and the subpoenas for such purpose may be served and enforced in any district of the United States.

''(f) The acceptance by any foreign manufacturer, producer, or exporter of any right or privilege conferred upon him to sell his products or have his products sold by another party in the United States shall be deemed equivalent to an appointment by the foreign manufacturer, producer, or exporter of the District Director of the United States Customs Service of the Department of the Treasury for the port through which the article is commonly imported to be the true and lawful agent upon whom may be served all lawful process in any action brought under this section.

''(g)(1) An action may be brought under this section only if such action is commenced within four years after the date on which the cause of action accrued.

''(2) The running of the statute of limitations provided in paragraph (1) shall be suspended while any administrative proceedings under section 731, 732, 733, 734, or 735 of the Tariff Act of 1930 (19 U.S.C. 1673–1673d) relating to the importations in question, or any appeal of a final determination in such proceeding, is pending and for one year thereafter.

''(h) If a defendant in any action brought under subsection (b) fails to comply with any discovery order or other order or decree of the court, the court may—

''(1) enjoin the further importation into, or the sale or distribution within, the United States by such defendant of articles which are the same as, or similar to, those articles which are alleged in such action to have been sold or imported under the conditions described in subsection (b) until such time as the defendant complies with such order or decree; or

''(2) take any other action authorized by law or by the Federal Rules of Civil Procedure, including entering judgment for the plaintiff.

''(i)(1) Except as provided in paragraph (2), the confidential or privileged status accorded by law to any documents, evidence, comments, or information shall be preserved in any action under this section.

''(2) The court in any action brought under this section may—

''(A) examine, in camera, any confidential or privileged material;

''(B) accept depositions, documents, affidavits, or other evidence under sale; and

''(C) disclose such material under such terms and conditions as the court may order.

''(j) Any action brought under this section shall be advanced on the docket and expedited in every way possible.

''(k) For purposes of this section—

''(1) The terms ''United States price', 'foreign market value', 'constructed value', 'subsidy', and 'material injury', shall have the meaning given such terms by title VII of the Tariff Act of 1930.

''(2) If—

''(A) a subsidy is provided to the manufacturer, producer, or exporter of any article, and

''(B) such subsidy is not included in the foreign market value or constructed value of such article (but for this paragraph), the foreign market value of such article or the constructed value of such article shall be increased by the amount of such subsidy.

''(l) The court shall permit the United States to intervene in any action, suit, or proceeding under this section, as a matter of right. The United States shall have all the rights of a party.

''(m) Any order by a court under this section is subject to nullification by the President pursuant to the President's authority under section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702).''.

(2) Section 1 of the Clayton Act (15 U.S.C. 12) is amended by inserting immediately after ''nineteen hundred and thirteen;'' the following: ''section 801 of the Act of September 8, 1916, entitled 'An Act to raise revenue, and for other purposes' (15 U.S.C. 72);''.

(b) PRIVATE ENFORCEMENT ACTION.—(1) Chapter 95 of title 28, United States Code, is amended by adding at the end the following:

''§1586. Private enforcement action.

''(a) Any interested party who shall be injured in his business or property by a fraudulent or grossly negligent violation of section 592(a) of the Tariff Act of 1930 (19 U.S.C. 1592(a)) may bring a civil action in the district court of the District of Columbia or in the Court of International Trade, without respect to the amount in controversy.

''(b) Upon proof by an interested party that he has been damaged by a fraudulent or grossly negligent violation of section 592(a) of the Tariff Act of 1930 (19 U.S.C. 1592(a)), such interested party shall—

''(1) be granted such equitable relief as may be appropriate, which may include an injunction against further importation into the United States of the articles or products in question; or

''(2) if such injunctive relief cannot be timely provided or is otherwise inadequate, recover damages for the injuries sustained; and

''(3) recover the costs of suit, including reasonable attorney's fees.

''(c) For purposes of this section—

''(1) The term 'interested party' means—

''(A) a manufacturer, producer, or wholesaler in the United States of a like product or competing product; or

''(B) a trade or business association a majority of whose members manufacture, produce, or wholesale a like product or competing product in the United States.

''(2) The term 'like product' means a product which is like, or in the absence of like, most similar in characteristics and uses to products being imported into the United States in violation of section 592(a) of the Tariff Act of 1930 (19 U.S.C. 1592(a)).

''(3) The term 'competing product' means a product which competes with or is a substitute for products being imported into the United States in violation of section 592(a) of the Tariff Act of 1930 (19 U.S.C. 1592(a)).

''(d) The court shall permit the United States to intervene in any action, suit, or proceeding under this section, as a matter of right. The United States shall have all the rights of a party.''.

(2) The chapter analysis of chapter 95 of title 28, United States Code, is amended by adding immediately after the item relating to section 1585 the following:

''1856. Private enforcement action.''.

SEC. 107. ANNUAL REPORT ON ANTIDUMPING AND COUNTERVAILING DUTY PROGRAM.

(a) REPORT TO CONGRESS.—The Secretary of Commerce, with the assistance of the Commissioner of Customs, shall submit to Congress an annual report on the antidumping and countervailing duty program.

(b) CONTENTS.—(1) The annual report submitted under subsection (a) shall include—

(A) information based on Department of Commerce and United States Customs Service data, concerning (i) the status of the antidumping and countervailing duty program, (ii) the status of individual antidumping and countervailing duty orders, (iii) key problems with the program, and (iv) agency plans for improvement; and

(B) reports on progress toward achieving the objectives listed in paragraph (2).

(2) The objectives referred to in paragraph (1)(B) are as follows:

(A) The revamping of Department of Commerce and United States Customs Service program goals and management controls to provide effective means for measuring the

performance of the antidumping and countervailing duty program.

(B) The establishment by the Customs Service of management controls to provide oversight of the performance of Customs Service field offices with respect to the antidumping and countervailing duty program.

(C) The completion by the Customs Service of planned software enhancements to provide automated antidumping and countervailing duty data on final duty assessments, liquidations, billings, payments, and warehouse withdrawals.

(D) The standardization and improvement of the creation, maintenance, and use of the paper files at the Customs Service that pertain to the antidumping and countervailing duty program.

(E) The elimination by the Customs Service and Department of Commerce of their liquidation, billing protest, and scope determination backlogs.

(F) With respect to the determination of the scope of an antidumping and countervailing duty order—

(i) the establishment of a 30-day deadline for the Department of Commerce to issue preliminary or final scope determinations;

(ii) the issuance of a national directive by the Customs Service on handling imports subject to a pending scope determination at the Department of Commerce; and

(iii) the establishment by the Customs Service of a national policy of suspending liquidation and assessing duties on imports apparently within the scope of an antidumping or countervailing duty order, unless otherwise instructed by the Department of Commerce.

(G) Improvement of procedures for Harmonized Tariff Schedule classifications involving imports subject to an antidumping or countervailing duty order or to a pending dispute regarding the scope of such an order.

(H) Completion by the Customs Service of its work to replace its accounting software, strengthen its financial controls, and implement the debt collection reforms recommended in the 1990 Customs Revenue Accounting Study.

(I) Correction of the Customs Service importer identification database to eliminate multiple identification numbers for single importers.

(J) Institution of Customs Service procedures to prevent importers from obtaining new or additional identification numbers where the importers, or their affiliates or predecessors, have delinquent debts to the Customs Service.

(K) Establishment of Customs Service management controls to ensure that its field offices issue timely bills for the collection of antidumping or countervailing duties.

(L) Streamlining of Department of Commerce procedures for handling billing protests in a timely manner, together with establishment of effective Customs Service procedures for monitoring such protests.

(M) Establishment of policies and procedures within the Department of Commerce and Customs Service for prompt response by their personnel to United States industry requests for information on antidumping or countervailing duty activities.

(N) Implementation of policies and procedures at the Department of Commerce and Customs Service for the prompt investigation of complaints by United States industry concerning antidumping or countervailing duty enforcement.

TITLE II—ADJUSTMENT TO IMPORT COMPETITION

SEC. 201. IMPORT RELIEF.

(a) SECRETARY OF COMMERCE TO ASSUME ITC FUNCTIONS.—Section 202 of the Trade Act of 1974 (19 U.S.C. 2252) is amended by striking ''the Commission'' each place it appears and inserting ''the Secretary of Commerce''.

(b) PETITIONS AND ADJUSTMENT PLANS.—Section 202(a) of the Trade Act of 1974 (19 U.S.C. 2252(a)) is amended—

(1) by striking ''the Office of the United States Trade Representative and'' in paragraph (3);

(2) by striking ''and the United States Trade Representative (hereafter in this chapter referred to as the 'Trade Representative')'' in paragraph (4); and

(3) by striking ''Trade Representative'' the first four times it appears in paragraph (5) and inserting ''the Secretary of Commerce''; and

(4) by striking ''Trade Representative'' the last time it appears in that paragraph and inserting ''Secretary of Commerce''.

(c) SUBSTANTIAL CAUSE DETERMINATIONS.—Section 202(c)(1)(C) of the Trade Act of 1974 (19 U.S.C. 2252(c)(1)(C)) is amended by inserting before the period at the end the following: '', or a significant reduction in market share, profits, employment, investment, or research and development which would not have occurred in the absence of increased quantities of imports, even though similar reductions due to other causes might have occurred''.

(d) DETERMINATION OF AFFECTED DOMESTIC INDUSTRY.—Section 202(c)(4) of the Trade Act of 1974 (19 U.S.C. 2252(c)(40) is amended—

(1) by striking ''and'' at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting ''; and''; and

(3) by adding at the end the following:

''(D) shall, in a case involving a broad range of related products, many or all of which are produced by the same domestic producers, treat as such domestic industry the producers of such products, even though the products may not be like or directly competitive with one another.''.

(e) SECRETARY OF COMMERCE RECOMMENDATIONS.—Section 202(e) of the Trade Act of 1974 (19 U.S.C. 2252(e)) is amended—

(1) by striking ''203(e)'' in paragraph (3) and inserting ''203(d)'';

(2) by striking clauses (ii) and (iii) of paragraph (5) and inserting the following:

''(ii) the extent to which workers and firms in the domestic industry are—

''(I) benefiting from adjustment assistance and other manpower programs, and

''(II) engaged in worker retraining efforts,

''(iii) the efforts being made, or to be implemented, by the domestic industry (including the efforts included in any adjustment plan or commitment submitted to the Secretary of Commerce under section 201(b)) to make a positive adjustment to import competition,'';

(3) by striking ''and'' at the end of paragraph (5)(B)(iv);

(4) by striking the period at the end of paragraph (5)(B)(v) and inserting in lieu thereof a comma; and

(5) by adding at the end of paragraph (5)(B) the following:

''(vi) the extent to which there is diversion of foreign exports to the United States market by reason of foreign restraints,

''(vii) the potential for circumvention of any action taken under this section, and

''(viii) the national security interests of the United States.''.

(f) LIMITATIONS ON INVESTIGATIONS.—Section 202(h) of the Trade Act of 1974 (19 U.S.C. 2252(h)) is amended by striking ''section 203(a)(3)(A), (B), (C), or (E)'' and inserting the following: ''section 202(e)(2)(A), (B), or (C), or section 202(e)(4)(A) with respect to orderly marketing agreements,''.

TITLE III—UNFAIR INTERNATIONAL TRADE PRACTICES

SEC. 301. IDENTIFICATION OF TRADE LIBERALIZATION PRIORITIES.

(a) EXTENSION OF PERIOD FOR IDENTIFICATION.—Section 310 of the Trade Act of 1974 (19 U.S.C. 2420) is amended—

(1) by striking ''By no later than the date that is 30 days after the date in calendar year 1989, and also the date in calendar year 1990, on which the report required under section 181(b) is submitted to the appropriate Congressional committees,'' in subsection (a)(1) and inserting ''By no later than September 30 of each calendar year,'';

(2) by striking ''such report'' in subsection (B) and inserting ''the most recent report submitted under section 181(b)'';

(3) by inserting '', Committee on Commerce, Science, and Transportation, Committee on Banking, Housing, and Urban Affairs, and Committee on Foreign Relations'' in subsection (a)(1)(D) after ''Finance''; and

(4) by inserting '', Committee on Commerce, Committee on Banking, Urban Affairs, and Committee on International Relations'' in subsection (a)(1)(D) after ''Ways and Means''; and

(5) by adding at the end the following new subsection:

''(e) PETITIONS BY CONGRESSIONAL COMMITTEES.—If the Committee on Finance, Committee on Commerce, Science, and Transportation, Committee on Banking, Housing, and Urban Affairs, or Committee on Foreign Relations of the Senate, or the Committee on Ways and Means, Committee on Commerce, Committee on Banking, Urban Affairs, or Committee on International Relations of the House of Representatives, determines (by a resolution adopted by such Committee) that an investigation under this chapter should be initiated with respect to any barriers and market distorting practices of any foreign country that such Committee determines to be a country that maintains a consistent pattern of import barriers or market distorting practices, such Committee shall be eligible to file a petition under section 302(a) and shall file a petition under section 302(a) with respect to such barriers and practices.''.

(b) MANDATORY ACTION.—(1) Section 301(a)(1) of the Trade Act of 1974 (19 U.S.C. 2411(a)(1)) is amended—

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

(B) by inserting ''or'' at the end of subparagraph (B)(ii); and

(C) by inserting after subparagraph (B)(ii), the following new subparagraph:

''(C) a priority practice—

''(i) identified under section 310, or

''(ii) with respect to a priority foreign country identified under section 310,

constitutes an act, policy, or practice of a foreign country which is unreasonable or discriminatory and burdens or restricts United States Commerce;''.

(2) Section 304(a)(1)(A)(ii) of the Trade Act of 1974 (19 U.S.C. 2414(a)(1)(A)(ii)) is amended by striking ''(a)(1)(B)'' and inserting ''(a)(1)(B), (a)(1)(C),''.

(c) ESTIMATION OF BARRIERS TO MARKET ACCESS.—Section 181(a)(1)(C) of the Trade Act of 1974 (19 U.S.C. 2241(a)(1)(C)) is amended—

(1) by striking '', if feasible,''; and

(2) by striking the period at the end and inserting the following: ''; and if it is not feasible to make an estimate under this subparagraph, the Trade Representative shall provide an explanation of why such estimate is not feasible.''.

SEC. 302. ANNUAL REVIEW OF TRADE AGREEMENTS.

(a) IN GENERAL.—Chapter I of title III of the Trade Act of 1974 (19 U.S.C. 2411 et seq.) is amended by inserting immediately after section 306 the following new section:

"SEC. 306A. ANNUAL REVIEW OF TRADE AGREEMENTS.

''(a) REQUEST FOR REVIEW.—

''(1)(A) An interested person may file with the Trade Representative a written request for a review to determine whether a foreign country is in compliance with any trade agreement such country has with the United States. Such request may be filed at any time after the date which is within 30 days after the anniversary of the effective date of such agreement, but not later than 90 days before the date of expiration of such agreement.

''(B) A written request filed under subparagraph (A) shall—

''(i) identify the person filing the request and the interest of that person which is affected by the noncompliance of a foreign country with a trade agreement with the United States;

''(ii) describe the rights of the United States being denied under such trade agreement; and

''(iii) include information reasonably available to the person regarding the failure of the foreign country to comply with such trade agreement.

''(C) For purposes of this subsection—

''(i) the term 'interested person' means a person with a significant economic interest that is affected by the failure of a foreign country to comply with a trade agreement.

''(ii) The term 'trade agreement' means an agreement with the United States and does not include multilateral trade agreements such as the General Agreement on Tariffs and Trade.

''(b) REVIEW AND DETERMINATION.—

''(1) Upon the filing of a request under subsection (a), the Trade Representative shall commence the requested review. In conducting the review, the Trade Representative may, as the Trade Representative determines appropriate, consult with the Secretary of Commerce, the Secretary of Agriculture, or the head of any other relevant Federal agency.

''(2)(A) On the basis of the review conducted under paragraph (a), the Trade Representative shall determine whether any act, policy, or practice of the foreign country that is the subject of the review is in material noncompliance with the terms of the applicable trade agreement. Such determination shall be made no later than 90 days after the request for review was filed under subsection (a).

''(B) In making a determination under paragraph (1) with respect to a foreign country's compliance with a trade agreement, the Trade Representative shall take into account, among other relevant factors—

''(i) achievement of the objectives of the agreement,

''(ii) adherence to commitments given, and

''(iii) any evidence of actual patterns of trade that do not reflect patterns of trade which would reasonably be anticipated to flow from the concessions or commitments of such country based on the international competitive position and export potential of a United States industry.

''(C) The Trade Representative may seek the advice of the Commission when considering the factors described in subparagraph (B).

''(c) FURTHER ACTION.—

''(1) If the Trade Representative determines under subsection (b) that an act, policy, or practice of a foreign country is in material noncompliance with the applicable trade agreement, the Trade Representative shall determine what further action to take under section 301(a).

''(2) For purposes of section 301, any determination made under subsection (b) shall be treated as a determination made under section 304(a)(1).

''(3) In determining what further action (including possible sanctions) to take under paragraph (1), the Trade Representative shall seek to minimize any adverse impact on existing business relations or economic interests of United States persons, including consideration of taking action with respect to future products for which a significant volume of current trade does not exist.''.

(b) CONFORMING AMENDMENT.—The table of contents of chapter 1 of title III of the Trade Act of 1974 is amended by inserting immediately after the item relating to section 306 the following new item:

''Sec. 306A. Annual review of trade agreements.''.

(c) INTERNATIONAL OBLIGATIONS.—The amendments made by this section shall not be construed to require actions inconsistent with the international obligations of the United States, including the General Agreement on Tariffs and Trade.

SEC. 303. NATIONAL TRADE ESTIMATE.

(a) REPORT TO APPROPRIATE COMMITTEES OF SENATE.—Section 181(b)(1) of the Trade Act of 1974 (19 U.S.C.2241 (b)(1)) is amended by striking the comma after ''President'' and ''the Committee on Finance of the Senate, and appropriate committees of'' and inserting ''and to the appropriate committees of the Senate and the''.

(b) REPORT TO INCLUDE TOP 10 TRADE DEFICITS.—Section 181(b) of such Act (19 U.S.C. 2241(b)) is amended—

(1) by redesignating paragraph (3) as (4); and

(2) by inserting after paragraph (2) the following:

''(3) The National Trade Estimate shall include an enumeration of the 10 most significant trade deficits between the United States and other countries on an industry-by-industry basis.''.

TITLE IV—PROVISIONS RELATING TO IMPORTS

SEC. 401. CHILD LABOR.

(a) FINDINGS; PURPOSE; POLICY.—

(1) FINDINGS.—The Congress finds the following:

(A) Principle 9 of the Declaration of the Rights of the Child proclaimed by the General Assembly of the United Nations on November 20, 1959, states that ''* * * the child shall not be admitted to employment before an appropriate minimum age; he shall in no case be caused or permitted to engage in any occupation or employment which would prejudice his health or education, or interfere with his physical, mental, or moral development * * *''.

(B) According to the International Labor Organization, worldwide an estimated 200,000,000 children under age 15 are working, many of them in dangerous industries like mining and fireworks.

(C) Children under age 15 constitute approximately 11 percent of the workforce in some Asian countries, 17 percent in parts of Africa, and a reported 12-to-26 percent in many countries in Latin America.

(D) The number of children under age 15 who are working, and the scale of their suffering, increase every year, despite the existence of more than 20 International Labor Organization conventions on child labor and laws in many countries which purportedly prohibit the employment of underage children.

(E) In many countries, children under age 15 lack either the legal standing or means to protect themselves from exploitation in the workplace.

(F) The employment of children under age 15 commonly deprives the children of the opportunity for basic education and also denies gainful employment to millions of adults.

(G) The prevalence of child labor in many developing countries is rooted in widespread poverty that is attributable to unemployment and underemployment, precarious incomes, low living standards, and insufficient education and training opportunities.

(H) The employment of children under age 15, often at pitifully low wages, undermines the stability of families and ignores the importance of increasing jobs, aggregate demand, and purchasing power among adults as a catalyst to the development of internal markets and the achievement of broad-based, self-reliant economic development in many developing countries.

(I) Adult workers in the United States and other developed countries should not have their jobs imperiled by imports produced by child labor in developing countries.

(2) PURPOSE.—The purpose of this section is to curtail worldwide employment of children under age 15 by—

(A) eliminating the role of the United States in providing a market for foreign products made by underage children; and

(B) encouraging other nations to join in a ban on trade in such products.

(3) POLICY.—It is the policy of the United States—

(A) to discourage actively the employment of children under age 15 in the production of goods for export or domestic consumption;

(B) to strengthen and supplement international trading rules with a view to renouncing the use of underage children in production as a means of competing in international trade;

(C) to amend United States law to prohibit the entry into commerce of products resulting from the labor of underage children; and

(D) to offer assistance to foreign countries to improve the enforcement of national laws prohibiting the employment of children under age 15 and to alleviate the underlying poverty that is often the cause of the commercial exploitation of children under age 15.

(b) PROPOSAL FOR WORLDWIDE TRADE BAN.—In pursuit of the policy set forth in this section, the President is urged to propose, as soon as possible, to the United Nations Economic and Social Rights Committee that the Convention for the Rights of the Child, which is to be submitted to the General Assembly of the United Nations, include a worldwide ban on trade in products of child labor.

(c) IDENTIFICATION OF FOREIGN COUNTRIES PERMITTING USE OF CHILD LABOR.—

(1) PERIODIC REVIEWS.—The Secretary of Labor shall undertake periodic reviews (and the first such review shall be undertaken within 180 days after the date of enactment of this Act) to identify any foreign country that—

(A) has not adopted, or is not enforcing effectively, prohibitions against the use of child labor in the production of products within the country (including designated zones therein); and

(B) has on a continuing basis exported products of child labor of the country to the United States.

(2) PETITION.—

(A) Any person may file a petition with the Secretary of Labor requesting that a particular foreign country be identified under paragraph (1). The petition must set forth the allegations in support of the request.

(B) Within 90 days after receiving a petition under subparagraph (A), the Secretary of Labor shall—

(i) decide whether or not the allegations in the petition warrant further action by the Secretary of Labor under paragraph (1) with regard to the foreign country; and

(ii) notify the petitioner of the decision under clause (i) and the facts and reasons supporting the decision.

(3) PRE-IDENTIFICATION PROCEDURE.—Before identifying a foreign country under paragraph (1), the Secretary of Labor shall—

(A) consult with the United States Trade Representative, the Secretary of State, and the Secretary of the Treasury regarding such an action;

(B) publish notice in the Federal Register stating that such an identification is being considered and inviting the submission within a reasonable time of written comment from the public; and

(C) take into account the information obtained under subparagraphs (A) and (B).

(4) WITHDRAWL OF IDENTIFICATION.—

(A) Subject to subparagraph (B), the Secretary of Labor may withdraw the identification of any foreign country under paragraph (1) if information available to the Secretary indicates that such action is appropriate.

(B) No withdrawal under subparagraph (A) may take effect earlier than the 60th day after the date on which the Secretary submits to the Congress a written report—

(i) stating that in the opinion of the Secretary of Labor the foreign country concerned has adopted, and is effectively enforcing, laws prohibiting the production of products with child labor within the country (including designated zones therein); and

(ii) stating the facts on which such opinion is based and any other reason why the Secretary of Labor considers the withdrawal appropriate.

(C) No withdrawal under subparagraph (A) may take effect unless the Secretary of Labor—

(i) publishes notice in the Federal Register that such a withdrawal is under consideration and inviting the submission within a reasonable time of written comment from the public on such a withdrawal; and

(ii) takes into account the information received under clause (i) before preparing the report required under subparagraph (B).

(5) PUBLICATION OF DECISIONS; MAINTENANCE OF LIST.—The Secretary of Labor shall—

(A) promptly following an identification decision under paragraph (1) publish in the Federal Register—

(i) the name of each foreign country so identified, and

(ii) the text of each decision made under paragraph (2)(B)(i) and a statement of the facts and reasons supporting the decision;

(B) promptly following a withdrawal decision under paragraph (4) publish the name of each foreign country regarding which an identification is so withdrawn; and

(C) maintain in the Federal Register a current list of all foreign countries identified under paragraph (1).

(6) REPORT.—In furtherance of paragraph (1), the Secretary of Labor shall transmit to the Congress, within 180 days after the date of enactment of this Act, and not later than March 1 of each subsequent year, a full and complete report with respect to the national laws and practices of foreign countries pertaining to the commercial exploitation of children. In preparing such a report, the Secretary shall consult with those officials listed in paragraph (3)(A). The Secretary shall use all available information regarding the commercial exploitation of children, including information made available by the International Labor Organization, international trade union secretariats, trade unions, children's advocacy organizations, religious groups, and human rights organizations. Each report shall include entries on all foreign countries, shall describe which countries condone the commercial exploitation of children by law or in practice, and shall describe which countries by law and in practice effectively discourage the commercial exploitation of children, including the domestic mechanisms for the enforcement of laws and penalties intended to deter the commercial exploitation of children. Wherever possible, each report shall also identify those industries within particular foreign countries in which there is demonstrable evidence of commercial exploitation of children.

(d) RESTRICTIONS ON ENTRY OF CERTAIN ARTICLES.—

(1) ENTRY PROHIBITED.—

(A) Except a provided in subparagraph (B), during the effective identification period for a foreign country the Secretary of the Treasury may not permit the entry of any manufactured article that is a product of that country.

(B) Subparagraph (A) does not apply to the entry of a manufactured article—

(i) for which a certification that meets the requirements of paragraph (2) is provided;

(ii) that is entered under any subheading in subchapter IV or VI of chapter 98 (relating to personal exemptions) of the Harmonized Tariff Schedule of the United States; or

(iii) that was exported from the foreign country and was en route to the United States before the first day of the effective identification period for such country.

(2) DOCUMENTATION.—

(A) The Secretary of the Treasury shall prescribe the form and content of documentation, for submission in connection with the entry of a manufactured article, that satisfies the Secretary of the Treasury that the importer of the article has undertaken reasonable steps to ensure, to the extent practicable, that the article is not a product of child labor.

(B) The documentation required by the Secretary of the Treasury under subparagraph (A) shall include written evidence that the agreement setting forth the terms and conditions of the acquisition or provision of the imported article includes the condition that the article not be a product of child labor.

(e) PROHIBITIONS; PENALTIES.—

(1) PROHIBITION.—It is unlawful—

(A) during the effective identification period applicable to a foreign country, to attempt to enter any manufactured article that is a product of that country if the entry is prohibited under subsection (d)(1)(A); or

(B) to violate any regulation prescribed under subsection (f).

(2) CIVIL PENALTY.—Any person who commits any unlawful act set forth in paragraph (1) is liable for a civil penalty of not to exceed $25,000.

(3) CRIMINAL PENALTY.—In addition to being liable for a civil penalty under paragraph (2), any person who intentionally commits any unlawful act set forth in paragraph (1) is, upon conviction, liable for a fine of not less than $10,000 and not more than $35,000, or imprisonment for 1 year, or both.

(4) APPLICATION OF CUSTOMS LAW ENFORCEMENT PROVISIONS.—The violations set forth in paragraph (1) shall be treated as violations of the customs laws for purposes of applying the enforcement provisions of the Tariff Act of 1930, including—

(A) the search, seizure, and forfeiture provisions;

(B) section 592 (relating to penalties for entry by fraud, gross negligence, or negligence); and

(C) section 619 (relating to compensation to informers).

(f) REGULATIONS.—The Secretary shall prescribe regulations that are necessary or appropriate to carry out this section.

(g) SPECIAL RULES; DEFINITIONS.—For purposes of this section—

(1) A manufactured article shall be treated as being a product of child labor if the article—

(A) was fabricated, assembled, or processed, in whole or part,

(B) contains any part that was fabricated, assembled, or processed, in whole or part, or

(C) was mined, quarried, pumped, or otherwise extracted,

by one or more children who engaged in the fabrication, assembly, processing, or extraction—

(i) in exchange for remuneration (regardless to whom paid), subsistence, goods or services, or any combination of the foregoing;

(ii) under circumstances tantamount to involuntary servitude; or

(iii) under exposure to toxic substances or working conditions otherwise posing serious health hazards.

(2) The term ''child'' means an individual who has not attained age 15.

(3) The term ''effective identification period'' means, with respect to a foreign country, the period that—

(A) begins on the date of that issue of the Federal Register in which the identification of the country is published under subsection (c)(5)(A); and

(B) terminates on the date of that issue of the Federal Register in which the withdrawal of the identification referred to in clause (i) is published under subsection (c)(5)(B).

(4) The term ''entered'' means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(5) The term ''foreign country'' includes any foreign instrumentality. Any possession or territory of a foreign country that is administered separately for customs purposes shall be treated as a separate foreign country.

(6) The term ''manufactured article'' means any good that is fabricated, assembled, or processed. The term also includes any mineral resource (including any mineral fuel) that is entered in a crude state. Any mineral resource that at entry has been subjected to only washing, crushing, grinding, powdering, levigation, sifting, screening, or concentration by flotation, magnetic separation, or other mechanical or physical processes shall be treated as having been processed for the purposes of this section.

SEC. 402. SLAVE LABOR.

(a) IN GENERAL.—Section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) is amended to read as follows:

''SEC. 307. PROHIBITION ON IMPORTATION OR TRANSPORTATION OF PROHIBITED PRODUCTS.

''(a) FINDINGS AND POLICY.—

''(1) FINDINGS.—The Congress finds that—

''(A) some states in the international community employ various forms of convict labor, forced labor, indentured labor, and involuntary labor;

''(B) these forms of labor are used for several purposes, including political coercion, education or punishment, economic development, labor discipline, or racial, social, national, or religious discrimination;

''(C) goods, wares, articles, and resources produced or extracted by these forms of labor are exported, directly or indirectly, to other states in the international community, including the United States;

''(D) the use of forced or compulsory labor constitutes disrespect for basic human rights and fundamental freedoms, as set forth in the Universal Declaration of Human Rights, the Charter of the United Nations, and other international covenants;

''(E) the Universal Declaration of Human Rights recognizes the 'right to work, to free choice of employment, to just and favorable conditions of work' and prohibits slavery and the slave trade 'in all their forms';

''(F) the United States, as a sovereign state in the international community, has pledged itself to protect and defend human rights within its territory and to protect and promote human rights, including the rights

of individuals, to be free from forced labor and involuntary servitude, throughout the world; and

''(G) this commitment to human rights, generally, and to the termination of forced labor and involuntary servitude, specifically, is consistent with the basic principles on which the United States was founded, as embodied in such documents as the Declaration of Independence and the Bill of Rights, with the population against slavery in the Thirteenth Amendment, and with the historical traditions of the United States as a humanitarian nation; and

''(H) the Senate demonstrated the commitment of the United States to the termination of forced labor and involuntary servitude on May 14, 1991, when the Senate gave its advice and consent to the ratification of the Convention Concerning the Abolition of Forced Labor (Convention No. 105), adopted by the International Labor Conference (40th session) at Geneva, Switzerland, on June 25, 1957.

''(2) POLICY.—It is the policy of the United States to—

''(A) take measures, to the maximum extent practicable, to protect the rights of individuals to be free from force labor and involuntary servitude;

''(B) enable the citizens of the United States to be free from unknowingly supporting or subsidizing the policies of states in the international community which employ forced labor and involuntary servitude; and

''(C) deny United States economic support, by consumer purchase, investment, lending, or otherwise, to states in the international community which use forced labor.

''(b) PROHIBITION ON IMPORTATION OR TRANSPORTATION.—

(1)(A) Except as provided in subparagraph (B), no prohibited product may be imported into the United States nor transported in interstate commerce.

''(B) The provisions of subparagraph (A) shall not apply to items vital to national security.

''(2) No United States national or any other person subject to the jurisdiction of the United States may invest in, or make loans to, a foreign joint venture involving the use of forced labor.

''(3) The Secretary of the Treasury shall prescribe such regulations as may be necessary for the enforcement of this subsection.

''(4) For purposes of this subsection—

''(A) the term 'forced labor' means all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily;

''(B) the term 'prohibited product' means any goods, wares, articles, merchandise, natural resources, and services produced, mined, extracted, manufactured, or provided wholly or in part in any foreign country by forced labor; and

''(C) the term 'United States national' means—

''(i) a natural person who is a citizen of the United States; and

''(ii) a corporation or other legal entity which is organized under the laws of the United States or of any State, the District of Columbia, the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands, if natural persons who are citizens of the United States own, directly or indirectly, 50 percent or more of the outstanding capital stock or other beneficial interest of such corporation or entity.

''(c) PENALTIES.—(1) With respect to any violation of subsection (b)(1) or (2), an order under this section shall require the person or entity to pay a civil penalty of—

''(A) $10,000 for one violation;

''(B) $100,000 in the case of a person or entity previously subject to one order under this section; or

''(C) $1,000,000 in the case of a person or entity previously subject to more than one order under this section.

''(2)(A) Before imposing an order described in paragraph (1) against a person or entity for a violation of subsection (b)(2), the Secretary of the Treasury shall provide the person or entity with notice and, upon request made within a reasonable time (of not less than 30 days, as established by the Secretary of the Treasury) of the date of the notice, a hearing respecting the violation.

''(B) Any hearing so requested shall be conducted before an administration law judge. The hearing shall be conducted in accordance with the requirements of section 554 of title 5, United States Code. The hearing shall be held at the nearest practicable place to the place where the person or entity resides or of the place where the alleged violation occurred. If no hearing is so requested, the Secretary of the Treasury's imposition of the order shall constitute a final and unappealable order.

''(C) If the administrative law judge determines, upon the preponderance of the evidence received, that a person or entity named in the complaint has violated subsection (b)(1) or (2), the administrative law judge shall state his findings of fact and issue and cause to be served on such person or entity an order described in paragraph (1).

''(3) The decision and order of an administrative law judge shall become the final agency decision and order of the Secretary of the Treasury unless, within 30 days, the Secretary of the Treasury modifies or vacates the decision and order, in which case the decision and order of the Secretary of the Treasury shall become a final order under this subsection. The Secretary of the Treasury may not delegate his authority under this paragraph.

''(4) A person or entity adversely affected by a final order respecting an assessment may, within 45 days after the date the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

''(5) If a person or entity fails to comply with a final order issued under this subsection against the person or entity, the Attorney General shall file a suit to seek compliance with the order in any appropriate circuit court of the United States. In any such suit, the validity and appropriateness of the final order shall not be subject to review.

''(d) ENFORCEMENT BY PRIVATE PERSONS.—(1) The prohibitions contained in subsection (b)(1) and (2) may be enforced by civil actions in appropriate United States district courts without regard to the amount in controversy and in appropriate State or local courts of general jurisdiction. A civil action shall be commenced within 1 year after plaintiff obtains knowledge of the alleged violation of subsection (b)(1) has occurred, or reasonably should have obtained knowledge, except that the court shall continue such civil case brought pursuant to this section from time to time before bringing it to trial if an administrative hearing pursuant to subsection (c)(2) has commenced and is being diligently conducted so as to reach an expeditious conclusion.

''(2)(A) Except as provided in paragraph (3)—

''(i) any person to whom any prohibited product has been offered for purchase or in reasonable likelihood will be offered for purchase, or

''(ii) any public interest group or human rights organization, may commence a civil suit on behalf of that person, group, or organization—

''(I) to enjoin any person, including the United States and any other governmental instrumentality or agency (to the extent permitted by the Eleventh Amendment to the Constitution), who is alleged to be in violation of any provision of this section or regulation issued under the authority of this section;

''(II) to compel the Secretary of the Treasury to enforce any prohibitions specified in subsection (b)(1) or (2) through an order for penalties under subsection (c); or

''(III) to compel the Secretary of the Treasury to perform any act or duty under subsection (b)(1) or (2) which is not discretionary with the Secretary and which the Secretary has failed to carry out.

''(B) The district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce any such provision or regulation, or to order the Secretary to perform such act or duty, as the case may be.

''(3) No action may be commenced under paragraph (2)(A)—

''(A) if 60 days have not elapsed after written notice of the violation has been given to the Secretary of the Treasury, and to any alleged violator of this section or any regulation issued under this section;

''(B) if the Secretary of the Treasury has commenced an action to impose a penalty pursuant to subsection (c); or

''(C) if the United States has commenced and is diligently prosecuting a criminal action in a court of the United States or State to address a violation of any such provision or regulations.

''(e) TREBLE DAMAGES.—Any person in competition with a person importing or transporting items, or investing or loaning funds, in violation of subsection (b)(1) or (2), who is injured as a result of such violation, may bring an action in a United States district court and shall recover three-fold the amount of the damages sustained by such violation.''.

(b) REPEALS.—Sections 1761 and 1762 of title 18, United States Code, are repealed.

TITLE V—NEGOTIATING AUTHORITY

SEC. 501. NEGOTIATION OF AGREEMENTS REGARDING TARIFF BARRIERS.

(a) IN GENERAL.—Section 1102(a) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902(a)) is amended to read as follows:

''(a) AGREEMENTS REGARDING TARIFF BARRIERS.—Whenever the President determines that one or more existing duties or other import restrictions or any foreign country or the United States are unduly burdening and restricting the foreign trade of the United States and the purposes, policies, and objectives of this title will be promoted thereby, the President before June 1, 1993, may enter into trade agreements with foreign countries.''.

(b) CONFORMING AMENDMENT.—Section 1105(a)(2) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2904(a)(2)) is amended by striking ''proclamation or'' each place it appears.

SEC. 502. REPEAL OF FAST TRACK PROCEDURES.

(a) REPEAL OF PROCEDURES IN TRADE ACT OF 1974.—Sections 151 through 154 of the Trade Act of 1974 (19 U.S.C. 2191–2194) are repealed.

(b) REPEAL OF PROVISIONS IN OMNIBUS TRADE AND COMPETITIVENESS ACT OF 1988.—

(1) Subsections (b), (c), (d), and (e) of section 1103 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2903) are repealed.

(2) Paragraph (4) of section 1102(c) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902(c)) is repealed.

(3) Paragraph (4) of section 1107(a) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2906(a)) is repealed.

SEC. 503. APPLICABILITY OF NATIONAL ENVIRONMENTAL POLICY ACT.

Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is amended by inserting ''including bilateral and multilateral negotiations with other countries on trade with other matters)'' immediately after ''human environment''.

SEC. 504. REPRESENTATION ON ADVISORY COMMITTEES.

(a) ADVISORY COMMITTEE FOR TRADE POLICY AND NEGOTIATIONS.—Section 135(b)(1) of the Trade Act of 1974 (19 U.S.C. 2155)(B)(1)) is amended by inserting ''environmental interests, health and safety interests,'' immediately after ''retailers,''.

(b) GENERAL POLICY ADVISORY COMMITTEES.—Section 135(c)(1) of the Trade Act of 1974 (19 U.S.C. 2155(c)(1)) is amended by inserting ''environmental, consumer, health and safety,'' immediately after ''defense,'' each place it appears.

(c) SECTORAL AND FUNCTIONAL ADVISORY COMMITTEES.—Section 135(c)(2) of the Trade Act of 1974 (19 U.S.C. 2155(c)(2)) is amended by inserting ''environmental, consumer, health and safety,'' immediately after ''agricultural,''.

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. SCOFFLAW PENALTIES FOR MULTIPLE CUSTOMS LAW OFFENDERS.

(a) ORDER BY SECRETARY OF TREASURY.—

(1) The Secretary of the Treasury shall by order prohibit any person who is a multiple customs law offender from—

(A) introducing, or attempting to introduce, foreign goods into the customs territory of the United States; and

(B) engaging, or attempting to engage, any other person for the purpose of introducing, on behalf of the multiple customs law offender, foreign goods into such customs territory. If the multiple customs law offender is a firm, corporation, or other legal entity, the order shall apply to all officers and principals of the entity. The order shall also apply to any employee or agent of the entity if that employee or agent was directly involved in the violations of the customs laws concerned.

(2) The prohibition contained in the order issued under paragraph (1) shall apply during the period which begins on the 60th day after the date on which the order is issued and ends on the 3rd anniversary of such 60th day.

(b) NOTIFICATIONS BY AGENCIES.—Each Federal agency shall notify the Secretary of the Treasury of all final convictions and assessments made incident to the enforcement of the customs laws under the jurisdiction of such agency.

(c) PENALTIES.—Whoever violates, or knowingly aids or abets the violation of, an order issued by the Secretary of the Treasury under this section shall be fined not more than $250,000 or imprisoned not more than 10 years, or both.

(d) RULEMAKING.—The Secretary of the Treasury shall prescribe rules to carry out this section, including rules governing the procedures to be used in issuance of orders under subsection (a). Such rules shall also include a list of the customs laws.

(e) DEFINITIONS.—For purposes of this section, the term—

(1) ''customs laws'' means any Federal law providing a criminal or civil penalty for an act, or failure to act, regarding the introduction of, or the attempt to introduce, foreign goods into the customs territory of the United States, including sections 496 and 1001 (but only with respect to customs matters), and any section of chapter 17 of title 18, United States Code, and section 592 of the Tariff Act of 1930 (19 U.S.C. 1592); and

(2) ''multiple customs law offender'' means a person that, during any period of seven consecutive years after the date of enactment of this act, was either convicted of, or assessed a civil penalty for, three separate violations of one or more customs laws finally determined to involve fraud or criminal culpability.

SEC. 602. AUTHORITY TO ESTABLISH MANUFACTURING SUBZONES.

The Foreign Trade Zones Act (19 U.S.C. 81a st seq.) is amended by adding at the end the following new section:

''Sec. 22. (a) After the date of enactment of this section, the Board shall not authorize the establishment of a subzone for manufacturing unless the Board finds, based on clear and convincing evidence, that the establishment of such a subzone will result in—

''(1) significant net public benefits, taking into account significant adverse effects;

''(2) additional substantial exports from the United States;

''(3) the encouragement of activity related to import displacement or substitution;

''(4) the generation or sustaining of employment and investment in the United States;

''(5) no negative effect on a remedial action or program instituted by the United States to counter an international unfair trade practice; and

''(6) no material harm to an existing industry in the United States.

''(b) Decisions by the Board with respect to the establishment of a subzone described in subsection (a) shall be made by the Board members in their personal capacities, and authority to make such decisions shall not be delegated except in extraordinary circumstances.''.

SEC. 603. CONGRESSIONAL DISAPPROVAL RESOLUTION.

Subsection (f) of section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) is repealed.

SEC. 604. REPRESENTATION OR ADVISING OF FOREIGN PERSONS.

(a) FARA DEFINITIONS.—

(1) Section 1(c) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(c)) is amended—

(A) by striking ''agent of a foreign'' and inserting in lieu thereof ''representative of a foreign'';

(B) by striking ''an agent of a foreign'' and inserting in lieu thereof '' a representative of a foreign''; and

(C) by adding at the end the following new sentence: ''For purposes of clause (1), a foreign principal shall be considered to control a person in major part if the foreign principal holds 50 percent or more equitable ownership in such person.''.

(2) Section 1(j) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(j)) is amended by striking ''propaganda'' and inserting in lieu thereof ''promotional material''.

(3)(A) Section 1(d) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(d)) is amended by striking ''agent'' each plane it appears and inserting in lieu thereof ''representative''.

(B) Section 1(o) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(o)) is amended by striking ''propaganda'' and inserting in lieu thereof ''promotional material''.

(C) Section (2)(a) and (f)) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 612(a) and (f) is amended by striking ''an agent'' each place it appears and inserting in lieu thereof ''a representative''.

(D) Section 2 of the Foreign Agents Registration Act of 1938 (22 U.S.C. 612), as amended by subparagraph (C) of this paragraph, is further amended by striking ''agent'' each place it appears and inserting in lieu thereof ''representative''.

(E) Section 3 of the Foreign Agents Registration Act of 1938 (22 U.S.C. 613) is amended—

(i) by striking ''agent'' and inserting in lieu thereof ''representative''; and

(ii) in subsection (f)—

(I) by striking ''an agent'' and inserting in lieu thereof ''a representative''; and

(II) by striking ''any agent'' and inserting in lieu thereof ''representative''.

(F) Section 4 of the Foreign Agents Registration Act of 1938 (22 U.S.C. 614) is amended—

(i) by striking ''an agent'' each place it appears and inserting in lieu thereof ''representative'';

(ii) by striking ''propaganda'' each place it appears and inserting in lieu thereof ''promotional material'';

(iii) by striking ''such agent'' each place it appears and inserting in lieu thereof ''such representative'';

(iv) by striking ''agent'' and inserting in lieu thereof ''representative''; and

(v) by striking ''any agent'' and inserting in lieu thereof ''any representative''.

(G) Section 5 of the Foreign Agents Registration Act of 1938 (22 U.S.C. 615) is amended—

(i) by striking ''Every agent'' and inserting in lieu thereof ''Every representative'';

(ii) by striking ''an agent'' and inserting in lieu thereof ''a representative''; and

(iii) by striking ''every agent'' and inserting in lieu thereof ''every representative''.

(H) Section 6 of the Foreign Agents Registration Act of 1938 (22 U.S.C. 616) is amended—

(i) by striking ''propaganda'' each place it appears and inserting in lieu thereof ''promotional material''; and

(ii) by striking ''agent'' and inserting in lieu thereof ''representative''.

(I) Section 7 of the Foreign Agents Registration Act of 1938 (22 U.S.C. 617) is amended—

(i) by striking ''an agent'' each place it appears and inserting in lieu thereof ''a representative''; and

(ii) by striking ''such agent'' each place it appears and inserting in lieu thereof ''such representative''.

(J) Section 8 of the Foreign Agents Registration Act of 1938 (22 U.S.C. 618) is amended—

(i) by striking ''propaganda'' and inserting in lieu thereof ''promotional material'';

(ii) by striking ''an agent'' each place it appears and inserting in lieu thereof ''any representative''.

(iii) by striking ''any agent'' each place it appears and inserting in lieu thereof ''any representative''; and

(iv) by striking ''such agent'' and inserting in lieu thereof ''such representative''.

(K) Section 11 of the Foreign Agents Registration Act of 1938 (22 U.S.C. 621) is amended by striking ''propaganda'' and inserting in lieu thereof ''Promotional material''.

(b) EXEMPTIONS.—

(1) Section 3(d) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 613(d)) is amended by inserting immediately before the semicolon at the end the following proviso: '': *Provided*, That any person relying on this subsection shall notify the Attorney General of such reliance in such manner and form as the Attorney General may prescribe by regulation''.

(2) Section 3(g) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 613(g)) is amended by striking ''or any agency'' and all that follows except the period at the end.

(3) Section 1(q) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(q)) is amended—

(A) by striking ''and'' at the end of clause (ii) of the proviso; and

(B) by inserting immediately before the period at the end the following: '', and (iv) such activities do not involve the representation of the interests of the foreign principal before any agency or official of the Government of the United States other than providing information in response to requests by such agency or official or as a necessary part of a formal judicial or administrative proceeding, including the initiation of such a proceeding''.

(c) CIVIL PENALTIES; SUBPOENA POWER.—Section 8 of the Foreign Agents Registration Act of 1938 (22 U.S.C. 618) is amended by adding at the end the following new subsection:

''(i)(1) Any person who is determined, after notice and opportunity for an administrative hearing—

''(A) to have failed to file when such filing is required, a registration statement under section 2(a) or a supplement thereto under section 2(b),

''(B) to have omitted a material fact required to be stated therein, or

''(C) to have made a false statement with respect to such a material fact,

shall be required to pay a civil penalty in an amount not less than $2,000 or more than $5,000 for each violation committed. In determining the amount of the penalty, the Attorney General shall give due consideration to the nature and duration of the violation.

''(2)(A) Whenever the Attorney General has reason to believe that any person may be in possession, custody, or control of any documentary material relevant to an investigation regarding any violation of paragraph (1) or of section 5, the Attorney General may, before bringing any civil or criminal proceeding thereon, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to produce such material for examination.

''(B) Civil investigative demands issued under this paragraph shall be subject to the applicable provisions of section 1968 of title 18, United States Code.''.

(d) ANNUAL REPORT.—Section 11 of the Foreign Agents Registration Act of 1938 (22 U.S.C. 621) is amended by striking ''shall, from time to time, make a report'' and inserting in lieu thereof ''shall report annually''.

(e) SEPARATE SECTION OF CRIMINAL DIVISION, DEPARTMENT OF JUSTICE.—There is established within the Criminal Division of the Department of Justice a separate section which shall enforce the provisions of the Foreign Agents Registration Act of 1938 and chapter 11 of title 18, United States Code, as amended by this section, and the provisions of all other laws relating to lobbying activities in the United States.

(f) AMENDMENTS TO CHAPTER 11 OF TITLE 18, UNITED STATES CODE.—

(1)(A) Chapter 11 of title 18, United States Code, is amended by inserting immediately after section 207 the following new section:

''§ 207a. Limitation on the representation or advising of foreign persons by certain former Federal officers and employees and members of the uniformed services

''(a)(1) Except as provided in subsection (d), any person who serves as an officer or employee, or a member of a uniformed service, described in subsection (c), may not, during the period specified in paragraph (2), knowingly act as an agent or attorney for or otherwise represent or advise, for compensation—

''(A) a government of a foreign country or a foreign political party;

''(B) a person outside of the United States, unless such person is an individual who is a citizen of the United States; or

''(C) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country, if the representation or advice relates directly to a matter in which the United States is a party or has a direct and substantial interest. For purposes of this paragraph, the term 'compensation' means any payment, gift, benefit, reward, favor, or gratuity which is provided, directly or indirectly, for services rendered.

''(2) The period referred to in paragraph (1)—

''(A) in the case of a person who is an officer or employee described under subsection (c)(1), (2), or (3), is the five-year period after that persons's service as such officer or employee has ceased; and

''(B) in the case of a person who is an officer or employee described under subsection (c)(4) or 5, is the two-year period after that person's service as such officer or employee has ceased.

''(b) Any person described in subsection (c) who violates subsection (a) shall be punished as provided in section 216 of the title.

''(c) The prohibitions set forth in subsection (a) apply to—

''(1) the President of the United States;

''(2) the Vice President of the United States;

''(3) an individual who serves in a position in levels I and II of the Executive Schedule as listed in sections 5312 and 5313 of title 5, United States Code;

''(4) an individual who—

''(A) is appointed by the President under section 105(a)(2)(A) of title 3, United States Code;

''(B) is appointed by the Vice President under section 106(a)(1)(A) of such title 3;

''(C) is not described in paragraph (3) or subparagraph (A) or (B) and serves in a position in level I, level II, level III, level IV, or level V of the Executive Schedule; or

''(D) is a member of a uniformed service in a pay grade of 0–7 or higher and is serving on active duty; and

''(5) each Member of Congress.

''(d) The prohibitions set forth in subsection (a) shall not apply to a person described under subsection (c) to the extent the person is engaging only in—

''(A) the soliciting or collecting of funds and contributions within the United States to be used only for medical aid and assistance, or for food and clothing to relieve human suffering, if such solicitation or collection of funds and contributions is in accordance with applicable law;

''(B) activities in furtherance of bona fide religious, charitable, scholastic, academic, or scientific pursuits or of the fine arts; or

''(C) activities in furtherance of the purposes of an international organization of which the United States is a member.

''(e)(1) For purposes of subsection (c)(4)(D), the term 'uniformed service' means the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanic and Atmospheric Administration, and the Public Health Service.

''(2) For purposes of this section, the service of a member or former member of a uniformed service shall be considered to have ceased upon such member's discharge or release from active duty.''.

(B) The table of sections at the beginning of chapter 11 of title 18, United States Code, is amended by inserting immediately after the item relating to section 207 the following new item:

''207a. Limitation on the representation or advising of foreign persons by certain former Federal officers and employees and members of the uniformed services.''.

(2) Section 216 of title 18, United States Code, is amended by inserting ''207a,'' immediately after ''207,'' each place it appears.

(3)(A) Subject to subparagraph (B), this subsection and the amendments made by this subsection take effect January 1, 1996.

(B) The amendments made by this subsection do not apply to a person whose service as an officer or employee to which such amendments apply terminated before the effective date of such amendments.

(C) Subparagraph (B) does not preclude the application of the amendments made by this subsection to a person with respect to service as an officer or employee by that person on or after the effective date of such amendments.

SEC. 605. PAYMENT OF CERTAIN CUSTOMS DUTIES.

(a) TRANSACTION VALUE OF IMPORTED MERCHANDISE.—

(1) Section 402(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1401a(b)(1)) is amended—

(A) in subparagraph (D), by striking ''and'';

(B) in subparagraph (E), by striking the period and inserting in lieu thereof a semicolon;

(C) by adding at the end the following:

''(F) the cost of transporting the merchandise to the port of entry in the United States; and

''(G) the cost of insuring the merchandise prior to entry into the United States.''; and

(D) by striking ''(A) through (E)'' and inserting in lieu thereof ''(A) through (G)''.

(2) Section 402(b)(4)(A) of the Tariff Act of 1930 (19 U.S.C. 1401a(b)(4)(A)) is amended by striking ''exclusive of'' and inserting in lieu thereof ''including''.

(b) DEDUCTIVE VALUE.—Section 402(d)(3)(A) of the Tariff Act of 1930 (19 U.S.C. 1401a(d)(3)(A)) is amended—

(1) by striking clause (ii); and

(2) by redesignating clauses (iii) through (v) as clauses (ii) through (iv), respectively.

(c) COMPUTED VALUE.—Section 402(e)(1) of the Tariff Act of 1930 (19 U.S.C. 1401a(e)(1)) is amended—

(1) by striking ''and'' in subparagraph (C);

(2) by striking the period in subparagraph (D) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following:

''(E) the costs of transporting the merchandise to the port of entry in the United States; and

''(F) the cost of insuring the merchandise prior to entry into the United States.''.

SEC. 606. APPLICATION OF ANTITRUST LAWS.

(a) EXPORT FORECLOSURE.—

(1) IN GENERAL.—The Attorney General shall take appropriate action to initiate export foreclosure antitrust cases under section 7 of the Sherman Act (15 U.S.C. 6a), and under any other appropriate antitrust law. The Attorney General shall develop and maintain a list of practices that are to be the subject of such actions and the countries in which those practices occur, organized in order of priority based upon the economic impact of the practices.

(2) REPORT.—The Attorney General shall, from time to time, publish the list developed and maintained under paragraph (1).

(b) BEST EVIDENCE RULE WAIVED FOR UNREASONABLE FAILURE OF FOREIGN DEFENDANTS TO COMPLY WITH DISCOVERY ORDERS IN EXPORT FORECLOSURE ANTITRUST CASES.—If the defendant in an export foreclosure antitrust case unreasonably fails to respond to a discovery request, then the application of Rule 1002 of the Federal Rules of Evidence shall be waived with respect to proof of the contents of a writing, recording, or photograph that is the subject of the request.

(c) UNRELATED HOME MARKET ARRANGEMENTS MAY BE TAKEN IN ACCOUNT IN DETERMINING PREDATORY PRICING.—In an export foreclosure antitrust case brought under section 1 of the Sherman Act (15 U.S.C. 1)

against a foreign defendant for predatory pricing, the court may take into account the amount, reasonableness, and relationship to fair-market-value of rents received by the defendant in its home market for the purpose of determining whether the plaintiff has established the recoupment element.

(d) DEFINITIONS.—For purposes of this section—

(1) EXPORT FORECLOSURE ANTITRUST CASE.—The term ''export foreclosure antitrust case'' means an action brought under the antitrust laws of the United States against a person engaged in antitrust competitive acts or practices outside the United States that cause harm to the United States export trade without regard to whether the United States consumers are directly injured by such acts or practices.

(2) ANTITRUST LAWS.—The term ''antitrust laws'' has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)).

(3) FOREIGN DEFENDANT.—The term ''foreign defendant'' means a defendant not—

(A) a citizen or lawful resident of the United States;

(B) a corporation organized under the laws of the United States or of any State; or

(C) a proprietorship, partnership, joint venture, or other form of business organization not organized in the United States or of any State.

SEC. 607. ELIMINATION OF QUARTERLY REPORTS.

(a) IN GENERAL.—

(1) Section 13(a)(2) of the Securities Exchange Act of 1934 (15 U.S.C 78m(a)(2)) is amended by striking ''and such quarterly reports (and such copies thereof),''.

((2) Notwithstanding any other provision of law or regulation to the contrary, including section 240.13a–13 of title 17, Code of Federal Regulations, neither the Securities Exchange Commission nor any other agency or department of the United States may require an issuer of securities required to file an annual report under section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) to file quarterly reports.

(b) EFFECTIVE DATE.—Subsection (a) takes effect with respect to the first calendar quarter beginning more than 45 days after the date of enactment of this Act.

SEC. 608. SECRETARY OF LABOR TO PUBLISH QUARTERLY REPORTS OF RUNAWAY PLANTS.

Section 283 of the Trade Act of 1974 (19 U.S.C. 2394) is amended by adding at the end the following:

''(c) The Secretary of Labor shall publish a quarterly report of notices received under subsection (a).''.

SEC. 609. MANDATORY EXON-FLORIO REVIEW OF SALE OF CRITICAL TECHNOLOGY COMPANY.

Section 721(b) of the Defense Production Act of 1950 (50 U.S.C. App. 2170(b)) is amended—

(1) by inserting after ''United States.'' the following: ''The President or the President's designee shall also make such an investigation in any instance in which any person seeks to engage in a merger, acquisition, or takeover which could result in control of a person doing business in interstate commerce in the United States engaged in critical technologies.''; and

(2) by striking ''Such investigation'' and inserting ''An investigation under this subsection''.

SEC. 610. ADDITIONAL IRS AGENTS FOR TRANSFER PRICING CASES.

The Secretary of the Treasury shall increase the number of officers and employees of the Internal Revenue Service whose primary responsibility is the determination of taxable income substantially affected by transfer pricing between related entities.

SEC. 611. TRANSFER OF ITC FUNCTIONS TO COMMERCE DEPARTMENT; TERMINATION OF ITC.

(a) TRANSFER OF FUNCTIONS.—There are transferred from the International Trade Commission to the Secretary of Commerce—

(1) the personnel employed in connection with those functions transferred to the Secretary by this Act; and

(2) the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, or used in connection with the functions transferred to the Secretary under this Act, arising from such functions or available, or to be made available, in connection with such functions.

Unexpended funds transferred pursuant to this subsection shall be used only for the purpose for which the funds were originally appropriated.

(b) TERMINATION.—

(1) IN GENERAL.—Upon the transfer of functions, as specified herein, to the Secretary of Commerce, the International Trade Commission shall terminate.

(2) SAVINGS PROVISIONS.—

(A) All orders, determinations, rules, regulations, licenses, and privileges which are in effect at the time this section takes effect, shall continue in effect according to their terms, insofar as they involve regulatory functions to be retained by this section, until modified, terminated, superseded, set aside, or revoked in accordance with law by the Secretary or by a court of competent jursidction, or by operation of law.

(B) The provisions of this section shall not affect any proceedings or any application for any license pending before the International Trade Commission at the time this section takes effect, insofar as those functions are retained and transferred by this section; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(3) TRANSITION REGULATIONS.—The Secretary may promulgate regulations providing for the orderly transfer of pending proceedings from the International Trade Commission.

(4) PENDING LITIGATION.—Except as provided in paragraph (6)—

(A) the provisions of this section shall not affect suits commenced prior to the date this section takes effect, and,

(B) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this section had not been enacted.

(5) NO ABATEMENT.—No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the International Trade Commission, insofar as those functions are transferred by this section, shall abate by reason of the enactment of this section. No cause of action by or against the International Trade Commission, insofar as functions are transferred by this section, or by or against any officer thereof in his official capacity, shall abate by reason of enactment of this section.

(6) CONTINUATION.—Any suit by or against the International Trade Commission begun before the effective date of this section shall be continued, with the Secretary substituted for the Commission.

(c) REFERENCE.—With respect to any functions transferred by this section and exercised after the effective date of this section, reference in any other Federal law to the International Trade Commission shall be deemed to refer to the Secretary of Commerce.

(d) EFFECTIVE DATE.—This section shall take effect 90 days after the date of enactment of this Act.

SEC. 612. TRANSFER OF OVERSEAS PRIVATE INVESTOR CORPORATION AND EXPORT-IMPORT BANK TO COMMERCE DEPARTMENT.

(a) OVERSEAS PRIVATE INVESTOR CORPORATION.—

(1) TRANSFER TO COMMERCE DEPARTMENT.—The Overseas Private Investor Corporation is transferred to, and shall be deemed to be a part of, the Department of Commerce, but shall retain its organization, management, and status as a corporation.

(2) SECRETARY OF COMMERCE TO BE CHAIRMAN OF BOARD OF DIRECTORS.—Section 233 of the Foreign Assistance Act of 1961 (22 U.S.C. 2193(b)) is amended by striking ''Administrator of the Agency for International Development'' and inserting ''Secretary of Commerce''.

(3) CONFORMING AMENDMENTS.—Section 239 of that Act (22 U.S.C. 2199) is amended by striking ''Agency for International Development'' in subsections (e) and (h) and inserting ''Department of Commerce''.

(b) EXPORT-IMPORT BANK.—

(1) TRANSFER.—Notwithstanding section 3(a) of the Act of July 31, 1945 (59 Stat. 517; 12 U.S.C. 635a(a)), the Export-Import Bank of the United States shall constitute an independent agency of the United States within the Department of Commerce.

(2) SECRETARY OF COMMERCE TO BE CHAIRMAN OF BOARD OF DIRECTORS.—Section 3(c) of that Act (12 U.S.C. 635a(c)(1)) is amended—

(A) by striking ''President of the Export-Import Bank of the United States who shall serve as Chairman, the First Vice-President who shall service as Vice Chairman,'' in paragraph (1) and inserting ''the Secretary of Commerce who shall serve as Chairman, ex officio, the President of the Export-Import Bank of the United States who shall service as Vice Chairman, and the First Vice-President,'';

(B) by inserting ''other than the Secretary of Commerce,'' after ''Board,'' in paragraph (2); and

(C) by inserting ''other than the Secretary of Commerce,'' after ''President,'' in paragraph (8)(B).

(c) TECHNICAL AND CONFORMING CHANGES.—The Secretary of Commerce shall, within 30 days after the date of enactment of this Act, submit to the appropriate committees of the Congress a draft of any technical, conforming, or other changes in existing law necessary to effectuate fully and effectively the transfers made by subsections (a) and (b).

(d) EFFECTIVE DATE.—This section shall take effect 90 days after the date of enactment of this Act.

SEC. 613. ESTABLISHMENT OF NOAA AS INDEPENDENT AGENCY.

(a) IN GENERAL.—The National Oceanic and Atmospheric Agency is hereby established as an independent agency of the United States. Neither the Agency nor any of its functions, powers, or duties shall be transferred to or consolidated with any other department, agency, or corporation of the Government unless the Congress shall otherwise by law provide.

(b) TRANSFER OF FUNCTIONS.—There are transferred from the Department of Commerce to the Agency—

(1) the personnel employed in connection with those functions of the Agency on the date of enactment of this Act; and

(2) the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, or used in connection with the functions transferred to the Agency under this Act, arising from such functions or available, or to be made available, in connection with such functions.

Unexpended funds transferred pursuant to this subsection shall be used only for the purpose for which the funds were originally appropriated.

(3) SAVINGS PROVISIONS.—

(A) All orders, determinations, rules, regulations, licenses, and privileges which are in effect at the time this section takes effect, shall continue in effect according to their terms, insofar as they involve regulatory functions to be retained by this section, until modified, terminated, superseded, set aside, or revoked in accordance with law by the Agency or by a court of competent jurisdiction, or by operation of law.

(B) The provisions of this section shall not affect any proceedings or any application pending before the Agency at the time this section takes effect, insofar as those functions are retained and transferred by this section; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(3) TRANSITION REGULATIONS.—The Agency may promulgate regulations providing for the orderly transfer of pending proceedings from the Department of Commerce.

(4) PENDING LITIGATION.—Except as provided in paragraph (6)—

(A) the provisions of this section shall not affect suits commenced prior to the date this section takes effect, and,

(B) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this section had not been enacted.

(5) NO ABATEMENT.—No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the Department of Commerce, insofar as those functions are transferred by this section, shall abate by reason of the enactment of this section. No cause of action by or against the Department of Commerce, insofar as functions are transferred by this section, or by or against any officer thereof in his official capacity, shall abate by reason of enactment of this section.

(6) CONTINUATION.—Any suit by or against the Department of Commerce begun before the effective date of this section shall be continued, with the Agency substituted for the Secretary of Commerce.

(c) REFERENCE.—With respect to any functions transferred by this section and exercised after the effective date of this section, reference in any other Federal law to the Agency as a part of the Department of Commerce shall be deemed to refer to the Agency as an independent agency.

(d) EFFECTIVE DATE.—This section shall take effect 90 days after the date of enactment of this Act.

SEC. 614. SURCHARGE ON IMPORTS; RESEARCH AND DEVELOPMENT TAX CREDIT.

(a) SURCHARGE ON IMPORTS.—

(1) SURCHARGE IMPOSED.—There is hereby imposed on the importation of any good that is the product of another country an import surcharge of 10 percent of the duty otherwise chargeable under the Harmonized Tariff Schedule.

(2) EFFECTIVE DATE.—The increase in duty imposed by paragraph (1) applies to goods entered or withdrawn from warehouse more than 30 days after the date of enactment of this Act.

(b) RESEARCH AND DEVELOPMENT TAX CREDIT.—

(1) INCREASE IN PERCENTAGE.—Section 41(a)(1) of the Internal Revenue Code of 1986 (relating to general rule for credit for increasing research activities) is amended by striking ''20 percent'' each place it appears and inserting ''25 percent''.

(2) CREDIT MADE PERMANENT.—Section 41 of such Code (relating to credit for increasing research activities) is amended by striking subsection (h).

(3) EFFECTIVE DATE.—The amendments made by this subsection apply to any amount paid or incurred after June 30, 1995.

By Mr. SANTORUM:

S. 1149. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Babs*, and for other purposes; to the Committee on Commerce, Science, and Transportation.

CERTIFICATE OF DOCUMENTATION LEGISLATION

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

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

S. 1149

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

SECTION 1. CERTIFICATE OF DOCUMENTATION.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), section 8 of the Act of June 19, 1886 (24 Stat. 81, chapter 421; 46 U.S.C. App. 289), and section 12106 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel BABS, United States official number 1030028.•

By Mr. SANTORUM:

S. 1150. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the Marshall Plan and George Catlett Marshall; to the Committee on Banking, Housing, and Urban Affairs.

THE GEORGE C. MARSHALL COMMEMORATIVE COIN ACT

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

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

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 ''George C. Marshall Commemorative Coin Act''.

SEC. 2. COIN SPECIFICATIONS.

(a) DENOMINATIONS.—The Secretary of the Treasury (hereafter in this Act referred to as the ''Secretary'') shall mint and issue the following coins in commemoration of the 50th anniversary of the Marshall Plan and George Catlett Marshall:

(1) ONE DOLLAR SILVER COINS.—Not more than 700,000 one dollar coins, each of which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(2) HALF DOLLAR CLAD COINS.—Not more than 500,000 half dollar coins each of which shall—

(A) weigh 11.34 grams;

(B) have a diameter of 1.205 inches; and

(C) be minted to the specifications for half dollar coins contained in section 5112(b) of title 31, United States Code.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

SEC. 3. SOURCES OF BULLION.

The Secretary shall obtain silver for minting coins under this Act only from stockpiles established under the Strategic and Critical Materials Stock Piling Act.

SEC. 4. DESIGN OF COINS.

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall be emblematic of the 50th anniversary of the Marshall Plan, which gave Europe's war-ravaged countries the economic strength by which they might choose freedom, and George C. Marshall, the author of the plan.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year ''1997''; and

(C) inscriptions of the words ''Liberty'', ''In God We Trust'', ''United States of America'', and ''E Pluribus Unum''.

(3) OBVERSE SIDE.—The obverse side of each coin minted under this Act shall bear the likeness of George C. Marshall.

(b) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary after consultation with the George C. Marshall Foundation, the Friends of George C. Marshall, and the Commission of Fine Arts; and

(2) reviewed by the Citizens Commemorative Coin Advisory Committee.

SEC. 5. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular combination of denomination and quality of the coins minted under this Act.

(c) COMMENCEMENT OF ISSUANCE.—The Secretary may issue coins minted under this Act beginning January 1, 1997.

(d) TERMINATION OF MINTING AUTHORITY.—No coins may be minted under this Act after December 31, 1997.

SEC. 6. SALE OF COINS.

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in subsection (d) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

(d) SURCHARGES.—All sales shall include a surcharge of—

(1) $12 per coin for the one dollar coin; and

(2) $4 per coin for the half dollar coin.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 8. DISTRIBUTION OF SURCHARGES.

(a) IN GENERAL.—All surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary in equal portions to—

(1) the George C. Marshall Foundation for the purpose of supporting the Foundation's educational and outreach programs to promote the ideals and values of George C. Marshall; and

(2) the Friends of George C. Marshall for the sole purpose of constructing and operating the George C. Marshall Memorial and Visitor Center in Uniontown, Pennsylvania.

(b) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the George C. Marshall Foundation and the Friends of George C. Marshall as may be related to the expenditures of amounts paid under subsection (a).

SEC. 9. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

By Mr. BURNS (for himself and Mr. CRAIG):

S. 1151. A bill to establish a National Land and Resources Management Commission to review and make recommendation for reforming management of the public land, and for other purposes; to the Committee on Energy and Natural Resources.

THE FEDERAL LANDS MANAGEMENT ACT OF 1995

Mr. BURNS. Mr. President, on behalf of myself and Senator CRAIG of Idaho, I rise to introduce legislation to help solve a problem that has increasingly plagued public lands States such as my own State of Montana and Senator CRAIG'S State of Idaho.

For over the past 100 years the Congress has passed many laws regarding the use and management of our public lands. These lands were critical to the development of our country, and especially to the development of the West. Therefore, early legislation focused on the production of commodities from these lands. And they did produce; they produced much of the minerals, timber, food products, and energy that enabled our ancestors to build this great Nation. They provided the lands and materials to develop our transportation and communications systems. And they provided lands for homesteading and for building our communities. Very special areas were also set aside in perpetuity as national parks, national monuments, and wildlife refuges.

For the last 30 years the emphasis has been on environmental protection, conservation, and nonconsumptive uses. We have greatly expanded our national park and refuge systems from these lands. We have preserved millions of acres under special designations such as wilderness, wild and scenic rivers, and conservation areas. We have protected additional millions of acres for conservation purposes under special designations such as withdrawals, exclosures, and areas of critical environmental concern. We have enacted numerous pieces of legislation that require these lands be managed to protect environmental values in general, such as the National Environmental Protection Act, the Federal Land Policy and Management Act, the National Forest Management Act, and the Forest Management Practices Act. We have enacted legislation which protects individual environmental values such as air and water quality, soil stability, fish and wildlife, and endangered species. We have passed legislation which requires public land managers to control hazardous and toxic materials and protect the public health and safety. And we have passed legislation which subjects these lands to State law and oversight. In many instances these laws are not well-crafted, and conflict with one another.

We have been one busy group of legislators. These laws were developed and passed with very good intentions—to serve the public interest. After we completed our efforts, the Federal agencies went to work. And they have been busy too. The regulatory agencies have created a morasse of regulations, some of which attempt to establish their authorities as the ultimate priority for management of the public lands. Some of which abuse their authority by extending the interpretation of the laws beyond anything that Congress intended.

During our debates on Federal agency abuse of regulation under regulatory reform, and other proposals, we have heard seemingly unending examples of such regulatory abuse. I need mention only a few of these laws to bring images of such abuse to mind—the Endangered Species Act, Superfund, and the Clean Water Act. These laws, and the regulations developed to implement them, have been used by the regulatory agencies and others to styme or prevent the legitimate use of our public lands for purposes that are supported by the public and approved by the Congress. Even where the intention of the laws were fulfilled in regulation, agencies often found conflicting requirements when attempting to implement them. Let me give you just one example. The Federal land management agencies find themselves gridlocked by the Clean Water Act and hazardous materials requirements in trying to mitigate environmental problems on old, abandoned mine sites. They would like to correct the water quality problems on these sites, which is their responsibility under the Clean Water Act. Up until now they have resisted, and rightly so. To do this would expose them, and thus the taxpayer, to liability for hazardous waste cleanup. Under the hazardous materials laws, that is the responsibility of the mine operator.

Land management agencies complain of confused priorities and colliding mandates under their own authorities. This situation is the same as with the regulatory agencies—there is some justification for this claim, but in part it is a monster of their own creation. For example, land management agencies have had considerable trouble managing tracts of land for uses such as grazing and timber production while at the same time providing recreational opportunities. The reasons for this are many. To some extent it results from external factors such as conflicts, or perceived conflicts, between competing uses. To some extent it is the result of agency procedures, such as a complex, expensive, time-consuming planning process. These agencies go through the planning effort, which frequently results in an atmosphere of confrontation and deviseness among the user and interest communities, and usually find their efforts subject to further successful challenge. In many cases the plans are never implemented as written.

Even though the agencies have similar mandates, unless otherwise directed these agencies have usually created their regulations independently. Their interpretations of the same piece of legislation may be different, and their requirements under a given act well may be entirely different if not in conflict. Such problems have become so widely recognized that multiple use of public lands is under legitimate challenge as a viable management concept.

Because of all of this we see a public that is understandably disenchanted over complex and conflicting laws and regulations. And they are increasingly vocal in their frustration over their inability to make reasonable use of their

own lands and natural resources. Instead of fulfilling a widely supported and legally established goal of providing products and services from our public lands under the reasonable requirements of sustained yield and multiple use, we have natural resource management gridlock. And in this era of restructuring of government to improve our performance, there is a wide recognition of duplication of effort, inefficiency, and ineffectiveness of the multiple-use agencies in managing our natural resources.

With this in mind, I am offering today, legislation which proposes to revamp the way the public's multiple-use lands are managed. This bill, if approved, will create a commission to evaluate and report to the Congress and the President changes to be made to improve the management of these lands to better meet the public's needs, desires, and expectations. The commission is directed to evaluate and make recommendations in three general areas of land management. They will look into improving the efficiency and effectiveness of current management practices. They are to evaluate the land ownership patterns and make recommendations to consolidate Federal holdings into a more rational pattern. And they are to propose how multiple-use agencies might be combined into one agency for the management of Federal multiple-use lands.

In looking at ways to improve the efficiency and effectiveness of management practices the commission will evaluate several areas in particular. They will address ways to reduce costs of administrative overhead by 50 percent, and to reduce the cost of managing the lands overall by at least 30 percent. They are to evaluate ways to dedicate more agency resources to providing service to the public, and to improve the services which they offer to the public. They will propose ways to simplify the planning and appeals processes. They will review and recommend changes to improve the withdrawal process. And they will recommend ways to consolidate the laws under which the agencies operate. These are all areas that we have attempted to deal with in the past. We address the budget and service items in almost every appropriations bill. This bill provides us an opportunity to take a consolidated approach to dealing with these issues. And the time to do it has arrived.

The commission will review and recommend rational changes to land ownership and jurisdiction patterns. They will make recommendations as to lands which more properly belong in private ownership or under State jurisdiction. Land ownership patterns alone have been the source of many of the problems and controversies, and much of the unnecessary expense, associated with the management of public lands. With the exception of administrative sites, these agencies have little reason to hold lands within city limits, but it is the situation in many western communities. Federal requirements for such lands are frequently in conflict with community development plans and desires. This causes needless problems for the management agencies and the communities involved.

Similarly, there are many areas in the West where Federal holdings are intermingled with other ownerships. One good example of this is the checkerboard ownership patterns along the old railroad grant corridors. The ownership changes hands every other square mile. For a Federal agency or private landowner trying to manage their holdings this is an impossible situation, and we can and must do something to correct it.

The commission will evaluate and recommend the actions needed to combine multiple-use management of public lands under one agency. The Congress has recognized the need, and has made unsuccessful attempts, to do this in the past. The reasons for previous failure are many. But the timing for this has never been more appropriate. We are seeing the public adamantly demand the elimination of waste, and improved efficiency, from their Federal Government. We in the Congress are making a wide-reaching attempt to find rational, reasonable ways to balance the budget and reduce regulatory burden. And the administration is restructuring the bureaucracy to reduce it's size and improve it's services to the public. This proposal will serve all of these goals.

Finally, the commission is charged to prepare the report and legislation to implement their recommendations, for the consideration of the President and the Congress.

The bill contains a fast-track provision. If the Congress can agree to the need to create this commission, and to the substance of the report and legislation that the commission is to prepare, then there should be little reason to delay consideration of the legislation needed to get this job done. To delay would only result in continuing the present inefficiencies, costs, conflicts, and duplication that we now see in the management of these public lands and resources.

A plan is needed to bring these agencies within budget constraints. We have the opportunity to provide the public with efficiently managed lands while doing so. The recent election was a clear message that the public is ready for these changes. I hope that you will join me in approving this legislation to fulfill that public demand.

By Mr. BURNS (for himself and Mr. MURKOWSKI):

S. 1152. A bill to amend the Endangered Species Act of 1973 with commonsense amendments to strengthen the act, enhance wildlife conservation and management, augment funding, and protect fishing, hunting, and trapping; to the Committee on Environment and Public Works.

THE COMMON SENSE AMENDMENTS FOR ALL ENDANGERED SPECIES ACT

Mr. BURNS. Mr. President, I rise today to introduce the Common Sense Amendments for All Endangered Species Act.

The purpose of the bill is to change specific features of the statute so that the ESA cannot be used to attack and diminish wildlife conservation programs, sport hunting opportunities, and traditional wildlife management. A better ESA and enhanced support for endangered species protection from America's traditional conservationists—hunters and anglers—will be the result of these amendments.

Current law does not require that the consequences of listing and other actions on hunting and wildlife management be specifically examined. The National Environmental Policy Act mandates review of general environmental effects via environmental impact statements, but no specific review of effects on hunting is directed.

This bill directs the U.S. Fish and Wildlife or Marine Fisheries Service to review the impacts on hunting, fishing, and fish and wildlife management. Simply put, ESA actions must consider effects on hunters.

In addition, the current law prohibits the taking of protected species. Taking means harass, harm, et cetera. Harm is defined by FWS to prohibit any unintentional acts, including habitat modification, which annoys protected species. FWS determined that under this definition, alterations of habitat can be prohibited even if no listed animal suffers harm. This definition can result in the criminalization of innocent activities.

My commonsense bill amends the Endangered Species Act to ensure wildlife management programs and operators are protected from unwarranted prosecution.

Another aspect to the ESA which needs to be addressed is CITES [Convention on International Trade of Endangered Species]. The role that sport hunting plays in conservation is not recognized in CITES. FWS has failed to accept the determinations of countries of origin of which the animals are properly available for hunting and exporting or importing.

The bill I am introducing today provides direction to FWS for the administration of the ESA and CITES. The bill reflects the positive role of hunting. The bill also requires that the United States will accept the determination of other countries.

Section 5 of the bill addresses how other countries' laws interact with U.S. law. It is unclear whether an individual must comply with a country's Federal and provincial requirements to be in compliance with U.S. law. Under present law, all foreign violations can be treated as criminal acts in the United States—even if the American doesn't have knowledge of the violation.

The commonsense bill provides only those laws which are related to wildlife

conservation, and can be clearly understood, should carry criminal consequences within the United States.

One issue which must be addressed in the authorization is subspecies and population criteria. The ESA directs that species which are threatened or endangered be listed as protected under the terms of this act. The term ''species '' includes any subspecies and, in the case of vertebrate species, any distinct population segment which interbreeds when mature. This license to list subspecies and population segments is problematic, because it can result in protection of subspecies and populations that are still abundant generally. This splitting of the term ''species'' into a virtually infinite number of subclassifications often results in the application of the ESA to situations in which it originally was not intended to apply. This coupled with the look alike rules could severely diminish domestic hunting opportunities.

This bill amends the ESA to direct the Department of the Interior to establish specific criteria to determine when a group of animals is sufficiently distinct to qualify as a subspecies or population.

If we really want decisions related to the ESA to be made on sound science, peer review must be included. Under the current listing process, the Secretary of the Interior may decide to list a species as threatened or endangered, or any interested person can petition the Secretary to do so. In either case, the Secretary makes the decision on whether or not to list a species based upon determinations generated internally by the FWS. There are often no public hearings in this decision-making process wherein the FWS data is open to scrutiny and challenge.

There is also no provision for peer review of the FWS data by qualified outside experts. Because the guts of the listing process is effectively closed to the public and to scientific peer review, its credibility can be suspect. The lack of genuine public scrutiny and scientific evaluation can undermine public support for listing decisions. The Department is also limited by this process. In very difficult issues, the lack of any adjudicative procedures or peer review process makes it hard to get the best scientific data available.

The bill I am introducing today authorizes the Secretary to employ, at his discretion, an adjudicative process wherein the public has an opportunity to scrutinize, evaluate, and challenge the decision to list a species. Public participation can ensure that all relevant factors are considered, proper weight is given to each factor, and the impact of listing or not listing is given due consideration and effect.

Finally, this bill begins to address the funding problem we face. With more environmental awareness, there has been an increasing cry for more funding of the Federal endangered species program. The hunting and fishing sector has traditionally developed its own mechanisms, such as excise taxes to fund such programs. The lion's share of the funding is derived from license sales, hunting and fishing stamps, and other sportsmen financed measures. Efforts should be made to develop similar programs which ensure that other wildlife supporters, including nonhunters, can financially support an enhanced ESA.

The commonsense bill directs a study toward developing a funding program patterned after those supported by sportsmen. The policy would provide that augmented ESA funding would not draw on moneys generated by hunting and fishing activities.

This bill is designed for sportsmen. These are the true conservationists. I believe we need to consider hunting and fishing activities when we discuss the reauthorization of the ESA.

Also, I am a cosponsor of S. 768 which was introduced by Senator GORTON and others earlier this month. I believe S. 768 is a good bill. I think the commonsense bill I am introducing today, in conjunction with S. 768, should be considered as the reauthorization of the Endangered Species Act moves forward.

By Mr. BURNS:

S. 1154. A bill to authorize the construction of the Fort Peck Rural County Water Supply System, to authorize assistance to the Fort Peck Rural County Water District, Inc., a nonprofit corporation, for the planning, design, and construction of the water supply system, and for other purposes; to the Committee on Energy and Natural Resources.

THE FORT PECK RURAL WATER SUPPLY ACT OF 1995

Mr. BURNS. Mr. President, I rise today to introduce legislation designed to meet a critical need in a very rural area of my State of Montana. The bill I am introducing would authorize a rural water system for the area around Fort Peck, MT.

Despite the fact that Fort Peck lies near one of the largest water reservoirs on the Missouri River, residents in this part of my State either rely on deep wells or they carry the water they need. In addition, the Fort Peck Indian Reservation lacks potable water.

This bill would allow for the construction of a water system that will meet many of the water needs of that part of my State.

By Mr. COCHRAN (for himself, Mr. PRYOR, Mr. COVERDELL, Mr. HELMS, Mr. WARNER, Mr. CRAIG, Mr. NUNN, Mr. LOTT, Mr. JOHNSTON, Mr. BREAUX, Mr. THURMOND, Mr. MACK, Mr. INOUYE, Mr. AKAKA, Mr. BUMPERS, and Mr. MCCONNELL):

S. 1155. A bill to extend and revise agricultural price support and related programs for certain commodities, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE AGRICULTURAL COMPETITIVENESS ACT OF 1995

• Mr. COCHRAN. Mr. President, today I am introducing the Agricultural Competitiveness Act of 1995.

The future of U.S. agriculture depends upon its ability to compete in the world market. This year, U.S. agricultural exports are expected to have a value of nearly $50 billion. Agricultural exports will account for more than 1 million American jobs. By carefully balancing our policy concerns with fiscal restraint, this bill should enhance our overall economic health, ensure that U.S. agriculture remains competitive, and contribute to the elimination of the deficit of the Federal Government.

The Agricultural Competitiveness Act makes substantial changes in current farm programs while dramatically increasing flexibility for farmers.

This bill extends and seeks to improve farm policy including the marketing loan, which has allowed U.S. agriculture to remain competitive in the face of heavily subsidized foreign competition. Those foreign subsidies can be expected to continue under terms of the GATT Uruguay Round.

This legislation also make significant changes in commodity programs that will ensure the American public of a continued source of affordable, safe and high quality food and fiber. Farmers will have greatly expanded cropping flexibility—through the modification and expansion of provisions first incorporated in the 1990 Farm Bill.

Farmers and agriculture related businesses face new and complex uncertainties in the international marketplace, due in part to foreign government subsidies. To ensure fair play and to counteract the effect of unfair trade practices and governmental actions that put our farmers and national interests at a disadvantage, the U.S. Government must continue to play a partnership role with U.S. farmers.

Senators should appreciate that previous reforms have caused Commodity Credit Corporation outlays for farm programs to decline from a high of $26 billion in fiscal year 1986 to less than $9 billion in fiscal year 1995, a reduction of 65 percent. According to the Congressional Budget Office, farm program outlays are projected to remain below this level for the next 7 years, even if no changes are made in current law. In considering changes in farm policies, Congress must consider: the high level of productivity that currently exists in U.S. agriculture, the narrowing profit margins faced by farmers and processors, the precarious nature of land values, the interdependence of rural economies and agriculture and the absolute necessity that a farm must secure financing to stay in business.

The bill expands cropping flexibility from 25 percent to 100 percent. It allows farmers to respond to market conditions and grow virtually any crop they choose on their farms—without providing unnecessary financial incentives for production shifts. This bill

goes beyond traditional flexibility. Farmers will have the opportunity to expand their production of program crops beyond their historical planting area through the use of traditional soybean acres. This innovative proposal not only will enhance market responsiveness, but will help farmers implement crop rotations, yielding conservation and other environmental benefits. Modified acreage reduction requirements included in this Act will also enhance crop rotation by removing disincentives currently limiting double-cropping.

This legislation requires that agriculture will again contribute its share of the savings necessary to achieve a balanced budget through modifications of existing programs, and it increases non-paid base program crop acres from 15 percent to 25 percent, significantly reducing outlays over the next 7 years, according to the Congressional Budget Office.

The peanut program is substantially revised. It further opens the program to new producers and more closely ties production limits to market demand. The sugar program is also reformed to allow U.S. sugar policy to continue to operate at ''no cost'' to the U.S. sugar policy to continue to operate at ''no cost'' to the U.S. Treasury. In order to meet the new minimum import obligations require by the GATT and remain no cost, a system requiring private industry to equitably carry surplus stocks is proposed which is more market oriented and more reliable than current policy.

The Agricultural Competitiveness Act of 1995 represents cost effective and comprehensive reform. I urge my colleagues to support it.

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

There being on objection, the summary was ordered to be printed in the RECORD, as follows:

THE AGRICULTURAL COMPETITIVENESS ACT OF 1995—SECTION-BY-SECTION SUMMARY

SEC. 1. SHORT TITLE; TABLE OF CONTENTS

Section 1 provides that this act may be cited as the Agricultural Competitiveness Act of 1995 and sets out a table of contents for the bill.

SEC. 2. FINDINGS, POLICY AND PURPOSE

Section 2 sets out certain findings of Congress and states the purpose of the bill, namely to establish agricultural price support and production adjustment programs for the 1996 through 2002 crop years that provide a structure for a sound agricultural economy.

SEC. 3. SENSE OF CONGRESS ON ENDING THE FEDERAL DEFICIT

Section 3 provides that it is the Sense of Congress that significant Federal budget deficits harm the economic well-being of the United States and are detrimental to effective agricultural policy. The section states that agricultural programs should be implemented in a manner that is consistent with the goals of ending Federal budget deficits and should be modified as necessary to ensure that the programs comply with applicable budget reconciliation instructions. Such modifications should adhere to the policy set out in section 306 of the concurrent resolution on the budget for fiscal year 1996.

TITLE I—WHEAT

SEC. 101. LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR THE 1996–2002 CROPS OF WHEAT

Section 101 amends section 107B of the Agricultural Act of 1949 (the ''1949 Act'') to provide for a production adjustment and price support program for the 1996–2002 crops of wheat as follows:

LOANS AND PURCHASES

Section 107B of the 1949 Act provides that the Secretary of Agriculture shall make loans and purchases available to producers of each of the 1996 through 2002 crops of wheat, using harvested wheat as collateral. The statutory minimum loan rate shall not be less than 85 percent of the simple average price received by producers of wheat for the previous 5 crops of wheat, dropping the high and low years. The loan rate cannot be reduced by more than 5 percent from the previous year's rate.

MARKETING LOANS

The Secretary shall permit producers to repay a wheat price support loan at the world market price (adjusted to U.S. quality and location) if it is below the loan level or the Secretary may permit the wheat loan to be repaid at such level as will minimize loan forfeitures and make U.S. wheat competitive. Loan deficiency payments are available to producers who agree to forgo obtaining such a loan.

DEFICIENCY PAYMENTS

Section 101B(c) of the 1949 Act requires the Secretary to make deficiency payments available to producers of each of the 1996–2002 crops of wheat. Deficiency payments received by producers are the product of a national payment rate, the producer's program payment yield, and the producer's payment acres. The established (target) price for wheat shall not be less than $4.00 per bushel. Deficiency payments are to be made on the higher of the difference between the average market price for the crop year, or the average price for the first 5 months plus 10 cents per bushel, or the loan level.

PAYMENT ACRES

Deficiency payments are made available with respect to payment acres. Payment acres are the lesser of the acreage planted to wheat or 75% of the wheat acreage base less any reduced acreage (the ARP). This has been reduced from 85% in current law.

0/85 PROGRAM

Producers who underplant (or plant to selected other crops) their maximum wheat payment acres may receive deficiency payments on a portion of their under planted acres through the 0–85/92 program. The 0/92 program is in place for prevented plantings, failed acres and certain other crops.

PROGRAM YIELDS

Payment yields remain frozen as in the 1990 Act.

ACREAGE REDUCTION PROGRAMS

The Secretary may require an acreage reduction program (ARP) on wheat if supplies are judged to be excessive in the absence of such a program. If the Secretary estimates the wheat stocks-to-use ratio to be more than 40%, the ARP shall be between 10–20%; if the stocks-to-use ratio is equal or less than 40%, the ARP can be no more than 15%. The ARP shall be announced no later than June 1 of the preceding calendar year, and adjustments can be made no later than July 31.

SEC. 102. NONAPPLICABILITY OF CERTIFICATE REQUIREMENTS

Section 102 provides that sections 379d through 379j of the Agricultural Adjustment Act of 1938 (the ''1938 Act'') shall not be applicable to wheat processors or exporters during the 1996–2002 crop years. The provisions pertain to the ''domestic use'' and export certificates.

SEC. 103. SUSPENSION OF LAND USE, WHEAT MARKETING ALLOCATION, AND PRODUCER CERTIFICATE PROVISIONS

Section 103 suspends several sections of the 1938 Act requiring land use penalties, marketing allocations and wheat certificates for the 1996–2002 crops.

SEC. 104. SUSPENSION OF CERTAIN QUOTA PROVISIONS

Section 104 suspends wheat marketing quotas established by a joint resolution and the 1938 Act for the 1996–2002 crops.

SEC. 105. NONAPPLICABILITY OF SECTION 107 OF THE AGRICULTURAL ACT OF 1949

Section 105 provides that the Wheat Program under section 107 of the Agricultural Act of 1949 is not applicable to the 1996–2002 crops of wheat.

TITLE II—FEED GRAINS

SEC. 201. LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR THE 1996–2002 CROPS OF FEED GRAINS

Section 201 amends section 105B of the Agricultural Act of 1949 (the ''1949 Act'') to provide for a production adjustment and price support program for the 1996–2002 crops of feed grains as follows:

LOANS

The Secretary shall make price support loans and purchases available to producers of the 1996 through 2002 crops of feed grains. Authority is retained to establish the corn loan level at the higher of 85% of average price received in last 5 years (dropping the high and the low), but may not be reduced by more than 5% from the previous year's level. Other feed grain loan rates are established relative to corn. The Secretary is authorized to reduce the loan rate by up to 10% based on stocks/use ratio and by an additional 10% to maintain a competitive market position. If the world market price for feed grains is less than the loan level, the Secretary shall allow producers to repay the loan at the adjusted world price or at such level as will minimize loan forfeitures and maintain competitiveness.

ESTABLISHED (TARGET) PRICE

The established (target) price shall be $2.75/bushel for corn; $2.61/bushel for grain sorghum; and not less than $1.45/bushel for oats. The established price for barley shall not be less than 85.8% of the established price for corn.

DEFICIENCY PAYMENTS

Participating producers are eligible to receive a deficiency payment based on the difference between the established (target) price and the higher of the loan rate or the average price received.

0/85 PROGRAM

Producers who underplant (or plant to selected other crops) their maximum feed grain payment acres may receive deficiency payments on a portion of their under planted acres through the 0–85/92 program. The 0/92 program is in place for prevented plantings, failed acres and certain other crops.

PROGRAM YIELDS

Payment yields remain frozen as in the 1990 Act.

ACREAGE REDUCTION PROGRAM

Section 105B(e) of the 1949 Act provides that the Secretary is authorized to establish an acreage reduction program for corn of 0 to 12.5% if previous year's stocks-to-use ratio is less than or equal to 25% and 10 to 20% if stocks-to-use ratio is greater than 25%.

FARMER-OWNER RESERVE

The Secretary has authority to open the farmer-owner reserve under specific conditions which may be mandatory or discretionary, depending on trigger.

PAID LAND DIVERSION

The Secretary is authorized to offer a paid-land diversion.

TITLE III—COTTON

SEC. 301. LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR THE 1996–2002 CROPS OF UPLAND COTTON

Section 301 amends section 103B of the Agricultural Act of 1949 (the ''1949 Act'') to provide for a production adjustment and price support program for the 1996–2002 crops of upland cotton as follows:

LOANS

Section 103B(a) of the 1949 Act provides that the Secretary shall make available market based, non-recourse loans to producers of upland cotton for the 1996–2002 crops. The loan shall be for an initial term of 10 months. The base loan rate shall be the lower of (1) 85% of the 5-year moving average U.S. spot market price for upland cotton (dropping the high and the low) or 90% of the 15-week average of the 5 lowest priced growths of upland cotton quoted for Northern Europe. The loan rate may not be reduced by more than 5% from the previous year's rate and may not be less than 50 cents per pound. The loan level must be announced by November 1 of the year preceding the marketing year for the crop and the loan term may be extended for an additional 8 months if monthly average U.S. cotton prices are not more than 130% of the average price for upland cotton during the previous 36 months.

MARKETING LOANS

In order to ensure that U.S. upland cotton maintains a competitive market position, the Secretary shall allow producers to repay an upland cotton price support loan at the adjusted world price for upland cotton, as determined by the Secretary. Loans may be repaid at the adjusted world price or at any level between the loan rate and 70% of the loan rate if the adjusted price is below the market-based U.S. loan level.

If the Secretary further determines U.S. cotton to be uncompetitive in international markets, section 103B(a)(5)(c), (D) and (E) of the 1949 Act provide for a three-step competitiveness plan whereby U.S. cotton will maintain its competitiveness in world and domestic markets. Under these steps (1) the Secretary may adjust the adjusted world price in order to enhance U.S. competitiveness, (2) if U.S. cotton is uncompetitive by more than 1.25 cents per pound for a consecutive 4 week period, the Secretary may issue marketing certificates to domestic users and exporters of cotton in order to restore competitiveness, and (3) if U.S. prices are not competitive for a consecutive 10 week period, the Secretary may open a special import quota.

SEED COTTON LOAN

The Secretary shall make a recourse loan program available to producers of seed cotton.

LOAN DEFICIENCY PAYMENTS

Section 103B(b) of the 1949 Act authorizes the Secretary to make loan deficiency payments available to producers who agree to forgo obtaining a price support loan. Loan deficiency payments are equal to the difference between the upland cotton price support loan rate and the applicable loan repayment rate.

DEFICIENCY PAYMENTS

Section 103B(c) of the 1949 Act requires the Secretary to make deficiency payments available to producers of each of the 1996–2002 crops of upland cotton. Deficiency payments are determined on the basis of the difference between the established price for upland cotton and the calendar year weighted price received (or the loan rate if higher than the calendar year weighted price received). Deficiency payments are determined by multiplying the payment rate by the payment acres for the crop for the farm by the farm program payment yield. The established price for upland cotton shall not be less than 72.9 cents per pound for the 1996–2002 crops (the current level).

PAYMENT ACRES

Deficiency payments are made available only with respect to payment acres. Payment acres equal the acreage planted to upland cotton within the crop acreage base, less the reduced acreage (ARP), less 25% of the crop acreage base.

50/85 PROGRAM FOR UPLAND COTTON

Section 103B(c)(1)(D) of the 1949 Act provides that if an uplands cotton acreage reduction program is in effect, a producer of upland cotton may devote a portion of the producers' permitted upland cotton acreage to conserving or other specified crops but still eligible to receive deficiency payments on up to 85% of the producer's permitted cotton acreage. There is a 50% planting requirements. The deficiency payment rate under this section cannot be less than that estimated at the time of sign-up for the upland cotton program. A special 0/92 option is available to producers who, due to disastrous weather, were prevented from meeting the 50% planting requirement.

FARM PROGRAM PAYMENT YIELDS

Farm program payment yields are frozen at the levels established in 1985.

ACREAGE REDUCTION PROGRAMS

Section 103B(e) of the 1949 Act provides that if the Secretary determines that the total supply of upland cotton will be excessive, the Secretary may implement an acreage reduction program (ARP) for any of the 1996–2002 crops of upland cotton. Under the ARP, the Secretary may require producers to idle up to 25% of the crop acreage base for upland cotton in any one crop year. The Secretary shall implement an ARP program in such a way as to achieve a stocks to use ratio of 29.5% for the 1996 crop and 29% for each of the 1997–2000 crops. The Secretary shall announce the preliminary ARP by November 1 of the year preceding the marketing year for the crop and must announce that final ARP by the following January 1.

CROP ACREAGE BASES

Crop acreage bases are established under title V of the 1949 but are established as the avarage of the acreage planted and considered planted to upland cotton during the most recent 3 crop years. Further, no upland cotton acreage base may be increased for any year the farm is enrolled in the upland cotton program.

ACREAGE DEVOTED TO CONSERVATION USES

Under the ARP, producers must agree to devote a number of acres on the farm to conservation uses (''reduced acres''), in accordance with regulations issued by the Secretary. Such regulations shall ensure protection of the acreage from weeds and wind and water erosion. The Secretary may also authorize the planting of approved crops on up to ½ of such acres. If such approved crops are planted, the Secretary shall adjust the producer's level of deficiency payments. Haying grazing may be allowed on reduced acreage except during any 5 month between April and September designated by the local State Consolidated Farm Service Agency committee.

TARGETED OPTION PAYMENTS

Section 103B(e)(3) of the 1949 Act authorizes the Secretary to allow producers to adjust any ARP announced upward by 10–25% or downward by 50%. If a producer is allowed to adjust the applicable ARP under this program, the producer's applicable established price shall be adjusted by the Secretary in order to ensure this program is operated in a budget neutral manner.

LAND DIVERSION PAYMENTS

The Secretary may make land diversion payments available to upland cotton producers if it is determined that such payments are necessary to adjust the total national acreage planted to upland cotton to desirable goals. The land diversion program is a voluntary program. In return for a payment offered by the Secretary, producers would agree to idle a specified amount of their upland cotton base. The land diversion payment rates may not be less than 35 cents per pound if ending stocks are projected to be above 8 million bales. Land diversion offers may not exceed 15% of the upland cotton crop acreage base for the farm.

PARTICIPATION AGREEMENTS

Producers on a farm desiring to participate in the upland cotton program will enter into a contract with the Secretary setting out the terms and conditions of participation no later than a date specified by the Secretary.

INVENTORY REDUCTION PAYMENTS

Section 103B(f) of the 1949 Act provides that the Secretary may make payments available to producers who voluntarily forgo deficiency payments and loans for upland cotton. The producers who take advantage of this provision may reduce their ARP requirement by 50% and retain eligibility for loan deficiency payments.

CROSS AND OFFSETTING COMPLIANCE

Cross and offsetting compliance may not be required as a condition of eligibility for loans, purchases or payments for a crop of upland cotton.

LIMITED GLOBAL IMPORT QUOTA

Section 103b(n) of the 1949 Act provides for the establishment of a special limited global import quota for cotton whenever the average monthly price for U.S. cotton exceeds 130 percent of the average price for cotton during the preceding 36 months. The special limited quota shall be established for 90 days and shall be equal to 21 days of domestic mill consumption for upland cotton. The quota established by subsection (n) and the quota established under subsection (a) may not be opened at the same time.

SEC. 302. EXTRA LONG STAPLE COTTON

Section 302 amends section 103(h) of the 1949 act to extend the program for extra long staple cotton through the 2002 crop.

SECS. 303 AND 304. SUSPENSION OF CERTAIN MISCELLANEOUS COTTON PROVISIONS

Section 303 and 304 suspend certain provisions of the Agricultural Adjustment Act of 1938 and the 1949 Act from application to any of the 1996–2002 crops of upland cotton.

SEC. 305. SKIPROW COTTON

Section 305 amends section 374(a) of the Agricultural Adjustment Act of 1938 to provide that, for the 1996–2002 crops of upland cotton, to continue the Secretary to allow 30-inch rows to be taken into account for classifying the acreage planted to cotton and the area skipped.

SEC. 306. PRELIMINARY ALLOTMENTS UNDER THE AGRICULTURAL ADJUSTMENT ACT OF 1938

Section 306 establishes preliminary allotments for the 2003 crop at the levels previously established for the 1977 crop of upland cotton as provided in section 379 of the Agricultural Adjustment Act of 1938.

SEC. 307. COTTONSEED OIL ASSISTANCE PROGRAM

Section 307 authorizes the continuation of the Cottonseed Oil Assistance program at levels consistent with the GATT 1994 agreement.

SEC. 308. EXTENSION OF COTTON STATISTICS AND ESTIMATES ACT

Section 308 extends authorities contained in the section 3a of the Act of March 3, 1927 (commonly known as the ''Cotton Statistics and Estimates Act'').

TITLE IV—RICE

SEC. 401. LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR THE 1996–2002 CROPS OF RICE.

Section 401 amends section 101B of the 1949 Act to provide a rice program for the seven year period 1996–2002 (with essentially the same terms and conditions as current law) as follows:

LOANS AND PURCHASES

The amended section 101B(a) provides for 9 months nonrecourse loans during each year of the period 1996–2002 at the greater of $6.50 per cwt. or 85% of the average prices received by producers during the preceding 5 years, excluding the years with the highest and lowest price. Announcement of the loan level and target price must be made no later than January 31 of the year in which the crop is to be harvested. For the 1996 crop, the announcement must be made as soon as practicable after enactment of this Act.

MARKETING LOANS

The amended section 101B(a) also provides that the loans shall be marketing loans which permit the producer to repay the loan at the lesser of the loan level or the prevailing world market price but not less than 70% of the loan level. The Secretary is required to prescribe a formula to determine the world market price that does not take into account prices for sales of U.S. produced rice and arrange for periodic announcements of the world price.

The amended subsection also authorizes the Secretary to require producers to buy transferable marketing certificates redeemable in cash or CCC owned commodities equal in value to ½ the difference between the loan value and the loan repayment rate.

If the prevailing world market price is below the loan repayment level, CCC is required to make payments to producers participating in the program through the issuance of transferable marketing certificates redeemable in CCC owned commodities or cash as necessary to make U.S. rice available at competitive world prices. The value of the certificates is equal to the difference between the loan level and the world price.

LOAN DEFICIENCY PAYMENTS

The amended section 101B(b) provides for loan deficiency payments for those producers who are eligible to obtain a loan but wish to forego the loan. The payment is equal to the quantity of rice for which the producer wishes to forego a loan multiplied by the difference between the loan rate and the loan repayment rate. The Secretary is authorized to make up to ½ the payment in the form of marketing certificates.

DEFICIENCY PAYMENTS

The amended section 101B(c) provides for deficiency payments to be made available to producers for each of the years 1996–2002. The amount of the payment is equal to the payment rate multiplied by the payment acres and the program yield. The payment rate is the difference between the established (target) price (not less than $10.71 per cwt.) and the greater of a computed market price or the loan level. The computed market price used in this formula is the lesser of national average market price received by producers during the calendar year that includes the first months of the marketing year, or the national average market price received by producers during the first five months of the marketing year plus a factor considered fair and equitable in relation to wheat and feed grains.

PAYMENT ACRES

Deficiency payments are made available only with respect to payment acres. Payment acres are the lesser of the acreage planted to rice or 75% of the rice acreage base less any reduced acreage (the ARP). This has been reduced from 85% in current law.

50/85 PROGRAM

The section also provides for a continuation of the 50/85 program if there is an acreage limitation program in effect. If producers devote more than 15% of their maximum payment acres to conservation uses, the amount so devoted in excess of 15% is considered planted to rice and eligible for payment. To be eligible, the producer must plant at least 50% of the maximum payment acres to rice unless there is a quarantine on the planting of rice or unless the producer is prevented from planting or has a reduced yield because of a natural disaster.

In the event the producer is prevented from planting or has a reduced yield, he may devote to conservation uses or to certain alternative crops more than 8 percent of the maximum payment acres and receive a payment as if the acreage were planted to rice. This program is familiarly known as the 0/92 program. The alternative crops are limited to crops for industrial use for which there is no substantial domestic production or market.

CROP INSURANCE

It is also provided that producers on the farm must obtain catastrophic risk protection insurance coverage as a condition of eligibility for loans and payments.

PAYMENT YIELDS

Section 101B(d) of the 1949 Act provides that farm program yields shall be determined under title V, in the same manner as in current law.

ACREAGE REDUCTION PROGRAMS

Amended section 101B(e) provides authority for a rice acreage reduction program if the supply of rice will likely be excessive, and requires the Secretary to conduct an acreage reduction program so as to result in carry-over stocks being equal to 16.5–20 percent of the average of the total disappearance of rice for the 3 preceding marketing years. If there is an acreage reduction program, a preliminary announcement of the program, including the uniform percentage reduction of the rice acreage base (between 0 and 35%) must be made by December 1 of the year preceding the year in which the crop is harvested, and a final announcement must be made by the following January 31. If there is an acreage reduction program in effect, producers who exceed their permitted acreage of rice are not eligible for loans or payments.

The reduction in the base required by the acreage reduction program must be devoted to conservation uses or up to ½ of the reduced acres may be devoted to certain designated crops as specified in section 504(b)(1) in which event the deficiency payment received by the producer must be reduced accordingly.

TARGETED OPTION PAYMENTS

The subsection also proves authority for targeted option payments if there is in effect an acreage reduction program of 20% or less. Under this option, producers may receive an increase in the target price if they increase the acreage limitation percentage (up to 5%) or a decrease in the target price if they decrease the acreage limitation percentage (up to ½ the acreage limitation percentage. If offered, the option may not result in any additional program outlays.

CONSERVING USE ACRES

The acreage required to be devoted to conservation uses must be protected from weeds and water erosion. Haying and grazing is permitted on the conservation use acreage except during a five consecutive month period between April and October unless there is a natural disaster. Conservation use acreage may also be converted to water storage uses, subject to specified terms and conditions. The reduced acreage and any additional diverted acreage may be devoted to wildlife habitat.

LAND DIVERSION PROGRAM

The Secretary is also authorized to provide for a land diversion program to assist in adjusting the acreage of rice to desirable goals. Payments may be determined through the submission of bids or other means the Secretary deems appropriate.

INVENTORY REDUCTION PAYMENTS

Amended section 101B(f) provides authority for the Secretary to make inventory reduction payments available to producers in the form of marketing certificates if they forgo obtaining a loan and deficiency payment and reduce their rice acreage by ½ the acreage required to be diverted.

MISCELLANEOUS

Amended sections 101B (g) to (n) contain the same miscellaneous provisions as in current law. They provide authority for equitable relief to producers who fail fully to comply with the program, as well as for assignment of payments, protection of tenants and sharecroppers, the sharing of payments, and prohibits cross-compliance non-recourse, among others.

TITLE V—OILSEEDS

SEC. 501. PRICE SUPPORT PROGRAM FOR THE 1996–2002 CROPS OF OILSEEDS.

Section 501 amends section 205 of the Agricultural Act of 1949 (the ''1949 Act'') to provide for a price support program for the 1996–2002 crops of oilseeds as follows:

LOANS

Section 205 of the 1949 Act is amended to require the Secretary to make available loans and purchases to producers of soybeans, sunflower seed, canola, rapeseed, safflower, flaxseed, mustard seed, and other oilseeds for the 1996 through 2002 crops.

Loan and purchase levels shall be not less than the greater of either 85% of average prices received by producers in three of the previous five years (disregarding the high and low years) or $5.50 per bushel for soybeans and $9.75 hundredweight for sunflower seed, canola, rapeseed, and flaxseed. Loan and purchase levels for other oilseeds are required to be established in relation to the level for soybeans, except that the level for cottonseed may not be lower than the level for soybeans on a per-pound basis.

ADJUSTMENT IN LOAN LEVEL

If the Secretary determines that the loan and purchase level for an oilseed crop will result in outlays in the form of loan deficiency payments, the Secretary is required to reduce the loan and purchase level for the crop in that year to a level that will result in payments not being made. However, the loan and purchase levels may not be established at less than $5.00 per bushel for soybeans and $8.90 per hundredweight for sunflower seed, canola, rapeseed, and flaxseed.

If the Secretary adjusts the level of loan and purchases from an oilseed, the Secretary

is required to submit a report to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry certifying that the adjustment is necessary to reduce outlays in the form of loan deficiency payments and describing the production, stocks, and price circumstances under which the adjustment is needed. Any reduction in the loan and purchase level for an oilseed crop will not be considered in determining the loan and purchase level for a future crop of that oilseed.

MARKETING LOANS

Section 205(d) of the 1949 Act provides that the Secretary shall permit producers to repay loans at the lesser of the loan and purchase level for the crop and either the prevailing world price for the oilseed, adjusted to United States quality and location, as determined by the Secretary, or such other level not in excess of the loan and purchase level that the Secretary determines will minimize potential loan forfeitures, accumulation of oilseed stocks by the Federal Government, and the cost of storing oilseeds by the Federal Government, and allow oilseeds produced in the United States to be marketed freely and competitively, both domestically and internationally. The Secretary is required to prescribe by regulation a formula for determining, and a mechanism for periodically announcing, the world market price for oilseeds.

LOAN DEFICIENCY PAYMENTS

The Secretary is required to offer eligible producers who agree to forgo obtaining loans and purchases the option to receive loan deficiency payments. Payments shall be determined by multiplying the loan and purchase payment rate by the quantity of oilseeds for which an eligible producer forgoes the option to place under loan. The loan and purchase rate shall be the difference between the loan and purchase level for the crop and the level at which the loan may be repaid. Payments may be made in the form of certificates redeemable for agricultural commodities owned by the Commodity Credit Corporation. Certificates shall be made available to the extent necessary to minimize the accumulation of oilseed stocks by the CCC.

MARKETING YEAR

The marketing year for soybeans shall be the one-year period beginning on September 1 and ending on August 31. The marketing years for other oilseeds shall be prescribed by the Secretary by regulation. The Secretary shall announce the loan and purchase level for a crop of oilseeds not later than [15 days prior to the first day of the marketing year] in the calendar year in which the crop is harvested.

LOAN MATURITY

A loan made for a crop of oilseeds shall mature on the last day of the 9th month following the month in which application for the loan is made, except that the loan may not mature later than the last day of the fiscal year in which the application is made.

MISCELLANEOUS PROVISIONS

The Secretary shall not require participation in any production adjustment program for oilseeds or any other commodity as a condition of eligibility for loans and purchases for oilseeds. The Secretary may not authorize payments to producers to cover the cost of storing oilseeds. Oilseeds may not be considered an eligible commodity for any reserve program.

The Secretary is authorized to issue such regulations as determined necessary to carry out this section, and shall carry out the program authorized by this section through the Commodity Credit Corporation.

Section 205, as amended, shall be effective only for the 1996 through 2002 crop of oilseeds.

TITLE VI—PEANUTS

SEC. 601. SUSPENSION OF MARKETING QUOTAS AND ACREAGE ALLOTMENTS

Section 601 of the bill makes section 358(a) through (j)[1], section 358a(a) through (j)[2] section 359(a), (b), (d), and (e), section 371[3], and Part I of subtitle C of title III[4], of the Agricultural Adjustment Act of 1938 inapplicable to the 1996 through 2002 crops of peanuts.

SEC. 602. NATIONAL POUNDAGE QUOTAS AND ACREAGE ALLOTMENTS

Section 602 of the bill makes various changes to the current provisions of section 358–1 of the Agricultural Adjustment Act of 1938 as follows:

The bill directs the Secretary to estimate the quantity of peanuts and peanut products to be imported into the United States for the marketing year as part of the required annual estimate of domestic consumption.

The bill repeals the current floor (minimum level) at which the national poundage quota may be established for any marketing year.

The bill repeals the authority to increase farm poundage quotas based on undermarketings (the quantity by which a farm poundage quota for a marketing year exceeds the actual peanuts produced and marketed on the farm) from previous years.

The bill repeals the provisions authorizing a special poundage quota allocation process for Texas.

The bill authorizes the Secretary to annually allocate temporary quota to each peanut producer for purposes of acquiring seed for planting the producer's crop of peanuts for that year.

The bill tightens the eligibility criteria for the purposes of determining if a farm's poundage quota should be ''considered produced'' by allowing quota to either be voluntarily released or leased (but not both)[6] during 1 of the 3 previous years.

The bill repeals the current limitation[7] on the allocation of farm poundage quota that has been reduced or voluntarily released to farms with no quota. The amended provision requires the reallocation to farms without quota to be limited only by the average production history of the farms.

SEC. 603. SALE, LEASE, OR TRANSFER OF FARM POUNDAGE QUOTA

Section 603 of the bill makes various changes to the current quota transfer provisions of section 358b of the Agricultural Adjustment Act of 1938 as follows:

The bill allows farm poundage quota to be transferred to another farm across county lines but within the same State if both farms have been in common ownership or control for the 3 previous years or if both farms are located in a State with 10,000 tons or more quota (subject to an annual and an overall limitation on the amount of quota that is eligible for an out of county transfer).

The bill allows farm poundage quota to be transferred after the normal planting season (fall lease transfer) to another farm across county lines but within the same State.

SEC. 604. MARKETING PENALTIES; DISPOSITION OF ADDITIONAL PEANUTS

Section 604 of the bill extends the effective period of the current provisions of section 358e of the Agricultural Adjustment Act of 1938[8] to include the 1996 through 2002 crops and expands the application of the current penalty for reentry of exported additional peanuts to include peanut products.

SEC. 605. EXPERIMENTAL AND RESEARCH PROGRAMS

Section 605 of the bill extends the effective period of section 358c of the Agricultural Adjustment Act of 1938[9] to include the 1996 through 2002 crops.

SEC. 606. PRICE SUPPORT PROGRAM

Section 606 amends section 108B of the 1949 Act to extend for 7 years the current law requirements for the Secretary to provide price support to producers of peanuts through loans, purchases, and other operations through the 2002 crop of peanuts.

The bill limits the allowable amount of decrease (as well as increase) that may be made in the national average quota support rate for a crop of peanuts to not more than 5 percent of the rate for the preceding crop.

The bill limits the eligibility for entry into or participation in the New Mexico area marketing association established pools to peanuts produced within the State of New Mexico.

The bill repeals the provision of current law that require losses in one production area quota pool to be offset by gains or profits from pools in other production areas (area cross compliance). The bill adds a requirement that losses in an area quota pool must be offset by any gains from the sale of additional peanuts by any producer that is in the quota pool.

The bill adds a provision to clarify that all peanuts in the domestic market, including imported peanuts, must comply with all quality standards, and that importers must comply with inspection, handling, storage, and processing requirements, under Marketing Agreement No. 146. The bill also adds a provision to require peanuts produced for export to comply with inspection, handling, storage, and processing requirements under Marketing Agreement No. 146.

The bill extends the requirement for the Secretary to provide for the collection of a marketing assessment, applicable to each of the 1996 through 2002 crops of peanuts, equal to 1.2 percent of the national average support rate.

TITLE VII—SUGAR

Title VII of the bill amends section 206 of the Agriculture Act of 1949 to authorize and direct the Secretary to provide price support for the 1996 through 2002 crops of sugar beets and sugar cane. Section 902 of the Food Security Act of 1985 provides that such sugar programs are to be operated in a manner so as to be no cost to the U.S. Government; this provision continues unamended. Title VII also provides for the amendment of part VII of the Agricultural Adjustment Act of 1938 to establish marketing assessment bases for sugarcane and sugar beet processors and cane sugar refiners.

SEC. 701. SUGAR PRICE SUPPORT

Section 701 of the bill amends section 206 of the Agriculture Act of 1949 as follows:

LOAN AND PRICE SUPPORT

Section 206, as amended, provides that the price of each of the 1996 through 2002 crops of sugar beets and sugarcane must be supported by the Secretary of Agriculture and fixes the support level for the price of domestically grown sugarcane for this period at 18 cents per pound for raw cane sugar, and for domestically grown sugar beets at the basic loan rate level for the 1994 crop of sugar beets. The price support is implemented through nonrecourse loans provided by the Commodity Credit Corporation. Section 206, as amended, provides the Secretary with authority to adjust these fixed price support levels for each of the 1997 through 2002 crops of sugarcane and sugar beets when the Secretary deems it appropriate, taking into account such factors as changes in the cost of sugar products, the cost of domestic sugar production, and other circumstances that may adversely affect domestic sugar production.

MARKET ASSESSMENTS

Section 206, as amended, also establishes market assessments for raw cane sugar, beet sugar, and imported sugar. Two tiers of assessment are established in subsection 206(i). The tier 1 assessment is applicable to the first processor of sugarcane and sugar beets for raw cane sugar and beet sugar which fall within the processor's base as established by the Secretary under the Agricultural Adjustment Act of 1938, as amended by this bill, and to imported raw cane sugar. The assessment rate in tier 1 for marketings of raw cane sugar processed from domestically produced sugarcane or sugarcane molasses marketed during the 1997 through 2003 fiscal years is equal to 1.1% of the loan level established by the Secretary to support the price of domestically grown sugar cane (but not more than 0.198 cents per pound of raw cane sugar); the tier 1 assessment for beet sugar processed from domestically produced sugar beets or sugar beet molasses marketed during the 1997 through 2003 fiscal years is equal to 1.1794% of the loan level established by the Secretary to support the price of domestically grown sugar beets (but not more than 0.2123 cents per pound of beet sugar). These tier 1 assessments apply only to marketed beet sugar and raw cane sugar within the processor's base. For imported raw cane sugar, the tier 1 assessment which must be paid by each holder of a certificate of quota eligibility for such sugar imported into the United States is the same amount that would be applicable to the first processor of U.S. produced sugarcane during the fiscal year. For refined sugar, whether from sugar beets or sugarcane, imported into the United States, each holder of a certificate of quota eligibility must pay a tier 1 assessment in the amount applicable to the first processor of U.S. produced sugar beets during the fiscal year. In all cases, the assessment is paid to the Commodity Credit Corporation, and the assessment is nonrefundable.

The tier 2 non-refundable marketing assessment established under subsection 206(i) is applicable to marketings of raw cane sugar or beet sugar during the 1997 through 2003 fiscal years which are in excess of the processor's or the cane sugar refiner's assessment base as established by the Secretary under the Agricultural Adjustment Act of 1938, as amended by this bill. The tier 2 assessment for fiscal 1997 is an amount equal to 100% of the loan level established for marketings of raw cane sugar or beet sugar in fiscal 1997. For each fiscal year thereafter through fiscal year 2001, the assessment rate is reduced by three percentage points per year, so that the assessment rate is 97% of the applicable loan level for marketings for the 1998 fiscal year, 94% for the 1999 fiscal year, 91% for the 2000 fiscal year, and 88% for the fiscal years 2001 through 2003. The first processor of sugarcane or sugar beets, or the refiner of cane sugar, as the cane may be, must remit the assessment to the Commodity Credit Corporation.

SUPPLY OF RAW CANE SUGAR

Subsection 206(j) of the 1949 Act, as amended, authorizes the Secretary to assure the U.S. supply of raw cane sugar. It provides that whenever for 7 consecutive market days the price for raw cane sugar for the nearest future contract month averages more than 128 percent of the loan rate specified for raw cane sugar, the Secretary must, within 3 market days, use all available authorities to increase the supply of raw cane sugar, in increments of not less than 50,000 tons, to a level sufficient to reduce the average price for raw cane sugar to equal to or less than 128 percent of the loan rate.

There is an exception to the authority of the Secretary to take this action. The Secretary must not take any action if, for the same 7 consecutive market days in which the price for raw cane sugar for the nearest future contract month averages more than 128 percent of the loan rate for raw cane sugar, the average bulk, FOB factory net price for refined beet sugar reported by all sellers is more than 128 percent of such average price for raw cane sugar for such nearest future contract month.

SEC. 702. MARKETING ASSESSMENT BASES FOR PROCESSORS AND REFINERS

Section 702 of the bill amends part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa *et seq.*) (the ''1938 Act''), effective October 1, 1996, to provide for marketing assessment bases for sugar processors and refiners as follows:

ESTABLISHMENT OF MARKETING ASSESSMENT BASES

Section 359b of the 1938 Act, as amended, requires that the Secretary impose, for each of the fiscal years 1997 through 2003, marketing assessment bases for processors of sugar processed from domestically produced sugarcane and sugar beets and for cane sugar refiners. The marketing assessment bases are to be based on the Secretary's estimate of sugar consumption in the United States for such fiscal year.

CALCULATION OF MARKETING ASSESSMENT BASES

Section 359c of the 1938 Act, as amended, provides for the calculation of marketing assessment bases and requires the Secretary to establish marketing assessment bases for sugar in each of the fiscal years 1997 through 2003. The Secretary must first establish the overall quantity of sugar to be distributed for the fiscal year, referred to as the overall base. This overall base is to be set on the basis of the Secretary's estimate of sugar consumption for the fiscal year, and must be adjusted to the maximum extent practicable to prevent the acquisition of sugar by the Commodity Credit Corporation.

Section 359c requires that once the overall base quantity is established for a fiscal year, it must be distributed among sugar derived from sugar beets and sugar derived from sugarcane in the proportion of 47% for sugar derived from sugar beets; and 53% sugar derived from sugarcane, including raw cane sugar imported from foreign countries for consumption in the United States.

Subsection (d) of Section 359c provides that this initial distribution of the base between sugar derived from sugar beets and sugar derived from sugarcane is subject to a required further distribution to establish three bases. The first of these bases is the base for sugar derived from sugar beets, which for a fiscal year is a quantity equal to the product of multiplying the overall base quantity for the fiscal year by 47%. The second base is a base for sugar derived from sugarcane, which for a fiscal year is the quantity obtained by subtracting 1,257,000 short tons, raw value, from the quantity equal to the product of multiplying the overall base quantity for the fiscal year by 53%. The third base is the base for refined cane sugar, which is the quantity equal to the product of multiplying the overall base quantity for the fiscal year by 53%.

Section 359c further provides that the base for sugar derived from sugarcane must be distributed among the five States in the United States (considering Puerto Rico as a ''State'' for this purpose) in which sugarcane is produced in a fair and equitable manner on the basis of past marketings of sugar processed from sugarcane in the 2 highest years of production from each States from the 1990 through 1994 crops), processing capacity, and the ability of processors to market the sugar covered under the base.

Section 359c also provides for the adjustment of the marketing assessment bases. Whenever the weighted average bulk, FOB factory/refinery net price (including the price of representative consumer and industrial products, adjusted to a bulk basis) reported by all sellers of refined sugar for any week is more than 111 per cent of the average bulk, FOB factory price for refined beet sugar for the fiscal years 1990 through 1994, the Secretary may increase the marketing assessment bases of cane sugar refiners and sugar beet processors. Whenever the weighted average bulk FOB factory/refinery net price (including the price of representative consumer and industrial products, adjusted to a bulk basis) reported by all sellers of refined sugar for any week is less than 104 percent of the average FOB factory price for refined beet sugar for the fiscal years 1990 through 1994, the Secretary must decrease the marketing assessment bases of cane sugar refiners, sugar beet processors, and cane sugar processors, but must maintain the minimum access level for imports of sugar set forth in the Harmonized Tariff Schedules of the United States.

DISTRIBUTION OF MARKETING ASSESSMENT BASES

Section 359d of the 1938 Act, as amended, provides for the distribution of marketing assessment bases to individual processors and refiners. The Secretary must distribute each of the three bases provided for under subsection (d) of section 359c for each of the fiscal years 1997 through 2003 among the processors or cane sugar refiners covered by the base in a fair, efficient and equitable manner. In the case of distributing the cane sugar assessment base among processors, the Secretary is required to take into consideration processing capacity, past marketings of sugar, and the ability of each processor to market sugar covered by that proportion of the base distributed. Further, with respect to distribution the beet sugar assessment base among processors of sugar beets, the Secretary is required to assign processor bases in accordance with each processor's highest amount of sugar produced in any year from sugar beets produced from the 1990 through the 1994 crops. In making these distributions to processors and refiners from the assessments bases, the Secretary is also required to make reasonable provisions for new processors and refiners.

REASSIGNMENT OF DEFICITS

Section 359e of the 1938 Act, as amended, provides for the reassignment of any deficits in the marketing of an assessment base. If the Secretary determines that any sugarcane processor who has received a share of a State cane sugar assessment base will be unable to market the processor's share of the State's cane sugar base for the fiscal year, the Secretary must first reassign the estimated quantity of the deficit to the bases for other processors within that State; if after such reassignments the deficit cannot be completely eliminated, the Secretary must then reassign the remaining part of the estimated quantity of the deficit proportionately to the bases for other cane sugar States; and finally, if after these second reassignments, the deficit still cannot be completely eliminated, the Secretary is to reassign the remainder to imports. With respect to beet sugar, if the Secretary determines that a sugar beet processor who has received a share of the beet sugar assessment base will be unable to market its share, the Secretary must first reassign the estimated quantity of the deficit to the bases for other sugar beet processors; if after such reassignments the deficit cannot be completely eliminated, the Secretary must reassign the remainder to imports. If the Secretary determines that a

cane sugar refiner who has received a share of the cane sugar assessment base will be unable to market that share, the Secretary must reassign the estimated quantity of the deficit to the bases of other refiners, as the Secretary deems appropriate.

PROVISIONS APPLICABLE TO PRODUCERS

Section 359f of the 1938 Act directs the Secretary, for each of the fiscal years 1997 through 2003, to obtain from processors such assurances as the Secretary deems adequate that the assessment base will be shared among producers served by the processors in a fair and equitable manner that adequately reflects producers' production histories, and to resolve through arbitration by the Secretary on the request of either party any dispute between a processor and a producer, or group of producers, with respect to the sharing of the processor's allocation.

Section 359f also directs the Secretary, in any case in which a State share of an assessment base is established under subsection (e) of section 359c and there are in excess of 250 producers in the State to which it applies, to make a determination, for each such State share of an assessment base, whether the production of sugar, in the absence of proportionate shares, will be greater than the quantity needed to enable processors to fill the State share of the assessment base and provide a normal carryover inventory. If the Secretary determines this to be the case for a fiscal year, considering the amount of sugar processed from all crops by all processors covered by such State base, then the Secretary must establish a proportionate share for each sugarcane producing farm that limits the acreage of sugarcane that may be harvested on the farm for sugar or seed during the fiscal year, with each such proportionate share subject to adjustment for natural disaster or other condition beyond the control of producers.

SEC. 703. PREVENTION OF SUGAR LOAN FORFEITURES

Section 703 of title VI amends section 902(c)(2)(A) of the Food Security Act of 1985—which provides that the Secretary is to report to the President any sugar imports from Cuba by certain countries exporting sugar to the United States—by extending its applicability to August 1, 2002.

TITLE VIII—GENERAL COMMODITY PROVISIONS

Significant adjustments have been made in the General Provisions to increase planting flexibility and comply with deficit reduction targets. Increased flexibility is provided in two ways: (1) by expanding so-called optimal flex acres from 10% of permitted acres to 100% of permitted acres and (2) by providing new authority to allow producers to plant up to 25% of their historical oilseed acreage to a program crop. In both cases, the crop ''flexed'' would be eligible for loan but not deficiency payments.

SEC. 801. DEFICIENCY AND LAND DIVERSION PAYMENTS

Section 801 amends section 114 of the 1949 Act to continue the authority of the Secretary of Agriculture to make advance deficiency payments.

SEC. 802. ADJUSTMENT OF ESTABLISHED PRICES

Section 802 extends the authority contained in section 402(b) of the 1949 Act through the 2002 crops.

SEC. 803. ADJUSTMENT OF SUPPORT PRICES

Section 803 extends the authority contained in section 403(c) of the 1949 Act through the 2002 crops.

SEC. 804. PROGRAM OPTION FOR THE 1003 AND SUBSEQUENT CROPS

Section 804 amends section 406 of the 1949 Act to provide the Secretary with the authority to offer optional programs for the 2003 and subsequent crop years that are similar to those provided in the 1949 Act for the 2002 crops.

SEC. 805. APPLICATION OF TERMS IN THE AGRICULTURAL ACT OF 1949

Section 805 amends section 408(k)(3) of the 1949 Act to make its terms applicable to the 1996–2002 crops.

SEC. 806. ACREAGE BASE AND YIELD SYSTEM

Title V of the 1949 Act is basically extended and made applicable to the 1996 through 2002 crops of wheat, feed grains, upland cotton and rice. Section 806 changes current law governing planting flexibility as follows:

Increases current planting flexibility from 25% to 100%. Producers can effectively respond to market signals by planting alternative crops on up to 100% of their crop acreage base without penalty and without market-distorting financial incentives; and

Provides producers with ability to plant program crops on up to 25% of their historical soybean acreage, without losing program eligibility and without market-distorting financial incentives. Any program crop planted under this provision will retain loan eligibility.

SECS. 811. PAYMENT LIMITATIONS

Section 811 extends the application of payment limitations as provided in title X of the Food Security Act of 1985 to the 1996 through 2002 crops.

SEC. 812–831. MISCELLANEOUS AND CONFORMING AMENDMENTS

Sections 812 through 831 of the bill contain various miscellaneous and conforming amendments either extending certain provisions of law or making necessary modifications to current law to conform with the provisions of the agricultural Competitiveness act of 1995.

[1] Section 358 of the Agricultural Adjustment Act of 1938 requires the Secretary to establish and apportion a national marketing quota and a national acreage allotment for the production of peanuts.

[2] Section 358a of the Act provides for the sale, lease, and transfer of peanut acreage allotments.

[3] Section 371 of the Act provides for the adjustment of marketing quotas and acreage allotments for cotton, rice, peanuts, or tobacco based on the supply of the commodity involved.

[4] Part I provides for the publication and review of marketing quotas and acreage allotments for tobacco, corn, wheat, cotton, peanuts, and rice.

[5] Section 358–1(a)(1) of current law prohibits the secretary from establishing the national poundage quota for a marketing year at less than 1,350,000 tons.

[6] Section 358–1(b)(4) of the Act provides that quota will be considered produced if it is either voluntarily released during 1 of the 3 previous years or leased during 1 of the 3 previous years (or both).

[7] Section 358–1(b)(6)(B) of the Act provides that not more than 25 percent of such quota may be reallocated to farms for which no quota was established for the preceding year.

[8] Section 358e of the Act provides for the handling and disposal of peanuts and establishes penalties for the marketing of peanuts in excess of the established poundage quota.

[9] Section 358c of the Act authorizes the Secretary to permit not more than 1 tenth of 1 percent of the basic quota for a State to be utilized for experimental and research purposes.

KEY PROVISIONS OF THE AGRICULTURAL COMPETITIVENESS ACT OF 1955

Maintains the current basic structure of our highly successful farm programs (contains the freeze on target prices and maintains from marketing loan program for wheat, feedgrains, cotton, and rice).

Requires farm policies to be modified in order to meet the Balanced Budget Reconciliation Instruction—Increases non-paid base acres from 15% to 25%.

Allows for 100% flexibility; increases the Optional Flex Acres (OFA) from 10% to 100% of program crop acreage base. This will allow producers to more effectively respond to market signals by being able to plant eligible alternative crops on up to 100% of their program base acres without being penalized by having their base acreage reduced in the following crop year.

Provides farmers the option for up to 25% two-way flexibility. This will enable farmers to produce program crops on up to 25% of historical soybean acres. In essence, this provision further allows farmers to respond to market signals by enabling them to plant up to 25% of their historical soybean acres to program crops which will be eligible for loan participation.

Allows the Secretary to increase soybean and minor oilseed marketing loan rates up to 85% of their 5 year average market price or $5.50 per bushel and $9.75 per hundred weight, respectively, if the Secretary determines that these rates will be budget neutral. The minimum market loan rate for soybeans and minor oilseeds are increased to $5.00 per bushel and $8.90 per hundred weight respectively.

Eliminates any ARP requirements for oilseeds which are double cropped with program crops.

The Peanut program is reformed to move it toward no government cost, further opening the program to new producers and more closely tying production limits to market demand. Removes the limitations on the Secretary to control the cost of the program by giving the Secretary full discretion to adjust the amount of peanuts eligible for domestic price support so production will better equal market demand. Undermarketings are eliminated (the current practice of allowing unproduced quota to be produced the following year). Program benefits to producers will be reduced, but government costs will be dramatically reduced and the program made more responsible to imports and market demand.

The Sugar program is reformed to allow U.S. Sugar policy to continue its 1985 mandate to operate at a ''no cost'' to the U.S. Treasury. Marketing assessments imposed beginning in 1991 on sugar sales would continue at current levels and extended to imports, providing over $30 million per year toward federal deficit reduction. There are no payments to sugar producers. The 18 cent per pound loan rate for raw sugar remains at the 1985 level. In order to meet the new minimum import obligations required by the GATT and remain no cost, a system requiring private industry to equitably carry surplus stocks is proposed which is more market oriented and more reliable than current policy. The reform proposal also includes new consumer price projections.●

● Mr. PRYOR. Mr. President, I join my distinguished colleague from Mississippi, Senator COCHRAN, in cosponsoring the Agricultural Competitiveness Act of 1995. This legislation represents stability in the most important business sector of this Nation. Farmers and ranchers of this country continue to produce the most affordable and abundant food and fiber supply in the world and this bill helps to ensure they persist in this role for the next 7 years and beyond.

Senator COCHRAN and I have cosponsored legislation many times in past farm bill debates. As agriculture is so important to the States of Arkansas and Mississippi, we have always strived to put forth policy ideas that provide agriculture the necessary fundamental tools to survive. The legislation we are

introducing today accomplishes this consistent goal.

Mr. President, the farmers and ranchers in Arkansas have made one very important point to me as we enter this year's farm bill debate—U.S. agriculture policy has served America very well. The consumers of this country spend less of their disposable income on food than any other country in the world. Farm programs, that represent only 0.6 percent of the Federal budget, guarantee a reliable supply of food and fiber products at the best prices.

However, with an ever increasing global marketplace, the success of farms in the delta of Arkansas is becoming more dependent on policies in Canada, the European Union, or even Japan. Because of these increasing uncertainties and the willingness of competitor countries to heavily subsidize, we must have policies in place to assist our farmers who are directly competing against foreign treasuries. This legislation addresses this important point and helps to protect the food and fiber security of our country.

Mr. President, the legislation we are introducing today also provides significant but responsible change. Flexibility, being the buzz word in this year's farm bill debate, is expanded. Farmers can respond to a changing market by planting alternative crops on up to 100 percent of their crop acreage base without being penalized by losing base acres in the following crop year. Additionally, our flexibility is provided as a choice to the farmer without market-distorting financial incentives.

This farmer-oriented legislation also addresses the continuing budget pressures faced by the government. Although I did not support the balanced budget amendment or the budget resolution this year because I believe they went too far too fast, I obviously recognize that there will have to be some reductions. However, I believe this should be done in a responsible fashion. when faced with painful budget cutting choices, farmers have generally preferred an increase in nonpaid acres rather than other more drastic approaches.

Our legislation prudently increases nonpaid acres from 15 to 25 percent over the next 7 years, significantly reducing Federal outlays. Further, the bill recognizes the budget reconciliation instructions the Agriculture Committee will have to consider. I still believe the cuts being forced on agriculture are far too drastic and don't recognize the fact that we have paid more than our fair share and will continue to support efforts to reduce this financial burden during the budget reconciliation process. However, in working to find responsible ways for farmers and ranchers to contribute their fair share, this bill does address a responsible way of meeting certain budget obligations.

In summary, Mr. President, this legislation improves upon policies that have served this country well. With these improvements, agriculture will better be able to meet the new challenges of a world economy.●

● Mr. COVERDELL. Mr. President, it has become increasingly apparent that the 1995 farm bill will be a comprehensive debate on the future of American agriculture not only in the face of tight Federal budget constraints, but also under new competitive realities brought on by the passage of the NAFTA and GATT trade agreements. In this debate, my colleagues and I are challenged to design a plan that will protect production agriculture and the fragile rural economies it supports while meeting necessary spending reductions that will eventually bring us to our imperative goal of a balanced federal budget.

In order to meet the competitive challenges we face in regard to our nation's commodity programs, my distinguished colleague from Mississippi, Senator COCHRAN, has carefully crafted a bill titled the Agricultural Competitiveness Act of 1995. For his leadership in this regard, I would like to commend the Senator and join his effort by cosponsoring this legislation. This bill, of which I am a coauthor, will provide a steady direction for production agriculture over the next 7 years. It also offers a commitment to programmatic changes necessary to meet all spending reductions required by the Senate Agriculture Committee.

Production leaders of each commodity program contained in this bill have actively participated in its formulation and have been extremely cooperative in working toward our goals. Particular credit should go to our leaders in the peanut industry who have accepted the challenge to reform and have delivered a significant product. It could be argued that the peanut industry has made more substantive changes in its program than any other commodity program we currently administer. Our reformed peanut title was taken directly from the positions established by the National Peanut Growers Group, the Nation's largest grower organization, who labored over several months to make the tough decisions required of them.

A review of our title will indicate substantive change. We have moved the program toward no Government cost, opened the opportunities for greater participation and have become more market oriented. It should be mentioned that these peanut title reforms do not come without pain for our growers. This legislation will represent a nearly 30 percent decrease in peanut farmer income. In addition, USDA has estimated that we will save at least $500 million over the life of this bill from the difficult changes we have made. And, it is these very changes that represent our true commitment to budgetary responsibility.

We have eliminated almost all government cost and responded to competitive demands with the following five program changes:

First, elimination of the statutory minimum quota floor.

The Secretary of Agriculture is granted the authority to set the amount of quota peanuts eligible for domestic price support equal to market demand. This provision it will eliminate the recent Government surpluses of peanuts that must be crushed for oil at tremendous losses to the American taxpayer.

Second, elimination of undermarketings.

This provision will help insure government cost reductions by ending carry-over of quota to future crop years. It has been estimated that if undermarketings had been eliminated in the 1994 crop year, we would have saved $60 million.

Third, price support to decrease with farm production cost decreases.

The price support for peanut growers would be allowed to decrease up to 5 percent with reductions in farm production costs. Currently, the cost of production model allows only for increases in prices support. This is a market-oriented measure designed to keep the support price competitive and reduce Government cost.

Fourth, provide all peanut growers with quota for seed.

Fairness is the issue here. Our quota growers have agreed to provide any peanut grower with quota equal to the approximate amount of seed they plant each year. This addresses the concerns about seed costs of some farmers who grow peanuts primarily for the export market.

Fifth, allowance of cross-county line sale and transfer of quota.

This provision would allow 40 percent of our total quota to be transferred or sold across county lines over the life of the bill. Allowing nearly half of our Nation's quota to go to the most efficient growing areas is good policy from a production standpoint. This change is also a strong argument against those critics saying the peanut program operates behind closed doors.

These positive changes offered in this bill by our peanut producers, coupled with our cotton growers commitment to meeting necessary spending requirements, are strong signs of their commitment to the future of not only Georgia agriculture, but our nation's as a whole. Again, I commend my colleague from Mississippi for his leadership in this process and look forward to working with him in crafting a final product that will sustain the future of rural America.●

Mr. HELMS. Mr. President, no other legislation likely to come before Congress this year will have more direct impact on my State of North Carolina, and the people who live there, than the 1995 farm bill. For an agriculture State that ranks third as the most diversified agribusiness State in the country, the farm bill is critically important legislation.

I commend the Senator from Mississippi [Mr. COCHRAN] for leading the

way in maintaining the support of the agricultural commodities that give American consumers peace of mind by providing the safest, most affordable, and most abundant food supply in the world.

Mr. President, when Congress begins the debate on this legislation, it is essential that we focus on fundamental reform. The time for farm program facelifts is rapidly approaching—and overdue in some instances. It is time for real change, change that will return farm programs to their fundamental and original mission: helping family farmers survive and prosper. Today, along with the other cosponsors of this commodity title of the 1995 farm bill, I can report that there is real reform for the peanut program.

Permit me to highlight a few of the significant changes that have been made to the peanut program:

First, it eliminates Government cost through reducing the amount of peanuts subject to government support.

Second, allows the sale and transfer of quota across country lines.

Third, provides all growers quota to cover seed requirements.

Fourth, allows the support level to fluctuate with cost of production.

These sacrifices will cost at least $110 million annually in income to our growers.

Mr. President, much of a negative nature has been said about peanuts this year. The peanut portion of the commodity title addresses major changes that the growers have supported wholeheartedly. The peanut program is one of the most important programs not only to my State, but to all Southern States.

Critics have asserted, mistakenly, that the peanut program costs consumers hundreds of millions of dollars each year in higher prices. This is simply not true. In fact, according to the USDA, 74 percent of the consumer cost is added to a jar of peanut butter after farmers have sold their peanuts.

So contrary to the myth that farmers are reaping huge profits from the peanut program, it is, in fact, the manufacturers of peanut products who reap the sizable profits.

The 1990 farm bill extended the peanut program through the 1995 crop. But this year, peanut growers had to reevaluate their program; we have included their reform in this legislation. This reform package is the first step in providing a safety net for our farmers while addressing the new demands of the North American Free Trade Agreement [NAFTA] and the General Agreement on Tariffs and Trades [GATT]. This legislation will carry our farmers into a more market-oriented 21st century.

In the current budget-driven atmosphere in Washington, urban Members of Congress often mistakenly view phasing out farm programs as a simple solution to our budget problems. Its easy for politicians who have no peanut producers in their States to take cheap shots at the livelihoods of those who earn their livings in the peanut industry.

The peanut program is an investment in the business of farming. It means 150,000 U.S. jobs, $200 million in U.S. exports, $1 billion in U.S. farm revenue, and $6 billion in U.S. economic activity each year.

This commodity title includes peanut reform provisions that make solid changes to the current program. This reform package will be an alternative that will turn this program towards a market-oriented plan that will ensure U.S. competitiveness in global markets, will operate at no net cost to the taxpayer, and will provide a safety net for farmers.

Farmers and their families have contributed so much to the growth of our country. Today, according to USDA, the United States is the third largest producer of peanuts in the world. Elimination of the peanut program would mean an immediate loss of 37,000 U.S. jobs, as well as $350 million in lost farm revenue, $50 million in lost exports, and $25 million in lost tax revenues.

Everyone in the peanut industry, from the growers to the shellers and manufacturers, realizes the program must be reformed as part of the 1995 farm bill.

The peanut farmers of my State of North Carolina and throughout the Nation have taken a responsible voluntary approach of cutting their budgets. They are willing to make major sacrifices and reforms in order to eliminate government cost and make the peanut program more market-oriented. Again, I commend the able Senior Senator from Mississippi [Mr. COCHRAN] for his diligent efforts to address the issues of real reform.

By Mr. HELMS (for himself, Mr. DOLE, Mr. LIEBERMAN, and Mr. MCCAIN):

S. 1157. A bill to authorize the establishment of a multilateral Bosnia and Herzegovina Self-Defense Fund; to the Committee on Foreign Relations.

THE MULTILATERAL BOSNIA AND HERZEGOVINA SELF-DEFENSE FUND

Mr. DOLE. Mr. President, I am pleased to cosponsor the Multilateral Bosnia and Herzegovina Self-Defense Fund. In the aftermath of the overwhelming votes to lift the arms embargo in the Senate and the House, this legislation is the logical next step in a policy designed to put the future of Bosnia back in Bosnian hands. This legislation will create an international fund for the defense of Bosnia, and will provide for a leadership role for the United States, not only in establishing the fund, but in chairing it.

I would like to commend the distinguished chairman of the Foreign Relations Committee in taking the lead and forging legislation to address the critical issue of supporting the Bosnian Government militarily once the arms embargo is lifted—and it will be lifted. I would also add that the chairman has brought together a bipartisan group of distinguished Senators, including Senator LIEBERMAN, in this important effort.

During our debates on lifting the arms embargo on Bosnia administration officials have snidely criticized our legislation as lift and pray—alleging to the press and even to the Bosnians that there is no support in the Congress for providing military assistance to them. This bill makes it absolutely clear that we are serious—that we are ready to follow-through.

The reality is that the administration's approach is don't lift and pray—pray that the American people will be fooled into thinking that there is a U.S. policy and pray that the Croatian government will get the international community off the hook.

Well, the American people are not fooled. They know that the administration does not have a policy.

As for the recent Croatian military action—Croatia's ability to retake its territory has demonstrated that with arms, the victims of aggression can successfully take matters into their own hands. In 4 days, Croatian forces accomplished what the United Nations could not do in 4 years. And, they had no help—the NATO no-fly zone was not enforced as Serb jets bombed Croatian towns.

The undeniable lesson of the past week is that the arms embargo and the U.N. presence has prolonged the war in the former Yugoslavia by keeping areas of Croatia and Bosnia and Herzegovina under occupation.

Another allegation made by administration officials is that lifting the embargo would Americanize the war. We know from the large votes in support of Bosnia's right to self-defense in the U.N. General Assembly and from discussions with international leaders that this assertion is simply not true.

This rhetoric is part of the scare tactics employed by the Pentagon and State Department in order to try to persuade members of Congress that somehow, if the arms embargo is lifted, we alone would be providing aid to the Bosnians.

This fund will provide a mechanism for countries, other than just the United States, to provide the Bosnians with military assistance—and to do so before the arms embargo is lifted. I would add, however, that the actual delivery of weapons will not occur until the U.S. arms embargo is lifted which would occur after U.N. forces withdraw.

I want to talk for a moment about cost. This bill provides for a $50 million payment to the fund and authorization for $50 million in Department of Defense draw down authority for defense articles and services—for a total package of $100 million, far less than we are currently spending on a failed approach. This year, we are being billed around a half a billion dollars for our share of the U.N. peacekeeping operation. Our share for UNPROFOR next

year will probably be closer to $600 million. We are also providing indirect support to this operation—for example, through NATO—which amounts to about $250 million annually. And, we do not get any discount when UNPROFOR is unable to do its job.

The bottom line is that keeping the U.N. in Bosnia is not cost-free. Indeed it is far more expensive than helping the Bosnians help themselves. Furthermore, we have to look at the costs of this failure to our credibility and our principles.

As we introduce this legislation today, President Clinton is poised to veto S. 21, the Dole-Lieberman legislation to lift the arms embargo on Bosnia.

Administration officials are reportedly in Europe devising new ways to divide Bosnia and Herzegovina and to bribe Serbian President Milosevic, while Ambassador Albright is briefing the Security Council on evidence that more than 2,000 people were buried in mass graves in the wake of the Bosnian Serb take over of Srebrenica.

No doubt about it, the international community is partially responsible for these war crimes. It has refused to protect the Bosnians and denied the Bosnians the means to protect themselves.

How can America, the leader of the free world, continue to be a part of this immoral embargo? Administration officials even publicly acknowledge that it is immoral. As for the embargo's practical effect, it has been a total failure at achieving its goal of limiting violence and ending the war.

America should be leading the way toward a moral and rational policy that has some chance of resulting in a just and stable settlement. Instead, America is following an ineffective, failed approached based on appeasement.

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

S. 1157

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 ''Multilateral Bosnia and Herzegovina Self-Defense Fund Act''.

SEC. 2. BOSNIA AND HERZEGOVINA SELF-DEFENSE FUND.

(a) AUTHORITY FOR ESTABLISHMENT.—(1) Subject to the other provisions of this section, the President is authorized to enter into an international agreement with eligible countries for the establishment of a fund to assist the self-defense of Bosnia and Herzegovina, which may be known as the ''Multilateral Bosnia and Herzegovina Self-Defense Fund''.

(2) The Secretary of State is authorized—

(A) to pay the United States contribution to the Fund out of amounts made available pursuant to section 3; and

(B) to transfer to the custody of the international board having responsibility for the Fund military equipment that has been drawn down in accordance with section 4.

(b) PURPOSE.—The purpose of the Fund shall be to provide an international mechanism for the procurement of military equipment and training for transfer to the Government of Bosnia and Herzegovina for the exercise of its right to self defense under Article 51 of the United Nations Charter, and to facilitate the achievement of a just and equitable peace settlement by enabling the government of Bosnia and Herzegovina to protect its population and territory.

(c) REQUIREMENTS.—An agreement referred to in subsection (a) shall meet the following requirements:

(1) UNITED STATES REPRESENTATION.—The United States will chair any international board having responsibility for the Fund.

(2) MEMBERSHIP OF THE INTERNATIONAL BOARD.—Membership of any international board having responsibility for the Fund will include, at a minimum, one representative of the Government of Bosnia and Herzegovina and one representative from the Government of Croatia.

(3) CONTROL OF MILITARY EQUIPMENT.—The agreement will provide procedures for the control of military equipment received by the international board having responsibility for the Fund.

(4) COMMITMENT BY THE GOVERNMENT OF BOSNIA AND HERZEGOVINA.—Before any military equipment or training purchased or otherwise acquired through the Fund, or held by the international board responsible for the Fund, may be transferred to the Government of Bosnia and Herzegovina that Government will provide written assurances that the equipment or training will not be used to take reprisals against any civilians in Bosnia and Herzegovina.

(5) IMPLEMENTATION.—No military equipment or training purchased or otherwise acquired through the Fund, or held by the international board responsible for the Fund, will be transferred to the Government of Bosnia and Herzegovina before the date of termination of the United States arms embargo against the Government of Bosnia and Herzegovina if such a transfer would violate the embargo.

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

(1) ELIGIBLE COUNTRIES.—The term ''eligible countries'' includes any foreign country other than a country the government of which the Secretary of State has determined, in accordance with section 6(j)(1)(A) of the Export Administration Act of 1979, repeatedly provides support for acts of international terrorism.

(2) FUND.—The term ''Fund'' means the fund established as provided in section 2(a).

(3) GOVERNMENT OF BOSNIA AND HERZEGOVINA.—The term ''Government of Bosnia and Herzegovina'' includes any agency, instrumentality, or forces of the Government of Bosnia and Herzegovina.

(4) UNITED STATES ARMS EMBARGO OF THE GOVERNMENT OF BOSNIA AND HERZEGOVINA.—The term ''United States arms embargo of the Government of Bosnia and Herzegovina means the application to the Government of Bosnia and Herzegovina of—

(A) the policy adopted July 10, 1991, and published in the Federal Register of July 19, 1991 (58 FR 33322) under the heading ''Suspension of Munitions Export Licenses to Yugoslavia''; and

(B) any similar policy being applied by the United States Government as of the date of completion of withdrawal of UNPROFOR personnel from Bosnia and Herzegovina, pursuant to which approval is denied for transfers of defense articles and defense services to the former Yugoslavia.

SEC. 3. UNITED STATES CONTRIBUTION TO THE FUND.

Of the amounts made available for fiscal year 1996 to carry out the Foreign Military Financing Program under section 23 of the Arms Export Control Act, $50,000,000 shall be available only for payment to the Fund of the United States contribution authorized by section 2(a)(2)(A).

SEC. 4. DRAW DOWN AUTHORITY.

(a) AUTHORITY.—The President is authorized to transfer, subject to the regular notification procedures of the Committees on Appropriations of the House and the Senate, to the custody of the international board having responsibility for the Fund, without reimbursement, defense articles from the stocks of the Department of Defense and defense services of the Department of Defense of an aggregate value not to exceed $50,000,000 in fiscal year 1996.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for defense articles provided under this section.

SEC. 5. REPORT.

Sixty days after the date of enactment of this Act, the President shall submit a report to the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives on what steps the President and the Secretary of State have taken to carry out section 2(a).

SEC. 6. STATUTORY CONSTRUCTION.

Nothing in this Act shall be interpreted as authorization for deployment of United States forces in the territory of Bosnia and Herzegovina for any purpose, including training, support, or delivery of military equipment.

Mr. HELMS. Mr. President, I thank the majority leader for his statement and for his support, as I thank the other cosponsors.

Now, the purpose of this legislation is to correct an injustice that is burdening the conscience of millions of Americans, as well as citizens of all civilized countries around the world.

I refer, of course, to what so many Senators properly consider an imperative responsibility both personally and as a nation to move to untie the hands of the Bosnian people, thereby enabling them to acquire the means to defend themselves against Serbia's cruel genocide designed to achieve an illegal conquest of the sovereign nation of Bosnia.

Mr. President, on behalf of the distinguished majority leader [Mr. DOLE] Senators LIEBERMAN, MCCAIN, and myself, I shall momentarily send a bill to the desk to be read the first time.

The purpose of this legislation is to correct an injustice that is burdening the conscience of millions of Americans as well as citizens of all civilized countries around the world.

I refer of course to what so many Senators properly consider an imperative responsibility to move to untie the hands of the Bosnian people, thereby enabling them to acquire the means to defend themselves against Serbia's cruel genocide designed to achieve an illegal conquest of the sovereign nation of Bosnia.

Mr. President, in a joint hearing conducted yesterday by the Senate's Foreign Relations and Intelligence Committees to investigate war crimes in the former Yugoslavia, a distinguished witness asserted that the difference between the conduct of a great nation and the conduct of a mighty nation is

that, while both are capable of shaping events far beyond their borders, a great nation is guided by deep sense of moral principle.

The greatest expression of that moral principle, as practiced by our Nation in the past, has been the enduring commitment that never again will we stand silent while a people fall victim to crimes against humanity—as did the Jews in World War II.

Could it be that that enduring commitment must today seem an empty one to the people of Bosnia?

Instead of protecting the Bosnian people, the United Nations—the very body created years ago to make certain that such genocide would never happen again—has served instead to render the Bosnian people defenseless in the face of Serbia's annihilation of their country.

And the United States, the leader of the Atlantic alliance, has done scarcely more than sit on the sidelines and watch as an entire nation of people is slowly exterminated.

Mr. President, we can no longer sit on the sidelines. The shameful policy of neutrality in the face of genocide must be brought to an end. There must be a policy, once and for all, that distinguishes clearly between victim and aggressor, and which puts the diplomatic, military, and financial resources of the United States squarely behind the victim.

No one doubts the magnitude of the abuse against the Bosnian people. Today's Washington Post discloses the Clinton administration has openly acknowledged that crimes against humanity are being committed this very moment in the center of Europe.

Yet the administration continues to deny the Bosnian victims any hope of defending themselves. The President of the United States—fully aware of these crimes—intends to veto the legislation Congress has passed to restore Bosnia's right of self-defense. This veto is wrong, it is unfair, it is unjust, and it must be overridden.

There are many in both the House and the Senate who have pledged to the people of Bosnia that we will do everything in our power to make sure Congress overrides that veto. And we will fight to pass legislation not only to lift this brutal embargo, but to help provide the Bosnian people with the means to defend themselves, their families and their sovereign nation.

Mr. President, it is time the United States began treating the Bosnian people the same way we treated the contras in Nicaragua and the mujahadeen in Afghanistan—as freedom fighters engaged in a war for the liberation of their country. We must help arm them and train them and to help them defend themselves against Serbian genocide.

The legislation we are introducing today will do just that. It will establish a multilateral fund to collect and hold donations by countries seeking to assist in the self-defense of Bosnia until the arms embargo is lifted.

The bill authorizes an initial U.S. contribution of $50 million in foreign military financing, and the transfer of up to $50 million in U.S. defense stocks. Moreover, it proposes to create the means to coordinate the efforts of nations such as Turkey, Malaysia, Jordan, and Saudi Arabia, who are eager to assist the Bosnians in a similar fashion.

Our bill will ensure that, upon the withdrawal of the failed United Nations mission, the Serb military will be unable to take advantage of any lag in the arming of the Bosnian people. The multilateral fund will allow the Bosnian Government to coordinate contributions—and to begin procurement by proxy—of the weapons they need for their national self-defense. The Bosnians will be able to ensure the necessary support and transport are available for immediate delivery of weapons after the lifting of the embargo. And finally, Bosnian soldiers will be travel to third countries to acquire training for the use of donated weapons.

Our legislation is consistent with the legislation to repeal the arms embargo in that it postpones the actual delivery of weaponry until the conclusion of the peacekeeping effort. But it will provide the Bosnian Government a running start as the arms embargo is lifted.

The President claims that the recent success of the Croatian military has created a new balance of power in the region, thereby giving us an opportunity for a political settlement. The President ignores the lessons of the last half-century. There can be no lasting peace built on weakness; there can only be peace through strength. Let us have no illusions that Serbia's recent defeats have taken away their craving for territorial expansion—Serbia's appetite for war, destruction and conquest is far from satisfied.

What the success of the recent Croatian offensive does show, however, is that the Serb aggression can be successfully confronted and defeated, and that Serbs can be driven from land they have unlawfully conquered. If a real and lasting peace is to come to Bosnia, we must help the Bosnians achieve it by forcing the Serbs to evacuate the land they have occupied in Bosnia. We must recognize that there can be no peace in that troubled region until the Bosnian people can defend themselves against aggression. We must help them restore their nation so that they can negotiate from a position to strength.

The lifting of the unlawful and unjust arms embargo on the Bosnian people is long overdue. And it will be lifted. The time has come to end America's silence in the face of the unspeakable injustices in Bosnia. The time is overdue to lift the embargo and help arm the Bosnian Moslems. I hope the Senate will vote to allow the Bosnian people to defend themselves at long last.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 1158. A bill to deauthorize certain portions of the navigation project for Cohasset Harbor, Massachusetts, and for other purposes; to the Committee on Environment and Public Works.

THE COHASSET HARBOR NAVIGATION PROJECT ACT

Mr. KERRY. Mr. President, I am pleased to introduce today with Senator KENNEDY the Cohasset Harbor Navigation Project Act.

This is a simple and straightforward bill that will enable an important navigation project in the harbor at Cohasset, MA to move ahead. Its purpose is to make a series of technical changes in the coordinates for the Army Corps of Engineers' Cohasset Harbor project that will enable the dredging project to proceed. The changes are necessary because of shoaling that has taken place since the harbor was last fully dredged in 1960. The shoaling led the Coast Guard in the Spring of 1994 to remove Cohasset Harbor from its previously recognized status as a ''safe harbor'' for storm refuge for certain vessels at sea. The Coast Guard now routinely sets and resets channel buoys which practically lay on their sides at low tide. Marine engineers and the Coast Guard agree that an offshore storm of any substantial magnitude will most probably cause the channel to be blocked completely by the transport of bottom sediment carried in storm surge waters.

The situation is having a damaging effect on our commercial fishing fleet, and the safe boating environment of Cohasset's portion of Massachusetts Bay. Most of Cohasset's racing and recreational vessels of any significant size cannot move into or out of the Harbor within 2 hours of low tide. The Town of Cohasset has worked closely with all parties to expedite the dredging of the inner and outer portions of the Harbor. The necessary permits are in place and the funding of $1.415 million, of which the Federal share is 85 percent, is in place. All that is needed for the project to proceed are the technical corrections in the coordinates which this legislation will provide. No further funding is needed.

I look forward to working with my colleagues on the relevant Committees to move this legislation forward. I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 1158

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

SECTION 1. DEAUTHORIZATION OF NAVIGATION PROJECT, COHASSET HARBOR, MASSACHUSETTS.

The following portions of the project for navigation, Cohasset Harbor, Massachusetts, authorized by section 2 of the Act entitled ''An Act authorizing the construction, repair, and preservation of certain public

works on rivers and harbors, and for other purposes'', approved March 2, 1945 (59 Stat. 12), or carried out pursuant to section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577), are deauthorized: A 7-foot deep anchorage and a 6-foot deep anchorage; beginning at site 1, starting at a point N453510.15, E792664.63, thence running south 53 degrees 07 minutes 05.4 seconds west 307.00 feet to a point N453325.90, E792419.07, thence running north 57 degrees 56 minutes 36.8 seconds west 201.00 feet to a point N453432.58, E792248.72, thence running south 88 degrees 57 minutes 25.6 seconds west 50.00 feet to a point N453431.67, E792198.73, thence running north 01 degree 02 minutes 52.3 seconds west 66.71 feet to a point N453498.37, E792197.51, thence running north 69 degrees 12 minutes 52.3 seconds east 332.32 feet to a point N453616,30, E792508.20, thence running south 55 degrees 50 minutes 24.1 seconds east 189.05 feet to point of origin; then site 2, starting at a point, N452886.64, E791287.83, thence running south 00 degrees 00 minutes 00.0 seconds west 56.04 feet to a point, N452830.60, E791287.83, thence running north 90 degrees 00 minutes 00.0 seconds west 101.92 feet to a point, N452830.60, E791185.91, thence running north 52 degrees 12 minutes 49.7 seconds east 89.42 feet to a point, N452885.39, E791256.58, thence running north 87 degrees 42 minutes 33.8 seconds east 31.28 feet to point of origin; and site 3, starting at a point, N452261.08, E792040.24, thence running north 89 degrees 07 minutes 19.5 seconds east 118.78 feet to a point, N452262.90, E792159.01, thence running south 43 degrees 39 minutes 06.8 seconds west 40.27 feet to a point, N452233.76, E792131.21, thence running north 74 degrees 33 minutes 29.1 seconds west 94.42 feet to a point, N452258.90, E792040.20, thence running north 01 degree 03 minutes 04.3 seconds east 2.18 feet to point of origin.

Mr. KENNEDY. Mr. President, I am pleased to join my colleague from Massachusetts, Senator KERRY, in sponsoring this bill for an important navigation project for Cohasset Harbor. This bill is intended to make minor adjustments to the limits of Federal navigation and anchorage, in order to expedite the dredging planned by the U.S. Army Corps of Engineers.

The dredging is urgently needed. The harbor was last fully dredged in 1960, and shifting shoals have made the current channel unsafe for many vessels during several hours of each day at low tide. Cohasset depends on access to its harbor for commercial fishing and recreational vessels.

The proposed adjustment to the current limits for Federal navigation and anchorage in Cohasset Harbor was prepared by the Army Corps, working in close conjunction with town. The Coast Guard has strongly requested that this dredging project proceed promptly in order to restore the port's status as a ''recommended harbor of refuge'' during bad weather. I urge my colleagues to approve this legislation, which is of great importance to the people of Cohasset, their safety and the local economy.

By Mr. INOUYE (for himself, Mr. SIMON, Mr. CAMPBELL, and Mr. CONRAD):

S. 1159. A bill to establish an American Indian Policy Information Center, and for other purposes; to the Committee on Indian Affairs.

THE AMERICAN INDIAN POLICY INFORMATION CENTER ACT OF 1995

• Mr. INOUYE. Mr. President, I introduce a measure that reflects the culmination of a 4-year effort which has examined the feasibility of and has clearly documented the need for the establishment of the entity that this bill addresses.

Mr. President, over the course of the last few months, as the Senate has given consideration to broad reform proposals, we have once again found ourselves confronted with the challenge of securing accurate information with regard to the manner in which such proposals would affect Indian country.

For instance, in the context of welfare reform, we quickly learned that there was no central source from which we could secure the relevant information with regard to the Indian proportion of the population served by programs that are the subject of block grant proposals or with respect to unemployment rates in the respective reservation communities.

Nor is there a central source of data with regard to program administration or service delivery systems in Indian country, so that we might ascertain how best to assure that Federal programs which are block granted to the States address the social and economic conditions in Indian country. In light of a 200-year history of a Federal Indian government-to-government relationship that for the most part does not involve the State governments, how should the Congress provide for the administration of programs in Indian country under a State block grant system?

To effectively answer this question, we should have a range of policy and programmatic options to consider, but there is no existing body with the expertise and knowledge of Indian country that we can call upon to identify and analyze such options.

Mr. President, in most of Indian country policy-related information is very scarce. If tribal governments are to effectively participate in the decisonmaking process associated with reform proposals and other Federal actions, they too must have access to information and analyses that will assist them in doing so. It is these imperatives that this bill seeks to address.

The central purpose of the American Indian Policy Information Center that would be established under the bill would be one of making information and analyses available to agencies of the Federal Government, to the Congress, and to tribal and other governments that are not otherwise readily available to them. In addition to providing information collected from a variety of sources, the policy information center would be authorized to conduct or commission research to meet policy information needs and to conduct or sponsor forums to identify and explore policy issues.

The bill would establish a successor to the demonstration project now authorized as the National Indian Policy Center, and the activities proposed are among those that have been carried out as elements of the demonstration. The bill is a revision of a bill approved by the Senate Committee on Indian Affairs during the 103d Congress, but it has been modified on the basis of the experience of the current demonstration. In revising this measure, I have also drawn upon a bill drafted during the 103d Congress by Senator CRAIG THOMAS.

Mr. President, I am hopeful that my colleagues will give this measure their careful consideration and will join me in seeking its approval by the full Senate.•

By Mr. ROCKEFELLER:

S. 1160. A bill to amend the Internal Revenue Code of 1986 to provide that the depreciation rules which apply for regular tax purposes also shall apply for alternative minimum tax purposes; to the Committee on Finance.

THE ALTERNATIVE MINIMUM TAX DEPRECIATION RELIEF ACT OF 1995

• Mr. ROCKEFELLER. Mr. President, today I am introducing a relatively modest tax measure that could provide significant relief to capital intensive industries that show little to no profits and pay income taxes under the Alternative Minimum Tax [AMT]. This will eliminate a disincentive in tax policy towards key investment in industries that are vital to the country's economic competitiveness, job base, and industrial strength. This is one of the ways to help the employers, workers, and families in my state of West Virginia.

As a tax measure designed to enhance the competitiveness of industries that range from steel, to paper and wood products, autos, chemicals, and mining, this bill will result in a cost in the form of less revenue collected. But I am introducing the AMT Depreciation Relief Act of 1995 to serve as a practical, affordable option to consider along with the versions of AMT reform that have already passed the House and have been introduced earlier this year in the Senate. And I believe this bill addresses a real problem that Congress must work together to overcome.

Many manufacturers want to see a complete repeal of the AMT. Some especially want reform to address the problems which result from being effectively stuck in AMT status, such as the accumulation of credits and past investments in plants and equipment modernization, which I think merit serious attention.

This bill focuses specifically on the problem of the way the AMT treats the depreciation of assets, which is a root cause of why many companies remain stuck in AMT status. If and when a resolution is worked out to deal with the problem in the way depreciation is calculated, we will go a long way to getting companies out of AMT status, with the result that then they would be able to use their accumulated credits.

As my colleagues know, the corporate AMT was created in the 1986 Tax Act in response to the problem raised when companies would report profits to stockholders, but then claim losses to the IRS. However, the subsequent action taken in this area as part of that historic effort to ''simplify'' the code had the unintended consequence of penalizing low-profit, capital-intensive companies, because the AMT treats depreciation as an adjustment (or increase in income). As Tom Usher, the chairman and CEO of USX explained to the House Ways and Means Committee in January 1995: ''under the AMT, most steel making assets are subject to a 15-year capital cost recovery period and a 150-percent declining balance method, compared to 7 years and 200 percent under the regular tax.'' What that means is that compared to other countries, after 5 years, a U.S. steelmaker under AMT recovers only 37 percent on its investment in new plant and equipment, versus the recovery for companies in other countries, that include 58 percent in Japan, 81 percent in Germany, 90 percent in Korea, and 100 percent in Brazil.

What it comes down to is that under the regular tax system, depreciation adjustments are designed to encourage investment. However, the AMT has had the unintended consequence of, if anything, discouraging investment in new plants and equipment. This is precisely the wrong signal to send to our Nation's capital intensive industries.

At its heart, this is an issue for how well our companies can compete on the world stage. For years, I have focused on how trade laws are used to ensure that our domestic industries can compete with unfairly sold imports. However, the present AMT policies have created a situation which hinders that competitive position.

The fix I am suggesting would eliminate depreciation as a adjustment under the alternative minimum tax. Quite simply, that means that depreciation for companies in an AMT status would be treated in precisely the same way as for companies in a regular tax status.

This is a simple, two-page, bill. It proposes a modest change in the tax code that will have a very beneficial impact on the bottom line of some of America's most important industries and employers. I am looking forward to bipartisan support for this change, and hope it can be made quickly. I urge my colleagues to join me as cosponsors.●

By Mr. BAUCUS:

S. 1161. A bill to amend the Internal Revenue Code of 1986 to exempt small manufacturers, producers and importers from the firearms excise tax; to the Committee on Finance.

EXCISE TAX LEGISLATION

● Mr. BAUCUS. Mr. President, today I am introducing legislation which will exempt custom gunsmiths who manufacture, produce or import fewer than 50 guns a year from the Federal excise tax on firearms.

In 1982, this body passed legislation which was subsequently signed into law which was intended to relieve custom gunsmiths from the excise tax.

Apparently we were not clear enough. Notwithstanding that legislation, the Internal Revenue Service and the Bureau of Alcohol, Tobacco and Firearms continue to attempt to collect the excise tax from custom gunsmiths.

Mr. President, the custom gunsmith is a small operator. While ignorance of the law is no excuse, many of these small operators do not know that an excise tax is owed until they receive a visit from the IRS or the BATF. Because the number of custom gunsmiths is small and because they produce few guns, the revenue raised from the imposition of the excise tax is insubstantial. In fact, the BATF has indicated that the cost to the BATF of collecting the tax may well exceed the revenue raised from the tax.

For all of these reasons, Congress attempted to relieve custom gunsmiths from the firearms excise tax in 1982.

The bill I introduce today completes that job.●

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 1162. A bill to amend the Internal Revenue Code of 1986 to treat academic health centers like other educational institutions for purposes of the exclusion for employer-provided housing; to the Committee on Finance.

EMPLOYER-PROVIDED HOUSING LEGISLATION

Mr. MOYNIHAN. Mr. President, I rise today on behalf of myself and Senator D'AMATO to introduce a bill that would correct an anomaly, by extending to faculty at independent academic health centers an exclusion from income tax for employer-provided housing that is enjoyed by faculty at university-affiliated health centers. In 1986, Congress enacted a provision allowing employees of educational institutions to exclude from income the excess of the fair market value of the university-provided housing over the rent actually paid. This exclusion permits universities to attract faculty and staff with the necessary expertise to meet the university's needs. The availability of this exclusion is especially vital to those institutions located in high-cost housing areas like New York City.

Currently, faculty at academic health centers that are not affiliated with a university are not allowed to exclude the excess value of their employer-provided housing. This is the case despite the fact that independent academic health centers perform the same function as university-affiliated institutions, and that the situation of their employees is likewise identical to that of their counterparts. Many of the tenants of center-owned housing are employees pursuing advanced training at the academic health center, often at substantial financial hardship. Because of the difference in tax treatment, independent institutions are placed at a competitive disadvantage in terms of their ability to attract these highly qualified employees. Academic health centers are an important national resource, performing essential research and providing other significant contributions to our Nation's health care. By enacting this bill, Congress would ensure the continued ability of independent academic health centers to pursue their missions of patient care, education, and research.

Our bill is narrowly drawn to focus only on this competitive disadvantage. Under the proposed amendment, the academic health center must, first, qualify as a tax-exempt hospital or medical research organization eligible to receive charitable contributions; second, it must receive Federal funding for graduate medical education; and third, it must engage in and teach basic and clinical medical science and research with the organization's own faculty. The bill would have negligible impact on revenue.

We believe that this legislation would rectify the inequitable treatment currently accorded the faculty of independent academic health centers, ensuring fair tax treatment for these employees and the continued excellence of the institutions for which they work.

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

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

S. 1162

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

SECTION 1. TREATMENT OF HOUSING PROVIDED TO EMPLOYEES BY ACADEMIC HEALTH CENTERS.

(a) IN GENERAL.—Paragraph (4) of section 119(d) of the Internal Revenue Code of 1986 (relating to lodging furnished by certain educational institutions to employees) is amended to read as follows:

''(4) EDUCATIONAL INSTITUTION.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'educational institution' means—

''(i) an institution described in section 170(b)(1)(A)(ii), or

''(ii) an academic health center.

''(B) ACADEMIC HEALTH CENTER.—For purposes of subparagraph (A), the term 'academic health center' means an entity—

''(i) which is described in section 170(b)(1)(A)(iii),

''(ii) which receives (during the calendar year in which the taxable year of the taxpayer begins) payments under subsection (d)(5)(B) or (h) of section 1886 of the Social Security Act (relating to graduate medical education), and

''(iii) which has as one of it principal purposes or functions the providing and teaching of basic and clinical medical science and research with the entity's own faculty.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1994.

By Mr. LEAHY (for himself, Mr. GREGG, Mr. JEFFORDS, Mr. COHEN, and Ms. SNOWE):

S. 1163. A bill to implement the recommendations of the Northern Stewardship Lands Council; to the Committee on Agriculture, Nutrition, and Forestry.

THE NORTHERN FOREST STEWARDSHIP ACT

Mr. LEAHY. Mr. President, today I am proud to introduce the Northern Forest Stewardship Act of 1995, a bill that represents the highest standards of the legislative process. The legislation we are introducing is founded on extensive research, open discussion, consensus decisions, and visionary problem solving. The goal of this bill is to capture perfectly the vision of Northern Forest Lands Council and northern communities.

The Northern Forest Lands Council process was initiated to avoid the divisive conflicts that have torn communities apart in some regions of our country. Too often we have seen parties fuel conflicts for political gain, exacerbate conflicts with misinformation, or prolong conflicts in hopes of a one-sided windfall. Over the past 4 years, the Northern Forest communities made dedicated effort to steer clear of divisive conflict to chart a future for themselves. They have worked hard to develop a consensus vision. We owe it to them to deliver the requests they have made.

This legislation delivers these requests. It goes no further than the Council's recommendations and nor does it fall short. This bill includes a package of technical and financial assistance programs that I believe this Congress can and should support. Sometimes studies are commissioned primarily to delay solution or pacify a problem. The Council's study was driven by a desire to achieve something. The northern forest delegation will not let this study sit on a shelf. Between the Family Forestland Preservation Act (S. 692) and the Northern Forest Stewardship Act, Congress can achieve for the people of the Northern Forest the requests they have made of us.

The legislation embodies the conservation ethic of the 1990's—non-regulatory incentives and assistance to realize community-based goals for sustainable economic and environmental prosperity. The rights and responsibilities of landowners are emphasized, the primacy of the state is reinforced, and the traditions of the region are protected. And yet, the bill also promotes new ways of achieving our goals and a common vision that did not exist several years ago. Moving ahead with the Council's work, we will pursue enhanced forest management, land protection that supports the recreational and wildlife needs of the region, integrated research and decision making, and increased productivity in the traditional industries and new compatible industries. Through this bill, I hope to boost sustainable development and protect the ecological integrity of biological resources across the landscape. The nation has taken notice of this highly successful effort as a model for meeting the conservation challenges of the country, and I am confident of its inevitable success.

I welcome the constructive input of people who will compare this legislation with the recommendations, research, and public participation in the Northern Forest Lands Council.

It is my goal to create a perfect representation of the future described in the report to Congress Finding Common Ground: Conserving the Northern Forest. Most of all, I want the Council's solutions to work, and work well. I hope all affected citizens will take advantage of the opportunity to shape the final product of their hard work.

I want to congratulate the members of the Council for their success, and most importantly the people of the Northern Forest for their enthusiasm for this process. Thousands of people took time from their busy lives to drive down to a school auditorium, local restaurant, or hotel auditorium to share their views on the Northern Forest. Hundreds more put pen to paper or picked up the phone to register their thoughts. Without their effort, this would be an empty process. It is a vibrant process and the will of the majority produced a brilliant piece of work.

I will include a short section by section summary of the bill for the RECORD that emphasizes the Council recommendation that inspired each provision. I also want to thank Senators GREGG, JEFFORDS, COHEN and SNOWE for their contributions to this draft, and I look forward to working with entire delegation to refine this legislation if necessary, and move it through the Senate in the upcoming months.

Mr. President, the Council's process has the highest integrity, the recommendations reflect the true consensus vision of the Northern Forest communities, and I believe we owe it to Northern New England to follow through on their expectations.

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

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

SECTION-BY-SECTION SUMMARY

OVERVIEW

The Northern Forest Stewardship Act takes the specific consensus proposals of the Northern Forest Lands Council that require Congressional action and translates them into legislation. The Council's proposals reflect four years of research and public input refined and condensed by the diverse membership of the Council. This bill, together with the Family Forestland Preservation Act (S. 692), goes no further than, nor falls short of, the Council's proposals for the Northern Forest lands. Affected parties are encouraged submit constructive comments to their Congressional delegation to make this a perfect representation of the Council's consensus vision. The authorities in this bill are voluntary opportunities for technical and financial assistance to states, landowners, businesses and scientists to work in partnership with the federal government and each other to achieve stewardship goals.

SECTION 1: TITLE—NORTHERN FOREST STEWARDSHIP ACT

SECTION 2: DECLARATIONS

The first ten principles are lifted from the Council's fundamental principles on page 15 of the report to Congress. The eleventh one is added to make them relevant to this bill.

SECTION 3: MARKETING COOPERATIVES

Section 3 implements recommendation #23 to facilitate the formation of forestry cooperatives. Timber growers are eligible to form cooperatives under the Capper-Volstead Act of 1922, but few cooperative efforts in New England have been successful. This provision directs the Secretary to provide assistance and evaluate the opportunities to increase profitability and improve forest management through cooperatives.

SECTION 4: PRINCIPLES OF SUSTAINABILITY

Section 4 implements recommendations #10 and #11 to define measurable benchmarks for sustainability and facilitate the formation of best management practice to achieve sustainability. The principles of sustainability for Sec (4)(b) are lifted from page 42 of the Council's report.

SECTION 5: NORTHERN FOREST RESEARCH COOPERATIVE

Section 5 implements recommendations #33 to form a research cooperative much like Senator Gorton's ''Blue Mountain Institute'' in the 1990 Farm Bill with objectives defined on page 86 of the Council's report.

SECTION 6: INTERSTATE COORDINATION STRATEGY

Section 6 implements the recommendation on page 95 to facilitate continued dialogue between the four states. Section 6 names representatives to an interstate working group with wide flexibility to include state roundtables.

SECTION 7: LABOR SAFETY AND TRAINING

Section 7 implements recommendation #27 to improve worker safety and thereby reduce operating costs for forest products companies.

SECTION 8: LAND CONSERVATION

Section 8 implements recommendations #16 and 17 to improve funding opportunities for public land acquisition by both the states and the federal government. This creates a new authority to protect important recreation and conservation land but does not guarantee increased funding. Section 8 also establishes a public process for prioritizing public acquisition.

SECTION 9: LANDOWNER LIABILITY EXEMPTION

Section 9 expresses the Sense of the Senate that states should enact laws to reduce the liability of landowners who make their lands available for free public use as requested in recommendation #26.

SECTION 10: NONGAME CONSERVATION

Section 10 expresses the sense of the Senate that a mechanism is needed to protect non-game wildlife using a user fee similar to the Wallop-Breaux and Pittman-Robertson programs as requested in recommendation #14. A full legislative proposal may be ready within the year and it should be considered after it has been introduced.

SECTION 11: AUTHORIZATION FOR APPROPRIATIONS/RURAL DEVELOPMENT

Section 11 provides such sums as necessary for implementation and authorizes targeted rural development funding for the Northern Forest states through the Rural Development Through Forestry program.

By Mr. ROCKEFELLER:

S. 1164. A bill to amend the Stevenson-Wydler Technology Innovation Act

of 1980 with respect to inventions made under cooperative research and development agreements, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE TECHNOLOGY TRANSFER IMPROVEMENTS ACT OF 1995

• Mr. ROCKEFELLER. Mr. President, I am pleased today to introduce the 1995 version of the Technology Transfer Improvements Act, a bill I first introduced in 1993. This legislation will help facilitate and speed technology cooperation between companies and Federal laboratories, and thus will benefit our economy and citizens.

It does so by giving both companies and Federal laboratories clear guidelines regarding intellectual property rights to technology developed under cooperative research projects—guidelines that will reduce negotiating time and reduce the uncertainty that can deter companies from working with the Government.

Specifically, the bill amends the Stevenson-Wydler Technology Innovation Act, which since 1986 has allowed Federal laboratories to enter into cooperative research and development agreements [CRADAs] with industry and other collaborating parties. The laboratories can contribute people, facilities, equipment, and ideas, but not funding, and the companies contribute people and funding.

Even under the current law, the CRADA provision has been a success. Hundreds of these agreements have been signed and carried out in recent years, making expertise and technology that the Federal Government has already paid for through its mission-related work available to the wider economy. But we also have seen a problem. Currently, the law provides little guidance on what intellectual property rights a collaborating partner should receive from a CRADA. The current law gives agencies very broad discretion on this matter, which provides flexibility but also means that both companies and laboratory executives must laboriously negotiate patent rights each time they discuss a new CRADA. Neither side has much guidance as to what constitutes an appropriate agreement regarding intellectual property developed under the CRADA. Options range from assigning full patent title to the company all the way to providing the firm with only a nonexclusive license for a narrow field of use.

In conversations with company executives, we learned that this uncertainty—and the time and effort involved in negotiating intellectual property from scratch in each CRADA—was often a barrier to working with government laboratories. Companies are reluctant to enter into a CRADA, or, equally important, to commit additional resources to commercialize a CRADA invention, unless they have some assurance they will control important patient rights.

In 1993, I began working with Congresswoman CONNIE MORELLA on possible ways to reduce the uncertainty and negotiating burden facing companies, while still ensuring that the government interest remains protected. To begin legislative discussion on this matter, I introduced S. 1537 on October 7, 1993, for myself and Senator DeConcini, then chairman of the Senate Patent Subcommittee. That bill would have directed Federal laboratories to assign to the collaborating party—the company—title to any intellectual property arising from a CRADA, in exchange for reasonable compensation to the laboratory and certain patent safeguards.

S. 1537 also contained a second provision—an additional incentive for Federal scientists to report and develop inventions that might have commercial as well as government value. The General Accounting Office [GAO] had recommended that Federal inventors receive more of the royalties received by laboratories as government compensation under CRADAs. My bill incorporated that recommendation.

Soon after Senator DeConcini and I introduced our bill, Congresswoman MORELLA introduced the companion House bill, H.R. 3590. In subsequent House and Senate hearings, the bill received strong support from industry, professional societies, trade associations, and the administration. At that point, we also began working closely with Commerce Department Under Secretary for Technology Mary Good and her staff, who helped us obtain detailed technical suggestions from executive branch agencies and other patent experts. We made major progress during the 103rd Congress, but in 1994 ran out of time to complete action on the legislation.

Now we are back with a similar bill that incorporates suggestions made by the experts. Through her position as Chair of the House Science Committee's Subcommittee on Technology, Congresswoman MORELLA has worked closely with us and the administration to produce a revised version of the bill which I believe is strongly supported by all interested parties. The revised bill continues to focus on the twin issues of company rights under a CRADA and royalty sharing for Federal investors.

The revised bill would give a collaborating party a statutory option to choose an exclusive license for a field of use for any such invention created under the agreement. Agencies may still assign full patent title to the company; the agencies we consulted felt they needed to retain that flexibility, and our new bill allows them to do so. But the important point is that a company will now know that it is assured of having no less than an exclusive license in a field of use of its choosing. This statutory guideline will give companies real assurance that they will get important intellectual property out any CRADA they fund. In turn, that assurance will give those companies both an extra incentive to enter into a CRADA and the knowledge that they can safely invest further in the commercialization of that invention, knowing they have an exclusive claim on it.

In return, the Government may negotiate for reasonable compensation, such as royalties. And the Government retains minimal rights to use the invention under unusual but important circumstances, such as when the invention is needed to meet health and safety needs that are not reasonably satisfied by the collaborating party.

In sum, the bill continues to carry out the original purpose we envisioned in 1993—providing guidelines that simplify the negotiation of CRADA's and, in the process, give companies greater assurance they will share in the benefits of the research they fund. We expect that this change will increase the number of CRADA's, reduce the time and effort required to negotiate them, and thus speed the transfer of laboratory technology and know-how to the broader economy.

The revised version also contains a slightly revised version of the provision regarding royaltysharing for Federal inventors. Under the new bill, agencies each year must pay a Federal inventor the first $2,000 in royalties received because of that person's inventions, plus at least 15 percent of any additional annual royalties. By rewarding Federal inventors, we will give them an incentive to report inventions and work in CRADA's. The bill involves no Federal spending; all rewards would be from royalties paid to the Government by companies and others.

Mr. President, Mrs. MORELLA introduced the House version of the revised bill last Friday, August 4. It is H.R. 2196. Cosponsors include House Science Committee Chairman BOB WALKER, House Science Committee Ranking Member GEORGE BROWN, and Technology Subcommittee Ranking Member JOHN TANNER. Today I am proud to introduce the same bill in the Senate.

This bill is a concrete step towards making our government's huge investment in science and technology—an investment made primarily to carry out important government missions—more useful to commercial companies and our economy. If we do it right, the end result will be new technologies, new products, and new jobs for Americans. I look forward to continuing to work with my House and Senate colleagues and with the Administration to enact this valuable, focused piece of legislation.

Mr. President, I ask unanimous consent that a summary sheet prepared by Mrs. MORELLA's office and the text of the bill itself be printed in the RECORD.

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

S. 1164

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 ''Technology Transfer Improvements Act of 1995''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Bringing technology and industrial innovation to the marketplace is central to the economic, environmental, and social well-being of the people of the United States.

(2) The Federal Government can help United States business to speed the development of new products and processes by entering into cooperative research and development agreements which make available the assistance of Federal laboratories to the private sector, but the commercialization of technology and industrial innovation in the United States depends upon actions by business.

(3) The commercialization of technology and industrial innovation in the United States will be enhanced if companies, in return for reasonable compensation to the Federal Government, can more easily obtain exclusive licenses to inventions which develop as a result of cooperative research with scientists employed by Federal laboratories.

SEC. 3. USE OF FEDERAL TECHNOLOGY

Subparagraph (B) of section 11(e)(7) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)(7)(B)) is amended to read as follows:

''(B) A transfer shall be made by any Federal agency under subparagraph (A), for any fiscal year, only if the amount so transferred by that agency (as determined under such subparagraph) would exceed $10,000.''.

SEC. 4. TITLE TO INTELLECTUAL PROPERTY ARISING FROM COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

Subsection (b) of section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(b)) is amended to read as follows:

''(b) ENUMERATED AUTHORITY.—(1) Under an agreement entered into pursuant to subsection (a)(1), the laboratory may grant, or agree to grant in advance, to a collaborating party patent licenses or assignments, or options thereto, in any invention made in whole or in part by a laboratory employee under the agreement, for reasonable compensation when appropriate. The laboratory shall ensure that the collaborating party has the option to choose an exclusive license for a field of use for any such invention under the agreement or, if there is more than one collaborating party, that the collaborating parties are offered the option to hold licensing rights that collectively encompass the rights that would be held under such an exclusive license by one party. In consideration for the Government's contribution under the agreement, grants under this paragraph shall be subject to the following explicit conditions:

''(A) A nonexclusive, nontransferable, irrevocable, paid—up license from the collaborating party to the laboratory to practice the invention or have the invention practiced throughout the world by or on behalf of the Government. In the exercise of such license, the Government shall not publicly disclose trade secrets or commercial or financial information that is privileged or confidential within the meaning of section 552(b)(4) of title 5, United States Code, or which would be considered as such if it had been obtained from a non-Federal party.

''(B) If a laboratory assigns title or grants an exclusive license to such an invention, the Government shall retain the right—

''(i) to require the collaborating party to grant to a responsible applicant a nonexclusive, partially exclusive, or exclusive license to use the invention in the applicant's licensed field of use, on terms that are reasonable under the circumstances; or

''(ii) if the collaborating party fails to grant such a license, to grant the license itself.

''(C) The Government may exercise its right retained under subparagraphs (B)(ii) and (iii) only if the Government finds that—

''(i) the action is necessary to meet health or safety needs that are not reasonably satisfied by the collaborating party;

''(ii) the action is necessary to meet requirements for public use specified by Federal regulations, and such requirements are not reasonably satisfied by the collaborating party; or

''(iii) the collaborating party has failed to comply with an agreement containing provisions described in subsection (c)(4)(B).

''(2) Under agreements entered into pursuant to subsection (a)(1), the laboratory shall ensure that a collaborating party may retain title to any invention made solely by its employee in exchange for normally granting the Government a nonexclusive, nontransferable, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the Government for research or other Government purposes.

''(3) Under an agreement entered into pursuant to subsection (a)(1), a laboratory may—

''(A) accept, retain, and use funds, personnel, services, and property from a collaborating party and provide personnel, services, and property to a collaborating party;

''(B) use funds received from a collaborating party in accordance with subparagraph (A) to hire personnel to carry out the agreement who will not be subject to full-time-equivalent restrictions of the agency; and

''(C) to the extent consistent with any applicable agency requirements or standards of conduct, permit an employee or former employee of the laboratory to participate in an effort to commercialize an invention made by the employee or former employee while in the employment or service of the Government.

''(4) A collaborating party in an exclusive license in any invention made under an agreement entered into pursuant to subsection (a)(1) shall have the right of enforcement under chapter 29 of title 35, United States Code.

''(5) A Government-owned, contractor-operated laboratory that enters into a cooperative research and development agreement pursuant to subsection (a)(1) may use or obligate royalties or other income accruing to the laboratory under such agreement with respect to any invention only—

''(A) for payments to inventors;

''(B) for purposes described in clauses (i), (iii), and (iv) of section 14(a)(1)(B); and

''(C) for scientific research and development consistent with the research and development missions and objectives of the laboratory.''.

SEC. 5. DISTRIBUTION OF INCOME FROM INTELLECTUAL PROPERTY RECEIVED BY FEDERAL LABORATORIES.

Section 14 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c) is amended—

(1) by amending subsection (a)(1) to read as follows:

''(1) Except as provided in paragraphs (2) and (4), any royalties or other payments received by a Federal agency from the licensing and assignment of inventions under agreements entered into by Federal laboratories under section 12, and from the licensing of inventions of Federal laboratories under section 207 of title 35, United States Code, or under any other provision of law, shall be retained by the agency whose laboratory produced the invention and shall be disposed of as follows:

''(A)(i) The head of the agency or laboratory, or such individual's designee, shall pay each year the first $2,000, and thereafter at least 15 percent, of the royalties or other payments to the inventor or coinventors.

''(ii) An agency or laboratory may provide appropriate incentives, from royalties or other payments, to employees of a laboratory who contribute substantially to the technical development of licensed or assigned inventions between the time that the intellectual property rights to such inventions are legally asserted and the time of the licensing or assigning of the inventions.

''(iii) The agency or laboratory shall retain the royalties and other payments received from an invention until the agency or laboratory makes payments to employees of a laboratory under clause (i) or (ii).

''(B) The balance of the royalties or other payments shall be transferred by the agency to its laboratories, with the majority share of the royalties or other payments from any invention going to the laboratory where the invention occurred. The royalties or other payments so transferred to any laboratory may be used or obligated by that laboratory during the fiscal year in which they are received or during the succeeding fiscal year—

''(i) to reward scientific, engineering, and technical employees of the laboratory, including developers of sensitive or classified technology, regardless of whether the technology has commercial applications;

''(ii) to further scientific exchange among the laboratories of the agency;

''(iii) for education and training of employees consistent with the research and development missions and objectives of the agency or laboratory, and for other activities that increase the potential for transfer of the technology of the laboratories of the agency;

''(iv) for payment of expenses incidental to the administration and licensing of intellectual property by the agency or laboratory with respect to inventions made at that laboratory, including the fees or other costs for the services of other agencies, persons, or organizations for intellectual property management and licensing services; or

''(v) for scientific research and development consistent with the research and development missions and objectives of the laboratory.

''(C) All royalties or other payments retained by the agency or laboratory after payments have been made pursuant to subparagraphs (A) and (B) that is unobligated and unexpended at the end of the second fiscal year succeeding the fiscal year in which the royalties and other payments were received shall be paid into the Treasury.'';

(2) in subsection (a)(2)—

(A) by inserting ''or other payments'' after ''royalties''; and

(B) by striking ''for the purposes described in clauses (i) through (iv) of paragraph (1)(B) during that fiscal year or the succeeding fiscal year'' and inserting in lieu thereof ''under paragraph (1)(B)'';

(3) in subsection (a)(3), by striking ''$100,000'' both places it appears and inserting ''$150,000'';

(4) in subsection (a)(4)—

(A) by striking ''income'' each place it appears and inserting in lieu thereof ''payments'';

(B) by striking ''the payment of royalties to inventor'' in the first sentence thereof and inserting in lieu thereof ''payments to inventors'';

(C) by striking ''clause (i) of paragraph (1)(B)'' and inserting in lieu thereof ''clause (iv) of paragraph (1)(B)'';

(D) by striking ''payment of the royalties,'' in the second sentence thereof and inserting

in lieu thereof ''offsetting the payments to inventors,''; and

(E) by striking ''clauses (i) through (iv) of''; and

(5) by amending paragraph (1) of subsection (b) to read as follows:

''(1) by a contractor, grantee, or participant, or an employee of a contractor, grantee, or participant, in an agreement or other arrangement with the agency, or''.

SEC. 6. EMPLOYEE ACTIVITIES.

Section 15(a) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710d(a)) is amended—

(1) by striking ''the right of ownership to an invention under this Act'' and inserting in lieu thereof ''ownership of or the right of ownership to an invention made by a Federal employee''; and

(2) by inserting ''obtain or'' after ''the Government, to''.

SEC. 7. AMENDMENT TO BAYH-DOLE ACT.

Section 210(e) of title 35, United States Code, is amended by striking '', as amended by the Federal Technology Transfer Act of 1986,''.

THE TECHNOLOGY TRANSFER IMPROVEMENTS ACT OF 1995—OUTLINE SUMMARY

STATUTORY AUTHORITY

The Act amends the Stevenson-Wydler Technology Innovation Act of 1980 and the Federal Technology Transfer Act of 1986 by crating incentives to promote technology commercialization and for other purposes. The Act would impact upon technology transfer policies in both Government-owned, Government-operate, laboratories (GOGOs) and Government-owned, Contractor-operated laboratories (GOCOs).

SPECIFIC BILL OBJECTIVES

(1) Provides assurances to United States industry that they will be granted sufficient rights to justify prompt commercialization of resulting inventions arising from CRADAs with Federal laboratories; (2) Provides important new incentives to Federal laboratory personnel who create new inventions, and (3) Provides several clarifying amendments to strengthen the current law.

THE TWO MAJOR SECTIONS OF THE BILL

Title to intellectual property arising from CRADAs (Section 4). Guarantees of collaborating partner from industry, in a CRADA, the option to choose an exclusive license for a field of use for any such invention created under the agreement. This is an important change because it permits industry to select which option of rights to the invention makes the most sense under the CRADA, in order for industry to commercialize promptly.

Distribution of income from intellectual property received by Federal labs—Royalties (Section 5). Responds to criticism made by the GAO and witnesses at previous Committee hearings that agencies are not sufficiently providing incentives and rewarding laboratory personnel. The change is significant because it comes at a time that both Federal laboratories and industry need to work closer together for their mutual benefit and our national competitiveness. Requires that agencies must pay Federal inventors each year the first $2,000, and thereafter at least 15% of the royalties, received by the agency for the inventions made by the employee. It also allows for rewarding other lab personnel involved in the project, permits agencies to pay for related administrative and legal costs, and provides a significant new incentive by allowing the laboratory to use royalties for related research in the laboratory.

EFFECT UPON CRADA PARTNER UNDER THE ACT

Right to choose exclusive or non-exclusive license in a field of use for resulting CRADA invention.

Assurance that privileged and confidential information will be protected when CRADA invention is used by the Government.

EFFECT UPON GOVERNMENT UNDER THE ACT

Right to use invention for legitimate governmental needs with minimum statutory rights to the invention.

March-in rights to require license to others for public health, safety, or regulatory reasons.

March-in rights to require license to others for failure to manufacture resulting technologies in the United States.

Clarifies contributions laboratories can make in a CRADA; continues current prohibition of direct Federal funds to CRADA.

Clarifies that agencies may use royalty revenue to hire temporary personnel to assist in the CRADA or in related projects.

Permits agencies to use royalty revenue for related research in the laboratory, and related administrative & legal costs.

Would return all unused royalty revenue to the Treasury after the completion of the second fiscal year.

EFFECT UPON FEDERAL SCIENTIST/INVENTOR UNDER THE ACT

Inventors would receive the first $2,000 each year and thereafter at least 15% of the royalties.

Restates current law permitting the Federal employee to work on the commercialization of their invention.

Clarifies that the inventor has rights to his or her invention when the Government chooses not to pursue it.●

By Mr. HATCH:

S. 1165. A bill to amend the Internal Revenue Code of 1986 to allow a tax credit for adoption expenses and an exclusion for employer-provided adoption assistance; to the Committee on Finance.

THE FAIRNESS FOR ADOPTING FAMILIES ACT

Mr. HATCH. Mr. President, I rise to introduce the Fairness for Adopting Families Act. This act reimburses legitimate adoption expenses through a nonrefundable tax credit and permits companies to offer adoption benefits to their employees as a tax-free fringe benefit.

We should be grateful, Mr. President, that many parents in America today form their families through adoption. Our laws should help alleviate the cost barriers associated with an adoption. Many Americans are unaware of the enormous costs associated with an adoption. It's not uncommon for the adopting family to pay thousands in legal expenses, prenatal care for the birth mother, and the cost of the adopted child's hospital delivery. And none of these expenses is tax deductible.

If an employer helps to pay an employee's pregnancy expenses by funding an insurance policy or paying the fees for an employee to join an HMO, these expenses are treated as tax-free fringe benefits. But if an employer decides to help his or her employees form families through adoption, it will have to pay these expenses in after-tax dollars. Mr. President, this is just not fair.

Our tax system should encourage families to adopt children. Adoption is an option that can relieve some of the suffering and loneliness that too many young children face. Adoption is vitally important to millions of couples and to children wanting to belong to a family of their own. In America today, Mr. President, an estimated 36,000 adoptable children remain in foster care or institutions, often bereft of the nurturing, guidance, and security that all children need, because of public and private barriers to adoption. Mr. President, a majority of these children have special physical, emotional, or mental needs; or they may have reached school age, have brothers and sisters with whom they must be adopted, or be of various ethnic backgrounds.A stable home and strong role models are especially important for these at-risk youngsters.

The Fairness for Adopting Families Act provides adopting families with a desperately needed tax credit, needed by children who are waiting to be adopted and needed by families who are sacrificing to finance the ever-increasing costs of adopting a child. In today's changing society, we must continue to express our support for the family unit. Mr. President, with the increase in teenage pregnancy, broken homes, and children born out of wedlock, adoption can provide many of these children with a chance to succeed in life. We all agree that strong families are the key to a strong America. A true pro-family policy would assist families being formed through adoption.

Mr. President, to many families wishing to adopt a child, the costs associated with such a procedure are simply prohibitive. Prospective parents are often required to pay not only court and attorney fees but also expenses for maternity home services, hospital and physician costs, and, at times, prenatal care for the birth mother. Data provided by the National Council for Adoption show that the actual costs connected with legal adoptions can easily exceed $15,000.

Mr. President, one family in my home State of Utah illustrates the financial burden an adoption can place on a family. This family was in the process of adopting an infant. All of the paperwork had been filed with the appropriate agencies when they discovered that they were required to pay a lump sum of $13,000 within a short period of time. This was a significant amount of money for this middle-class family, Mr. President. Their insurance company would reimburse them for $3,000, but only after the adoption was finalized. Tragically, this heartbroken family simply could not afford to continue with the adoption and had to discontinue the proceeding. Situations like this should not have to happen. Family wealth should not be the determining factor in adopting a child.

This bill recognizes the importance of the family unit by alleviating some of the cost barriers associated with

adoption. This legislation has two major features.

First, it provides a nonrefundable tax credit of up to $5,000 for legitimate adoption expenses. One of the problems with most nonrefundable tax credits, Mr. President, is that they can only help families with sizeable tax liabilities. If a family spends $5,000 on an adoption but only owes $2,000 in Federal income taxes, $3,000 of credit would ordinarily be lost under a nonrefundable system.

To help lower-income families who may not owe much in Federal income taxes, this bill would allow any unused adoption credit to be carried forward for up to 5 years. This will avoid some of the problems that have unfortunately arisen with the only refundable credit currently in the personal income tax, the earned income tax credit.

Second, the bill would exclude from an employee's gross income up to $5,000 for adoption expenses paid by an employer; those who participate in the military's adoption expense reimbursement program would also receive this exclusion. This feature of my bill provides fair treatment for adopting families. Many of America's employers have recognized the importance of adoption, and this bill's provisions build upon that recognition. Corporations such as Dow Chemical, Wendy's Inc., IBM, Digital Equipment, and Honeywell currently offer adoption benefits. This legislation will encourage more employers to establish these pro-family plans.

These tax provisions are specifically aimed to help families who otherwise might not be able to afford to adopt; for that reason, they phase out for families with taxable incomes above $60,000. Using taxable income rather than adjusted gross income further focuses the credit's purpose. It ensures that large families with moderate incomes will remain as eligible as smaller families with lower incomes. A family earning $65,000 but raising four children would hardly qualify as well-off; they should be just as able to adopt a child as a smaller, less affluent family. Using taxable (post-deduction) income to calculate eligibility will level the playing field for larger families.

I want to point out, Mr. President, that this legislation does not provide an exclusion or credit for expenses for adoptions administered through illegal practices, such as through a baby broker. Many adopting parents in my own State of Utah and in other States have sadly been defrauded by such schemes.

This legislation will actually result in less Government spending, Mr. President. The National Council for Adoption has shown savings in two ways. First, the bill would move thousands of children, who might otherwise have lingered in foster care, into permanent, loving homes. Second, the tax credit encourages the shifting of medical costs to the adopting family and away from the more expensive AFDC and Medicaid programs.

I strongly encourage my colleagues to support this legislation. We are representatives of a society that professes a commitment to the success of the family. The Tax Code should demonstrate that commitment by allowing for the fair tax treatment of adoption expenses.

At a time when our Nation is experiencing a tragic increase in crime, teenage pregnancies, disease, and violence, we cannot afford to let even one child fall through the cracks. We must work together to bring children into permanent, secure, and loving families. We must work together to eliminate the barriers that discourage adoption.

The most important resource America has is its families. We must do everything in our power to ensure their continued growth and success. A relatively small dollar investment in this bill will move us a long way toward strengthening the American family.

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

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

S. 1165

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 ''Fairness for Adopting Families Act''.

SEC. 2. CREDIT FOR ADOPTION EXPENSES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:

''SEC. 23. ADOPTION EXPENSES.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year the amount of the qualified adoption expenses paid or incurred by the taxpayer during such taxable year.

''(b) LIMITATIONS.—

''(1) DOLLAR LIMITATION.—The aggregate amount of qualified adoption expenses which may be taken into account under subsection (a) with respect to the adoption of a child shall not exceed $5,000.

''(2) INCOME LIMITATION.—The amount allowable as a credit under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable (determined without regard to this paragraph but with regard to paragraph (1)) as—

''(A) the amount (if any) by which the taxpayer's taxable income exceeds $60,000, bears to

''(B) $40,000.

''(3) DENIAL OF DOUBLE BENEFIT.—

''(A) IN GENERAL.—No credit shall be allowed under subsection (a) for any expense for which a deduction or credit is allowable under any other provision of this chapter.

''(B) GRANTS.—No credit shall be allowed under subsection (a) for any expense to the extent that funds for such expense are received under any Federal, State, or local program.

''(C) REIMBURSEMENT.—No credit shall be allowed under subsection (a) for any expense to the extent that such expense is reimbursed and the reimbursement is excluded from gross income under section 137.

''(c) CARRYFORWARDS OF UNUSED CREDIT.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year. No credit may be carried forward under this subsection to any taxable year following the fifth taxable year after the taxable year in which the credit arose.

''(d) QUALIFIED ADOPTION EXPENSES.—For purposes of this section, the term 'qualified adoption expenses' means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the legal and finalized adoption of a child by the taxpayer and which are not incurred in violation of State or Federal law or in carrying out any surrogate parenting arrangement. The term 'qualified adoption expenses' shall not include any expenses in connection with the adoption by an individual of a child who is the child of such individual's spouse.

''(e) MARRIED COUPLES MUST FILE JOINT RETURNS.—Rules similar to the rules of paragraphs (2), (3), and (4) of section 21(e) shall apply for purposes of this section.''

(b) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 22 the following new item:

''Sec. 23. Adoption expenses.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 3. EXCLUSION OF AMOUNTS RECEIVED UNDER EMPLOYER'S ADOPTION ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of such Code (relating to items specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

''SEC. 137. ADOPTION ASSISTANCE PROGRAMS.

''(a) IN GENERAL.—Gross income of an employee does not include amounts paid or expenses incurred by the employer for qualified adoption expenses in connection with the adoption of a child by an employee if such amounts are furnished pursuant to an adoption assistance program.

''(b) LIMITATIONS.—

''(1) DOLLAR LIMITATION.—The aggregate amount excludable from gross income under subsection (a) for all taxable years with respect to the legal adoption of any single child by the taxpayer shall not exceed $5,000.

''(2) INCOME LIMITATION.—The amount excludable from gross income under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so excludable (determined without regard to this paragraph but with regard to paragraph (1)) as—

''(A) the amount (if any) by which the taxpayer's taxable income (determined without regard to this section) exceeds $60,000, bears to

''(B) $40,000.

''(c) ADOPTION ASSISTANCE PROGRAM.—For purposes of this section, an adoption assistance program is a plan of an employer—

''(1) under which the employer provides employees with adoption assistance, and

''(2) which meets requirements similar to the requirements of paragraphs (2), (3), and (5) of section 127(b).

An adoption reimbursement program operated under section 1052 of title 10, United States Code (relating to armed forces) or section 514 of title 14, United States Code (relating to members of the Coast Guard) shall be treated as an adoption assistance program for purposes of this section.

''(d) QUALIFIED ADOPTION EXPENSES.—For purposes of this section, the term 'qualified adoption expenses' has the meaning given such term by section 23(d).''.

(b) CLERICAL AMENDMENT.—The table of sections for such part III is amended by striking the item relating to section 137 and inserting the following:

''Sec. 137. Adoption assistance programs.

''Sec. 138. Cross reference to other Acts.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

By Mr. LUGAR (for himself, Mr. PRYOR, Mrs. KASSEBAUM, Mr. INOUYE, Mr. COCHRAN, Mr. KERREY, Mr. DOLE, Mr. HEFLIN, Mr. GORTON, and Mr. BREAUX):

S. 1166. A bill to amend the Federal Insecticide, Fungicide,and Rodenticide Act, to improve the registration of pesticides, to provide minor use crop protection, to improve pesticide tolerances and safeguard infants and children, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE FOOD QUALITY PROTECTION ACT OF 1995

• Mr. LUGAR. Mr. President, I introduce bipartisan legislation that will help ensure that continued availability of a safe, affordable, and abundant food supply in our Nation.

This bill reforms the scientifically outdated Delaney clause. The continuation of and strict enforcement of the Delaney clause enacted in 1958 could have a significant negative impact on our Nation's farmers and ranchers.

The Federal Food, Drug and Cosmetic Act [FFDCA] establishes rules for setting tolerances for pesticide residues on food which differ for raw and processed commodities. Residues in raw commodities are subject to section 408 of the FFDCA which requires that residue tolerances be set for raw food commodities at levels necessary to protect public health considering the need for an adequate, wholesome, and economic food supply. Thus risk and benefits are balanced in determining an acceptable tolerance level. This approach allows EPA to determine what level of risks are acceptable and to set tolerance levels accordingly. Such an approach is scientifically defensible. Balancing risk and benefits is a fundamental component in any decision-making process, whether it concerns pesticides or any other product in the marketplace.

When pesticide residues concentrate in processed foods above levels of sanctioned on raw commodities, they are treated as food additives under section 409. The Delaney clause in section 409 prohibits granting a residue tolerance for any food additive that has been found to cause cancer in humans or animals, no matter how low the estimated risk might be. Thus, for processed foods, no pesticide residue is permitted, if the pesticide is a possible carcinogen and is concentrated above the level permitted on or in the raw food.

Advances in science and technology improving our ability to detect small quantities of substances, to parts per trillion in some cases, have shown that the Delaney clause enacted in 1958 is scientifically outdated. As has been stated by EPA Administrator Browner, the pesticides impacted by the Delaney clause do not pose an unacceptable risk to public health.

This is not a partisan issue, as evidenced by the strong show of support from the cosponsors of this bill today. This group of Senators agrees: The Delaney clause needs modernization.

The scientific evidence is clear. Almost a decade ago, the National Research Council's Board on Agriculture of the National Academy of Sciences recommended the use of a single negligible risk standard for approving acceptable levels of pesticide residues in both raw and processed foods. This recommendation appeared in the NRC's 1987 report, ''Regulating Pesticides in Food: The Delaney Paradox.''

This bill implements the recommendations of the National Academy of Sciences report by establishing a negligible risk standard for both raw and processed foods. Under current procedures, Federal regulators must deal with two distinct and conflicting standards for pesticide residues on raw and processed foods.

Despite many years of acknowledging the need for Delaney reform, Congress has failed to pass legislation. After the Environmental Protection Agency [EPA] in 1988 articulated its de minimis policy for interpreting Delaney, the agency was sued. In 1992, the U.S. Court of Appeals for the Ninth Circuit ruled in favor of strict enforcement of Delaney. A consent decree in another case, agreed to by EPA this year, establishes an expedited schedule of review of all pesticides impacted by Delaney. Reform can no longer be delayed.

Continuation of the Delaney clause and its strict enforcement could impact the international competitiveness of U.S. agriculture. The judicious use of pesticides has enabled our Nation's farmers to improve yields and efficiency and become high quality and competitive producers for the global marketplace. Researchers at the National Center for Food and Agricultural Policy have estimated that strict enforcement of Delaney could result in an increase in production costs of $175 million in the first year and yield losses totaling $212 million per year.

This bill also addresses concerns that have been raised following another report of the National Research Council of the National Academy of Sciences, ''Pesticides in the Diets of Infants and Children.'' This legislation directs EPA, the Department of Agriculture, and the Department of Health and Human Services to coordinate the development and implementation of procedures to ensure that pesticide tolerances adequately safeguard the health of infants and children based on this report released in 1993.

Providing regulatory relief for minor use pesticides is also important in helping to ensure the availability of minor use pesticides for farmers and an abundant and varied food supply for our Nation. Minor use pesticides are generally used on relatively small acreage or for regional pest or disease problems. Because there is a significant cost to develop scientific data to register or reregister these products and there is a limited market potential once approved, many minor use pesticides are not being supported or are being voluntarily canceled for economic, not safety reasons. This bill offers several incentives for manufacturers to maintain and develop new safe and effective pesticides for minor uses without compromising food safety or adversely affecting the environment.

This bill is similar to legislation that I cosponsored in the last Congress and to legislation now being considered within the House of Representatives. Legislation in the 103d Congress gained the support of 21 of my Senate colleagues while legislation pending in the House this year has already garnered 192 cosponsors.

I have a long history of involvement in these often complex and challenging food safety and pesticide issues. As chairman of the Senate Agriculture Committee, I am hopeful that this year we will be able to finally see much needed reform of these food safety and pesticide statutes. I urge my colleagues to cosponsor this bill and to recognize that the Delaney clause is far too rigid. We need to move toward the future in a scientifically sound way by removing the unduly restrictive Delaney clause.

I ask unanimous consent that a summary and copy of the bill be printed in the RECORD.

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

S. 1166

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 ''Food Quality Protection Act of 1995''.

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

Sec. 1. Short title; table of contents.

TITLE I—AMENDMENTS TO THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

Sec. 101. Reference.

Subtitle A—Registration of Pesticides

Sec. 111. Tolerance reevaluation as part of reregistration.

Sec. 112. Scientific advisory panel.

Sec. 113. Coordination of cancellation.

Subtitle B—Minor Use Crop Protection

Sec. 121. Definition of minor use.

Sec. 122. Exclusive use of minor use pesticides.

Sec. 123. Time extensions for development of minor use data.
Sec. 124. Minor use waiver.
Sec. 125. Expedition of minor use registrations.
Sec. 126. Utilization of data for voluntarily canceled chemicals.
Sec. 127. Minor use programs.
Subtitle C—Conforming Amendments
Sec. 131. FIFRA table of contents.
TITLE II—DATA COLLECTION AND IMPROVED PROCEDURES TO ENSURE THAT TOLERANCES SAFEGUARD THE HEALTH OF INFANTS AND CHILDREN
Sec. 201. Implementation of NAS report.
Sec. 202. Collection of pesticide use information.
Sec. 203. Integrated pest management.
TITLE III—AMENDMENTS TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT
Sec. 301. Reference.
Sec. 302. Definitions.
Sec. 303. Prohibited acts.
Sec. 304. Adulterated food.
Sec. 305. Tolerances and exemptions for pesticide chemical residues.
Sec. 306. Authorization for increase monitoring.

TITLE I—AMENDMENTS TO THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

SEC. 101. REFERENCE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

Subtitle A—Registration of Pesticides

SEC. 111. TOLERANCE REEVALUATION AS PART OF REREGISTRATION.

Section 4(g)(2) (7 U.S.C. 136a–1(g)(2)) is amended by adding at the end the following:

''(E) As soon as the Administrator has sufficient information with respect to the dietary risk of a particular active ingredient, but in any event not later than the date on which the Administrator makes a determination under subparagraph (C) or (D) with respect to a pesticide containing a particular active ingredient, the Administrator shall—

''(i) reassess each associated tolerance and exemption from the requirement for a tolerance issued under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), taking into account available information and reasonable assumptions concerning the dietary exposure levels of food consumers (and major identifiable subgroups of food consumers, including infants and children) to residue of the pesticide in food and available information and reasonable assumptions concerning the variability of the sensitivities of major identifiable groups, including infants and children;

''(ii) determine whether the tolerance or exemption meets the requirements of the Act;

''(iii) determine whether additional tolerances or exemptions should be issued;

''(iv) publish in the Federal Register a notice setting forth the determinations made under this subparagraph; and

''(v) commence promptly such proceedings under this Act and section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a) as are warranted by the determinations.''.

SEC. 112. SCIENTIFIC ADVISORY PANEL.

Section 25(d) (7 U.S.C. 136w(d)) is amended—

(1) in the first sentence, by striking ''(d) SCIENTIFIC ADVISORY PANEL.—The Administrator shall'' and inserting the following:

''(d) SCIENTIFIC ADVISORY PANEL.—

''(1) IN GENERAL.—The Administrator shall''; and

(2) by adding at the end the following:

''(2) SCIENCE REVIEW BOARD.—

''(A) There is established a science review board consisting of 60 scientists who shall be available to the scientific advisory panel to assist in reviews conducted by the panel.

''(B) The scientific advisory panel shall select the scientists from 60 nominations submitted by each of the National Science Foundation and the National Institutes of Health.

''(C) A member of the board shall be compensated in the same manner as a member of the panel.''.

SEC. 113. COORDINATION OF CANCELLATION.

Section 2(bb) (7 U.S.C. 136(bb)) is amended—

(1) by striking ''means any unreasonable risk'' and inserting ''means—

''(1) any unreasonable risk''; and

(2) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(2) a human dietary risk from residue that results from a use of a pesticide in or on any food inconsistent with the standard the Administrator determines is adequate to protect the public health under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a).''.

Subtitle B—Minor Use Crop Protection

SEC. 121. DEFINITION OF MINOR USE.

Section 2 (7 U.S.C. 136) is amended by adding at the end the following:

''(hh) MINOR USE.—The term 'minor use' means the use of a pesticide on an animal, on a commercial agricultural crop or site, or for the protection of public health if—

''(1)(A) in the case of the use of the pesticide on a commercial agricultural crop or site, the total quantity of acreage devoted to the crop in the United States is less than 300,000 acres, as determined by the Secretary; or

''(B) the Administrator, in consultation with the Secretary of Agriculture, determines that, based on information provided by an applicant for registration or a registrant—

''(i) the use does not provide a sufficient economic incentive to support the initial registration or continuing registration of a pesticide for the use; and

''(ii)(I) there are not a sufficient number of efficacious alternative registered pesticides available for the use; or

''(II) any 1 of the alternatives to the pesticide pose a greater risk to the environment or human health than the pesticide; or

''(III) the pesticide plays, or will play, a significant part in managing pest resistance; or

''(IV) the pesticide plays, or will play, a significant part in an integrated pest management program; and

''(2) the Administrator does not determine that, based on data existing on the date of the determination, the use may cause unreasonable adverse effects on the environment.''.

SEC. 122. EXCLUSIVE USE OF MINOR USE PESTICIDES.

Section 3(c)(1)(F) (7 U.S.C. 136a(c)(1)(F)) is amended—

(1) in clause (i)—

(A) by striking ''(i) With respect'' and inserting ''(i)(I) With respect'';

(B) by striking ''a period of ten years following the date the Administrator first registers the pesticide'' and inserting ''the exclusive data use period determined under subclause (II)''; and

(C) by adding at the end the following:

''(II) Except as provided in subclauses (III) and (IV), the exclusive data use period under subclause (I) shall be 10 years beginning on the date the Administrator first registers the pesticide.

''(III) Subject to subclauses (IV), (V), and (VI), the exclusive data use period under subclause (II) shall be extended 1 year for each 3 minor uses registered after the date of enactment of this subclause and before the date that is 7 years after the date the Administrator first registers the pesticide, if the Administrator in consultation with the Secretary of Agriculture, determines that, based on information provided by an applicant for registration or a registrant—

''(aa) there are not a sufficient number of efficacious alternative registered pesticides available for the use; or

''(bb) any 1 of the alternatives to the pesticide pose a greater risk to the environment or human health than the pesticide; or

''(cc) the pesticide plays, or will play, a significant part in managing pest resistance; or

''(dd) the pesticide plays, or will play, a significant part in an integrated pest management program.

''(IV) Notwithstanding subclause (III), the exclusive data use period established under this clause may not exceed 13 years.

''(V) For purposes of subclause (III), the registration of a pesticide for a minor use on a crop grouping established by the Administrator shall be considered 1 minor use for each representative crop for which data are provided in the crop grouping.

''(VI) An extension under subclause (III) shall be reduced or terminated if the applicant for registration or the registrant voluntarily cancels the pesticide or deletes from the registration a minor use that formed the basis for the extension, or if the Administrator determines that the applicant or registrant is not actually marketing the pesticide for a minor use that formed the basis for the extension.''; and

(2) by adding at the end the following:

''(iv) The period of exclusive use provided under clause (i)(III) shall not take effect until 1 year after enactment of this clause, except where an applicant or registrant is applying for the registration of a pesticide containing an active ingredient not previously registered.

''(v) With respect to data submitted after the date of enactment of this clause by an applicant or registrant to support an amendment adding a new use to an existing registration that does not retain any period of exclusive use, if the data relate solely to a minor use of a pesticide, the data shall not, without the written permission of the original data submitter, be considered by the Administrator to support an application for a minor use by another person during the period of 10 years following the date of submission of the data. The applicant or registrant at the time at which the new minor use is requested shall notify the Administrator that, to the best of the applicant's or registrant's knowledge, the exclusive use period for the pesticide has expired and that the data pertaining solely to the minor use of a pesticide are eligible for exclusive use protection under this paragraph. If the minor use registration that is supported by data submitted pursuant to this subsection is voluntarily canceled or if the data are subsequently used to support a nonminor use, the data shall not be subject to the exclusive use protection provided under this paragraph but shall instead be considered by the Administrator in accordance with clause (i), as appropriate.''.

SEC. 123. TIME EXTENSIONS FOR DEVELOPMENT OF MINOR USE DATA.

(a) IN GENERAL.—Section 3 (7 U.S.C. 136a) is amended by adding at the end the following:

''(g) TIME EXTENSION FOR DEVELOPMENT OF MINOR USE DATA.—

''(1) SUPPORTED USE.—In the case of a minor use, the Administrator shall, on the request of a registrant and subject to paragraph (3), extend the time for the production of residue chemistry data under subsection (c)(2)(B) and subsections (d)(4), (e)(2), and (f)(2) of section 4 for data required solely to support the minor use until the final date under section 4 for submitting data on any other use established not later than the date of enactment of this subsection.

''(2) NONSUPPORTED USE.—

''(A) If a registrant does not commit to support a minor use of a pesticide, the Administrator shall, on the request of the registrant and subject to paragraph (3), extend the time for taking any action under subsection (c)(2)(B) or subsection (d)(6), (e)(3)(A), or (f)(3) of section 4 regarding the minor use until the final date under section 4 for submitting data on any other use established not later than the date of enactment of this subsection.

''(B) On receipt of the request from the registrant, the Administrator shall publish in the Federal Register a notice of the receipt of the request and the effective date on which the uses not being supported will be deleted from the registration under section 6(f)(1).

''(3) CONDITIONS.—Paragraphs (1) and (2) shall apply only if—

''(A) the registrant commits to support and provide data for—

''(i) any use of the pesticide on a food; or

''(ii) any other use, if all uses of the pesticide are for uses other than food;

''(B)(i) the registrant provides a schedule for producing the data referred to in subparagraph (A) with the request for an extension;

''(ii) the schedule includes interim dates for measuring progress; and

''(iii) the Administrator determines that the registrant is able to produce the data referred to in subparagraph (A) before a final date established by the Administrator;

''(C) the Administrator determines that the extension would not significantly delay issuance of a determination of eligibility for reregistration under section 4; and

''(D) the Administrator determines that, based on data existing on the date of the determination, the extension would not significantly increase the risk of unreasonable adverse effects on the environment.

''(4) MONITORING.—If the Administrator grants an extension under paragraph (1) or (2), the Administrator shall—

''(A) monitor the development of any data the registrant committed to under paragraph (3)(A); and

''(B) ensure that the registrant is meeting the schedule provided under paragraph (3)(B) for producing the data.

''(5) NONCOMPLIANCE.—If the Administrator determines that a registrant is not meeting a schedule provided by the registrant under paragraph (3)(B), the Administrator may—

''(A) revoke any extension to which the schedule applies; and

''(B) proceed in accordance with subsection (c)(2)(B)(iv).

''(6) MODIFICATION OR REVOCATION.—The Administrator may modify or revoke an extension under this subsection if the Administrator determines that the extension could cause unreasonable adverse effects on the environment. If the Administrator modifies or revokes an extension under this paragraph, the Administrator shall provide written notice to the registrant of the modification or revocation.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 3(c)(2)(B) (7 U.S.C. 136a(c)(2)(B)) is amended by adding at the end the following:

''(vi) Subsection (g) shall apply to this subparagraph.''.

(2) Subsections (d)(4), (e)(2), and (f)(2) of section 4 (7 U.S.C. 136a–1) are each amended by adding at the end the following:

''(C) Section 3(g) shall apply to this paragraph.''.

(3) Subsections (d)(6) and (f)(3) of section 4 (7 U.S.C. 136a–1) are each amended by striking ''The Administrator shall'' and inserting ''Subject to section 3(g), the Administrator shall''.

(4) Section 4(e)(3)(A) (7 U.S.C. 136a–1(e)(3)(A)) is amended by striking ''If the registrant'' and inserting ''Subject to section 3(g), if the registrant''.

SEC. 124. MINOR USE WAIVER.

Section 3(c)(2) (7 U.S.C. 136a(c)(2)) is amended by adding at the end the following:

''(E) In the case of the registration of a pesticide for a minor use, the Administrator may waive otherwise applicable data requirements if the Administrator determines that the absence of the data will not prevent the Administrator from determining—

''(i) the incremental risk presented by the minor use of the pesticide; and

''(ii) whether the minor use of the pesticide would have unreasonable adverse effects on the environment.''.

SEC. 125. EXPEDITION OF MINOR USE REGISTRATIONS.

Section 3(c)(3) (7 U.S.C. 136a(c)(3)) is amended by adding at the end the following:

''(C)(i) As expeditiously as practicable after receipt, the Administrator shall review and act on a complete application that—

''(I) proposes the initial registration of a new pesticide active ingredient, if the active ingredient is proposed to be registered solely for a minor use, or proposes a registration amendment to an existing registration solely for a minor use; or

''(II) for a registration or a registration amendment, proposes a significant minor use.

''(ii) As used in clause (i):

''(I) The term 'as expeditiously as practicable' means the Administrator shall, to the greatest extent practicable, complete a review and evaluation of all data submitted with the application not later than 1 year after submission of the application.

''(II) The term 'significant minor use' means—

''(aa) 3 or more proposed minor uses for each proposed use that is not minor;

''(bb) a minor use that the Administrator determines could replace a use that was canceled not earlier than 5 years preceding the receipt of the application; or

''(cc) a minor use that the Administrator determines would avoid the reissuance of an emergency exemption under section 18 for the minor use.

''(iii) Review and action on an application under clause (i) shall not be subject to judicial review.

''(D) On receipt by the registrant of a denial of a request to waive a data requirement under paragraph (2)(E), the registrant shall have the full time period originally established by the Administrator for submission of the data, beginning on the date of receipt by the registrant of the denial.''.

SEC. 126. UTILIZATION OF DATA FOR VOLUNTARILY CANCELED CHEMICALS.

Section 6(f) (7 U.S.C. 136d) is amended—

(1) in paragraph (1)(C)(ii) by striking ''90-day'' and inserting ''180-day'' each place it appears;

(2) in paragraph (3)(A) by striking ''90-day'' and inserting ''180-day''; and

(3) by adding at the end the following:

''(4) UTILIZATION OF DATA FOR VOLUNTARILY CANCELED CHEMICALS.—The Administrator shall process, review, and evaluate the application for a voluntarily canceled pesticide as if the registrant had not canceled the registration, if—

''(A) another application is pending on the effective date of the voluntary cancellation for the registration of a pesticide that is—

''(i) for a minor use;

''(ii) identical or substantially similar to the canceled pesticide; and

''(iii) for an identical or substantially similar use as the canceled pesticide;

''(B) the Administrator determines that the minor use will not cause unreasonable adverse effects on the environment; and

''(C) the applicant under subparagraph (A) certifies that the applicant will satisfy any outstanding data requirement necessary to support the reregistration of the pesticide, in accordance with any data submission schedule established by the Administrator.''.

SEC. 127. MINOR USE PROGRAMS.

The Act is amended—

(1) by redesignating sections 30 and 31 (7 U.S.C. 136x and 136y) as sections 33 and 34, respectively; and

(2) by inserting after section 29 (7 U.S.C. 136w–4) the following:

''SEC. 30. ENVIRONMENTAL PROTECTION AGENCY MINOR USE PROGRAM.

''(a) ESTABLISHMENT.—The Administrator shall establish a minor use program in the Office of Pesticide Programs.

''(b) RESPONSIBILITIES.—In carrying out the program established under subsection (a), the Administrator shall—

''(1) coordinate the development of minor use programs and policies; and

''(2) consult with growers regarding a minor use issue, registration, or amendment that is submitted to the Environmental Protection Agency.

''SEC. 31. DEPARTMENT OF AGRICULTURE MINOR USE PROGRAM.

''(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish a minor use program.

''(b) RESPONSIBILITIES.—In carrying out the program established under subsection (a), the Secretary shall coordinate the responsibilities of the Department of Agriculture related to the minor use of a pesticide, including—

''(1) carrying out the Inter-Regional Research Project Number 4 established under section 2(e) of Public Law 89–106 (7 U.S.C. 450i(e));

''(2) carrying out the national pesticide resistance monitoring program established under section 1651(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5882(d));

''(3) supporting integrated pest management research;

''(4) consulting with growers to develop data for minor uses; and

''(5) providing assistance for minor use registrations, tolerances, and reregistrations with the Environmental Protection Agency.

''SEC. 32. MINOR USE MATCHING FUND PROGRAM.

''(a) ESTABLISHMENT.—The Secretary of Agriculture, in consultation with the Administrator, shall establish and administer a minor use matching fund program.

''(b) RESPONSIBILITIES.—In carrying out the program, the Secretary shall—

''(1) ensure the continued availability of minor use pesticides; and

''(2) develop data to support minor use pesticide registrations and reregistrations.

''(c) ELIGIBILITY.—Any person that desires to develop data to support a minor use registration shall be eligible to participate in the program.

''(d) PRIORITY.—In carrying out the program, the Secretary shall provide a priority for funding to a person that does not directly receive funds from the sale of a product registered for a minor use.

''(e) MATCHING FUNDS.—To be eligible for funds under the program, a person shall match the amount of funds provided under the program with an equal amount of non-Federal funds.

''(f) OWNERSHIP OF DATA.—Any data developed through the program shall be jointly owned by the Department of Agriculture and the person that receives funds under this section.

''(g) STATEMENT.—Any data developed under this subsection shall be submitted in a statement that complies with section 3(c)(1)(F).

''(h) COMPENSATION.—Any compensation received by the Department of Agriculture for the use of data developed under this section shall be placed in a revolving fund. The fund shall be available, without fiscal year limitation, to carry out the program.

''(i) AUTHORIZATION FOR APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for each fiscal year.''.

Subtitle C—Conforming Amendments

SEC. 131. FIFRA TABLE OF CONTENTS.

The table of contents in section 1(b) (7 U.S.C. prec. 121) is amended—

(1) by adding at the end of the items relating to section 2 the following:

''(hh) Minor use.'';

(2) by adding at the end of the items relating to section 3 the following:

''(g) Time extension for development of minor use data.
''(1) Supported use.
''(2) Nonsupported use.
''(3) Conditions.
''(4) Monitoring.
''(5) Noncompliance.
''(6) Modification or revocation.'';

(3) by adding at the end of the items relating to section 6(f) the following:

''(4) Utilization of data for voluntarily canceled chemicals.'';

(4) by striking the item relating to section 25(d) and inserting the following:

''(d) Scientific advisory panel.
''(1) In general.
''(2) Science review board.'';

and

(5) by striking the items relating to sections 30 and 31 and inserting the following:

''Sec. 30. Environmental Protection Agency minor use program.
''(a) Establishment.
''(b) Responsibilities.
''Sec. 31. Department of Agriculture minor use program.
''(a) Establishment.
''(b) Responsibilities.
''Sec. 32. Minor use matching fund program.
''(a) Establishment.
''(b) Responsibilities.
''(c) Eligibility.
''(d) Priority.
''(e) Matching funds.
''(f) Ownership of data.
''(g) Statement.
''(h) Compensation.
''(i) Authorization for appropriations.
''Sec. 33. Severability.
''Sec. 34. Authorization for appropriations.''.

TITLE II—DATA COLLECTION AND IMPROVED PROCEDURES TO ENSURE THAT TOLERANCES SAFEGUARD THE HEALTH OF INFANTS AND CHILDREN

SEC. 201. IMPLEMENTATION OF NAS REPORT.

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the Secretary of Health and Human Services shall coordinate the development and implementation of procedures to ensure that pesticide tolerances adequately safeguard the health of infants and children, based on the conclusions and recommendations contained in the report entitled ''Pesticides in the Diets of Infants and Children'' of the National Research Council of the National Academy of Sciences.

(b) PROCEDURES.—To the maximum extent practicable, the procedures referred to in subsection (a) shall include—

(1) collection of data on food consumption patterns of infants and children;

(2) improved surveillance of pesticide residues, including guidelines for the use of comparable analytical and standardized reporting methods, the increased sampling of foods most likely consumed by infants and children, and the development of more complete information on the effects of food processing on levels of pesticide residues;

(3) toxicity testing procedures that take into account the vulnerability of infants and children;

(4) methods of risk assessment that take into account unique characteristics of infants and children; and

(5) other appropriate measures considered necessary by the Administrator to ensure that pesticide tolerances adequately safeguard the health of infants and children.

SEC. 202. COLLECTION OF PESTICIDE USE INFORMATION.

(a) IN GENERAL.—The Secretary of Agriculture shall collect data of Statewide or regional significance on the use of pesticides to control pests and diseases of major crops and crops of dietary significance, including fruits and vegetables.

(b) COLLECTION.—The data shall be collected by surveys of farmers or from other sources offering statistically reliable data.

(c) COORDINATION.—The Secretary shall, as appropriate, coordinate with the Administrator of the Environmental Protection Agency in the design of the surveys and make available to the Administrator the aggregate results of the surveys to assist the Administrator in developing exposure calculations and benefits determinations with respect to pesticide regulatory decisions.

SEC. 203. INTEGRATED PEST MANAGEMENT.

(a) DEFINITION.—In this section, the term ''integrated pest management'' means a sustainable approach to managing pests by combining biological, cultural, physical, and chemical tools in a way that minimizes economic, health, and environmental risks.

(b) IMPLEMENTATION.—The Secretary of Agriculture, in cooperation with the Administrator of the Environmental Protection Agency, shall implement research, demonstration, and education programs to support adoption of integrated pest management.

(c) FEDERAL AGENCIES.—Federal agencies shall use integrated pest management techniques to carry out pest management activities and shall promote integrated pest management through procurement and regulatory policy and through other activities.

(d) INFORMATION.—The Secretary of Agriculture and the Administrator of the Environmental Protection Agency shall make information on integrated pest management widely available to pesticide users, including Federal agencies that use pesticides.

TITLE III—AMENDMENTS TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

SEC. 301. REFERENCE.

Whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, or refers to a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.).

SEC. 302. DEFINITIONS.

(a) PESTICIDE, CHEMICAL; PESTICIDE CHEMICAL RESIDUE.—Section 201(q) (21 U.S.C. 321(q)) is amended to read as follows:

''(q)(1) The term 'pesticide chemical' means—

''(A) any substance that is a pesticide within the meaning of section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 (u)),

''(B) any active ingredient of a pesticide within the meaning of section 2(a) of the Federal Insecticide, Fungicide, and Rodenticide Act. (7 U.S.C. 136(a)), or

''(C) any inert ingredient of a pesticide within the meaning of section 2(m) of the Federal Insecticide, Fungicide, and Rodenticide Act. (7 U.S.C. 136 (m)).

''(2) The term 'pesticide chemical residue' means a residue in or on raw agricultural commodity or processed food of—

''(A) a pesticide chemical, or

''(B) any other added substance that is present in the commodity or food primarily as a result of the metabolism or other degradation of a pesticide chemical.

''(3) Notwithstanding subparagraphs (1) and (2), the Administrator may by regulation except a substance from the definition of 'pesticide chemical' or 'pesticide chemical residue' if—

''(A) the substance's occurrence as a residue on a raw agricultural commodity or processed food is attributable primarily to natural causes or to human activities not involving the use of any substances for a pesticidal purpose in the production, storage, processing, or transportation of any raw agricultural commodity or processed food, and

''(B) the Administrator, after consultation with the Secretary, determines that the substance more appropriately should be regulated under one or more provisions of this Act other than sections 402(a)(2)(B) and 408.''.

(b) FOOD ADDITIVE.—Subparagraphs (1) and (2) of section 201(s) (21 U.S.C. 321(s)) are amended to read as follows:

''(1) a pesticide chemical residue in or on a raw agricultural commodity or processed food; or

''(2) a pesticide chemical; or''.

(c) PROCESSED FOOD; ADMINISTRATOR.—Section 201 (21 U.S.C. 321) is amended by adding at the end the following new subsections:

''(gg) The term 'processed food' means any food other than a raw agricultural commodity and includes any raw agricultural commodity that has been subject to processing, such as canning, cooking, freezing, dehydration, or milling.

''(hh) The term 'Administrator' means the Administrator of the United States Environmental Protection Agency.''.

SEC. 303. PROHIBITED ACTS.

Section 301(j) (21 U.S.C. 331(j)) is amended by inserting before the period at the end of the first sentence the following: '', or the violation of section 408(g) or any regulation issued under that subsection''.

SEC. 304. ADULTERATED FOOD.

Section 402(a)(2) (21 U.S.C. 342(a)(2)) is amended to read as follows: ''(2)(A) if it bears or contains any added poisonous or added deleterious substance (other than a substance that is a pesticide chemical residue in or on a raw agricultural commodity or processed food, a food additive, a color additive, or a new animal drug) that is unsafe within the meaning of section 406; (B) if it bears or contains a pesticide chemical residue that is unsafe within the meaning of section 408(a); or (C) if it is or if it bears or contains (i) any food additive that is unsafe within the meaning of section 409 or (ii) a new animal drug (or conversion product thereof) that is unsafe within the meaning of section 512; or''.

SEC. 305. TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES.

Section 408 (21 U.S.C. 346a) is amended to read as follows:

"SEC. 408. TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES.

''(a) REQUIREMENT FOR TOLERANCE OR EXEMPTION.—

''(1) DEFINITION.—For the purposes of this section, the term 'food', when used as a noun without modification, means a raw agricultural commodity or processed food.

''(2) GENERAL RULE.—Except as provided in paragraph (3) or (4), any pesticide chemical residue in or on a food shall be deemed unsafe for the purpose of section 402(a)(2)(B) unless—

''(A) a tolerance for such pesticide chemical residue in or on such food is in effect under this section and the concentration of the residue is within the limits of the tolerance; or

''(B) an exemption from the requirement of a tolerance is in effect under this section for the pesticide chemical residue.

''(3) PROCESSED FOOD.—Notwithstanding paragraph (2), the following provisions shall apply with respect to processed food:

''(A) TOLERANCE REQUIREMENT.—If a tolerance is in effect under this section for a pesticide chemical residue in or on a raw agricultural commodity, a pesticide chemical residue that is present in or on a processed food because the food is made from that raw agricultural commodity shall not be considered unsafe within the meaning of section 402(a)(2)(B) despite the lack of a tolerance for the pesticide chemical residue in or on the processed food if the concentration of the pesticide chemical residue in the processed food when ready for consumption or use is not greater than the tolerance prescribed for the pesticide chemical residue in the raw agricultural commodity.

''(B) EXEMPTION FROM TOLERANCE REQUIREMENT.—If an exemption from the requirement for a tolerance is in effect under this section for a pesticide chemical residue in or on a raw agricultural commodity, a pesticide chemical residue that is present in or on a processed food because the food is made from that raw agricultural commodity shall not be considered unsafe within the meaning of section 402(a)(2)(B).

''(4) RESIDUES OF DEGRADATION PRODUCTS.—If a pesticide chemical residue is present in or on a food because the residue is a metabolite or other degradation product of a precursor substance that itself is a pesticide chemical or pesticide chemical residue, the residue shall not be considered to be unsafe within the meaning of section 402(a)(2)(B) despite the lack of a tolerance or exemption from the need for a tolerance for the residue in or on the food if—

''(A) the Administrator has not determined that the degradation product is likely to pose any potential health risk from dietary exposure that is of a different type than, or of a greater significance than, any risk posed by dietary exposure to the precursor substance; and

''(B) either—

''(i) a tolerance is in effect under this section for residues of the precursor substance in or on the food, and the combined level of residues of the degradation product and the precursor substance in or on the food is at or below the stoichiometrically equivalent level that would be permitted by the tolerance if the residue consisted only of the precursor substance rather than the degradation product; or

''(ii) an exemption from the need for a tolerance is in effect under this section for residues of the precursor substance in or on the food; and

''(C) the tolerance or exemption for residues of the precursor substance does not state that the tolerance or exemption applies only to particular named substances or states that the tolerance or exemption does not apply to residues of the degradation product.

''(5) EFFECT OF TOLERANCE OR EXEMPTION.—While a tolerance or exemption from the requirement for a tolerance is in effect under this section for a pesticide chemical residue with respect to any food, the food shall not by reason of bearing or containing any amount of such a residue be considered to be adulterated within the meaning of section 402(a)(1).

''(b) AUTHORITY AND STANDARD FOR TOLERANCES.—

''(1) AUTHORITY.—The Administrator may issue regulations establishing, modifying, or revoking a tolerance for a pesticide chemical residue in or on a food—

''(A) in response to a petition filed under subsection (d); or

''(B) on the Administrator's initiative under subsection (e).

''(2) STANDARD.—

''(A) IN GENERAL.—A tolerance may not be established for a pesticide chemical residue in or on a food at a level that is higher than a level that the Administrator determines is adequate to protect the public health.

''(B) MODIFICATION OR REVOCATION OF A TOLERANCE.—The Administrator shall modify or revoke a tolerance if the tolerance is at a level higher than the level that the Administrator determines is adequate to protect the public health.

''(C) DETERMINATION FACTORS.—In making a determination under this paragraph, the Administrator shall take into account, among other relevant factors, the validity, completeness, and reliability of the available data from studies of the pesticide chemical residue, the nature of any toxic effects shown to be caused by the pesticide chemical in the studies, available information and reasonable assumptions concerning the relationship of the results of the studies to human risk, available information and reasonable assumptions concerning the dietary exposure levels of food consumers (and major identifiable subgroups of food consumers, including infants and children) to the pesticide chemical residue, and available information and reasonable assumptions concerning the variability of the sensitivities of major identifiable subgroups, including infants and children, and shall consider other factors to the extent required by subparagraph (F).

''(D) NEGLIGIBLE DIETARY RISK STANDARD.—For purposes of subparagraph (A), a tolerance level for a pesticide chemical residue in or on a food shall be deemed to be adequate to protect the public health if the dietary risk posed to food consumers by the level of the pesticide chemical residue is negligible. The Administrator shall by regulation set forth the factors and methods, including tests that are appropriate for the determination of dietary risk and most likely dietary exposure, for the determination of negligible dietary risk.

''(E) INFANTS AND CHILDREN.—Procedures shall be developed and implemented that ensure that pesticide tolerances adequately safeguard the health of infants and children.

''(F) CALCULATION OF DIETARY RISK.—Where reliable data are available, the Administrator shall calculate the dietary risk posed to food consumers by a pesticide chemical on the basis of the percent of food actually treated with the pesticide chemical and the actual residue levels of the pesticide chemical that occur in food. In particular, the Administrator shall take into account aggregate pesticide use and residue data collected by the Department of Agriculture.

''(G) EXCEPTIONS TO THE NEGLIGIBLE DIETARY RISK STANDARD.—For purposes of subparagraph (A), a level of a pesticide chemical residue in or on a food that poses a greater than negligible dietary risk to consumers of the food shall be considered to be adequate to protect the public health if the Administrator determines that the risk is not unreasonable because—

''(i) use of the pesticide that produces the residue protects humans or the environment from adverse effects on public health or welfare that would, directly or indirectly, result in a greater risk to the public or the environment than the dietary risk from the pesticide chemical residue;

''(ii) use of the pesticide avoids risks—

''(I) to workers, the public, or the environment that would be expected to result from the use of another pesticide or pest control method on the same food; and

''(II) that are greater than the risks that result from dietary exposure to the pesticide chemical residue; or

''(iii) the availability of the pesticide would maintain the availability to consumers of an adequate, wholesome, and economical food supply taking into account national and regional effects.

In making the determination under this subparagraph, the Administrator shall not consider the effects on any pesticide registrant, manufacturer, or marketer of a pesticide.

''(3) LIMITATIONS.—

''(A) ISSUANCE OF TOLERANCE.—A tolerance may be issued under the authority of paragraph (2)(G) only if the Administrator has assessed the extent to which efforts are being made to develop either an alternative method of pest control or an alternative pesticide chemical for use on such commodity or food that would meet the requirements of paragraph (2)(D).

''(B) ESTABLISHMENT OF A TOLERANCE.—A tolerance for a pesticide chemical residue in or on a food shall not be established by the Administrator unless the Administrator determines, after consultation with the Secretary, that there is a practical method for detecting and measuring the levels of the pesticide chemical residue in or on the food.

''(C) ESTABLISHMENT OF A TOLERANCE LEVEL.—A tolerance for a pesticide chemical residue in or on a food shall not be established at a level lower than the limit of detection of the method for detecting and measuring the pesticide chemical residue as determined by the Administrator under subparagraph (B).

''(4) INTERNATIONAL STANDARDS.—In establishing a tolerance for a pesticide chemical residue in or on a food, the Administrator shall take into account any maximum residue level for the chemical in or on the food that has been established by the Codex Alimentarius Commission. The Administrator shall determine whether the Codex maximum residue level is adequate to protect the health of consumers in the United States and whether the data supporting the maximum residue level are valid, complete, and reliable. If the Administrator determines not to adopt a Codex level, the Administrator shall publish a notice in the Federal Register setting forth the reasons for the determination.

''(c) AUTHORITY AND STANDARD FOR EXEMPTIONS.—

''(1) AUTHORITY.—The Administrator may issue a regulation establishing, modifying, or revoking an exemption from the requirement for a tolerance for a pesticide chemical residue in or on a food—

''(A) in response to a petition filed under subsection (d), or

''(B) on the Administrator's initiative under subsection (e).

''(2) STANDARD.—

''(A) IN GENERAL.—An exemption from the requirement for a tolerance for a pesticide chemical residue in or on a food may be established only if the Administrator determines that a tolerance is not needed to protect the public health, in view of the levels of dietary exposure to the pesticide chemical residue that could reasonably be expected to occur.

''(B) REVOCATION OF EXEMPTION.—An exemption from the requirement for a tolerance for a pesticide chemical residue in or on a food shall be revoked if the Administrator, in response to a petition for the revocation of the exemption, or at the Administrator's own initiative, determines that the exemption does not satisfy the criterion of subparagraph (A).

''(C) DETERMINATION FACTORS.—In making a determination under this paragraph, the Administrator shall take into account, among other relevant factors, the factors set forth in subsection (b)(2)(C).

''(3) LIMITATION.—An exemption from the requirement for a tolerance for a pesticide chemical residue in or on a food shall not be established by the Administrator unless the Administrator determines, after consultation with the Secretary—

''(A) that there is a practical method for detecting and measuring the levels of the pesticide chemical residue in or on the food; or

''(B) that there is no need for such a method, and states the reasons for the determination in the order issuing the regulation establishing or modifying the regulation.

''(d) PETITION FOR TOLERANCE OF EXEMPTION.—

''(1) FILING.—Any person may file with the Administrator a petition proposing the issuance of a regulation—

''(A) establishing, modifying, or revoking a tolerance for a pesticide chemical residue in or on a food; or

''(B) establishing or revoking an exemption from the requirement of a tolerance for such a residue.

''(2) PETITION CONTENTS.—

''(A) IN GENERAL.—A petition under paragraph (1) to establish a tolerance or exemption for a pesticide chemical residue shall be supported by such data and information as are specified in regulations issued by the Administrator, including—

''(i)(I) an informative summary of the petition and of the data, information, and arguments submitted or cited in support of the petition; and

''(II) a statement that the petitioner agrees that the summary or any information the summary contains may be published as a part of the notice of filing of the petition to be published under this subsection and as part of a proposed or final regulation issued under this section;

''(ii) the name, chemical identity, and composition of the pesticide chemical residue and of the pesticide chemical that produces the residue;

''(iii) data showing the recommended amount, frequency, method, and time of application of that pesticide chemical;

''(iv) full reports of tests and investigations made with respect to the safety of the pesticide chemical, including full information as to the methods and controls used in conducting the tests and investigations;

''(v) full reports of tests and investigations made with respect to the nature and amount of the pesticide chemical residue that is likely to remain in or on the food, including a description of the analytical methods used;

''(vi) a practical method for detecting and measuring the levels of the pesticide chemical residue in or on the food, or a statement why such a method is not needed;

''(vii) practical methods for removing any amount of the residue that would exceed any proposed tolerance;

''(viii) a proposed tolerance for the pesticide chemical residue, if a tolerance is proposed;

''(ix) all relevant data bearing on the physical or other technical effect that the pesticide chemical is intended to have and the quantity of the pesticide chemical that is required to produce the effect;

''(x) if the petition relates to a tolerance for a processed food, reports of investigations conducted using the processing method or methods used to produce that food;

''(xi) such information as the Administrator may require to make the determination under subsection (b)(2)(E); and

''(xii) such other data and information as the Administrator requires by regulation to support the petition.

If information or data required by this subparagraph is available to the Administrator, the person submitting the petition may cite the availability of the information or data in lieu of submitting the information or data. The Administrator may require a petition to be accompanied by samples of the pesticide chemical with respect to which the petition is filed.

''(B) MODIFICATION OR REVOCATION.—The Administrator may by regulation establish the requirements for information and data to support a petition to modify or revoke a tolerance or to revoke an exemption from the requirement for a tolerance.

''(3) NOTICE.—A notice of the filing of a petition that the Administrator determines has met the requirements of paragraph (2) shall be published by the Administrator within 30 days after such determination. The notice shall announce the availability of a description of the analytical methods available to the Administrator for the detection and measurement of the pesticide chemical residue with respect to which the petition is filed or shall set forth the statement of the petitioner of why such a method is not needed. The notice shall include the summary required by paragraph (2)(A)(i).

''(4) ACTIONS BY THE ADMINISTRATOR.—The Administrator shall, after giving due consideration to a petition filed under paragraph (1) and any other information available to the Administrator—

''(A) issue a final regulation (which may vary from that sought by the petition) establishing, modifying, or revoking a tolerance for the pesticide chemical residue or an exemption of the pesticide chemical residue from the requirement of a tolerance;

''(B) issue a proposed regulation under subsection (e), and thereafter either issue a final regulation under subsection (e) or an order denying the petition; or

''(C) issue an order denying the petition.

''(5) EFFECTIVE DATE.—A regulation issued under paragraph (4) shall take effect upon publication.

''(6) FURTHER PROCEEDINGS.—

''(A) OBJECTIONS.—Not later than 60 days after a regulation or order is issued under paragraph (4), subsection (e)(1), or subsection (f)(1), any person may file objections thereto with the Administrator, specifying with particularity the provisions of the regulation or order considered objectionable and stating reasonable grounds therefore. If the regulation or order was issued in response to a petition filed under paragraph (1), a copy of each objection filed by a person other than the petitioner shall be served by the Administrator on the petitioner.

''(B) PUBLIC EVIDENTIARY HEARING.—An objection may include a request for a public evidentiary hearing upon the objection. The Administrator shall, upon the initiative of the Administrator or upon the request of an interested person and after due notice, hold a public evidentiary hearing if and to the extent the Administrator determines that the public hearing is necessary to receive factual evidence relevant to material issues of fact raised by the objections. The presiding officer in the hearing may authorize a party to obtain discovery from other persons and may upon a showing of good cause made by a party issue a subpoena to compel testimony or production of documents from any person. The presiding officer shall be governed by the Federal Rules of Civil Procedure in making any order for the protection of the witness or the content of documents produced and shall order the payment of reasonable fees and expenses as a condition to requiring testimony of the witness. On contest, the subpoena may be enforced by a Federal district court.

''(C) ISSUANCE OF AN ORDER.—After receiving the arguments of the parties, the Administrator shall, as soon as practicable, issue an order stating the action taken upon each such objection and setting forth any revision to the regulation or prior order that the Administrator has found to be warranted. If a hearing was held under subparagraph (B), the order and any revision to the regulation or prior order shall, with respect to questions of fact at issue in the hearing, be based only on substantial evidence of record at the hearing, and shall set forth in detail the findings of facts and the conclusions of law or policy upon which the order or regulation is based.

''(D) EFFECTIVE DATE OF AN ORDER.—An order issued under this paragraph ruling on an objection shall not take effect before the 90th day after the publication of the order unless the Administrator finds that emergency conditions exist necessitating an earlier effective date, in which event the Administrator shall specify in the order the findings of the Administrator as to such conditions.

''(7) JUDICIAL REVIEW.—

''(A) FILING.—In a case of actual controversy as to the validity of any order issued under paragraph (6) or any regulation that is the subject of such an order, any person who will be adversely affected by the order or regulation may obtain judicial review by filing in the United States Court of Appeals for the circuit wherein that person resides or has its principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit, not later than 60 days after publication of such order, a petition praying that the order or regulation be set aside in whole or in part.

''(B) FILING OF RECORD OF PROCEEDINGS.—A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administrator, or any officer designated by the Administrator for that purpose, and thereupon the Administrator shall file in the court the record of the proceedings on which the Administrator based the order or regulation, as provided in section 2112 of title 28, United States Code. Upon the filing of the petition, the court shall have exclusive jurisdiction to affirm or set aside the order or regulation complained of in whole or in part. The findings of the Administrator with respect to questions of fact shall be sustained only if supported by substantial evidence when considered on the record as a whole.

''(C) ADDITIONAL EVIDENCE.—If a party applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to adduce the evidence in the proceeding before the Administrator, the court may order that the additional evidence (and evidence in rebuttal

thereof) shall be taken before the Administrator in the manner and upon the terms and conditions the court deems proper. The Administrator may modify prior findings as to the facts by reason of the additional evidence so taken and may modify the order or regulation accordingly. The Administrator shall file with the court any such modified finding, order, or regulation.

''(D) FINAL JUDGMENT.—The judgment of the court affirming or setting aside, in whole or in part, any order under paragraph (6) and any regulation that is the subject of the order shall be final, subject to review by the Supreme Court of the United States as provided in section 1254 of title 28 of the United States Code. The commencement of proceedings under this paragraph shall not, unless specifically ordered by the court to the contrary, operate as a stay of a regulation or order.

''(E) LIMITATIONS ON JUDICIAL REVIEW.—Any issue as to which review is or was obtainable under paragraph (6) and this paragraph shall not be the subject of judicial review under any other provision of law.

''(e) ACTION ON ADMINISTRATOR'S OWN INITIATIVE.—

''(1) GENERAL RULE.—The Administrator may issue a regulation—

''(A) establishing, modifying, or revoking a tolerance for a pesticide chemical or a pesticide chemical residue;

''(B) establishing or revoking an exemption of a pesticide chemical residue from the requirement of a tolerance; or

''(C) establishing general procedures and requirements to implement this section.

A regulation issued under this paragraph shall become effective upon the publication of the regulation.

''(2) NOTICE.—Before issuing a final regulation under paragraph (1), the Administrator shall issue a notice of proposed rulemaking and provide a period of not less than 60 days for public comment on the proposed regulation, except that a shorter period for comment may be provided if the Administrator for good cause finds that it would be in the public interest to do so and states the reasons for the finding in the notice of proposed rulemaking. The Administrator shall provide an opportunity for a public hearing during the rulemaking under procedures provided in subsection (d)(6)(B).

''(f) SPECIAL DATA REQUIREMENTS.—

''(1) REQUIRING SUBMISSION OF ADDITIONAL DATA.—If the Administrator determines that additional data or information is reasonably required to support the continuation of a tolerance or exemption that is in effect under this section for a pesticide chemical residue on a food, the Administrator shall—

''(A) issue a notice requiring the persons holding the pesticide registrations associated with the tolerance or exemption to submit the data or information under section 3(c)(2)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a(c)(2)(B));

''(B) issue a rule requiring that testing be conducted on a substance or mixture under section 4 of the Toxic Substances Control Act (15 U.S.C. 2603); or

''(C) publish in the Federal Register, after first providing notice and an opportunity for comment of not less than 90 days' duration, an order—

''(i) requiring the submission to the Administrator by one or more interested persons of a notice identifying the person or persons who will submit the required data and information;

''(ii) describing the type of data and information required to be submitted to the Administrator and stating why the data and information could not be obtained under the authority of section 3(c)(2)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a(c)(2)(B)) or section 4 of the Toxic Substances Control Act (15 U.S.C. 2603);

''(iii) describing the reports to the Administrator required to be prepared during and after the collection of the data and information;

''(iv) requiring the submission to the Administrator of the data, information, and reports referred to in clauses (ii) and (iii); and

''(v) establishing dates by which the submissions described in clauses (i) and (iv) must be made.

The Administrator may revise any such order to correct an error.

''(2) NONCOMPLIANCE.—If a submission required by a notice issued in accordance with paragraph (1)(A) or a rule issued under paragraph (1)(B) is not made by the time specified in the notice or the rule, the Administrator may by order published in the Federal Register modify or revoke the tolerance or exemption in question.

''(3) REVIEW.—An order issued under this subsection shall be effective upon publication and shall be subject to review in accordance with paragraphs (6) and (7) of subsection (d).

''(g) CONFIDENTIALITY AND USE OF DATA.—

''(1) GENERAL RULE.—Data and information that are submitted to the Administrator under this section in support of a tolerance shall be entitled to confidential treatment for reasons of business confidentiality and to exclusive use and data compensation, to the same extent provided by sections 3 and 10 of the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136a and 136h).

''(2) EXCEPTIONS.—Data that are entitled to confidential treatment under paragraph (1) may nonetheless be disclosed to the Congress, and may be disclosed, under such security requirements as the Administrator may provide by regulation, to—

''(A) employees of the United States who are authorized by the Administrator to examine the data in the carrying out of their official duties under this Act or other Federal statutes intended to protect the public health; or

''(B) contractors with the United States authorized by the Administrator to examine the data in the carrying out of contracts under such statutes.

''(3) SUMMARIES.—Notwithstanding any provision of this subsection or other law, the Administrator may publish the informative summary required by subsection (d)(2)(A)(i) and may, in issuing a proposed or final regulation or order under this section, publish an informative summary of the data relating to the regulation or order.

''(h) STATUS OF PREVIOUSLY ISSUED REGULATIONS.—

''(1) REGULATIONS UNDER SECTION 406.—Regulations affecting pesticide chemical residues in or on raw agricultural commodities promulgated, in accordance with section 701(e), under the authority of section 406(a) upon the basis of public hearings instituted before January 1, 1953, shall be deemed to be regulations issued under this section and shall be subject to modification or revocation under subsections (d) and (e).

''(2) REGULATIONS UNDER SECTION 409.—Regulations that established tolerances for substances that are pesticide chemical residues on or in processed food, or that otherwise stated the conditions under which such pesticide chemicals could be safely used, and that were issued under section 409 on or before the date of the enactment of this paragraph, shall be deemed to be regulations issued under this section and shall be subject to modification or revocation under subsection (d) or (e).

''(3) REGULATIONS UNDER SECTION 408.—Regulations that established tolerances or exemptions under this section that were issued on or before the date of the enactment of this paragraph shall remain in effect unless modified or revoked under subsection (d) or (e).

''(i) TRANSITIONAL PROVISION.—If, on the day before the date of the enactment of this subsection, a substance that is a pesticide chemical was, with respect to a particular pesticidal use of the substance and any resulting pesticide chemical residue in or on a particular food—

''(1) regarded by the Administrator or the Secretary as generally recognized as safe for use within the meaning of the provisions of section 408(a) or 201(s) as then in effect; or

''(2) regarded by the Secretary as a substance described by section 201(s)(4),

such a pesticide chemical residue shall be regarded as exempt from the requirement for a tolerance, as of the date of enactment of this subsection. The Administrator shall by regulation indicate which substances are described by this subsection. An exemption under this subsection may be revoked or modified as if the exemption had been issued under subsection (c).

''(j) HARMONIZATION WITH ACTION UNDER OTHER LAWS.—

''(1) LIMITATION.—Notwithstanding any other provision of this Act, a final rule under this section that revokes, modifies, or suspends a tolerance or exemption for a pesticide chemical residue in or on a food may be issued only if the Administrator has first taken any necessary action under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) with respect to the registration of the pesticide or pesticides whose use results in the residue to ensure that any authorized use of the pesticide in producing, storing, processing, or transporting food that occurs after the issuance of the final rule under this section will not result in pesticide chemical residues on the food that are unsafe within the meaning of subsection (a).

''(2) REVOCATION OF TOLERANCE OR EXEMPTION FOLLOWING CANCELLATION OF ASSOCIATED REGISTRATIONS.—

''(A) IN GENERAL.—If the Administrator, acting under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.), cancels the registration of each pesticide that contains a particular pesticide chemical and that is labeled for use on a particular food, or requires that the registration of each such pesticide be modified to prohibit the use of the pesticide in connection with the production, storage, or transportation of the food, due in whole or in part to dietary risks to humans posed by residues of the pesticide chemical on that food, the Administrator shall revoke any tolerance or exemption that allows the presence of the pesticide chemical, or any pesticide chemical residue that results from the use of the pesticide chemical, in or on the food. The Administrator shall use the procedures set forth in subsection (e) in taking action under this paragraph.

''(B) EFFECTIVE DATE.—A revocation under this paragraph shall become effective not later than 180 days after—

''(i) the date by which each such cancellation of a registration has become effective; or

''(ii) the date on which the use of the canceled pesticide becomes unlawful under the terms of the cancellation,

whichever is later.

''(3) SUSPENSION OF TOLERANCE OR EXEMPTION FOLLOWING SUSPENSION OF ASSOCIATED REGISTRATIONS.—

''(A) SUSPENSION.—If the Administrator, acting under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.), suspends the use of each registered pesticide that contains a particular pesticide chemical and that is labeled for use on a particular food, due in whole or in part to dietary risks to humans posed by residues of the pesticide chemical on the food, the Administrator shall suspend any tolerance or exemption that allows the presence of the pesticide chemical, or any pesticide chemical residue that results from the use of the pesticide chemical, in or on that food. The Administrator shall use the procedures set forth in subsection (e) in taking action under this paragraph. A suspension under this paragraph shall become effective not later than 60 days after the date by which each such suspension of use has become effective.

''(B) EFFECT OF SUSPENSION.—The suspension of a tolerance or exemption under subparagraph (A) shall be effective as long as the use of each associated registration of a pesticide is suspended under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.). While a suspension of a tolerance or exemption is effective the tolerance or exemption shall not be considered to be in effect. If the suspension of use of the pesticide under such Act is terminated, leaving the registration of the pesticide for the use in effect under such Act, the Administrator shall rescind any associated suspension of a tolerance or exemption.

''(4) TOLERANCES FOR UNAVOIDABLE RESIDUES.—In connection with action taken under paragraph (2) or (3), or with respect to pesticides whose registrations were canceled prior to the effective date of this paragraph, if the Administrator determines that a residue of the canceled or suspended pesticide chemical will unavoidably persist in the environment and thereby be present in or on a food, the Administrator may establish a tolerance for the pesticide chemical residue at a level that permits such unavoidable residue to remain in or on the food. In establishing such a tolerance, the Administrator shall take into account the factors set forth in subsection (b)(2)(C) and shall use the procedures set forth in subsection (e). The Administrator shall review a tolerance established under this paragraph periodically and modify the tolerance as necessary so that the tolerance allows only that level of the pesticide chemical residue that is unavoidable.

''(5) PESTICIDE RESIDUES RESULTING FROM LAWFUL APPLICATION OF PESTICIDE.—Notwithstanding any other provision of this Act, if a tolerance or exemption for a pesticide chemical residue in or on a food has been revoked, suspended, or modified under this section, an article of the food shall not be considered unsafe solely because of the presence of the pesticide chemical residue in or on the food if it is shown to the satisfaction of the Secretary that—

''(A) the residue is present as the result of an application or use of a pesticide at a time and in a manner that was lawful under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.); and

''(B) the residue does not exceed a level that was authorized at the time of the application or use to be present on the food under a tolerance, exemption, food additive regulation, or other sanction then in effect under this Act,

unless, in the case of any tolerance or exemption revoked, suspended, or modified under this subsection or subsection (d) or (e), the Administrator has issued a determination that consumption of the legally treated food during the period of the likely availability of the food in commerce will pose an unreasonable dietary risk.

''(k) FEES.—The Administrator shall by regulation require the payment of such fees as will in the aggregate, in the judgment of the Administrator, be sufficient over a reasonable term to provide, equip, and maintain an adequate service for the performance of the functions of the Administrator under this section. Under the regulations, the performance of the services or other functions of the Administrator under this section, including—

''(1) the acceptance for filing of a petition submitted under subsection (d);

''(2) the promulgation of a regulation establishing, modifying, or revoking a tolerance or establishing or revoking an exemption from the requirement of a tolerance under this section;

''(3) the acceptance for filing of objections under subsection (d)(6); or

''(4) the certification and filing in court of a transcript of the proceedings and the record under subsection (d)(7),

may be conditioned upon the payment of the fees. The regulations may further provide for waiver or refund of fees in whole or in part when in the judgment of the Administrator the waiver or refund is equitable and not contrary to the purposes of this subsection.

''(l) NATIONAL UNIFORMITY OF TOLERANCES.—

''(1) QUALIFYING PESTICIDE CHEMICAL RESIDUE.—For purposes of this subsection, the term 'qualifying pesticide chemical residue' means a pesticide chemical residue resulting from the use, in production, processing, or storage of a food, of a pesticide chemical that is an active ingredient and that—

''(A) was first approved for such use in a registration of a pesticide issued under section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a(c)(5)) on or after April 25, 1985, on the basis of data determined by the Administrator to meet all applicable requirements for data prescribed by regulations in effect under such Act on April 25, 1985; or

''(B) was approved for such use in a reregistration eligibility determination issued under section 4(g) of such Act on or after the date of enactment of the Food Quality Protection Act of 1995.

''(2) QUALIFYING FEDERAL DETERMINATION.—For purposes of this subsection, the term 'qualifying Federal determination' means—

''(A) a tolerance or exemption from the requirement for a tolerance for a qualifying pesticide chemical residue that was—

''(i) issued under this section after the date of enactment of the Food Quality Protection Act of 1995; or

''(ii) issued (or, pursuant to subsection (h) or (i), deemed to have been issued) under this section prior to the date of enactment of the Food Quality Protection Act of 1995, and determined by the Administrator to meet the standard under subsection (b)(2) (in the case of a tolerance) or (c)(2) (in the case of an exemption); and

''(B) any statement, issued by the Secretary, of the residue level below which enforcement action will not be taken under this Act with respect to any qualifying pesticide chemical residue, if the Secretary finds that the pesticide chemical residue level permitted by the statement during the period to which the statement applies protects human health.

''(3) LIMITATION.—The Administrator may make the determination described in paragraph (2)(A)(ii) only by issuing a rule in accordance with the procedure set forth in subsection (d) or (e) and only if the Administrator issues a proposed rule and allows a period of not less than 30 days for comment on the proposed rule. Any such rule shall be reviewable in accordance with paragraphs (6) and (7) of subsection (d).

''(4) STATE AUTHORITY.—Except as provided in paragraph (5), no State or political subdivision may establish or enforce any regulatory limit on a qualifying pesticide chemical residue in or on any food if a qualifying Federal determination applies to the presence of the pesticide chemical residue in or on the food, unless the State regulatory limit is identical to the qualifying Federal determination. A State or political subdivision shall be deemed to establish or enforce a regulatory limit on a pesticide chemical residue in or on food if the State or political subdivision purports to prohibit or penalize the production, processing, shipping, or other handling of a food because the food contains a pesticide residue (in excess of a prescribed limit), or if the State or political subdivision purports to require that a food containing a pesticide residue be the subject of a warning or other statement relating to the presence of the pesticide residue in the food.

''(5) PETITION PROCEDURE.—

''(A) IN GENERAL.—Any State may petition the Administrator for authorization to establish in such State a regulatory limit on a qualifying pesticide chemical residue in or on any food that is not identical to the qualifying Federal determination applicable to the qualifying pesticide chemical residue.

''(B) PETITION REQUIREMENTS.—Any petition made by a State under subparagraph (A) shall—

''(i) satisfy any requirements prescribed, by rule, by the Administrator; and

''(ii) be supported by scientific data about the pesticide chemical residue that is the subject of the petition or about chemically related pesticide chemical residues, data on the consumption within the State of food bearing the pesticide chemical residue, and data on exposure of humans within the State to the pesticide chemical residue.

''(C) ORDER.—Subject to paragraph (6), the Administrator may, by order, grant the authorization described in subparagraph (A) if the Administrator determines that the proposed State regulatory limit—

''(i) is justified by compelling local conditions;

''(ii) would not unduly burden interstate commerce; and

''(iii) would not cause any food to be in violation of Federal law.

''(D) CONSIDERATION OF PETITION AS PETITION FOR TOLERANCE OR EXEMPTIONS.—In lieu of any action authorized under subparagraph (C), the Administrator may treat a petition under this paragraph as a petition under subsection (d) to revoke or modify a tolerance or to revoke an exemption. If the Administrator determines to treat a petition under this paragraph as a petition under subsection (d), the Administrator shall thereafter act on the petition pursuant to subsection (d).

''(E) REVIEW OF ORDER.—Any order of the Administrator granting or denying the authorization described in subparagraph (A) shall be subject to review in the manner described in paragraphs (6) and (7) of subsection (d).

''(6) RESIDUES FROM LAWFUL APPLICATION.—No State or political subdivision may enforce any regulatory limit on the level of a pesticide chemical residue that may appear in or on any food if, at the time of the application of the pesticide that resulted in the residue, the sale of the food with the residue level was lawful under this Act and under the law of the State, unless the State demonstrates that consumption of the food containing the pesticide residue level during the period of the likely availability of the food in the State will pose an unreasonable dietary risk to the health of persons within the State.''.

SEC. 306. AUTHORIZATION FOR INCREASED MONITORING.

There are authorized to be appropriated an additional $12,000,000 for increased monitoring by the Secretary of Health and Human Services of pesticide residues in imported and domestic food.

SUMMARY—THE FOOD QUALITY PROTECTION ACT OF 1995

DATA COLLECTION AND IMPROVED PROCEDURES TO ENSURE THAT TOLERANCES SAFEGUARD THE HEALTH OF INFANTS AND CHILDREN

Implementation of the NAS report.—EPA, USDA, and HHS are directed to coordinate the development and implementation of procedures to ensure that pesticide tolerances adequately safeguard the health of infants and children based on the report ''Pesticides in the Diets of Infants and Children'' of the National Research Council of the National Academy of Sciences. Guidelines are provided to aid in the development of these procedures.

Collection of pesticide use information.—USDA is directed to collect data on the use of pesticides on food. In collecting the information, USDA is required to coordinate with EPA to ensure that such information is useful in pesticide regulatory decisions.

Integrated pest management.—USDA, in cooperation with EPA, is directed to implement research, demonstration, and education programs to support the adoption of IPM.

AMENDMENTS TO THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

Minor uses of pesticides.—Incentives are offered for manufacturers to maintain and develop minor uses without compromising food safety or adversely affecting the environment. Provisions include:

Establishes a minor use definition.

The current 10 year exclusive use protection for registrants of new chemicals could be extended one year for each three minor uses which a manufacturer registers by year 7, up to a maximum of three additional years for nine or more minor uses registered by EPA.

The time necessary for the development of residue chemistry data for a minor use could be extended.

EPA may waive minor use data requirements in certain circumstances.

EPA is to review and act on minor use registration applications within 1 year if the active ingredient is to be registered solely for a minor use, or if there are three or more minor uses proposed for every non-minor use, or if the minor use would serve as a replacement for any use that has been canceled within 5 years of the application or if the approval of the minor use would avoid the reissuance of an emergency exemption.

If a minor use waiver of data requirements is submitted to EPA and subsequently denied, the registrant would be given the full time period for supplying the data to EPA.

As a transition measure, the effective date of the voluntary cancellation of minor uses by a registrant could coincide with the due date of the final study required in the reregistration process for those uses being supported by the registrant.

EPA can consider data from a pesticide which has been voluntarily canceled in support of another minor use registration that is identical or similar and for a similar use.

A minor use program within EPA's Office of Pesticide Programs would be established.

A minor use program within USDA would be established. This would include a minor use matching fund for the development of scientific data to support minor uses.

Tolerance reevaluation as part of reregistration.—EPA is required to conduct a reevaluation of tolerances and exemptions from tolerances once a pesticide has completed reregistration or as soon as sufficient information on dietary risks of the pesticide have been collected.

Coordination of cancellation.—The term unreasonable risk would also include a human dietary risk from residues that result from use of a pesticide on food inconsistent with the standard adequate to protect human health under Section 408 of the FFDCA.

Scientific advisory panel.—A Science Review Board is established to assist the FIFRA Scientific Advisory Panel in its scientific review function.

AMENDMENTS TO THE FEDERAL FOOD DRUG AND COSMETIC ACT

A consistent framework for pesticide tolerance regulation is created by:

Establishing a single narrative negligible risk standard for pesticide residues in both raw and processed food, putting an end to the pesticide ''double standard.''

Requiring EPA, where reliable data are available, to calculate dietary risk on the basis of the percent of food actually treated with the pesticide and the actual residue levels of the pesticide that occurs on food.

Retaining EPA's power to consider benefits in regulatory actions involving tolerances for pesticide residues on raw agricultural commodities and would extend that power to the tolerances for pesticide residues on processed food.

Promoting international harmonization of pesticide tolerances by requiring EPA to take into consideration whether a maximum residue level has been established for the chemical by the Codex Alimentarious Commission [CODEX].

Providing for national uniformity of tolerances for pesticides when such pesticides have been registered under current data requirements. States are permitted to petition EPA to establish a different regulatory limit based on compelling local conditions.

Authorization for Increased Monitoring.—Authorizes an increase of $12 million in appropriations for monitoring pesticide residues on domestic and imported food.●

By Mr. PRESSLER:

S. 1167. A bill to amend the Wild and Scenic Rivers Act to exclude the South Dakota segment from the segment of the Missouri River designated as a recreational river, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. PRESSLER:

S. 1168. A bill to amend the Wild and Scenic Rivers Act to exclude any private lands from the segment of the Missouri River designated as a recreational river, and for other purposes; to the Committee on Energy and Natural Resources.

NIOBRARA RECREATIONAL RIVER LEGISLATION

Mr. PRESSLER. Mr. President, earlier this year I spoke on the Senate floor regarding the visit to Washington, DC, of an outstanding South Dakota family—the Talsmas. Georgia and Larry Talsma, from Springfield, SD, made their first trip ever to Washington, DC, by car.

The Talsmas came to Washington to tell their story of how the Federal Government is intruding on their land and threatening to take over their private property. In its drive to protect a small portion of the Missouri River as a recreational river, the National Park Service appears intent on trampling private property rights.

During their visit, I arranged for the Director of the National Park Service to come to my office and listen to the Talsmas. At that meeting I told the Director that I intended to introduce legislation to undo the designation in South Dakota. This is an effort the Talsmas and other South Dakotans strongly support.

As a result of the Talsmas' visit, the Director agreed to push back the deadline for a preferred alternative to no earlier than August 1, 1995, assured the Talsmas there would be at least a 60-day comment period on any preferred alternative, and if more time is needed, Director Kennedy said he would be willing to provide such time.

All in all, quite a success story for a family's first trip to Washington, DC, to convince the Federal Government that they were going to far.

Well, it was just a few weeks since the Talsmas returned to South Dakota, that I received a letter from Georgia. It appeared that the new plans of the Director fell on deaf ears out in the regional office. At the next public meeting the Talsmas were told there had been no communication from the Director of the Park Service to the regional office. In addition, the Park Service representative told the Talsmas that the Director of the National Park Service was not well informed. I find this lack of communication between the regional and D.C. offices very disturbing. It certainly does little for the Talsma's hope that government can work to solve problems.

As I told the Director at the meeting, I was prepared to introduce legislation designed to protect property owners in South Dakota. The legislation I am introducing today will do just that.

The first bill would ''undesignate'' the 39-mile stretch of the Missouri River as a recreational river. The second bill would exempt private property from any boundary of a recreational river. The second bill is necessary should the bill undesignating the river not pass.

All too often we hear of reports of the federal bureaucracy out of control. Frankly, Congress helped create this problem by designating the recreational river. However, I am sure that Congress never intended to trample private property rights.

The right thing to do is to undesignate the river, or, at the very least, exempt private property from the designation.

The Talsmas and other South Dakota land owners want to see that their property and their rights fully protected. They want to see government work to respond to the needs of property owners when government is overreaching. That is why the Talsmas traveled to Washington. They are right.

The bills I am introducing today will achieve that goal.

By Mr. KEMPTHORNE:

S. 1169. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize construction of facilities for the reclamation and reuse of wastewater at McCall, Idaho, and for other purposes; to the Committee on Energy and Natural Resources.

THE MCCALL AREA WASTEWATER RECLAMATION AND REUSE PROJECT AUTHORIZATION ACT OF 1995

• Mr. KEMPTHORNE. Mr. President, I am introducing a bill today that will enable the Federal Government to carry through on its commitments and its responsibilities to improve water quality associated with Federal facilities. Specifically, the bill authorizes the Bureau of Reclamation to participate financially in a Federal, State, local, and private sector project to correct severe water quality problems in Cascade Reservoir, which is owned and operated by the Bureau of Reclamation.

The water quality problems in Cascade Reservoir are so severe that at various times we have had both major fish kills and the death of some cattle. The primary culprit appears to be large amounts of phosphorus in the water, which result in algae blooms that are both aesthetically displeasing and occasionally toxic. Last year, when the National Marine Fisheries Service commanded Cascade Reservoir water to help flush migrating endangered salmon toward the ocean, the water quality problems got even worse and disrupted what has been an ongoing effort to improve water quality.

Cascade Reservoir is now formally listed as water quality limited under section 303 of the Clean Water Act. Surrounding communities are under court orders to fix the problems, and the clock is running out.

The community is identifying every means it can to reduce phosphorus loadings going into the north fork of the Payette River and Cascade Reservoir. Studies show that somewhere between 6 and 11 percent of the phosphorus comes from the city of McCall's wastewater treatment plant, which discharges effluent into the north fork of the Payette River.

Using its authority under the Reclamation Wastewater and Groundwater Study and Facilities Act, the Bureau of Reclamation has identified the McCall, ID, situation has an opportunity for the Bureau to facilitate the reclamation and reuse of wastewater. Under a proposal that has been developed by the State of Idaho, the city of McCall, and the Payette Lakes Water and Sewer District with the Bureau of Reclamation, a project would be constructed to use the wastewater presently discharged into the north fork to irrigate agricultural land.

Direct irrigation would take place during the summer months, with the effluent being stored during the winter months for application during the growing season. The arrangement will allow wastewater to be reclaimed and reused in a way that both improves water quality and meet farmers needs for both water and crop nutrients.

The total cost of the project is roughly $11.3 million, of which the Bureau of Reclamation will provide roughly $5.6 million. While most of that commitment is intended for phase II of the project in fiscal year 1997, expenditures of a portion of that amount in fiscal year 1996 would go a long way toward strengthening the State, local, Federal, and private sector partnership that has been established here. The bill limits the Federal cost share on the project to 50 percent of the total capital costs, and prohibits the use of the funds for operations and maintenance.

Mr. President, Cascade Reservoir is a Federal facility under the jurisdiction of the Bureau of Reclamation. It is therefore appropriate that it participate in solving the water quality problems of the reservoir.

I commend the regional director, John Keys, and his personnel, who have recognized the Federal responsibility in this area. And, I appreciate all of those individuals who have worked so hard to develop this part of the solution to the reservoir's water quality problems. They have committed financially to this effort, and I hope Congress will act expeditiously to enact this bill to authorize the McCall Wastewater Reclamation and Reuse project so the Federal Government can follow through with its financial commitment.

By Mr. PRESSLER (for himself and Mr. BAUCUS):

S. 1170. A bill to limit the applicability of the generation-skipping transfer tax; to the Committee on Finance.

THE GENERATION-SKIPPING TRANSFER TAX CORRECTION ACT OF 1995

Mr. PRESSLER. Mr. President, I am proud to introduce a bill today that would correct an unintended consequence of changes in the generation-skipping transfer [GST] tax that were made as part of the 1986 Tax Reform Act. As the law currently stands, individuals are discouraged from establishing charitable trusts in certain circumstances due to the tax treatment of such trusts. My bill would correct this discrepancy, thereby opening the option of contributing to charity through this instrument to those who otherwise would not do so.

The corrections in my bill relate to the predeceased parent exclusion of the GST tax. As my colleagues know, the GST tax prevents individuals from avoiding estate and gift taxes by circumventing the first generation heir and passing the assets along to a second generation heir, thereby skipping a generation. The exclusion provides that the GST tax is not applied to direct gifts or bequests made by a grandparent to a grandchild where the grandchild's parent—the transferor's child—is deceased at the time of the transfer. In this situation, clearly there is no intent to circumvent the tax by skipping a generation, as that generation no longer exists.

My bill would correct two problems in the current law. First, as the law is currently written, childless individuals are treated differently than those who have lineal descendants. An individual who outlives his or her own generation—siblings and cousins—and the subsequent generation—nieces and nephews—cannot transfer property to his or her grandnieces and grandnephews without being hit by the punitive GST tax.

This seems to be an inequitable, and unintended, situation which needs to be resolved so that these individuals can transfer property to their closest living relatives. My bill would amend the exclusion to make it applicable to collateral heirs in this situation.

Second, current law limits the predeceased parent exclusion to direct gifts and bequests only; it does not apply to any type of transfer from a trust. Unfortunately, the effect of this limitation is to strongly discourage individuals, whose direct gifts or bequests would otherwise be covered by the exclusion, from establishing a charitable trust for some period of years before distributing the property to qualifying family members.

Trusts of this nature are very important to charities in South Dakota and across the country. Because of this discriminatory treatment of trusts, many South Dakotan charitable groups stand to lose potential funding sources. As volunteer and charitable service groups are vital for our communities, I find it unproductive to have excessive rules in the tax code such as this that chill charitable giving, and do not serve the ends that the GST was established to achieve.

In this era of tight budgetary constraints on the federal budget, we need to do all that we can to encourage private charitable giving that helps those who are less fortunate within our communities. This bill lifts an unnecessary restriction on giving and I urge my colleagues to join me in support of this bill to change these rules so that charitable giving may continue to flourish.

By Mr. MCCONNELL (for himself and Mr. FORD):

S. 1171. A bill to amend the Internal Revenue Code of 1986 to modify the application of the passive loss limitations to equine activities; to the Committee on Finance.

PASSIVE LOSS LEGISLATION

Mr. MCCONNELL. Mr. President, on behalf of myself and Senator FORD, I rise today to introduce a bill to amend the Internal Revenue Code to modify application of passive loss limitations to horse activities.

The horse industry is extremely important for my State, and for the thousands of Kentuckians who actively participate in horse-related activities—whether it is owning, breeding, or racing horses, or simply enjoying an afternoon trail ride or horse show. However,

the horse industry has been adversely impacted by the changes made in the Tax Reform Act of 1986 with job losses occurring at racetracks and horse farms. Hundreds of breeding farms have gone out of business.

The horse industry is a $15.2 billion industry that employs and supports hundreds of thousands of workers. In Kentucky alone, a study done by the University of Kentucky found that $5 billion annually can be attributed to the direct and indirect effects of the horse industry. The study also emphasized that the majority of people involved in breeding horses operate small, family run farms, a detail that garners little attention. The equine industry is an extremely labor-intensive industry employing hundreds of thousands of people to do everything from exercising horses to track, employees to trainers. In Kentucky, over 80,000 jobs are related to the horse industry.

What supports the horse industry, including the job base, the breeding farms and the revenue stream in the form of taxes to all levels of Government, is the investment in the horses themselves. The horse industry relies on outside investment to operate, just as other businesses do. Without owners willing to buy, breed, and race horses, the hundreds of thousands who are employed fulltime by the industry cannot work. Without such investment, jobs and revenue are lost.

Since the Tax Reform Act of 1986, the horse industry has experienced a near devastating decline. Most horse owners and breeders believe that the limits on passive losses was a major reason for the decline, and chilled the interest of investors in horses. Since the mid-1980's, the number of horses bred and registered has decreased—leading to losses in jobs and revenues for states.

The 1986 act indicates that in order to satisfy the material participation requirement, a person's involvement must be regular, continuous, and substantial. The passive loss rules are difficult for many to satisfy because this is such a unique industry. It is difficult for many owners to ride, train, breed, or show their horses because of the expertise and physical ability that is required. This would alter these requirements to make them fair, workable, and enforceable.

By Mr. ROTH (for himself, Mr. HATCH, and Mr. BAUCUS):

S. 1172. A bill to amend the Revenue Act of 1987 to provide a permanent extension of the transition rule for certain publicly traded partnerships; to the Committee on Finance.

PUBLICLY TRADED PARTNERSHIPS LEGISLATION

Mr. ROTH. Mr. President, I am pleased to introduce, along with my Finance Committee colleagues, Mr. BAUCUS and Mr. HATCH, a bill to correct what I believe was a mistake made in the Omnibus Budget Reconciliation Act of 1987 relating to publicly traded partnerships, or PTP's, as they are commonly known. PTP's are limited partnerships traded as units on public stock exchanges or over the counter. They are regulated by the SEC comparably to other public companies. Many investors, large and small, find PTP units to be safe, liquid investments.

The 1987 act included a change to the Tax Code which arbitrarily limited the future life of certain PTP's to no more than 10 years. The purpose of our amendment is to eliminate that change and permit this small group of PTP's that were in existence back in 1987 to continue operating as partnerships as long as they wish. We believe that a mistake was made in 1987. If the mistake is not corrected in the very near future, these companies will be forced to undertake an expensive and disruptive conversion to corporate form, or some other operating form. No public purpose will be served by such forced conversions.

PTP's first came into being in the early 1980's as a new means to raise capital for industries that had traditionally done business in partnership form. At the time, a number of corporations decided that the PTP structure better suited their operations. A few years later, Congress became concerned that the opportunity to become a PTP might erode the corporate tax base and decided, in 1987, to limit the extent to which new PTP's could be created. The law restricted future PTP operating status to companies in the energy, real estate, and natural resources sectors.

For reasons that were not clear at the time, and still are not clear from the committee reports explaining the 1987 act, all companies then operating as PTP's outside the protected sectors were to be ''sunsetted,'' or terminated, within 10 years. Unless the law is changed, this provision, sometimes referred to as the ''PTP grandfather provision,'' will punish 27 American companies who played by the rules. Unless changed, this provision of law will compel them to convert by January 1, 1998.

Our amendment would stop this punitive process in its tracks. Our amendment recognizes the positive contribution that these companies make to their communities, to their employees, and to the unit holders. Our amendment is consistent with many precedents which have changed tax law prospectively, and left alone those who relied on prior law for major business decisions.

Our amendment also strikes a blow for fairness. After all, companies that converted to PTP form went through a complex, expensive, and time-consuming process. In so doing, they relied on the expectation that they would be able to operate as partnerships as long as they wanted. If they ever wished to convert to corporate form, or to become a nontraded partnership, they could do so when it was in their best interests. Some firms have converted voluntarily during the intervening years for business reasons unrelated to the sunset. However, to force such a conversion arbitrarily is totally unfair, and will require the investment of significant resources and managerial time far better devoted to strengthening these companies.

There were only about 120 PTP's in existence in 1987; nearly three-fourths of which were in lines of business untouched by the new restrictions. Today, their are still 27 ''grandfathered'' PTP's in operation. They are in such businesses as nursing homes, restaurants, hotels and motels, investment management and financial advisory services, cable television, home, and office services such as carpet cleaning, lawn maintenance and pest control, and even Macadamaia nuts.

They operate in all 50 states and employ more than 225,000 people nationwide—from fewer than 200 people in Alaska, South Dakota, and Vermont, to more than 10,000 people in California, Illinois, Ohio, Pennsylvania, and Texas. There are more than 300,000 unit holders nationwide from as few as 500 in North Dakota to as many as 30,000 in California.

These are the people with the greatest stake in this amendment—the employees and unit holders of the affected PTP's. Unless our amendment is enacted into law, the value of units will decline. The investors will suffer—most of whom are average, middle-class Americans who purchased their PTP's, oftentimes through an individual retirement account, because of the attractive yield, safety, and liquidity. As PTP units decline in value, a company's ability to expand will be negatively affected and the employees will suffer. Employees who are also unit holders—tens of thousands of individuals nationwide—face a ''double whammy.''

I hope my colleagues will agree that this punitive provision of the tax code is unfair, counterproductive, and contrary to the objectives of capital formation and jobs growth. Our amendment would fix the problem, so I urge its inclusion in this year's tax bill.

Mr. HATCH. Mr. President, I am pleased to join with my distinguished colleague from Delaware, Senator ROTH, in introducing legislation that would prevent publicly traded partnerships [PTP's] from becoming subject to the double taxation of corporate tax status. This bill extends permanently the tax law that recognizes these entities as ordinary partnerships for tax purposes. As a result, they will escape the unfair consequences that would occur if this bill is not passed.

The Omnibus Budget Reconciliation Act [OBRA] of 1987 changed the tax law so that all PTP's would be treated, for tax purposes, as corporations. However, those partnerships established prior to this legislation were grandfathered. For the past 8 years, these grandfathered PTP's have been taxed as

partnerships, but the grandfather protection provided by OBRA '87 will expire at the end of 1997. In order to continue this needed protection from double taxation, it is necessary to extend this provision permanently.

At the time OBRA '87 was enacted, the Congress commissioned the Treasury Department to study the effect that this change in the taxation of PTP's would have on Federal revenue. However, the 1991 Treasury study on large partnerships did not address this issue directly. This suggests to me the possibility of invalid reasoning behind OBRA '87 provision that taxes newly formed PTP's as corporations. This apparent lack of justification in taxing newly formed publicly traded partnerships as corporations clearly makes switching the grandfathered PTP's to this tax status unfair.

Mr. President, the world recognizes America as a land of business opportunity. In order to preserve these partnerships from penalties and taxes that were unforeseen at the time of their establishment—and to prevent negative repercussions for workers, investors, customers, and suppliers—I urge my colleagues to join us in supporting this legislation.

By Mr. MOYNIHAN (for himself, Mr. D'AMATO, Mr. BRADLEY, and Mr. LAUTENBERG):

S. 1175. A bill to suspend temporarily the duty for personal effect of participants in certain world athletic events; to the Committee on Finance.

FOREIGN ATHLETES LEGISLATION

Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation to facilitate the entry of foreign athletes into the United States to participate in the 1998 Goodwill Games. The New York metropolitan area has assumed the honor of hosting the 1998 games, with events to be held in both New York and New Jersey. I am pleased to be joined by Senator D'AMATO, BRADLEY, and LAUTENBERG in this effort. The House Ways and Means Subcommittee on Trade approved an identical measure last week.

The United States has routinely granted duty-free entry for such events in the past. Last year, Congress granted temporary customs duty waivers to the 1994 World Cup, the 1996 Summer Olympics, and three other international sporting events. Before that, to the World University Games held in 1993 in Buffalo, NY. Without this bill, teams, athletes and officials would suffer an extensive Customs paperwork process and pay duties for their equipment and personal effects. They would receive refunds of these duties only upon their departure from the United States. Furthermore, handling the sheer volume of participants who will enter the United States would pose a serious burden on U.S. Customs officials, who have many other important responsibilities. Foreign nations, without exception, assure hassle-free entry for U.S. athletes participating in similar events, and we should continue to reciprocate the courtesy.

New York is much looking forward to hosting the 1998 Goodwill Games, which, since they follow the 1998 Winter Olympic Games in Nagano, Japan, should be the final major gathering of nations in the 20th century. This is fitting because the games were founded with the vision of promoting international cooperation through world-class competition. Moscow hosted the inaugural games in 1986—the cold war still persisting and only 2 years after the Soviets boycotted the 1984 Summer Olympics in Los Angeles—and the world witnessed 91 national 8 European, and 6 world records broken. The 1990 games in Seattle were the largest cultural and business-to-business exchange in United States-Soviet history, and the 1994 games in St. Petersburg, Russia were the first international event in Democratic Russia. Organizers anticipate the 1998 games in New York to attract 3,000 athletes from over 70 countries, and I expect them to be a worthy addition to this impressive history.

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

S. 1176. A bill to direct the Secretary of the Interior to make certain modifications with respect to a water contact with the city of Kingman, Arizona, and for other purposes; to the Committee on Energy and Natural Resources.

WATER CONTRACT LEGISLATION

• Mr. MCCAIN. Mr. President, I join today with my colleague from Arizona, Senator KYL, in introducing legislation to help resolve a problem that affects the water supplies of more than 120,000 of our constituents in Mohave County, AZ.

Representative BOB STUMP (R–AZ), whose Third Congressional District includes Mohave County, recently introduced a similar bill cosponsored by all Arizona House Members.

The purpose of the bill is to require the Secretary of the Interior to take three actions with respect to a contract that provides for the Secretary to deliver 18,500 acre-feet of Colorado River water to the city of Kingman, AZ.

First, the measure directs the Secretary to amend the contract by extending its term from December 31, 1995, to December 31, 2001.

Second, the bill directs the Secretary, within 60 days of receiving a request from Kingman, to approve the assignment of the amended contract to the Mohave County Water Authority, a corporation organized pursuant to State law.

Third, the bill directs the Secretary to further amend the contract so as to make water available for permanent service, consistent with a plan developed by the city in consultation with the U.S. Bureau of Reclamation.

Mr. President, enactment of this legislation is necessary to implement a regional plan for meeting existing and future water needs of the city of Kingman and other fast-growing communities in Mohave County. The most significant element of this plan is the assignment of Kingman's contract for Colorado River water to the Mohave County Water Authority.

In 1968, Kingman entered into a contract with the Secretary of the Interior providing for the annual delivery of 18,500 acre-feet of Colorado River water for use by the city's municipal and industrial customers. Under this contract, the United States reserved the right to terminate the contract if Kingman did not ''order, divert, transport and apply to water for use by the city'' by November 13, 1993.

In the early 1970's, the city began studying various alternatives to facilitate direct use of its entitlement to Colorado River water.These studies consistently indicated that the capital expenditures required for water transportation and treatment make direct use of the water prohibitively expensive.

In May 1993, the city adopted a water adequacy study that set forth a long-term water resource management plan. The plan is based largely on a hydrological analysis of the Hualapai Basin, which is Kingman's primary groundwater source. This analysis concluded that there is more than enough groundwater in the basin to meet the city's needs for the next century. Accordingly, the study recommended that the city's Colorado River entitlement be exchanged for funds to develop its groundwater resources, and to pursue effluent reuse and conservation projects.

Subsequently, Kingman solicited statements of interest from entities that would be interested in an exchange of the city's contractual entitlement to Colorado River water. In a response that reflects the great need in the region for water, seven entities expressed an interest in obtaining more than 45,000 acre-feet of water annually.

In September 1993, the Bureau of Reclamation extended Kingman's contract to provide additional time for the city and other Mohave County communities to develop a regional approach to putting Kingman's entitlement to beneficial use. Public meetings and discussions by the Colorado River Ad Hoc Water Users Group/Mojave Ad Hoc Committee, Kingman, Bullhead City, Lake Havasu City, Golden Shores Water Conservation District, the Mojave Valley Irrigation and Drainage District, the Mohave Water Conservation District, and others, led to a consensus that a county water authority should be created. This new authority would also satisfy Reclamation's expressed interest in having a single entity to work with in coordinating efforts to meet the needs of water contractors in Mohave County.

In January 1994, Mohave County's representatives in the State legislature introduced legislation to establish a

Mohave County Water Authority. Governor Fife Symington signed the bill into law on April 8, 1994, and the Arizona Department of Water Resources recommended that the Bureau of Reclamation initiate the process to effect the transfer of Kingman's water to the authority. To provide the time needed to complete this process, the Bureau again extended the contract to December 31, 1995.

In March 1995, just days before Kingman, the authority and Reclamation were to sign the documents necessary to assign the city's water to the authority, the Interior Department abruptly directed Reclamation to ''temporarily suspend'' the proceedings. It was later learned that the reason for this suspension was a last-minute decision by the Department to look at possibly using the Kingman water to settle Indian water rights claims in Arizona.

The Arizona delegation has always recognized that water from many sources will be needed to complete settlements of the remaining tribal claims in our State. However, at no time has the delegation or the State of Arizona regard the Kingman water allocation as a necessary part of any overall Indian water settlement plan. To the contrary, as noted in the preceding paragraphs, the delegation has worked to assist Kingman and other Mohave County communities in the their efforts to develop the kind of regional solution that the new county water authority represents.

Mr. President, over the past 12 years, Arizona congressional delegations have worked with previous administrations and the current administration in seeking to settle Indian water rights claims by negotiation, not litigation. A high level of cooperation and communication has characterized these efforts, which thus far have resulted in Congress enacting six water settlements involving Arizona tribes. Settling the remaining water rights claims of Arizona tribes will require similar efforts, and involve completion of the allocation of Arizona's finite water sources.

Regrettably, the Department's action in aborting the lengthy process by which the Kingman water was to be allocated was contrary to all previous representations and commitments by the Department regarding the Kingman water. It effectively disregarded the extensive efforts by Mohave County, the Arizona Department of Water Resources, the Arizona legislature, and the local communities and citizens who, with the active cooperation and support by the Bureau of Reclamation, developed the Mohave County Water Authority.

Mr. President, I strongly believe that the agreements that were to have been concluded in March that would have assigned the Kingman water contract to the Mohave County Water Authority should be signed and implemented. The legislation that Senator KYL and I introduce today will simply ensure that the assignment will occur as planned.

I am hopeful that the Congress can consider and approve this legislation in an expeditious manner. I am also hopeful that the Department will support this legislation in an effort to reestablish the kind of cooperation and communication that is so essential to concluding and implementing the complex agreements that comprise any water rights settlement.●

By Mr. HATCH:

S. 1177. A bill to amend the Social Security Act and the Internal Revenue Code of 1986 to provide improved access to quality long-term care services, to obtain cost savings through provider incentives and removal of regulatory and legislative barriers, to encourage greater private sector participation and personal responsibility in financing such services, and for other purposes; to the Committee on Finance.

THE QUALITY CARE FOR LIFE ACT

Mr. HATCH. Mr. President, I rise today to introduce S. 1177, the Quality Care for Life Act, which offers ideas on how we can deal with an important and necessary aspect of our health care delivery system—long term care.

One of the most frequent concerns I hear from citizens of Utah is the fear of having to impoverish themselves and their loved ones in order to obtain much needed long term care services.

Clearly, long term care is an issue of vital concern to our constituents and to Members of this body as well.

But, the issue of long term care always presents this body with a dilemma.

On the one hand, Senators wish very much that we can offer some kind of help to many, many American families that face the human and financial struggle of needing long term care.

On the other hand, a public program to provide and/or pay for long term care, if not designed properly, could prove enormously expensive and become just another promise that we cannot keep.

At a time when this country faces budget deficits so massive that they affect the future viability of our country, I do not think that we can afford any enormously expensive new program. That is not my intent in putting this bill forward today.

Indeed, I hope that this measure will offer a useful starting point in the Senate for discussions on long term care and related issues, including the appropriate Federal role. Obviously, any final measure we adopt must be crafted very carefully in close consultation with the Congressional Budget Office, so that it does not add unduly to the deficit.

In the interim, I think it is important that the Senate indicate its commitment to resolving the long term care dilemma which faces so many Americans.

The extent of the proposals we consider, and their costs, are factors, but they should not become obstacles. Because we cannot do it all for everyone, we must not settle for doing nothing for anyone.

It is only by taking action now to lay the foundations for a public/private partnership that our society will be prepared 10, 20, and 30 years hence to meet the long term care needs of a growing elderly population.

I am putting forth this legislative proposal, the Quality Care for Life Act, in order to provoke a national dialogue on our Nation's long term care needs and how they can best be addressed.

In drafting S. 1177, I attempted to widen and strengthen the long term care safety net with appropriate reliance on private sector resources.

Last year, this body considered health care reform legislation that would have created a new Federal long term care program offering Federal and State payment for long term care services to the functionally disabled.

Many of us agreed with the intent of that program, but had serious concerns about whether it embodied the best approach for addressing our Nation's long term care needs.

First, such a program would have been far too expensive. It is clear that we are going to have to invest greater resources in long term care. However, in making that investment, we must make sure that we invest wisely, and that we offer solutions that address the need in a constructive manner.

Second, such a program would not have embodied true reform; it would only have created yet more government programs modeled after previous and ineffective government programs.

The legislation I am introducing today meets the same goals as the more ambitious and expensive legislation that we considered last year, yet it accomplishes them through a more targeted and cost-effective approach.

For the edification of my colleagues, I would like to describe the problems that my legislation seeks to remedy, and outline how the bill addresses those areas.

THE NEED FOR CHANGE IN LONG TERM CARE FINANCING

Our society, individually and collectively, has not made adequate provisions for financing the costs of long term care. Individuals and families are not saving for, or insuring themselves against, the costs of long term care. The Federal/State Medicaid Program is stretched to the breaking point. Families and governments are going broke.

Without action to address these problems, our growing elderly population will come to rely much more heavily on Medicaid to pay for long term care. In 1993, Medicaid accounted for approximately 52 percent of all long term care payment—and about 69 percent of all nursing facility residents—in the United States. If current trends continue unchecked, Medicaid will be burdened with an ever increasing share of the nation's long term care costs as the baby boomers reach retirement.

But these current trends cannot continue. Federal and State budgets—already strained badly by current Medicaid long term care obligations—cannot bear such costs. Nor would the elderly be well served by an overwhelmed Medicaid Program.

February 1993 Gallup Organization survey results indicated that 76 percent of Americans agree that ''government should pay the cost of nursing home care only for those who cannot afford it.'' In order to meet the Nation's growing long term care needs without both emptying the public purse and sacrificing quality of care, our society cannot afford to rely solely on government.

Instead, we must encourage and enforce an expectation of personal responsibility on the part of those with the means to plan for and pay for potential long term care costs. Government can—and must—help in the effort by working to see that individuals have the information and resources needed to accept responsibility for meeting their own long term care needs.

LONG TERM CARE COSTS ARE IMPOVERISHING SENIOR CITIZENS

Most elderly Americans are unaware of the magnitude of long term care costs and of the limits of government assistance. Most Americans do not foresee needing long term care. Most probably do not realize how costly months or years of long term care can be.

Many Americans wrongly assume that government programs of their general health insurance will cover the cost of any long term care services they might need. For all these reasons, individuals and families face long term care costs for which they have not planned and which they cannot afford.

The costs of long term care can quickly wipe out the assets even of those who have worked and saved for a lifetime. The cost of 1 year of nursing home care is more than triple the average annual income for an elderly American.

But the nation's current long term care policy does not promote personal planning, saving, or the purchase of insurance against the financial risk of long term care costs. Nor does our Nation provide comprehensive social insurance against the financial catastrophe of long term care costs. Only after a long term care recipient has been impoverished does government assistance become available through Medicaid—a welfare program.

MEDICAID IS IMPOVERISHING THE FEDERAL AND STATE GOVERNMENTS

According to the Health Care Financing Administration (HCFA), total Medicaid payments (state and federal) have nearly doubled over recent years—from $54.5 billion in FY 1989 to $101.7 billion in fiscal year 1993. The countless court battles over Medicaid reimbursement, and the protracted battle over ''provider specific taxes'' well illustrate the strain that Medicaid is putting on State and Federal resources. This strain jeopardizes the availability and quality of both acute and long term care for those who must depend on Medicaid.

Clearly, if current long term care needs have stretched Federal and State budgets to their limits, the future needs of a burgeoning population of elderly will overwhelm our current arrangements for long term care financing. Therefore, the nation must look to sources other than government for additional resources to meet the future long term care needs.

I believe that long term care reform should have the following goals: providing appropriate access to the full continuum of long term care services; ensuring that all Americans have the means to meet the cost of long term care; moving individuals and families away from dependence on government welfare; programs for long term care financing; and addressing the Nation's long term care needs in a fiscally responsible way.

THE ROLE OF PRIVATE LONG TERM CARE INSURANCE

Results from the March 1993 Gallup Organization survey indicate that 79 percent of Americans agree that ''to keep government costs as low as possible, private insurance should play a more active role in paying for nursing home bills for most Americans.''

Private insurance, so useful in protecting individuals and families form such costly misfortunes as accidents and illness, has great potential for marshaling private sector resources to meet long term care costs.

Insurance offers a very good means to preserve an individuals's choice from among various long term care arrangements and competing providers. Its expanded use would make an appropriate private/public long term care cost burden that the graying of America will otherwise put on the American taxpayer.

To date, private insurance accounts for less that two percent of all payments for long term care services. I am confident, however, that with appropriate changes in federal policies private long term care insurance can and will take on a larger role of private insurance, a number of things must change. Chiefly, long term care insurance policies must have value to consumers.

Many States are interested in encouraging residents to purchase private long term care insurance because they see an opportunity to slow the growth of their Medicaid spending by shifting a significant share of long term care costs to private insurance. We are now beginning to see evidence of how much long term care insurance can save the Medicaid Program. Publishing in Health Affairs in the fall of 1994, Marc Cohen, Nanda Kumar, and Stanley Wallack estimated that having a long term care insurance policy reduces the probability of spending down to Medicaid eligibility levels by some 39 percent. The authors estimate that, in the aggregate, Medicaid expenditures would be reduced by $7,945 to $15,519 for every nursing home entrant who had a long term care insurance policy. According to the analysis of Cohen, Kumar, and Wallack, this translates into cutting what Medicaid pays per nursing home entrant in half for long term care purchasers.

The Quality Care for Life Act would make the laws tighter on asset transfers so that people cannot avoid their personal responsibilities by protecting unreasonable amounts of their personal funds from legitimate nursing home expenses, thus shifting the burden to taxpayers.

FEDERAL LONG TERM CARE INSURANCE STANDARDS AND CONSUMER PROTECTIONS

Appropriate Federal standards and consumer protections for long term care insurance would inspire consumer confidence, foster growth of the private long term care insurance market, and ensure that elderly consumers are spared the problems that once plagued the Medigap insurance business. Accordingly, S. 1177 would establish Federal standards to ensure appropriate policy design and sales practices.

CLARIFICATION OF THE FEDERAL TAX STATUS OF PRIVATE LONG TERM CARE INSURANCE

The Quality Care for Life Act would make the following clarifications to the tax treatment of long term care insurance: treatment of long term care insurance premiums paid by individuals in the same manner as accident and health insurance premiums; treatment of benefits received under long term care insurance contracts for long term care services in the same manner as benefits received under accident and health insurance; treatment of employer plans providing long term care services in the same manner as accident or health plans; treatment of life insurance benefits paid to a terminally ill individual in the same manner as death benefits; inclusion of long term care options as preferred employee benefits in employer programs, including cafeteria plans; and clarification of the allowance of tax deduction for additions to an insurer's long term care insurance reserves.

The private long term care insurance market is growing and improving. Products have evolved and improved. Insurance companies, have gained experience and expertise in designing and pricing policies. Sales have been rising by 30–35 percent a year over recent years. There have been some two million long term care policies purchased. I believe that the private long term care insurance market is on the way to realizing its potential. With the right kind of Federal standards, consumers will come to understand the value of long term care insurance. Private insurance can then become a full partner in a private/public long term care partnership.

EXPANSION OF HOME AND COMMUNITY BASED LONG TERM CARE

Today, about 6 million older Americans living at home need assistance as

a result of their disabilities. As we in Congress debate a health care system that addresses our current inequities in access and costs, we must lay the foundation for addressing our long term care demands of today and tomorrow.

The Quality Care for Life Act would establish a home and community based service program for disabled persons who either need assistance with three activities of daily living or who suffer from Alzheimer's disease or a related cognitive disorder.

S. 1177 also revises the reimbursement system to create a payment level for subacute care in nursing home, thus increasing access for those patients who need that level of care but are unable to get that care in community nursing facilities because the costs for providing the service are much higher than the current skilled nursing home daily rate. Currently, these services are provided by hospitals at a much higher cost. Finally, the bill provides for a prospective payment system for nursing facilities.

By the year 2030, there will be more elderly than young people, and the population age 85 and over is expected to more than triple in size between 1980 and 2030. My home State of Utah has the fastest growing population over 80 in the country.

We simply do not have the necessary federal resources to provide all Americans every benefit they need. An aging population will significantly increase demand for long term care services. Planning today will save us from bankruptcy and lack of services tomorrow.

I believe the greatest barrier to enacting long term care legislation has been its substantial cost. Although any proposal will entail new costs, I have constructed the Quality Care for Life Act to place maximum reliance upon the private sector wherever possible, in order to leverage our resources since we will be providing new services. It is true that my bill will entail new spending in the short-run, but these funds are an investment which will achieve greater savings over the long-run.

Some of the costs will be incurred because we are establishing a floor for home health services, so that the most frail and sick of our elderly population are guaranteed home care now. Currently, many fall through the cracks of our care system. They lack adequate home care and are denied access to adequate nursing home services.

We all know that the amount and duration of home care services varies from State to State and also varies with State areas between urban and rural areas. But this is not fair to our frail elderly, and we have a responsibility to see that all Americans, regardless of where they live, can receive the home care services they need and deserve.

If we help our elderly now, and provide the kinds of home care services they need, they may never need to be in a nursing home and may never be a long-term drain on scarce Federal financial resources. We can do the right thing, and do it now. If we do not act soon, we will be mortgaging our children's future to pay for our own long term care needs.

I intend to work with the other members of this body so that we can provide our Nation's elderly the care they so badly need and deserve. I think that the Quality Care for Life proposal will go a long way in meeting that goal, and I hope my colleagues will give it serious consideration. I certainly welcome their suggestions.

By Mr. CHAFEE (for himself, Mr. MACK, Mr. THURMOND, Mr. PELL, Mr. BUMPERS, and Mr. LIEBERMAN):

S. 1178. A bill to amend title XVIII of the Social Security Act to provide for coverage of colorectal screening under part B of the Medicare program; to the Committee on Finance.

THE CANCER SCREENING AND PREVENTION ACT OF 1995

• Mr. CHAFEE. Mr. President, today, I am introducing the Cancer Screening and Prevention Act of 1995. This bill targets colorectal cancer, one of this Nation's leading causes of death by cancer, by providing coverage under Medicare for prevention and early detection of colorectal cancer services. Medicare already provides for the treatment of colorectal cancer, but the treatment of this disease in its later stages is much more expensive than finding it early and treating it early.

Last year, a Senate amendment—offered by my colleague from Utah, Mr. HATCH—was adopted during the health reform debate with strong bipartisan support. It directed that colorectal cancer screening benefits consistent with the guide to clinical preventive services, recommended by the U.S. Preventive Services Task Force, be included in any health care reform comprehensive benefits package. An amendment virtually identical to the bill I am introducing today, was passed with strong bipartisan support last year by the relevant House committees. A companion bill was introduced again this year in the House and has well over 40 cosponsors. I am hopeful our bill will receive similar strong support. I believe it is important for the Congress to act on this bill in order to stop the deaths this disease causes without prevention screening.

In 1995 alone, 55,300 people are expected to die from colorectal cancer, and 138,200 new cases will be found. Colorectal cancer is the second leading cause of cancer death in this Nation—far more men and women die each year of colorectal cancer than with breast cancer or prostate cancer. In fact, colorectal cancer strikes men and women equally but is easily treated when found early.

If colorectal cancer is not found early, the 5-year survival rate is 60 percent or lower. Early detection, however, can boost patients' 5-year survival rate to 91 percent. That differential is astonishing when measured in terms of lives and dollars saved. In recent years, colon cancers have become almost completely preventable by using techniques which became readily available only during the past decade. The vast majority of those afflicted with colorectal cancer are over the age of 50. Unfortunately, Medicare does not specifically cover colorectal cancer screening and prevention services and it should.

In recent years, scientific developments have made clear that colorectal cancer can be eradicated. Just as Medicare now covers other preventive services such as mammography screening and flu shots, its time to add colorectal screening and prevention services.

Several years ago, we moved aggressively to ensure that women took appropriate steps to prevent cervical cancer. It is time now to move aggressively to provide the preventive services necessary to eradicate this lethal cancer in the population most at risk.

A study recently published in the Journal of the National Cancer Institute evaluated the effect of various factors on the costs of colon and other cancers. Not surprisingly, the study found that the costs associated with initial care of colon cancer was higher than when the cancer was first detected in its later stages. Based on these findings, the study concluded that interventions that prevent colon cancer will afford the greatest immediate cost savings.

Under this act, all Medicare recipients will be eligible for limited cancer screening or preventive services. For certain high risk individuals a more comprehensive examination is available.

The legislation enables early detection of colon cancer by providing for an annual fecal occult blood test. This low-cost, noninvasive blood-screening test allows for early detection of colorectal cancer. Research shows that this test, as well as a followup exam of a positive result, reduces cancer risks from 33 to 43 percent. The average cost of this test is only $5.

Second, this legislation includes limited coverage of a flexible sigmoidoscopy exam which enables a doctor to inspect the lower part of the colon where 50 to 60 percent of polyps and cancers occur. This preventive service would be available no more than once every 4 years and is an essential component of the basic screening regimen recommended by the American Cancer Society for all asymptomatic, average risk Americans over the age of 50.

Third, this act would allow individuals at high risk for getting colon cancer to receive a screening colonoscopy exam no more than once every 2 years. A screening colonoscopy allows a doctor to inspect the entire colon. This procedure also enables doctors contemporaneously to perform biopsies and to remove potentially precancerous polyps.

The Cancer Screening and Prevention Act of 1995 specifically delineates those individuals at high risk for colon cancer, and allows the Secretary of Health and Human Services the authority to revise the category of high risk individuals. An individual faces a high risk of colon cancer if he or she has a history of cancer, suspicious polyps, or chronic digestive diseases such as inflammatory bowel disease, Crohn's disease, or ulcerative colitis, or if the individual has any gene markers for colorectal cancer present, or has a family history of colon cancer.

The preventive screening services in this act are all standard medical procedures which are recommended by the American Cancer Society, the National Cancer Institute, the American College of Gastroenterology, the American Gastroenterological Association, and the American College of Physicians.

Patient and professional groups alike support this legislation. The American College of Gastroenterology worked closely in providing scientific and technical information. This bill also enjoys the strong support of the American Gastroenterological Association, and the American Society for Gastrointestinal Endoscopy. It is strongly supported by consumer groups including the Crohn's and Colitis Foundation, the United Ostomy Association, and the other 10 patient care groups which comprise the Digestive Disease National Coalition.

It is my understanding that a group of radiologists are concerned that their diagnostic procedures is not named as a covered service in this legislation. It is my hope that should this bill move through the Finance Committee and the Senate, we will work with these groups to resolve this issue.

Several of my colleagues have indicated their strong support by sending a letter urging other Members to support this legislation. I ask unanimous consent that the letter of Senators MACK and LIEBERMAN be included in the RECORD.

I urge my colleagues to cosponsor the Cancer Screening and Prevention Act.

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

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

COLORECTAL CANCER SCREENING SHOULD BE COVERED UNDER MEDICARE

Colorectal cancer screening should be added to the clinical preventive services now covered under Medicare.

Leading scientific organizations recommend colorectal cancer screening services for normal risk individuals beginning at age 50. Three types of tests should be covered: Annual fecal occult blood test (FOBT) for normal risk patients age 50 and over; flexible sigmoidoscopy for normal risk patients 50 and over, once every 3–5 years; and colonoscopy exams for high risk patients.

Currently, Medicare coverage of preventive services is limited to screening for cervical and breast cancer, pneumococcal vaccines and hepatitis B vaccines. Yet, colorectal cancer is the No. 2 cancer killer and is one of the most preventable types of cancer and curable when detected early.

Colorectal cancer screening services should be covered because:

Colorectal cancer is the second deadliest cancer right after lung cancer.

About 138,000 new cases of colorectal cancer will be diagnosed and about 55,300 people will die from the disease in 1995. The disease is most common in people over 50 and strikes men and women in almost equal numbers. In fact, the average age of colorectal cancer patients at time of diagnosis is 71.

It is one of the most preventable types of cancer and curable when detected early.

Most colorectal cancers develop from benign polyps. Finding and removing these polyps reduces the risk of colon cancer by 90 percent.

Detection and prevention strategies are well documented and highly effective.

Screening has long been recommended by many organizations, including American Cancer Society, National Cancer Institute, American College of Physicians, and the Blue Cross and Blue Shield Association in their guidelines.

The nation's leading expert panel—the U.S. Preventive Services Task Force—is releasing their report in September of 1995 and it is expected to recommend screening (FOBT and sigmoidoscopy). An April 1995 study done by the Office of Technology Assessment shows colorectal screening to be cost-effective.

Colorectral screening services are provided to most Federal employees.

Every major Federal employee health care plan recognizes the effectiveness of colorectal cancer screening services and provides coverage for these services.

U.S. SENATE,
Washington, DC, August 10, 1995.

DEAR COLLEAGUE: Even though we face many competing priorities this year, we think it is critically important that we make progress in addressing the No. 2 cancer killer in the United States—colorectal cancer. This year, 149,000 new cases of colorectal cancer will be detected and about 55,300 people will die from the disease, making it second only to lung cancer in causing cancer deaths. It predominantly strikes individuals over the age of 50, most of whom are senior citizens. The average age at the time of diagnosis is 71.

Today our colleague, Senator John Chafee, is introducing the Cancer Screening and Prevention Act of 1995. This bill provides Medicare coverage of preventive services which will enable the detection and early treatment of colon cancer. Its preventive measures track the screening recommendations of the American Cancer Society (ACS), the National Cancer Institute (NCI), the National Institutes on Health (NIH), the American College of Gastroenterology (ACG), the American Gastroenterological Association (AGA), and the American Medical Association (AMA).

We know that early detection of colorectal cancer saves lives. Colon cancer is nearly completely preventable using techniques that have been available for over a decade. Recent research bears this out.

Research published by Dr. Sidney Winawer and colleagues in the New England Journal of Medicine (December 1993) found that removal of precancerous polyps reduced the incidence of colon cancer by 90 percent and mortality by over 95 percent. This work proved conclusively that timely removal of polyps will eliminate most colon cancers.

The way to reduce colorectal cancer is very simple—promote screening. The ACS, the NCI, the ACG, and the AGA recommend that individuals at age 50 be screened annually for colorectal cancer by fecal occult blood tests and by flexible sigmoidoscopic examination every three to five years. High risk individuals should have a more thorough test—colonoscopic surveillance—available every two years. Colorectal cancer screening reduces cancer risk and is at least as cost-effective as other preventive health care services.

The NCI conducted a cost analysis of screening the U.S. population from ages 50 to 80 that demonstrated a beneficial cost-effectiveness ration relative to other preventive services. Scientific evidence is well established to demonstrate that screening of our elderly population for colorectal cancer will save lives and is cost-effective.

Given the prevalence of this disease in older Americans and the overwhelming evidence that screening is effective, these preventive benefits should be covered under Medicare. A recent analysis and estimate of the cost of this legislation, prepared by Peter McMenamin, Ph.D., a former Health Care Financing Administration official, projects the full cost of this legislation to be $429 million over four years, which means an average of $107 million annually.

Please join us as original cosponsors of the Cancer Screening and Prevention Act of 1995. To become a cosponsor or for further information, please call Doug Guerdat of Senator Chafee's staff at 224–2921.

Sincerely,

CONNIE MACK.
JOSEPH I. LIEBERMAN.●

● Mr. MACK. Mr. President, I am pleased to join my colleague, Senator JOHN CHAFEE in introducing the Medicare Cancer Screening and Prevention Act of 1995. The legislation provides for Medicare coverage of preventive care specifically aimed at the early detection, prevention, and treatment of colorectal cancer.

This bill, when enacted, will close a significant gap that currently exists in the preventive services covered by Medicare. Under current law, Medicare does not reimburse for preventive colorectal screening services. A beneficiary must have a presenting condition, such as bleeding, or must already have colorectal cancer before services are provided through Medicare. These are very costly diseases, which Medicare will pay to treat. However, I believe it is in the best interests of patients and the Medicare system to provide for coverage of tests which will identify colorectal cancer at its earliest stages. Medicare currently provides coverage for other preventive services such as mammography screening for breast cancer and flu shots. This legislation will send the message to all beneficiaries that colorectal cancer is curable if detected early.

This legislation will ensure that Medicare beneficiaries will be eligible to receive the basic colorectal cancer screening tests which are recommended by the American Cancer Society for all Americans over the age of 50. As my colleagues will recall, these basic tests were used successfully to detect and successfully treat former President Ronald Reagan's cancerous colon polyps in 1985.

Colorectal cancer is one of the most widely contracted forms of cancer, with higher incidence rates than either breast cancer or prostate cancer. In

1995 alone, according to the American Cancer Society, more than 138,000 new cases of colorectal cancer will be diagnosed. Tragically, more than 55,000 Americans will die from the disease this year. My home State of Florida has been disproportionately affected by colorectal cancer with the third highest estimated number of new cases and deaths associated with this form of cancer.

Scientific data clearly show preventive services can successfully combat many cases of colorectal cancer. If colorectal cancer goes undetected, the 5-year survival rate is approximately 60 percent or less. If, however, colorectal cancer is detected at its earliest stages, then the 5-year survival rate increases dramatically to 87 percent for rectal cancer and 93 percent for colon cancer. The legislation we are introducing today will not only address the early detection of colorectal cancer, but it will also aid in the prevention of colorectal cancer in many Americans over the age of 50.

At a time when the Board of Trustees of Social Security and Medicare warns that the Hospital Insurance, or Medicare part A, trust fund will become insolvent by the year 2002, Congress should enact laws to prevent hospitalization and reduce long-term health care costs. This legislation will greatly enhance this effort by focusing on preventive services which have been shown to be cost-effective. For example, a National Cancer Institute study found the costs of screening for colorectal cancer are favorable as compared to other preventive services. The study also found the costs of medical treatment of advanced colorectal cancer far outweigh the costs of prevention and early treatment. In addition, the onset of this tragic form of cancer leads to lost productivity, lost income, and lost tax revenues.

The scientific evidence supporting the benefits of early detection and screening is clear. The technology to prevent colorectal cancer has been available for more than a decade. Now is the time to increase the accessibility of these services to the population of Americans who are at highest risk of contracting colorectal cancer—our senior citizens. The American Cancer Society, along with physician organizations such as the American College of Gastroenterology, and consumer groups such as the Crohn's and Colitis Foundation of America are unified in their strong support and advocacy for this important legislation. Enactment of this bill is prudent, cost-effective, and humane.

My wife, our daughter, my mother, and I are each alive today because of the early detection of cancer. I've been told that our Nation can see a 50-percent increase in cancer survival rates if only Americans would follow the screening recommendations of the American Cancer Society. The need is great. The cost-effectiveness of these tests is conclusive. I am proud to join in introducing the Medicare Cancer Screening and Prevention Act of 1995. I ask all of my colleagues to join us in this effort.●

By Mr. ROCKEFELLER:

S. 1179. A bill to amend the Internal Revenue Code of 1986 to provide reductions in required contributions to the United Mine Workers of America Combined Benefit Fund, and for other purposes; to the Committee on Finance.

THE SMALL NONCOAL PRODUCING COMPANY RELIEF ACT

Mr. ROCKEFELLER. Mr. President, today, I am introducing a bill to provide relief to small, non-coal producing companies that are experiencing difficulty in meeting their financial obligations under the 1992 Coal Industry Retiree Health Benefit Act. I want to see this bill enacted into law so a group of small companies will get the help needed to preserve and pay for the health care coverage of their former workers. These companies want to make sure miners' health care benefits are protected, just as I do. But they need some help to do it.

I will talk more about why I think it is so important that the Senate act on this legislation, but first, I think it's equally important for everyone to understand what brought me to this place. The context for the introduction of a bill is important, and in this case, the context is the history of the coal fields. So, first some background before I discuss my proposal for small company relief:

Almost 50 years ago, the President of the United States, Harry S. Truman, ended a national coal strike that had forced him to seize the mines. That action established a unique relationship between the Federal government, miners and operators in the coal industry. In that 1946 strike, health care was a central issue. And coal miners' health care benefits remain central to labor relations in the coal industry today.

Through the years since that 1946 strike, coal miners and their families have traded or foregone other benefits to preserve the decent health care benefits upon which they depend because illness and injury are so endemic to coal mining. In fact, the health program that exists for current and retired miners today derives from the one established when President Truman seized the mines.

In the 1950's, a grand compact was reached between labor and management in the coal industry. In return for health and pension security, labor agreed to mechanization of the mines, which led to the elimination of 300,000 jobs in Appalachia alone. This leads to today's situation, because it is largely the retirees of that vast industrial restructuring whose health care was in jeopardy before passage of the 1992 Coal Industry Retiree Health Benefit Act, now simply known as the Coal Act. Those coal miners created the might of modern industrial America. They fueled our Nation's economic progress. In 1992, when Congress passed the Coal Industry Retiree Health Benefit Act, we told those miners that their tremendous contributions and sacrifices mattered and the promises made to them will be kept. We must not forsake that promise now or ever.

The urgent need for legislation to protect miners' health care benefits became increasingly clear during the fall of 1989, when another coal strike broke out, where health care benefits were, once again, a central issue. In that year, I introduced my first bill to prevent collapse of the trust funds that provide health care for retired coal miners. The dwindling base of contributors resulting from bankruptcies and the failure of some companies to keep paying into the funds, along with exploding health care inflation, put the health trust funds in jeopardy. Then-Secretary of Labor Elizabeth Dole appointed a mediator to assist in settlement of the strike. When the settlement was reached, she announced appointment of a commission to recommend a long-term solution to the crisis of the health trust funds. That Commission became known as the Coal Commission.

Secretary Dole explained that during negotiation of the settlement of that strike, which involved a single company, ''it became clear to all parties involved that the issue of health care benefits for retirees affects the entire industry.''

''A comprehensive, industry wide solution is desperately needed,'' Secretary Dole then said.

Secretary Dole's Coal Commission submitted its final report in November, 1990. The Commission observed that health benefits are an emotional subject in the coal industry, not only because coal miners have been promised and guaranteed health care benefits for life, but also because coal miners in their labor contracts have traded lower pensions over the years for better health care benefits. The Commission said it firmly believes that the retired miners are entitled to the health care benefits that were promised and guaranteed them and that such commitments must be honored. To quote from that 1990 report—

> Retired coal miners have legitimate expectations of health care benefits for life; that was the promise they received during their working lives and that is how they planned their retirement years. That commitment should be honored.

The Coal Commission also considered the fairest way to ensure that the health fund did not collapse. They recommended that companies that employed miners, current signatories and former signatories alike, share the costs of providing benefits to miners whose employers went out of business. And, in the words of the Dole Commission, the best way to finance the health benefits promised miners was the ''imposition of a statutory obligation to contribute on current and past signatories, mechanisms to prevent future dumping of retiree health obligations''.

Collective bargaining cannot work when companies are not around to bargain because they are bankrupt or have walked away from their responsibilities, sometimes through legal loopholes created by dozens of conflicting court decisions. Moreover, the orphan retirees whose last employers were gone faced the prospect that when the collective-bargaining agreement expired in 1993, no one would have been responsible for their health care. The miners' health program's shrinking funding base and spiraling costs made continuation of the old program unworkable. The task Congress and the administration had in 1992 when we passed the Coal Act was to do the best we could to assign responsibility for funding the health program, recognizing that there was not then, nor is there now, a perfect solution.

And so, in 1992, Congress met its national responsibility to protect miners' health benefits. I was proud to author that legislation, the Coal Industry Retiree Health Benefit Act, or the Coal Act. It was attached to the Energy Policy Act of 1992. I worked on that legislation with an outstanding group of Members whose invaluable contributions were essential to securing passage of the Act—my esteemed colleagues Senators BYRD and FORD, Senators SPECTER, Wallop, and others from the Finance and Energy Committees. The Coal Act would not have become law without their work and without strong bipartisan cooperation. We did our work and miners' benefits were saved. That makes me enormously proud.

Those miners today, on average, are 73 years old. Most worked in the mines for 20, 30, 40 years, or more. Every day many rode a rail car a mile underground, stooped in a crawlspace 4 feet high with ice cold water up to their knees, and made their mines productive and their employers rich. For them, the legacy of that work is black lung disease, asthma, cancer, back pain, and chronic respiratory disease. Their health benefits remain a matter of life and death. The Coal Act protected their benefits into the future. But in the 104th Congress, some want to take away the health care security of miners. I don't intend to let that happen.

But there are big mining companies still looking for a way to walk from the promise made to these miners nearly 50 years ago. These companies have spent millions to oppose the implementation of the Coal Act. So far, they have not succeeded in robbing miners of the health security the Coal Act provides.

But this year, they are at it again, seeking what amounts to nothing more than a tax break for a select group of special interest companies.

If they succeed, the health benefits of 30,000 West Virginia miners, widows, and orphans will be in jeopardy. Thousands of people like them in other States will face the same peril. If those people lose their health care coverage, we will have a disastrous health care crisis in West Virginia, with miners and widows being forced to sell their homes to pay for the medication and treatment they now receive. Retirees in every State will be in the same desperate straits, and the other coal States where most miners have retired would all face the same health care tragedy.

We must remember that the promise of coal miners' health is not just another entitlement program. These benefits have been earned by a lifetime in the mines—a lifetime of deferred wages as the price paid for health care coverage. Some big companies who are, or were, in the coal business, and who can afford to pay for these benefits, continue to say they do not want to meet their responsibilities. And I am sad to have to report that there are bills in both the Senate and the House which seek to amend the Coal Act and let these companies walk away from their commitment to miners.

Some Members of Congress are supporting a bill to let big coal companies abandon retired miners. Some would like to see such a bill included in this year's budget reconciliation bill, hiding the fate of more than 92,000 retired miners and their dependents as a tiny provision in a massive bill. If Congress is not careful, a cut in coal miners' health benefits may be snuck through in the bill needed to make sure the Federal Government can operate.

What's especially troubling is how many of these companies are using exaggerated claims of a huge surplus in the health fund to bolster their contention that there is sufficient money with which to give them a tax break. The problem is the big surplus which they project is not supported by the independent actuarial analysis commissioned (by the fund's trustees) to review the financial health of the fund. The Ernst and Young analysis, conducted by Guy King, a former chief actuary at HCFA, advises Congress to be very cautious about any changes to the Act which expend the fund's reserves. Guy King's report said that the most likely scenario is there will be a $39 million deficit in the health funds in the year 2003. The General Accounting Office told Congress on May 25, 1995, that ''it now appears that annual deficits—instead of surpluses—are likely to occur, which would erode the current surplus over time.'' That means that there's not a lot of extra money, available to help pay for this proposed tax break.

This tells me we have to be very, very thoughtful about doing anything which would destabilize the health fund—which a big tax break would most certainly do.

While we are seeing all the efforts of the millions- and billion-dollar mining conglomerates who are looking to the courts and to legal fine print for a way out of keeping their promise to retired coal miners and their widows—these companies are certainly not focused on how smaller businesses are affected by the Act.

These large companies are hoping Congress will give them a big tax break, but small businesses in financial need would not be helped under their plans to amend the Coal Act.

I think that's wrong. The Coal Act ensures retired miners and their dependents will receive the health benefits they were promised. That's what it was intended to do. And it's working.

But over the last year or two, as I have monitored the implementation of the Act, I have been hearing from and meeting with small companies who are very troubled. They tell me it is difficult for a number of them to do what is required under the provisions of the Coal Act. They tell me that they need some relief. As you know, the Coal Act requires small and large businesses to contribute to the miners' health funds on behalf of their former employees. But that requirement may be more doable for large companies than it is for small ones.

While holding small businesses legitimately responsible for the health benefits of their former workers is fair, the burden of making those payments may be difficult for some. That's why I am introducing a bill which would amend the Coal Act to help small, non-coal producing businesses make their premium payments under the Act.

I think this legislation is a way we can provide some relief to small companies, who are no longer in the coal business, and yet still maintain the stable financing structure of the Act.

It doesn't make sense to me to bankrupt a viable small company because it cannot meet its full premium obligations under the Act, especially if the company has an ability to make payments consistently over time. I want to make it easier for these small businesses, which create jobs in West Virginia, Pennsylvania, Ohio, and across the Nation, to stay in business and make reasonable premium payments under the Act.

An important point to underscore: the financial condition of the fund is not such that forgiving the health care liability assigned any one group of companies under the Act is possible. Miners' benefits would be at risk. What I think we can do is limit, or cap, the liability of small, non-coal producing companies in a way which provides meaningful assistance. That is what my bill attempts to do. Again, it's not perfect, but it offers relief that could make a real difference to small companies.

The group of small, non-coal producing companies which I have been working with committed themselves to a long process in which we sat down and together figured out a way that small companies could get help while miners' benefits are protected. We struggled with the numbers, and we struggled with the constraints—practical, political, some philosophical.

Keeping in mind our shared goal of protecting miners benefits and doing something concrete to help small companies—something which could actually be signed into law—together, we negotiated the piece of legislation I am introducing today.

This is not necessarily the only way to provide a group of small companies with targeted relief from their obligations under the Coal Act. Others may suggest different approaches. But I firmly believe that this approach is one which can pass, and be signed into law, if we keep this relief package directed at the small companies most in need of financial assistance. I am working on one or two other minor adjustments to the Act, one of particular interest to West Virginia, which I also hope to have ready for the Senate's consideration in the near future.

Another word of caution: If companies with an ability to pay, but with a desire to avoid their responsibilities, want to use a small company relief package as momentum for their efforts, it could be that we go another year or many years without small company relief. I, for one, do not want a bunch of big companies with the ability and obligation to keep promises to miners to get in the way of small company relief along the lines of what I have proposed here. I hope my colleagues don't either. One thing I do know, if efforts to pile on some mega-tax break or relief for companies that do not need or deserve it are successfully attached to this proposal in the legislative process, I will not be able to recommend to the President that he sign such a bill. I cannot support anything that puts miners' health benefits at risk. I hope we can avoid that scenario.

The small company relief bill which I am introducing is enactable. It will go a long way to helping meet the needs of the small companies which I have been working with—and they are a cross-section of small companies from all over the country. This is the product of many, many, months of negotiations. I have consulted with Rich Trumka, the President of the United Mine Workers of America [UMW] about this package. He agrees that there may be a need to address the needs of small companies that truly can't afford to pay. The members of the Bituminous Coal Operators Association [BCOA] also understand my strong desire to see this type of relief enacted this year, and they know what is in this bill and why. With those two disparate interests in agreement that it is appropriate for me to pursue small company relief, I am confident that we can actually make this small company relief a reality this year.

All parties—the small companies, the BCOA, and the UMW—agree that we cannot know today, with any precision, the exact dollar impact of these provisions on the long-term financial health of the fund. As the financial impact comes into better focus, under no circumstances will we move ahead with this amendment if it would cause the fund surplus to fall below a level that protects the benefits.

A sacred promise was made to coal miners, their widows and dependents, and Congress took historic, bipartisan action in 1992 to keep that promise. These guaranteed health benefits cannot be sold off or traded away. But small companies can get some meaningful relief to help them meet their obligations under the 1992 Coal Act without jeopardizing miners' health benefits through the bill I am submitting today. I urge my colleagues to carefully consider this legislation, and to work with me in enacting and achieving its objective.

Mr. President, I ask unanimous consent that the complete text of the Small Non-Coal Producing Company Relief Act of 1995 be printed in the RECORD.

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

S. 1179

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 ''Small Non-Coal Producing Company Relief Act''.

SEC. 2. REDUCTION IN CONTRIBUTIONS OF CERTAIN PERSONS TO COAL MINERS COMBINED BENEFIT FUND.

(a) IN GENERAL.—Part II of subchapter B of chapter 99 of the Internal Revenue Code of 1986 (relating to financing of Combined Benefit Fund) is amended by inserting after section 9704 the following new section:

''SEC. 9704A. REDUCTIONS IN ANNUAL PREMIUMS OF CERTAIN ASSIGNED OPERATORS.

''(a) GENERAL RULE.—The annual premium of an assigned operator under section 9704(a) shall—

''(1) in the case of an eligible small assigned operator, be reduced as provided in subsection (b), and

''(2) in any case in which there is a surplus in the Combined Fund to which subsection (c) applies, be reduced as provided in subsection (c).

''(b) REDUCTIONS FOR ELIGIBLE SMALL ASSIGNED OPERATORS.—

''(1) IN GENERAL.—If this subsection applies to an eligible small assigned operator for any plan year of the Combined Fund, the annual premium under section 9704(a) for such operator for such plan year shall not exceed 5 percent of the operator's average annual taxable income for purposes of chapter 1 for the 5-taxable year period ending with the operator's most recent taxable year ending before the beginning of the plan year.

''(2) YEARS TO WHICH SUBSECTION APPLIES.—

''(A) IN GENERAL.—This subsection shall apply to any plan year of the Combined Fund—

''(i) which begins before October 1, 1998,

''(ii) which begins after September 30, 1998, and before October 1, 2003, but only if the Combined Fund has a surplus as of the close of the plan year ending September 30, 1998, equal to or greater than $150,000,000, or

''(iii) which begins after September 30, 2003, but only if the Combined Fund has a surplus as of the close of the plan year ending September 30, 2003, equal to or greater than $100,000,000.

''(B) COORDINATION WITH SURPLUS REDUCTIONS.—This subsection shall not apply to any eligible small assigned operator for any plan year for which no annual premium is imposed on such operator by reason of subsection (c).

''(3) ELIGIBLE SMALL ASSIGNED OPERATORS.—For purposes of this section—

''(A) IN GENERAL.—The term 'eligible small assigned operator' means any assigned operator—

''(i) the average annual gross income of which for purposes of chapter 1 for the 5-taxable year period ending with the operator's most recent taxable year ending before October 1, 1993, did not exceed $25,000,000, and

''(ii) which is not engaged in the production of coal for the plan year for which the determination is being made.

For purposes of this subparagraph, production by a related person shall be treated as production by the assigned operator.

''(B) PRODUCTION OF COAL.—For purposes of subparagraph (A), an assigned operator or related person shall be treated as engaged in the production of coal if it has employed employees in—

''(i) the extraction of coal, or

''(ii) the preparation, processing, or changing of coal for sale.

''(4) AGGREGATION RULES.—In determining gross income or taxable income for purposes of this section, an assigned operator and any related persons shall be treated as 1 person.

''(c) REDUCTIONS BASED UPON FUND SURPLUS.—

''(1) ASSIGNED OPERATORS.—If, as of the close of any plan year ending after September 30, 1997, the Combined Fund has a surplus equal to or greater than 50 percent of the net expenses of the Combined Fund for the plan year, no annual premium shall be imposed under section 9704(a) on any eligible small assigned operator for the succeeding plan year.

''(2) OTHER OPERATORS.—If, as of the close of any plan year ending after September 30, 1997, the Combined Fund has a surplus equal to or greater than 100 percent of the net expenses of the Combined Fund for the plan year, the annual premium under section 9704(a) for the succeeding plan year of any assigned operator other than an eligible small assigned operator shall be reduced by an amount which bears the same ratio to the surplus in excess of 100 percent of the net expenses of the Combined Fund for the plan year as—

''(A) such assigned operator's applicable percentage (expressed as a whole number), bears to

''(B) the sum of the applicable percentages (expressed as whole numbers) of all assigned operators other than eligible small assigned operators.

''(d) OVERALL LIMITATION.—

''(1) IN GENERAL.—In no event shall the total reductions in annual premiums payable to the Combined Fund under this section for any plan year exceed $5,000,000.

''(2) CALCULATION OF REDUCTIONS.—For purposes of paragraph (1), the total reductions in annual premiums for any plan year shall not include any reductions under this section in premiums payable by an eligible small assigned operator who, prior to the date of the enactment of this section, has not paid at least 50 percent of the premiums assessed such assigned operator for the period October 1, 1994, through June 30, 1995.

''(3) ORDERING RULE.—Any decrease in premium reductions under this section for any plan year by reason of paragraph (1) shall be applied first against the reductions under subsection (b) and then against reductions under subsection (c). Any such decreases shall be made ratably among operators.

''(e) COMPUTATION OF SURPLUS.—For purposes of this section, any determination of a surplus in the Combined Fund—

''(1) shall be calculated on an accrual basis,

''(2) shall be made and certified by an independent auditor retained by the trustees, and

''(3) once so certified, shall be reviewable by a court of law only to determine if such determination is reasonable.

A determination shall be considered reasonable for purposes of paragraph (3) if it is made in accordance with generally accepted accounting principles and is based on assumptions which, in the aggregate, are reasonable.''

(b) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 99 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 9704 the following new item:

''Sec. 9704A. Reductions in annual premiums of certain assigned operators.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after January 31, 1993.

SEC. 3. WAIVER OF PENALTIES.

(a) IN GENERAL.—In the case of an eligible small assigned operator (as defined in section 9704A(b)(3) of the Internal Revenue Code of 1986, as added by section 1), no penalty shall be imposed under section 9707 of such Code on any failure of such operator to pay any installment of a premium due under section 9704 of such Code before January 1, 1996, if the operator pays such installment before such date. For purposes of this subsection, the amount of the installment shall be determined after application of the amendments made by section 1.

(b) COMPLIANCE.—An operator shall not be treated as failing to meet the requirements of subsection (a) with respect to any installment if—

(1) the failure to pay the installment before January 1, 1996, was due to reasonable cause and not to willful neglect, and

(2) the failure is corrected within 90 days of the later of—

(A) notice of the failure, or

(B) a final administrative or judicial determination of the amount of the installment which is not reviewable or appealable.

By Mrs. KASSEBAUM:

S. 1180. A bill to amend title XIX of the Public Health Service Act to provide for health performance partnerships, and for other purposes; to the Committee on Labor and Human Resources.

THE SAMHSA REAUTHORIZATION FLEXIBILITY ENHANCEMENT AND CONSOLIDATION ACT OF 1995

Mrs. KASSEBAUM. Mr. President, I rise today to introduce the SAMHSA Reauthorization, Flexibility Enhancement, and Consolidation Act of 1995. An important aim of this legislation is to increase state flexibility in the use of mental health and substance abuse block grant funds while improving program accountability.

The Substance Abuse and Mental Health Services Administration [SAMHSA] programs address the nation's major substance abuse and mental illness health problems. The SAMHSA programs have greatly improved the quality and availability of substance abuse prevention and treatment and mental health services for our citizens.

The fields of substance abuse treatment and prevention and mental health have changed considerably since the last reauthorization in 1992—so must our approach in addressing these major public health issues.

One important feature of the reauthorization legislation I am proposing is its focus on establishing new partnership block grant arrangements with the states. The performance partnerships will utilize state selected ''benchmarks'' to help us learn what works. They will also facilitate the ability of state and local communities to improve the health of their people. These partnership block grants are a unique blend of categorical and block grants.

I believe performance partnerships will increase state flexibility and streamline Federal management while they also will retain accountability. The performance partnerships would also lead to the development and enhancement of national and state data collection systems and provide for justification of future funding.

Another major issue addressed in my proposal is that of the mentally ill homeless. My proposal to enhance outpatient treatment for the gravely disabled mentally ill who are committed would ensure that these individuals receive needed treatment in the least restrictive setting.

Concerns have been raised about my approach which I would like to address. First, some believe my proposal would not allow a sufficient transition time to develop meaningful partnerships between the Federal Government and the state around the implementation of performance partnerships.

Second, some believe my proposal should not retain any of the set-asides because this does not allow for flexibility for the states.

Third, others perceive the current data systems to be inadequate and irrelevant to measure performance on national and state-local levels.

To address these concerns, the legislation would:

First, establish a minimum 2-year transition period before performance partnerships are implemented;

Second, provide states the option to opt-out of the current set-aside requirements; and

Third, require states to report only on performance for which they have current and relevant data systems.

Mr. President, I realize there are issues which others may continue to raise regarding the performance partnership block grants and the commitment of the mentally ill homeless. The introduction of this proposal today should serve as the starting point for further discussions of these issues.

As discussion of these issues develops, I would welcome any suggestions my colleagues or others may have for improving this legislation. I ask unanimous consent that a summary of this bill and the text of the legislation be made a part of the RECORD.

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

S. 1180

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

SECTION 1. SHORT TITLE, REFERENCES, AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''SAMHSA Reauthorization, Flexibility Enhancement, and Consolidation Act of 1995''.

(b) REFERENCES IN ACT.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

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

Sec. 1. Short title, references, and table of contents.

TITLE I—MENTAL HEALTH

Sec. 101. Replacement of State plan program with performance partnerships.
Sec. 102. Review by planning council of State's report.
Sec. 103. State opportunity to correct or mitigate failure to maintain effort.
Sec. 104. Funding for organizations that are for-profit.
Sec. 105. Authorization of appropriation.
Sec. 106. Data collection, technical assistance, and evaluations.
Sec. 107. Projects for assistance in transition from homelessness.
Sec. 108. Priority mental health needs of regional and national significance.
Sec. 109. Repeals.
Sec. 110. Comprehensive community services for children with a serious emotional disturbance.
Sec. 111. Reauthorization of the Access Program.

TITLE II—SUBSTANCE ABUSE

Sec. 201. Replacement of State plan program with performance partnerships.
Sec. 202. Allocations regarding primary prevention and womens programs.
Sec. 203. Tuberculosis and HIV.
Sec. 204. Group homes for recovering substance abusers.
Sec. 205. State substance abuse prevention and treatment planning council.
Sec. 206. Additional agreements.
Sec. 207. State opportunity to correct or mitigate failure to maintain effort.
Sec. 208. Funding for organizations that are for-profit.
Sec. 209. Authorization of appropriations.
Sec. 210. Data collection, technical assistance, and evaluations.
Sec. 211. Priority substance abuse prevention and treatment needs of regional and national significance.
Sec. 212. Repeals.

TITLE III—GENERAL PROVISIONS

Sec. 301. Reporting by States on performance.
Sec. 302. On site performance reviews.
Sec. 303. Additional year for obligation by State.
Sec. 304. Definitions.
Sec. 305. Repeal of obsolete provisions concerning allocations.
Sec. 306. Repeal of obsolete addict referral provisions.
Sec. 307. Regulations.
Sec. 308. Advisory councils.
Sec. 309. Report on development of partnerships and use of grants.

TITLE IV—REAUTHORIZATION OF PROTECTION AND ADVOCACY FOR MENTALLY ILL INDIVIDUALS ACT OF 1986
Sec. 401. Short title.
Sec. 402. Reauthorization.
Sec. 403. Allotment formula.
TITLE V—REAUTHORIZATION OF CERTAIN INSTITUTES
Sec. 501. Reauthorization of certain Institutes.
TITLE VI—TRANSITION PROVISIONS AND EFFECTIVE DATES
Sec. 601. Transition provisions and effective dates.

TITLE I—MENTAL HEALTH

SEC. 101. REPLACEMENT OF STATE PLAN PROGRAM WITH PERFORMANCE PARTNERSHIPS.

(a) ELIMINATION OF STATE PLAN PROGRAM REQUIREMENTS.—Subpart I of Part B of title XIX (42 U.S.C. 300x–1 et seq.) is amended by repealing sections 1911, 1912, and 1913.

(b) PERFORMANCE PARTNERSHIP FRAMEWORK.—Subpart I of Part B of title XIX (as amended by subsection (a) is further amended by inserting after the subpart heading the following new sections:

"SEC. 1911. PERFORMANCE PARTNERSHIP GOALS AND OBJECTIVES.

''(a) GOALS.—

''(1) IN GENERAL.—It is the goal of this subpart for the States and the Federal Government, working together in a partnership, to improve the quality of life of adults with a serious mental illness and children with a serious emotional disturbance, and to improve the overall mental health of United States citizens, by—

''(A) promoting access to comprehensive community mental health services for adults with a serious mental illness and children with a serious emotional disturbance; and

''(B) increasing the development of systems of integrated comprehensive community based services for adults with a serious mental illness and children with a serious emotional disturbance.

''(2) SYSTEMS OF INTEGRATED COMPREHENSIVE COMMUNITY BASED SERVICES.—As used in paragraph (1)(B), the term 'systems of integrated comprehensive community based services' means integrated systems of care that would enable children and adults to receive care appropriate for their multiple needs. With respect to children, such integrated systems of care shall ensure the provision, in a collaborative manner, of mental health, substance abuse, education and special education, juvenile justice, health, and child welfare services. With respect to adults, such integrated systems of care shall ensure the provision, in a collaborative manner, of mental health, vocational rehabilitation, housing, criminal justice, health, and substance abuse services.

''(b) PERFORMANCE PARTNERSHIP OBJECTIVES.—

''(1) ESTABLISHMENT.—Not later than October 1 of the fiscal year prior to the fiscal year in which this section becomes effective as provided for in section 601(c) of the SAMHSA Reauthorization, Flexibility Enhancement, and Consolidation Act of 1995, the Secretary, in consultation with the States, local governments, Indian tribes, health care providers, consumers, and families, shall establish, and as necessary, periodically revise—

''(A) a list of performance partnership objectives to carry out the goals of this subpart, and

''(B) a core set of not more than five of such objectives that address mental health problems of national significance.

''(2) REQUIREMENTS.—Each performance partnership objective established under paragraph (1) shall include—

''(A) a performance indicator;

''(B) the specific population being addressed;

''(C) a performance target; and

''(D) a date by which the target level is to be achieved.

''(3) PRINCIPLES.—In establishing the performance partnership objectives under paragraph (1), the Secretary shall be guided by the following principles:

''(A) The objectives should be closely related to the goals of this subpart, and be viewed as important by and understandable to State policymakers and the general public.

''(B) Objectives should be results-oriented, including a suitable mix of outcome, process and capacity measures.

''(C) In the case of an objective that has suitable outcome measures, measurable progress in achieving the objective should be expected over the period of the grant.

''(D) In the case of an objective that has suitable process or capacity measures, such objective should be demonstrably linked to the achievement of, or demonstrate the potential to achieve, a mental health outcome.

''(E) Data to track the objective should, to the extent practicable, be comparable for all grant recipients, meet reasonable statistical standards for quality, and be available in a timely fashion, at appropriate periodicity, and at reasonable cost.

''(c) DEFINITIONS.—

''(1) ESTABLISHMENT BY SECRETARY OF DEFINITIONS; DISSEMINATION.—For purposes of this subpart, the definitions established on May 20, 1993, for the terms 'adults with a serious mental illness' and 'children with a serious emotional disturbance' shall apply unless such definitions are revised by the Secretary. The Secretary shall disseminate the definitions to the States.

''(2) STANDARDIZED METHODS.—The Secretary shall establish standardized methods for applying the definitions in paragraph (1). A funding agreement for a grant under this subpart for the State is that the State will utilize such methods in making such estimates.

''(3) DATE CERTAIN FOR COMPLIANCE BY SECRETARY.—Not later than 90 days after the date of the enactment of this section, the Secretary shall establish the standardized methods described in paragraph (2).

"SEC. 1912. STATE PERFORMANCE PARTNERSHIP PROPOSAL.

''(a) IN GENERAL.—To be eligible to receive a grant under this subpart, a State shall, in accordance with this section, prepare and submit to the Secretary a performance partnership proposal.

''(b) ELEMENTS RELATED TO PERFORMANCE OBJECTIVES.—A State proposal submitted under subsection (a) shall contain—

''(1) a list of one or more objectives (derived from the performance partnership objectives established under section 1911(b)), including at least one objective in the children's area, toward which the State will work and a performance target for each objective which the State will seek to achieve by the end of the partnership period;

''(2) a rationale for the State's selection of objectives, including any performance targets, and timeframes;

''(3) a statement of the State's strategies for achieving the objectives over the course of the grant period and evidence that the actions taken under a partnership agreement will have an impact on the objective;

''(4) a statement of the amount to be expended to carry out each strategy; and

''(5) an assurance that the State will report annually on all core performance objectives established under section 1911(b)(1)(B) (regardless of whether it is working toward those objectives) and the specific objectives toward which the State will work under the performance partnership.

A State may select an objective that is not an established performance partnership objective under section 1911 if the State demonstrates to the Secretary that the objective relates to a significant mental health problem in the State that would not otherwise be appropriately addressed. The Secretary may require that objectives and requirements be developed by the State in a manner consistent with the requirements of paragraphs (2) and (3) of section 1911(b).

''(c) TRANSITION PROVISION.—A State may select objectives under this section which have solely process or capacity measures until such time as data sets are determined by the Secretary to be readily available, sufficient, and relevant under section 601(a) of the SAMHSA Reauthorization, Flexibility Enhancement, and Consolidation Act of 1995, to make outcome measurements for objectives developed by the Secretary.

"SEC. 1913. FEDERAL-STATE PERFORMANCE PARTNERSHIP.

''(a) NEGOTIATIONS CONCERNING STATE PROPOSAL.—

''(1) REASONABLE EFFORTS TO AGREE.—A State submitting a proposal under section 1912 and the Secretary shall make all reasonable efforts to agree on a performance partnership pursuant to which the State shall expend amounts received under a grant provided under this subpart.

''(2) DUTIES OF SECRETARY.—In negotiations conducted under paragraph (1) concerning the proposal of a State, the Secretary shall consider the extent to which the proposed objectives, performance targets, timeframes, and strategies of the State are likely to address appropriately the most significant mental health problems (as measured by applicable indicators) within the State.

''(b) PARTNERSHIP PERIOD.—The Secretary, in consultation with a State receiving a grant under this subpart, shall set the duration of the partnership with the State. Initial and subsequent partnership periods shall not be less than 3 nor more than 5 years, except that the Secretary may agree to a partnership period of less than 3 years where a State demonstrates to the satisfaction of the Secretary that such shorter period is appropriate in light of the particular circumstances of that State.

''(c) ASSESSMENT AND ADJUSTMENT.—

''(1) ASSESSMENTS.—The Secretary shall annually assess—

''(A) the progress achieved nationally toward each of the core objectives established under section 1911(b)(1)(B); and

''(B) in consultation with each State, the progress of the State toward each objective agreed upon in the performance partnership under subsection (a);

and make such assessment publicly available.

''(2) STATE ASSESSMENTS.—In carrying out paragraph (1)(B), the Secretary shall take into consideration such qualitative assessments of performance as may be provided by each State pursuant to section 1942(a)(3).

''(3) ADJUSTMENTS.—With respect to a performance partnership under subsection (a), the Secretary and the State may at any time in the course of the partnership period renegotiate, and revise by mutual agreement, the elements of the partnership to account for new information or changed circumstances (including information or changes identified during assessments under paragraph (1)).

''(d) GRANTS TO STATES; USE OF FUNDS.—

''(1) GRANTS.—The Secretary shall award a grant to each State that—

''(A) has reached a performance partnership agreement with the Secretary under subsection (a); and

''(B) is carrying out activities in accordance with the terms of such partnership;

in an amount that is equal to the allotment of the State under section 1918. Grants shall be awarded for each fiscal year for which the partnership is in effect.

''(2) USE OF FUNDS.—Funds paid to a State under a grant described in paragraph (1) may be used by the State only for the purpose of carrying out this subpart (including related data collection, evaluation, planning, administration, and educational activities).''.

(c) ADDITIONAL GENERAL PROVISIONS CONCERNING PARTNERSHIPS.—Section 1917 (42 U.S.C. 300x–6) is amended—

(1) by striking the section heading;

(2) by striking ''application'' each place that such term appears and inserting ''proposal'';

(3) in subsection (a)—

(A) in the subsection heading, by striking ''(a) IN GENERAL.—'' and all that follows through paragraph (1) and inserting ''(d) ADDITIONAL ELEMENTS.—A State proposal is in accordance with this subsection if—'';

(B) in paragraph (3), by inserting ''proposed performance partnership and'' before ''agreements'';

(C) in paragraph (5), by striking ''the application contains the plan required in section 1912(a),'';

(D) in paragraph (7), by striking ''including the plan under section 1912(a))'';

(E) by redesignating paragraphs (2) through (4), and paragraphs (6) and (7) as paragraphs (1) through (5), respectively; and

(F) by transferring such subsection to section 1912 (as added by subsection (b)) and inserting such subsection at the end of such section; and

(4) in subsection (b)—

(A) by transferring such subsection to section 1913 (as added by subsection (b));

(B) by inserting such subsection at the end of such section 1913; and

(C) by redesignating such subsection as subsection (e).

(d) DEFINITIONS.—Section 1919 (42 U.S.C. 300x–8) is amended by adding at the end thereof the following new paragraphs:

''(3) The term 'performance indicator' means a quantifiable characteristic used as a measurement.

''(4) The term 'performance target' means a numerical value sought to be achieved within a specified period of time.''.

(e) CONFORMING AMENDMENTS.—Title XIX is amended—

(1) in the heading to subpart I of part B (42 U.S.C. 300x–1), by striking ''**Block**'' and inserting ''**Performance Partnership**'';

(2) in section 1914(b)(1) (42 U.S.C. 300x–3(b)(1)), by striking ''plans'' each place that such appears and inserting ''performance partnerships'';

(3) in section 1915(a) (42 U.S.C. 300x–4(a))—

(A) in the subsection heading, by striking ''PLAN'' in the subsection heading and inserting ''PERFORMANCE PARTNERSHIP''; and

(B) by striking ''plan'' each place that such appears and inserting ''performance partnership'';

(4) in subpart III of part B (300x–51 et seq.), by striking ''section 1911'' each place that such appears, and inserting ''subpart I''.

(5) in section 1941 (42 U.S.C. 300x–51)—

(A) in the section heading, by striking ''**PLANS**'' and inserting ''**PERFORMANCE PARTNERSHIPS**''; and

(B) by striking ''plan'' each place that such appears and inserting ''performance partnership'';

(6) in section 1944(b)(3) (42 U.S.C. 300x–54(b)(3)), by striking ''1912(d) or''; and

(7) in section 1945(d)(2)(A) (42 U.S.C. 300x–55(d)(2)(A)), by striking ''the condition established in section 1912(d) and''.

(f) CONFORMING AMENDMENT TO TITLE V.—Section 520(b) (42 U.S.C. 2900bb–31(b)) is amended—

(1) by striking paragraph (5); and

(2) by redesignating paragraphs (6) through (14) as paragraphs (5) through (13), respectively.

SEC. 102. REVIEW BY PLANNING COUNCIL OF STATE'S REPORT.

Section 1915(a)(1) (42 U.S.C. 300x–4(a)(1)) is amended by inserting ''(and the report of the State under section 1942(a) concerning the preceding fiscal year)'' after ''to the grant''.

SEC. 103. STATE OPPORTUNITY TO CORRECT OR MITIGATE FAILURE TO MAINTAIN EFFORT.

Section 1915(b)(3)(A) (42 U.S.C. 300x–4(b)(3)(A)) is amended by striking the second sentence and inserting the following new sentences: ''If the Secretary determines that a State has failed to maintain such compliance, the Secretary may permit the State, not later than 1 year after notification, to correct or mitigate the noncompliance. If the State does not carry out a correction or mitigation as specified by the Secretary (or if the Secretary decided it was not appropriate to provide that opportunity), the Secretary shall reduce the amount of the grant under this subpart for the State for the current fiscal year by an amount equal to the amount constituting such failure.''.

SEC. 104. FUNDING FOR ORGANIZATIONS THAT ARE FOR-PROFIT.

Section 1916(a)(5) (42 U.S.C. 300x–5(a)(5)) is amended by inserting before the period the following: '', unless the State determines that it is appropriate and beneficial for a for-profit private entity to receive assistance to facilitate the integration of the State Medicaid program or mental health managed care programs under title XIX of the Social Security Act)''.

SEC. 105. AUTHORIZATION OF APPROPRIATION.

Section 1920(a) (42 U.S.C. 300x–9(a)) is amended by striking ''$450,000,000'' and all that follows through the end thereof and inserting ''$280,000,000 for fiscal year 1996, and such sums as may be necessary for each of the fiscal years 1997 through 1999.''.

SEC. 106. DATA COLLECTION, TECHNICAL ASSISTANCE, AND EVALUATIONS.

(a) RESERVED FUNDS.—Section 1920(b) (42 U.S.C. 300x–9(b)) is amended to read as follows:

''(b) RESERVED FUNDS.—

''(1) IN GENERAL.—The Secretary shall reserve 5 percent of the amounts appropriated for a fiscal year under subsection (a)—

''(A) to carry out sections 505 (providing for data collection) and 1948(a) (providing for technical assistance to States) with respect to mental health; and

''(B) to conduct evaluations concerning programs supported under this subpart.

The Secretary may carry out activities funded pursuant to this subsection directly, or through grants, contracts, or cooperative agreements.

''(2) DATA COLLECTION INFRASTRUCTURE.—In carrying out this subsection, the Secretary shall make available grants and contracts to States for the development and strengthening of State core capacity (including infrastructure) for data collection and evaluation.''.

(b) DATA COLLECTION AUTHORITY.—Section 505(a) (42 U.S.C. 290aa–4(a)) is amended—

(1) in paragraph (1), by striking ''and'' at the end thereof;

(2) in paragraph (2), by striking the period at the end thereof and inserting ''; and''; and

(3) by adding at the end the following:

''(3) other factors as needed to carry out part B of title XIX.

The Secretary may conduct activities under this subsection directly, or through grants, contracts, or cooperative agreements.''.

(c) CONFORMING AMENDMENT.—Section 1948(a) (42 U.S.C. 300x–58(a)) is amended by striking ''through contract, or through grants'' and inserting ''or through grants, contracts, or cooperative agreements''.

SEC. 107. PROJECTS FOR ASSISTANCE IN TRANSITION FROM HOMELESSNESS.

(a) PURPOSE OF GRANTS.—Section 522(b) of the Public Health Service Act (42 U.S.C. 290cc–22(b)) is amended—

(1) in paragraph (10)—

(A) in subparagraph (F), by striking ''and'' at the end thereof; and

(B) by adding at the end thereof the following new subparagraph:

''(H) providing ongoing assistance for rental payments and the costs of living in such settings when such housing is considered to be integral for the treatment of mentally ill homeless individuals committed to treatment in outpatient settings; and'';

(2) by redesignating paragraph (11) as paragraph (12); and

(3) by inserting after paragraph (10), the following new paragraph:

''(11) education of the judiciary regarding the manifestations of mental illness which are indications for committing the mentally ill homeless to inpatient or outpatient treatment in accordance with existing State commitment statutes for the mentally ill; and''.

(b) INCENTIVE GRANTS.—Part C of title V of the Public Health Service Act (42 U.S.C. 290cc–21 et seq.) is amended—

(1) by inserting after the part heading the following:

''SUBPART I—FORMULA GRANTS FOR MEDICAL AND SUPPORTIVE SERVICES FOR THE MENTALLY ILL HOMELESS''; and

(2) by inserting after section 529 (42 U.S.C. 290cc–29) the following:

SUBPART II—INCENTIVE GRANTS FOR STATE TO IMPROVE THEIR OUTPATIENT COMMITMENT TREATMENT SYSTEMS AND COMMITMENT LAWS

''SEC. 529A. INCENTIVE GRANTS FOR STATE TO IMPROVE THEIR OUTPATIENT COMMITMENT TREATMENT SYSTEMS AND COMMITMENT LAWS.

''(a) IN GENERAL.—Beginning in fiscal year 1998, the Secretary may make a grant to or enter into a contract with a State or territory under this section for the purpose of providing the services described in subsection (b) to individuals who—

''(1) are suffering from serious mental illness; and

''(2) have been committed to outpatient treatment in accordance with State or territory commitment laws for the mentally ill because such individuals have been found to be gravely disabled as a result of their mental illness.

''(b) SPECIFICATION OF SERVICES.—The services described in this subsection are—

''(1) mental health services in outpatient settings;

''(2) outreach services; and

''(3) case management to assure that individuals remain in treatment and to assist individuals with supportive and supervisory residential settings.

''(c) APPLICATION.—To be eligible to receive a grant or contract under this section, a State or territory shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

''(1) an agreement that the State or territory will ensure that payments under the grant will be expended by the State or territory or through grants made by the State or territory to political subdivisions of the State or territory and to nonprofit private entities;

''(2) a description of the performance objectives that the project to be funded under the grant will be measured against, and that a recipient of the grant under this section shall meet; and

''(3) an assurance that the State or territory will meet information requirements as specified by the Secretary.

''(d) SPECIAL RULE.—

''(1) IN GENERAL.—The Secretary may not award a grant or contract to a State or territory under this subpart unless the State or territory involved has in effect on the date of the award a law—

''(A) which provides for the commitment of the gravely disabled; and

''(B) that provides for intensive case management to monitor compliance and reconnect the gravely disabled to treatment services, a court hearing prior to a gravely disabled individual being re-committed to an inpatient or outpatient setting, or the involvement of outpatient mental health care providers in the initial treatment planning as well as the monitoring and case management aspects of follow-up care for the gravely disabled individual.

''(2) DEFINITION.—For the purpose of this section, the term 'gravely disabled' means an individual who, as a result of mental illness, fails to meet his or her essential needs including the need for food, clothing, shelter or medical care, to the degree that such individual poses a real, present and substantial threat of serious physical harm to self, except that the failure of an individual to meet essential needs shall not, in and of itself, be sufficient grounds to establish that such person is mentally ill.

''(e) ADMINISTRATIVE EXPENSES.—The Secretary may not award a grant or contract to a State or territory under this section unless the State or territory involved agrees that not more than 4 percent of the amounts received under the award will be expended for administrative expenses regarding the amounts.

''(f) MAINTENANCE REQUIREMENTS.—

''(1) MAINTENANCE OF EFFORT.—The Secretary may not award a grant or contract to a State or territory under this section unless the State involved agrees that the State or territory will maintain State or territory expenditures for services described in subsection (b) at a level that is not less than the average level of such expenditures maintained by the State or territory for the 2-year period preceding the fiscal year for which the State or territory is applying to receive such an award.

''(2) MATCHING FUNDS.—The Secretary may require that a State or territory that applies for a grant or contract under this section provide non-Federal matching funds, as appropriate, to ensure the State or territory commitment to the programs funded under this section. Such non-Federal matching funds may be provided directly or through donations from public or private entities and may be in cash or in-kind, fairly evaluated, including plant, equipment, or services.

''(g) GENERALLY APPLICABLE PROVISIONS.—

''(1) COMPETITIVE BASIS.—The Secretary shall ensure that grants and contract are awarded under this section on a competitive basis, as appropriate, to States or territories that demonstrate a potential to retain, or a history of retaining, the gravely disabled mentally ill who have been committed to outpatient treatment in outpatient treatment in accordance with court ordered treatment plans.

''(2) TERMS.—The period under which payments are made under a grant or contract under this section may not exceed 5 years. Such payments shall be subject to annual approval by the Secretary and subject to the availability of appropriations for the fiscal year involved. Nothing in this paragraph shall be construed as limiting the number of awards that may be made to a State or territory under this section.

''(3) PEER REVIEW.—An application received by the Secretary under this section shall be submitted to a peer review group for an evaluation of the merits of the proposals made in the application. The Secretary may not approve such an application unless a peer review group has recommended the application for approval.

''SUBPART III—GENERALLY APPLICABLE PROVISIONS''.

(c) FUNDING.—Section 535(a) of the Public Health Service Act (42 U.S.C. 290cc–35(a)) is amended—

(1) by striking ''this part'' and inserting ''section 521''; and

(2) by striking ''$75,000,000'' and all that follows through the period and inserting ''$29,000,000 for each of the fiscal years 1996 and 1997, and $50,000,000 for each of the fiscal years 1998 and 1999. With respect to amounts appropriated under this subsection for fiscal year 1998, the Secretary shall allocate such amounts between subparts I and II based on the ratio of the amounts allocated under section 521 and under sections 520A(e) and 506(e) for the program known as the 'Access to Community Care and Effective Services and Supports' (ACCESS) program for fiscal year 1997.''.

(d) REPEAL.—Effective on October 1, 1997—

(1) section 506 (42 U.S.C. 290aa–5) is repealed; and

(2) the Secretary shall not allocate funds under section 520A (as amended by section 108) (42 U.S.C. 290bb–32) or under any other authority for the program known as the ''Access to Community Care and Effective Services and Supports'' (ACCESS) program.

SEC. 108. PRIORITY MENTAL HEALTH NEEDS OF REGIONAL AND NATIONAL SIGNIFICANCE.

Section 520A (42 U.S.C. 290bb–32) is amended to read as follows:

''SEC. 520A. PRIORITY MENTAL HEALTH NEEDS OF REGIONAL AND NATIONAL SIGNIFICANCE.

''(a) GRANTS.—The Secretary shall address priority mental health needs of regional and national significance through—

''(1) the provision of—

''(A) training; or

''(B) demonstration projects for prevention, treatment, and rehabilitation; and

''(2) the conduct or support of evaluations of such demonstration projects.

In carrying out this section, the Secretary may make grants to, or enter into cooperative agreements with, States, political subdivisions of States, Indian Tribes and tribal organizations, and public or private nonprofit entities.

''(b) PRIORITY MENTAL HEALTH NEEDS.—Priority mental health needs of regional and national significance shall include child mental health services, and may include managed care, systems and partnerships, client-oriented and consumer-run self-help services, training, and other priority populations and conditions as determined appropriate by the Secretary.

''(c) REQUIREMENTS.—

''(1) IN GENERAL.—Recipients of grants, cooperative agreements, and contracts under this section shall comply with information and application requirements determined appropriate by the Secretary.

''(2) PAYMENTS.—With respect to a grant, cooperative agreement, or contract awarded under this section, the period during which payments under such award are made to the recipient may not exceed 5 years. The provision of such payments shall be subject to annual approval by the Secretary and the availability of appropriations for the fiscal year involved. This paragraph may not be construed as limiting the number of awards under the program involved that may be made to an entity.

''(3) MATCHING FUNDS.—The Secretary may require that an entity that applies for a grant, contract, or cooperative agreement under this section provide non-Federal matching funds, as determined appropriate by the Secretary, to ensure the institutional commitment of the entity to the projects funded under the grant, contract, or cooperative agreement. Such non-Federal matching funds may be provided directly or through donations from public or private entities and may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

''(4) MAINTENANCE OF EFFORT.—With respect to activities for which a grant, cooperative agreement, or contract is awarded under this section, the Secretary may require that the recipient agree to maintain expenditures of non-Federal amounts for such activities at a level that is not less than the level of such expenditures maintained by the entity for such fiscal year preceding the fiscal year for which the entity receives such a grant, contract, or cooperative agreement.

''(5) APPLICATION AND FUNDING AGREEMENTS.—

''(A) APPLICATION.—An application for a grant, contract, or cooperative agreement under this section shall ensure that amounts received under such grant, contract, or agreement will not be expended—

''(i) to provide inpatient services;

''(ii) to make cash payments to intended recipients of services;

''(iii) to purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment; or

''(iv) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

''(B) FUNDING AGREEMENT.—A funding agreement for a grant, contract, or cooperative agreement under this section is that the entity involved will not expend more than 10 percent of the grant, contract, or agreement for administrative expenses with respect to the grant, contract, or agreement.

''(d) REDUCTION IN PAYMENTS.—The Secretary, at the request of a State or a political subdivision of a State, or a public or private nonprofit entity, may reduce the amount of payments under this section by—

''(1) the fair market value of any supplies or equipment furnished the State, political subdivision of the State, or a public of private nonprofit entity; and

''(2) the amount of the pay, allowances, and travel expenses of any officer, fellow, or employee of the Government when detailed to the State, a political subdivision of the State, or a public or private non-profit entity, and the amount of any other costs incurred in connection with the detail of such officer, fellow, or employee;

when the furnishing of such officer, fellow, or employee is for the convenience of and at the request of the State, political subdivision of the State, or public or private nonprofit entity and for the purpose of conducting activities described in this section. The amount by which any payment is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which the reduction of the payment is based, and the amount shall be deemed to have been paid to the State, political subdivision of the State, or public or private non-profit entity.

''(e) EVALUATION.—The Secretary shall evaluate each project carried out under section (a)(1)(B) and shall disseminate the findings with respect to each such evaluation to appropriate public and private entities.

''(f) INFORMATION AND EDUCATION.—

''(1) IN GENERAL.—The Secretary shall establish information and education programs to disseminate the findings of the demonstration and training programs under this section to the general public and to health professionals.

''(2) DISSEMINATION.—The Secretary shall take such action as may be necessary to insure that all methods of dissemination and exchange of information are maintained between the Substance Abuse and Mental Health Services Administration and the public, and such Administration and other scientific organizations, both nationally and internationally.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $50,000,000 for each of the fiscal years 1996 and 1997, $30,000,000 for fiscal year 1998, and such sums as may be necessary for fiscal year 1999.''.

SEC. 109. REPEALS.

(a) IN GENERAL.—The following provisions of the Public Health Service Act are repealed:

(1) Subsections (a), (c), and (d) of section 303 (42 U.S.C. 242a(a), (c), and (d)) relating to clinical training and AIDS training.

(2) Section 520B (42 U.S.C. 290bb–33) relating to AIDS demonstrations.

(3) Section 612 of the Stewart B. McKinney Homeless Assistance Act.

(b) CONFORMING AMENDMENT.—Section 303 (42 U.S.C. 242a) as amended by subsection (a)(1), is further amended by striking the remaining subsection designation.

SEC. 110. COMPREHENSIVE COMMUNITY SERVICES FOR CHILDREN WITH A SERIOUS EMOTIONAL DISTURBANCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 565(f)(1) (42 U.S.C. 290ff–4(f)(1)) is amended—

(1) by striking ''and'' after ''1993''; and

(2) by inserting before the period the following: '', $60,000,000 for fiscal year 1996, and such sums as may be necessary for each of the 3 succeeding fiscal years''.

(b) FLEXIBILITY FOR INDIAN TRIBES AND TERRITORIES.—Section 562(c) (42 U.S.C. 290ff–1(c)) is amended by adding at the end the following new flush sentence:

''The Secretary may waive one or more of the requirements of the preceding sentence (for a public entity that is an Indian Tribe or tribal organization, or American Samoa, Guam, the Marshall Islands, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, or the United States Virgin Islands) if the Secretary determines, after peer review, that the system of care is family-centered and uses the least restrictive environment that is clinically appropriate.''.

TITLE II—SUBSTANCE ABUSE

SEC. 201. REPLACEMENT OF STATE PLAN PROGRAM WITH PERFORMANCE PARTNERSHIPS.

(a) REPEALS.—Section 1921 (42 U.S.C. 300x–21) is repealed.

(b) PERFORMANCE PARTNERSHIP FRAMEWORK.—Subpart II of part B of title XIX (42 U.S.C. 300x–21 et seq.) (as amended by subsection (a)) is further amended by inserting after the subpart heading the following new sections:

''SEC. 1921. PERFORMANCE PARTNERSHIP GOALS AND OBJECTIVES.

''(a) GOALS.—It is the goal of this subpart for the States and the Federal Government, working together in a partnership—

''(1) to reduce the incidence and prevalence of substance abuse and dependence;

''(2) to improve access to appropriate prevention and treatment programs for targeted populations;

''(3) to enhance the effectiveness of substance abuse prevention and treatment programs; and

''(4) to reduce the personal and community risks for substance abuse.

''(b) PERFORMANCE PARTNERSHIP OBJECTIVES.—

''(1) ESTABLISHMENT.—Not later than October 1 of the fiscal year prior to the fiscal year in which this section becomes effective as provided for in section 601(c) of the SAMHSA Reauthorization, Flexibility Enhancement, and Consolidation Act of 1995, the Secretary, in consultation with the States, local governments, Indian tribes, providers, and consumers, and in accordance with paragraph (4), shall establish, and as necessary, periodically revise—

''(A) a list of performance partnership objectives to carry out the goals of this subpart; and

''(B) a core set of not more than five of such objectives that address substance abuse problems of national significance.

''(2) REQUIREMENTS.—Each performance partnership objective established under paragraph (1) shall include—

''(A) a performance indicator;

''(B) the specific population being addressed;

''(C) a performance target; and

''(D) a date by which the target level is to be achieved.

''(3) PRINCIPLES.—In establishing the performance partnership objectives under paragraph (1), the Secretary shall be guided by the following principles:

''(A) The objectives should be closely related to the goals of this subpart, and be viewed as important by and understandable to State policymakers and the general public.

''(B) Objectives should be results-oriented, including a suitable mix of outcome, process and capacity measures.

''(C) In the case of an objective that has suitable outcome measures, measurable progress in achieving the objective should be expected over the period of the grant.

''(D) In the case of an objective that has suitable process or capacity measures, such objective should be demonstrably linked to the achievement of, or demonstrate a potential to achieve, a substance abuse treatment outcome.

''(E) Data to track the objective should, to the extent practicable, be comparable for all grant recipients, meet reasonable statistical standards for quality, and be available in a timely fashion, at appropriate periodicity, and at reasonable cost.

''SEC. 1921A. STATE PERFORMANCE PARTNERSHIP PROPOSAL.

''(a) IN GENERAL.—To be eligible to receive a grant under this subpart, a State shall, in accordance with this section, prepare and submit to the Secretary a performance partnership proposal in accordance with the provisions of this subpart .

''(b) ELEMENTS RELATED TO PERFORMANCE OBJECTIVES.—A State proposal submitted under subsection (a) shall contain—

''(1) a list of one or more objectives (derived from the performance partnership objectives specified under section 1921(b)) toward which the State will work and a performance target for each objective which the State will seek to achieve by the end of the partnership period;

''(2) a rationale for the State's selection of objectives, including any performance targets, and timeframes;

''(3) a statement of the State's strategies for achieving the objectives over the course of the grant period and evidence that the actions taken under a partnership agreement will have an impact on the objective;

''(4) a statement of the amount to be expended to carry out each strategy; and

''(5) an assurance that the State will report annually on all core performance objectives established under section 1921(b)(1)(B) (regardless of whether it is working toward those objectives) and the specific objectives toward which the State will work under the performance partnership.

A State may select an objective that is not an established performance partnership objective under section 1921 if the State demonstrates to the Secretary that the objective relates to a significant health problem related to substance abuse in the State that would not otherwise be addressed appropriately. The Secretary may require that objectives developed by the State under this subsection be consistent with the requirements of paragraphs (2) and (3) of section 1921(b).

''(c) TRANSITION PROVISION.—A State may select objectives under this section which solely have process or capacity measures until such time as data sets are determined by the Secretary to be readily available, sufficient, and relevant under section 601(a) of the SAMHSA Reauthorization, Flexibility Enhancement, and Consolidation Act of 1995, to make outcome measurements for objectives developed by the Secretary.

''SEC. 1921B. FEDERAL-STATE PERFORMANCE PARTNERSHIP.

''(a) NEGOTIATIONS CONCERNING STATE PROPOSAL.—

''(1) REASONABLE EFFORTS TO AGREE.—A State submitting a proposal under section 1921A and the Secretary shall make all reasonable efforts to agree on a performance partnership pursuant to which the State shall expend amounts received under a grant provided under this subpart.

''(2) DUTIES OF SECRETARY.—In negotiations conducted under paragraph (1) concerning the proposal of a State, the Secretary shall consider the extent to which the proposed objectives, performance targets, timeframes, and strategies of the State are likely to address appropriately the most significant health problems associated with substance abuse (as measured by applicable indicators) within the State, including the health problems associated with substance abuse of vulnerable populations (such as pregnant women, women with dependent children, and crack-cocaine and injecting drug users).

''(b) PARTNERSHIP PERIOD.—The Secretary, in consultation with a State receiving a grant under this subpart, shall set the duration of the partnership with the State. Initial and subsequent partnership periods shall not be less than 3 nor more than 5 years, except that the Secretary may agree to a partnership period of less than 3 years where a State demonstrates to the satisfaction of the Secretary that such shorter period is appropriate in light of the particular circumstances of that State.

''(c) ASSESSMENT AND ADJUSTMENT.—

''(1) ASSESSMENTS.—The Secretary shall annually assess—

''(A) the progress achieved nationally toward each of the core objectives established under section 1921(b)(1)(B); and

''(B) in consultation with each State, the progress of the State toward each objective agreed upon in the performance partnership under subsection (a);

and make such assessment publicly available

''(2) STATE ASSESSMENTS.—In carrying out paragraph (1)(B), the Secretary shall take into consideration such qualitative assessments of performance as may be provided by each State pursuant to section 1942(a)(3).

''(3) ADJUSTMENTS.—With respect to a performance partnership under subsection (a),

the Secretary and the State may at any time in the course of the partnership period renegotiate, and revise by mutual agreement, the elements of the partnership to account for new information or changed circumstances (including information or changes identified during assessments under paragraph (1)).

''(d) GRANTS TO STATES; USE OF FUNDS.—

''(1) GRANTS.—The Secretary shall award a grant to each State that—

''(A) has reached a performance partnership agreement with the Secretary under subsection (a); and

''(B) is carrying out activities in accordance with the terms of such partnership;

in an amount that is equal to the allotment of the State under section 1933. Grants shall be awarded for each fiscal year for which the partnership is in effect.

''(2) USE OF FUNDS.—Funds paid to a State under a grant described in paragraph (1) may be used by the State only for the purpose of carrying out this subpart (including related data collection, evaluation, planning, administration, and educational activities).''.

(c) ADDITIONAL GENERAL PROVISIONS CONCERNING PARTNERSHIPS.—Section 1932 (42 U.S.C. 300x–32) is amended—

(1) by striking the section heading;

(2) by striking ''application'' each place that such term appears and inserting ''proposal'';

(3) in subsection (a)—

(A) in the subsection heading, by striking ''(a) IN GENERAL.—'' and all that follows through paragraph (1) and inserting ''(c) ADDITIONAL ELEMENTS.—A State proposal is in accordance with this subsection if—'';

(B) in paragraph (3), by inserting ''proposed performance partnership and'' before ''agreements'';

(C) by striking paragraphs (5) and (6)

(D) in paragraph (7), by striking ''including the plan under section paragraph (6)'';

(E) by redesignating paragraphs (2) through (4), and paragraph (7) as paragraphs (1) through (4), respectively; and

(F) by transferring such subsection to section 1921A (as added by subsection (b)) and inserting such subsection at the end of such section; and

(4) in subsection (c)—

(A) by transferring such subsection to section 1921B (as added by subsection (b));

(B) by inserting such subsection at the end of such section 1921B; and

(C) by redesignating such subsection as subsection (h); and

(5) by striking subsections (b) and (d).

(d) DEFINITIONS.—Section 1934 (42 U.S.C. 300x–34) is amended—

(1) by redesignating paragraphs (3) through (7) as paragraphs (5) through (9), respectively; and

(2) by inserting after paragraph (2), the following new paragraphs:

''(3) The term 'performance indicator' means a quantifiable characteristic used as a measurement.

''(4) The term 'performance target' means a numerical value sought to be achieved within a specified period of time.''.

(e) CONFORMING AMENDMENTS.—Title XIX is amended—

(1) in the heading of subpart II of part B (42 U.S.C. 300x–21 et seq) by striking ''**Block**'' and inserting ''**Performance Partnership**'';

(2) in subpart II of part B (42 U.S.C. 300x–21 et seq.), by striking''section 1921'' each place that such appears and inserting ''this subpart'';

(3) in section 1933(a)(1)(A)) 42 U.S.C. 300x–33(a)(1)(A)), by inserting ''(as in effect on January l, 1995)'' after ''section 1918(a)''; and

(4) in subpart III of part B (42 U.S.C. 300x–51 et seq.), by striking''section 1921'' each place that such appears and inserting ''subpart II''.

SEC. 202. ALLOCATIONS REGARDING PRIMARY PREVENTION AND WOMENS PROGRAMS.

Section 1922 (42 U.S.C. 300x–22) is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively; and

(3) in subsection (b) (as so redesignated)—

(A) by striking paragraph (1) and inserting the following new paragraph:

''(1) IN GENERAL.—A a funding agreement for a grant under section 1921 for a fiscal year is that in the case of a grant for fiscal year 1996, or a subsequent fiscal year, the State will expend not less than an amount equal to the amount expended by the State for fiscal year 1995 to increase the availability of treatment services designed for pregnant women and women with dependent children (either by establishing new programs or expanding the capacity of existing programs).''; and

(B) by adding at the end thereof the following new paragraph:

''(4) INSUFFICIENT AMOUNTS.—If the Secretary determines that, as a result of a reduction in the amount of Federal funds provided to State under this subpart, a State will be unable to meet the requirement of paragraph (1), the Secretary shall permit the State to prorate amounts provided under such paragraph based on the amount provided to the State under this subpart in fiscal year 1995.''.

SEC. 203. TUBERCULOSIS AND HIV.

(a) TUBERCULOSIS.—Section 1924(a) (42 U.S.C. 300x–24(a)) is amended—

(1) in paragraph (1), to read as follows:

''(1) IN GENERAL.—A funding agreement for a grant under section 1921 is that the State involved will—

''(A)(i) directly or through arrangements with other public or nonprofit private entities, ensure that activities are routinely carried out under subparagraphs (A) and (B) of paragraph (2); and

''(ii) ensure that arrangements are made with other public or nonprofit private entities to make available tuberculosis services, including services under subparagraphs (C) and (D) of paragraph (2), to each individual receiving treatment for substance abuse under this subpart; and

''(B) require that any entity receiving amounts from the grant for operating a program of treatment for substance abuse, in the case of an individual in need of such treatment who is denied admission to the program on the basis of the lack of the capacity of the program to admit the individual, will refer the individual to another provider of tuberculosis services.

Nothing in subparagraph (A)(ii) shall be construed to require that the State expend funds under this Act to make available such services.'';

(2) in paragraph (2)—

(A) by redesignating subparagraph (C) as subparagraph (D); and

(B) in subparagraph (B), to read as follows:

''(B) tuberculosis testing, based on the risk assessment conducted by the State, to determine whether the individual has contracted such disease, such testing to be based on usual standards as determined to be appropriate by the State health director in cooperation with State and local health agencies for tuberculosis and with other relevant private nonprofit entities;

''(C) testing to determine the form of treatment for the disease that is appropriate for the individual; and''; and

(3) by adding at the end thereof the following new paragraph:

''(3) COUNSELING.—For purposes of paragraph (2), the term 'counseling' with respect to an individual means—

''(A) the provision of information to individuals or communities about risk factors for tuberculosis; and

''(B) conducting tuberculosis risk assessments to determine if tuberculosis testing is required.''.

(b) HIV.—Section 1924(b) (42 U.S.C. 300x–24(b)) is amended—

(1) in paragraph (1)(A), insert ''routinely'' after ''projects to'';

(2) in paragraph (2), by striking ''10'' and inserting ''15''; and

(3) in paragraph (7)(B)(ii), by inserting before the semicolon the following: '', such testing to be based on usual standards as determined to be appropriate by the State health director in cooperation with State and local health agencies for HIV and with other relevant private nonprofit entities; and'';

(c) EXPENDITURE.—Section 1924(c) (42 U.S.C. 300x–24(c)) is amended—

(1) in the subsection heading, by striking ''AGREEMENTS'' and inserting ''PARTNERSHIPS''; and

(2) in paragraph (1), by striking ''agreements'' and inserting ''partnerships''.

(d) PAYOR OF LAST RESORT.—Section 1924 (42 U.S.C. 300x–24) is amended by adding at the end thereof the following new subsection:

''(f) PAYOR OF LAST RESORT.—Amounts made available under this section may only be used as a payment of last resort for tuberculosis and may not be used for the medical evaluation and treatment of such disease.''.

SEC. 204. GROUP HOMES FOR RECOVERING SUBSTANCE ABUSERS.

(a) IN GENERAL.—Section 1925 (42 U.S.C. 300x–25) is amended—

(1) in subsection (a), by striking ''For fiscal year 1993'' and all that follows through the colon and inserting ''Except as provided in subsection (d), for each of the fiscal years 1996 through 1999, the Secretary may make a grant under section 1921 only if the State involved has established and is providing for the ongoing operation of a revolving fund as follows:''; and

(2) by adding at the end thereof the following new subsection:

''(d) NONAPPLICATION OF SECTION.—

''(1) IN GENERAL.—The requirements of this section shall not apply to a State that is not, as of the date of enactment of this subsection, utilizing a revolving fund under this section. Such a State shall not be required to maintain such a fund after such date of enactment.

''(2) USE OF FUNDS.—A State described in paragraph (1), may use amounts set aside under this section, or amounts remaining in the revolving fund, to provide other services under this part.''.

(b) REPEAL.—Section 1925 (42 U.S.C. 300x–25) shall be repealed effective on September 30, 1998.

SEC. 205. STATE SUBSTANCE ABUSE PREVENTION AND TREATMENT PLANNING COUNCIL.

Subpart II of part B of title XIX is amended by inserting after section 1927 (42 U.S.C. 300x–27) the following new section:

''SEC. 1927A. STATE SUBSTANCE ABUSE PREVENTION AND TREATMENT PLANNING COUNCIL.

''(a) IN GENERAL.—A funding agreement for a grant under this subpart is that the State involved will establish and maintain a State substance abuse prevention and treatment planning council in accordance with the conditions described in this section.

''(b) DUTIES.—A condition under subsection (a) for a council is that the duties of the council are—

''(1) to review performance partnerships and related reports provided to the council

by the State involved and to submit to the State any recommendations of the council for modifications;

''(2) to serve as an advocate for individuals suffering from substance abuse; and

''(3) to monitor, review, and evaluate, not less than once each year, the allocation and adequacy of substance abuse prevention and treatment services within the State.

''(c) MEMBERSHIP.—

''(1) IN GENERAL.—A condition under subsection (a) for a council is that the council be composed of residents of the State, including representatives of—

''(A) the principal State agencies with respect to—

''(i) substance abuse prevention and treatment, education, vocational rehabilitation, criminal justice, housing, and social services; and

''(ii) the development of the plan submitted pursuant to title XIX of the Social Security Act;

''(B) public and private entities concerned with the need, planning, operation, funding, and use of substance abuse prevention and treatment services and related support services;

''(C) individuals who are receiving (or have received) substance abuse prevention or treatment services; and

''(D) the families of such individuals.

''(2) LIMITATION ON STATE EMPLOYEES AND PROVIDERS.—A condition under subsection (a) for a council is that not less that 50 percent of the members of the council are individuals who are not State employees or providers of substance abuse prevention or treatment services.

''(d) REVIEW OF STATE PERFORMANCE PARTNERSHIP BY PLANNING COUNCIL.—The Secretary may make a grant under this subpart only if—

''(1) the performance partnership submitted under this subpart with respect to the grant (and the State's report under section 1942(a) concerning the preceding fiscal year) has been reviewed by the council; and

''(2) the State submits to the Secretary any recommendations received by the State from the council for modifications to the performance partnership (without regard to whether the State has made the recommended modifications).

''(e) WAIVERS.—In the case of a State that has other existing processes for complying with the duties required under subsection (b), the Secretary, upon the request of the State, may waive the requirements of such subsection. Such waiver shall be deemed to be granted if the Secretary fails to act within 90 days of the date of the submission of such a request.''.

SEC. 206. ADDITIONAL AGREEMENTS.

Section 1928 (42 U.S.C. 300x–28) is amended—

(1) by striking subsections (a) and (d); and

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

SEC. 207. STATE OPPORTUNITY TO CORRECT OR MITIGATE FAILURE TO MAINTAIN EFFORT.

Section 1930(c)(1) (42 U.S.C. 300x–30(c)(1)) is amended by striking the second sentence and inserting the following new sentences: ''If the Secretary determines that a State has failed to maintain such compliance, the Secretary may permit the State, not later than 1 year after notification, to correct or mitigate the noncompliance. If the State does not carry out a correction or mitigation as specified by the Secretary (or if the Secretary decided it was not appropriate to provide that opportunity), the Secretary shall reduce the amount of the grant under this subpart for the State for the current fiscal year by an amount equal to the amount constituting such failure.''.

SEC. 208. FUNDING FOR ORGANIZATIONS THAT ARE FOR-PROFIT.

Section 1931(a) (42 U.S.C. 300x–31(a)) is amended—

(1) in paragraph (1)(E), by inserting before the semicolon the following: '', unless the State determines that it is appropriate and beneficial for a for-profit private entity to receive assistance to facilitate the integration of the State Medicaid program or substance abuse managed care programs under title XIX of the Social Security Act)''; and

(2) by adding at the end thereof the following new paragraph:

''(4) FOR-PROFIT RESTRICTIONS.—For purposes of providing assistance to a for-profit entity under paragraph (1)(E), the State shall ensure that—

''(A) such an entity is certified or licensed by the State;

''(B) all profits earned by such entity as a result of assistance provided under this subpart are redistributed by the entity to the community served by the entity for the provision of treatment or prevention services; and

''(C) in the case of an entity that is a private for-profit entity, such entity is the only available provider of substance abuse treatment in the area served.''.

SEC. 209. AUTHORIZATION OF APPROPRIATIONS.

Section 1935(a) (42 U.S.C. 300x–35(a)) is amended by striking ''$1,500,000,000'' and all that follows through the end thereof and inserting ''$1,300,000,000 for fiscal year 1996, and such sums as may be necessary for each of the fiscal years 1997 through 1999.''.

SEC. 210. DATA COLLECTION, TECHNICAL ASSISTANCE, AND EVALUATIONS.

Section 1935(b) (42 U.S.C. 300x–35(b)) is amended to read as follows:

''(b) RESERVED FUNDS.—

''(1) IN GENERAL.—The Secretary shall reserve 5 percent of the amounts appropriated for a fiscal year under subsection (a)—

''(A) to carry out sections 505 (providing for data collection) and 1948(a) (providing for technical assistance to States) with respect to substance abuse;

''(B) to carry out section 515(d) (providing for a performance substance abuse data base); and

''(C) to conduct evaluations concerning programs supported under this subpart.

The Secretary may carry out activities funded pursuant to this paragraph directly, or through grants, contracts, or cooperative agreements.

''(2) DATA COLLECTION INFRASTRUCTURE.—In carrying out this subsection, the Secretary shall make available grants and contracts to States for the development and strengthening of State core capacity (including infrastructure) for data collection and evaluation.

''(3) PREVENTION.—Of the amounts reserved under paragraph (1) for a fiscal year, the Secretary shall ensure that 20 percent of such amounts shall be used for activities related to prevention.''.

SEC. 211. PRIORITY SUBSTANCE ABUSE PREVENTION AND TREATMENT NEEDS OF REGIONAL AND NATIONAL SIGNIFICANCE.

Section 510 (42 U.S.C. 290bb–3) is amended to read as follows:

''SEC. 510. PRIORITY SUBSTANCE ABUSE PREVENTION AND TREATMENT NEEDS OF REGIONAL AND NATIONAL SIGNIFICANCE.

''(a) GRANTS.—The Secretary shall address the substance abuse health needs of regional and national significance through—

''(1) the provision of

''(A) training; or

''(B) demonstration projects for prevention and treatment; and

''(2) the conduct or support of evaluations of such demonstration projects.

In carrying out this section, the Secretary may make grants to, or enter into cooperative agreements with, States, political subdivisions of States, Indian Tribes and tribal organizations, and public or private nonprofit entities.

''(b) SUBSTANCE ABUSE HEALTH NEEDS.—Substance abuse health needs of regional and national significance shall include prevention activities and may include managed care, systems and partnerships, client-oriented services, and other priority populations (including pregnant substance abusers, women with dependent children, and crack cocaine and injecting drug users) and conditions as determined appropriate by the Secretary.

''(c) REQUIREMENTS.—

''(1) IN GENERAL.—Recipients of grants, cooperative agreements, and contracts under this section shall comply with information and application requirements determined appropriate by the Secretary.

''(2) PAYMENTS.—With respect to a grant, cooperative agreement, or contract awarded under this section, the period during which payments under such award are made to the recipient may not exceed 5 years. The provision of such payments shall be subject to annual approval by the Secretary and the availability of appropriations for the fiscal year involved. This paragraph may not be construed as limiting the number of awards under the program involved that may be made to an entity.

''(3) MATCHING FUNDS.—The Secretary may require that an entity that applies for a grant, contract, or cooperative agreement under this section provide non-Federal matching funds, as determined appropriate by the Secretary, to ensure the institutional commitment of the entity to the projects funded under the grant, contract, or cooperative agreement. Such non-Federal matching funds may be provided directly or through donations from public or private entities and may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

''(4) MAINTENANCE OF EFFORT.—With respect to activities for which a grant, cooperative agreement, or contract is awarded under this section, the Secretary may require the recipient to agree to maintain expenditures of non-Federal amounts for such activities at a level that is not less than the level of such expenditures maintained by the entity for such fiscal year preceding the fiscal year for which the entity receives such a grant, contract, or cooperative agreement.

''(5) APPLICATION AND FUNDING AGREEMENTS.—

''(A) APPLICATION.—An application for a grant, contract, or cooperative agreement under this section shall ensure that amounts received under such grant, contract, or agreement will not be expended—

''(i) to provide inpatient services;

''(ii) to make cash payments to intended recipients of services;

''(iii) to purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment; or

''(iv) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

''(B) FUNDING AGREEMENT.—A funding agreement for a grant, contract, or cooperative agreement under this section is that the entity involved will not expend more than 10 percent of the grant, contract, or agreement for administrative expenses with respect to the grant, contract, or agreement.

''(d) REDUCTION IN PAYMENTS.—The Secretary, at the request of a State or a political subdivision of a State, or a public or private nonprofit entity, may reduce the amount of payments under this section by—

''(1) the fair market value of any supplies or equipment furnished the State, political subdivision of the State, or a public of private nonprofit entity; and

''(2) the amount of the pay, allowances, and travel expenses of any officer, fellow, or employee of the Government when detailed to the State, a political subdivision of the State, or a public or private non-profit entity, and the amount of any other costs incurred in connection with the detail of such officer, fellow, or employee;

when the furnishing of such officer, fellow, or employee is for the convenience of and at the request of the State, political subdivision of the State, or public or private nonprofit entity and for the purpose of conducting activities described in this section. The amount by which any payment is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which the reduction of the payment is based, and the amount shall be deemed to have been paid to the State, political subdivision of the State, or public or private non-profit entity.

''(e) EVALUATION.—The Secretary shall evaluate each project carried out under section (a)(1)(B) and shall disseminate the findings with respect to each such evaluation to appropriate public and private entities.

''(f) INFORMATION AND EDUCATION.—

''(1) IN GENERAL.—The Secretary shall establish information and education programs to disseminate the findings of the research, demonstration, and training programs under this section to the general public and to health professionals.

''(2) DISSEMINATION.—The Secretary shall take such action as may be necessary to insure that all methods of dissemination and exchange of information are maintained between the Substance Abuse and Mental Health Services Administration and the public, and the Administration and other scientific organizations, both nationally and internationally.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $352,000,000 for fiscal year 1996, and such sums as may be necessary for each of the fiscal years 1997 through 1999.''.

SEC. 212. REPEALS.

The following provisions of the Public Health Service Act are repealed:

(1) Section 508 (42 U.S.C. 290bb–1) relating to residential treatment programs for pregnant women.

(2) Section 509 (42 U.S.C. 290bb–2) relating to outpatient treatment programs for pregnant and postpartum women.

(3) Section 511 (42 U.S.C. 290bb–4) relating to substance abuse treatment in State and local criminal justice systems.

(4) Section 512 (42 U.S.C. 290bb–5) relating to training in the provision of treatment services.

(5) Paragraph (5) of section 515(b) (42 U.S.C. 290bb–21(b)(5)) relating to the activities of the Office of Substance Abuse Prevention. Paragraphs (6) through (10) of such section shall be redesignated as paragraphs (5) through (9), respectively.

(6) Section 516 (42 U.S.C. 290bb–22) relating to community prevention programs.

(7) Section 517 (42 U.S.C. 290bb–23) relating to high risk youth demonstrations.

(8) Section 518 (42 U.S.C. 290bb–24) relating to employee assistance programs.

(9) Section 571 (42 U.S.C. 290gg) relating to the National Capital Area Demonstration Program.

(10) Section 1943(a)(1) (42 U.S.C. 300x–53(a)(1)) relating to peer review.

(11) Section 1971 (42 U.S.C. 300y) relating to categorical grants to States.

TITLE III—GENERAL PROVISIONS

SEC. 301. REPORTING BY STATES ON PERFORMANCE.

Section 1942(a) (42 U.S.C. 300x–52(a)) is amended—

(1) in paragraph (1), by striking ''and'' at the end thereof;

(2) in paragraph (2), by striking the period and inserting ''; and''; and

(3) by adding at the end thereof the following:

''(3) the performance of the State in relation to the objectives specified or agreed upon under sections 1912(b)(5) or section 1921A(b)(5), as applicable.''.

SEC. 302. ON SITE PERFORMANCE REVIEWS.

Section 1945(g)(1) (42 U.S.C. 300x–55(g)(1)) is amended by striking ''in fiscal year 1994'' and all that follows through the end thereof and inserting '', not more frequently than once every 3 nor less frequently than once every 5 years, conduct an on-site performance review of a State's activities supported under this part.''.

SEC. 303. ADDITIONAL YEAR FOR OBLIGATION BY STATE.

Section 1952(a) (42 U.S.C. 300x–62(a)) is amended by striking ''until the end'' and all that follows through the end thereof and inserting ''and expenditure until the end of the fiscal year following the fiscal year for which the amounts were paid.''.

SEC. 304. DEFINITIONS.

Section 1954(b) (42 U.S.C. 300x–64(B)) is amended by adding the following new paragraphs at the end thereof:

''(5) The term 'performance indicator' means a quantifiable characteristic used as a measurement.

''(6) The term 'performance target' means a numerical value sought to be achieved within a specified period of time.''.

SEC. 305. REPEAL OF OBSOLETE PROVISIONS CONCERNING ALLOCATIONS.

(a) IN GENERAL.—Section 1933 (42 U.S.C. 300x–33) is amended—

(1) by striking subsection (b);

(2) in subsection (c)(2)—

(A) in subparagraph (A), by adding ''and'' at the end thereof;

(B) in subparagraph (B), by striking ''; and'' at the end of subparagraph (B) and inserting a period; and

(C) by striking subparagraph (C); and

(3) by redesignating subsections (c) and (d) as subsection (b) and (c), respectively.

(b) CONFORMING AMENDMENT.—Section 1923(h) (as so redesignated by section 201(c)(4)(A)) is amended by striking ''section 1933(c)(2)(B)'' and inserting ''section 1933(b)(2)(B)''.

SEC. 306. REPEAL OF OBSOLETE ADDICT REFERRAL PROVISIONS.

(a) REPEAL OF OBSOLETE PUBLIC HEALTH SERVICE ACT AUTHORITIES.— Part E of title III (42 U.S.C. 257 et seq.) is repealed.

(b) REPEAL OF OBSOLETE NARA AUTHORITIES.—Titles III and IV of the Narcotic Addict Rehabilitation Act of 1966 are repealed.

(c) REPEAL OF OBSOLETE TITLE 28 AUTHORITIES.—

(1) IN GENERAL.—Chapter 175 of title 28, United States Code, is repealed.

(2) TABLE OF CONTENTS.—The table of contents to part VI of title 28, United States Code, is amended by striking the items relating to chapter 175.

SEC. 307. REGULATIONS.

Section 1949 (42 U.S.C. 300x–59) is amended to read as follows:

''SEC. 1949. REGULATIONS.

''The Secretary shall promulgate regulations as the Secretary determines are necessary to carry out this part.''.

SEC. 308. ADVISORY COUNCILS.

Section 502(b)(3)(A) (42 U.S.C. 290aa–1(b)(3)(A)) is amended by inserting ''and leading representatives from State and local governments'' after ''sciences)''.

SEC. 309. REPORT ON DEVELOPMENT OF PARTNERSHIPS AND USE OF GRANTS.

Not later than January 1, 1999, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report that contains—

(1) information concerning the adequacy of outcome data sets to measure State performance with respect to amounts received by the State under subparts I and II of part B of title XIX of the Public Health Service Act (as amended by this Act);

(2) information concerning the range and types of performance partnership objectives and measures utilized by the State under such subparts; and

(3) a plan, if determined by the Secretary to be feasible after considering information received under such subparts, for the implementation of incentive-based performance partnership grants that shall include a disclosure of public comments.

TITLE IV—REAUTHORIZATION OF PROTECTION AND ADVOCACY FOR MENTALLY ILL INDIVIDUALS ACT OF 1986

SEC. 401. SHORT TITLE.

The first section of the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (Public Law 99–319) is amended to read as follows:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Protection and Advocacy for Individuals With Mental Illnesses Act'.''.

SEC. 402. REAUTHORIZATION.

Section 117 of the Protection and Advocacy for Individuals With Mental Illnesses Act (as amended by section 401) (42 U.S.C. 10827) is amended by striking ''1995'' and inserting ''1999''.

SEC. 403. ALLOTMENT FORMULA.

(a) MINIMUM AMOUNT.—Section 112(a)(2) of the Protection and Advocacy for Mentally Ill Individuals Act (as amended by section 401) (42 U.S.C. 10822(a)(2)) is amended to read as follows:

''(2)(A) The minimum amount of the allotment of an eligible system shall be the product (rounded to the nearest $100) of the appropriate base amount specified in subparagraph (B) and the factor specified in subparagraph (C).

''(B) For purposes of subparagraph (A), the appropriate base amount—

''(i) for American Samoa, Guam, the Marshall Islands, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, and the Virgin Islands, is $139,300; and

''(ii) for any other State, is $260,000.

''(C) For purposes of subparagraph (A), the factor specified in this subparagraph is the ratio of the amount appropriated under section 117 for the fiscal year for which the allotment is being made to the amount appropriation under such section for fiscal year 1995.''.

(b) TECHNICAL AMENDMENTS.—Section 112(a) of such Act (42 U.S.C. 10822(a)) is amended—

(1) in paragraph (1)(B), by striking ''Trust Territory of the Pacific Islands'' and inserting ''Marshall Islands, the Federated States of Micronesia, the Republic of Palau''; and

(2) by striking paragraph (3).

TITLE V—REAUTHORIZATION OF CERTAIN INSTITUTES

SEC. 501. REAUTHORIZATION OF CERTAIN INSTITUTES.

(a) NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM.—Section 464H(d)(1) (42 U.S.C. 285m(d)(1)) is amended by striking ''for fiscal year 1994'' and inserting ''for each of the fiscal years 1994 through 1996''.

(b) NATIONAL INSTITUTE ON DRUG ABUSE.—

(1) IN GENERAL.—Section 464L(d)(1) (42 U.S.C. 285o(d)(1)) is amended by striking ''for fiscal year 1994'' and inserting ''for each of the fiscal years 1995 and 1996''.

(2) MEDICATION DEVELOPMENT PROGRAM.—Section 464P(e) (42 U.S.C. 285o–4(e)) is amended by striking ''and $95,000,000 for fiscal year 1994'' and inserting ''$95,000,000 for fiscal year 1994, and such as may be necessary for each of the fiscal years 1995 and 1996''.

(c) NATIONAL INSTITUTE OF MENTAL HEALTH.—Section 464R(f)(1) (42 U.S.C. 285p(f)(1)) is amended by striking ''for fiscal year 1994'' and inserting ''for each of the fiscal years 1994 through 1996''.

TITLE VI—TRANSITION PROVISIONS AND EFFECTIVE DATES

SEC. 601. TRANSITION PROVISIONS AND EFFECTIVE DATES.

(a) OBJECTIVE AND DATA DEVELOPMENT PROCESS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (hereafter referred to in this section as the ''Secretary'') shall develop and implement a process to—

(A) establish a model set of mental health and substance abuse prevention and treatment objectives that, to the extent practicable, meet the requirements of sections 1911 and 1921 of the Public Health Service Act (as amended by sections 101(b) and 201(b) of this Act);

(B) determine the availability, relevancy, and sufficiency of data necessary to measure capacity, process, or outcomes with respect to such model set of objectives; and

(C) establish a plan to improve the availability, relevancy, and sufficiency of data if the data sets that are available at the time such process is being developed are determined to be inadequate.

(2) CONSULTATION.—In carrying out paragraph (1), the Secretary shall consult with representatives from State and local governments, Indian Tribes, mental health and substance abuse service providers, consumers and families, researchers, and other individuals who have technical relevancy with respect to the development of the process under such paragraph.

(3) IMPLEMENTATION.—In implementing the process under paragraph (1), the Secretary may award a contract to an independent entity for—

(A) the conduct of a technical analysis of the availability, relevancy, and sufficiency of data sets existing on the date on which such contract is awarded; and

(B) the development of a data strategy if such existing data sets are determined to be insufficient to measure the model set of mental health and substance abuse prevention and treatment objectives developed under paragraph (1)(A).

(b) GENERAL EFFECTIVE DATE.—Except as provided in subsection (c), this Act shall take effect on the date of enactment of this Act or October 1, 1995, whichever occurs later.

(c) EXCEPTIONS.—

(1) PERFORMANCE PARTNERSHIPS.—The amendments made by sections 101 and 201 shall take effect on the date on which the Secretary of Health and Human Services determines that the model set of objectives and the data sets described in subsection (a) have been developed and are sufficient and available to measure process/capacity or outcomes, but in no event earlier than October 1, 1997.

(2) PREPARATION AND NEGOTIATION.—The Secretary of Health and Human Services may consult with the States, and others, in preparing for the implementation of the performance partnership grants under the amendments made by this Act. In no event shall such Secretary require a State to begin the negotiation process for the implementation of a performance partnership grant for a fiscal year prior to fiscal year 1998.

(3) SPECIFIC EFFECTIVE DATES.—Sections 103 and 207 (relating to maintenance of effort), sections 104 and 208 (relating to for-profit eligibility), section 203 (relating to tuberculosis and HIV), section 204 (relating to group home revolving loan funds), and section 303 (relating to the additional year for obligation), shall become effective as if enacted on October 1, 1994.

(4) MANDATORY EXEMPTIONS.—

(A) IN GENERAL.—Effective on the date on which the Secretary of Health and Human Services determines that the objectives and data described in subsection (a) have been developed and are relevant, sufficient, and available to measure performance in each State, a State shall be exempt from the requirements described in subparagraph (C). If the Secretary determines, using data with respect to the intended purpose of any such requirement, that the State has a significant need to improve the outcomes related to the intended purposes of any such requirements, the Secretary may require the State to utilize an objective that addresses the intended purpose of any such requirement.

(B) CONSULTATION PROCESS.—Until the Secretary makes the determination described in subparagraph (A), a State shall—

(i) comply with the requirements described in subparagraph (C); or

(ii) select objectives to be measured that would address the intended purpose of each of such requirements.

(C) REQUIREMENTS.—The requirements described in this subparagraph are the requirements contained in the following:

(i) Section 1922(b) (42 U.S.C. 300x–21) (as amended by this Act), relating to minimum allocation of funds for services to pregnant women and women with dependent children.

(ii) Section 1923 (42 U.S.C. 300x–23), relating to whether injecting drug users have timely access to treatment upon request.

(iii) Section 1924 (42 U.S.C. 300x–24), relating to requirements related to tuberculosis and HIV.

(iv) Section 1926 (42 U.S.C. 300x–26), relating to curtailing the sale of tobacco products to persons under the age of 18.

(v) Section 1927 (42 U.S.C. 300x–27), relating to preference in the admission of pregnant women for treatment.

(vi) Section 1929 (42 U.S.C. 300x–29), relating to the needs assessments.

(d) EXISTING PROJECTS.—A project that receives support for fiscal year 1996, 1997, 1998, or 1999 under section 506 or 520A of the Public Health Service Act (as amended by section 108 or 109(2), respectively), and that previously received support under title V of the Public Health Service Act for fiscal year 1995, shall be subject to the requirements to which that project was subject to for fiscal year 1995 unless the Secretary of Health and Human Services determines otherwise.

(e) WAIVERS.—Notwithstanding any other provision of this Act, or an amendment made by this Act, the Secretary of Health and Human Services may grant a State a waiver to permit such State to operate a performance partnership program prior to fiscal year 1998. Such programs shall be operated under the requirements described in the amendments made by sections 101 and 201 and shall be funded using amounts appropriated for the fiscal year involved under part B of title XIX of the Public Health Service Act.

THE SAMHSA REAUTHORIZATION, FLEXIBILITY ENHANCEMENT, AND CONSOLIDATION ACT OF 1995—SUMMARY

MENTAL HEALTH

1. Reauthorize the mental health block grant as a Performance Partnership Block Grant (PPG). Under this provision, each State and the Federal Government would work in a partnership to develop goals and performance objectives to improve the mental health of adults with serious mental illness and children with serious emotional disturbances. Each State would submit a performance partnership proposal based on the State selected goals and objectives which the State would be held accountable. Funding for this PPG would be authorized at $280,000,000.

2. Establish a Transition Provision for implementing the PPGs. Under this provision, States would begin the PPGs no sooner than October 1, 1997. This minimum two-year transition period would allow for the development of partnerships between the Federal government and the states to: (1) develop the menu of objectives; (2) carry out a technical analysis of the availability, relevancy, and sufficiency of existing data sets; and (3) develop a plan to address insufficient data systems. This process would include individuals from states, local governments, consumers, and others who have technical expertise in this area.

3. Eliminate set-asides. This section would repeal the 10 percent set-aside to provide services for children with serious emotional disturbances.

4. Repeal the current (4) separate demonstration authorities and establish a transition funding period for the current mental health demonstration programs. This section repeals separate categorical authorities for programs relating to: (1) clinical training and AIDS training, (2) community support programs; (3) homeless demonstrations; and (4) AIDS demonstrations. Each current demonstration grant would continue under the same terms and conditions until the expiration of the grant period.

5. Establish a general authority for priority mental health needs of regional and national significance. Through this single demonstration authority, the SAMHSA could provide technical assistance, conduct applied research, or conduct demonstration projects to address compelling mental health prevention and treatment needs of regional and national importance. All support for a specific problem would be time-limited to five years. Once successful solutions are developed, the SAMHSA would work with States to incorporate these solutions through the use of the State's performance partnership grant.

Funding for this authority would be authorized at $50,000,000 for each fiscal year 1996-1997 and $30,000,000 for fiscal year 1998. This accounts for the repeal of the ACCESS Program in fiscal year 1998. This funding level represents a ten-percent reduction from the combined totals of the three demonstration programs consolidated. In the event of reductions in the appropriations for the demonstration and training programs, the Secretary would decide which existing programs to reduce or eliminate.

6. Establish a separate authority for the Children's Mental Health Services Program. Through this single demonstration authority, appropriate community services for children suffering from severe mental disorders would continue as provided for under current law. Funding for this authority would be authorized at $60,000,000—equal to fiscal year 1995 appropriations.

7. Permit States to provide funding to for-profit organizations in order to facilitate integration of services. This provision would provide flexibility for States to utilize the service of mental health managed care programs to operate Medicaid managed mental health programs. This would facilitate integration of mental health services within each State to achieve standardization of care and cost reductions.

8. Permit the Secretary to reserve up to 5 percent for data collection, technical assistance, and evaluations. This provision would permit the Secretary to reserve up to 5 percent of the amount appropriated in any fiscal year for necessary data collection, technical assistance, and program evaluation. Also, the Secretary could use these funds to assist States with developing and strengthening their capacity for data collection.

SUMMARY OF MENTALLY ILL HOMELESS PROVISION

Generally, the purpose of this proposal would be to improve the mental health treatment—and thus the living conditions—of the mentally ill homeless who are gravely disabled as a result of their illness. It would also continue to fund treatment and support systems for the mentally ill homeless who are not gravely disabled.

1. Reauthorize the current PATH provisions as a new Part I of the PATH program. This will retain a focus on the expansion of services for the mentally ill homeless. The major problem currently facing the mentally ill homeless, regardless of whether they receive outpatient commitment or not, is the lack of adequate treatment capacity. Continuation of the PATH program would assure that services for the mentally ill homeless are either maintained or expanded. Funding for this block grant would be authorized at $29 million—equal to FY 1995 appropriations.

2. Create a second part to the PATH program for incentive grants to states to improve and operate outpatient commitment treatment programs for the gravely disabled mentally ill homeless. The purpose of this grant would be to improve the treatment capacity, which is often inadequate, for individuals with severe mental illness. In addition, these grants could encourage state mental health agencies to work with judges to help assure the consistent enforcement and appropriate use of state commitment statutes for the gravely disabled mentally ill.

Funding for this provision would be provided from funds currently used to support the ACCESS program. Because the current ACCESS grantees are funded for two more years, these incentive grants would become available beginning in fiscal year 1998.

As a condition of receiving a categorical grant under this program, a state would be required to have a statute providing for the commitment of the gravely disabled mentally ill homeless. The state would also be required to provide for intensive case management monitoring and follow-up care, and a hearing prior to recommitment of a gravely disabled individual.

In addition, the grants would be made to states which successfully bring, or which have the greatest chance to bring, the gravely disabled mentally ill homeless into treatment and which show that such individuals remain in treatment. These funds would be used to provide treatment, outreach, and case management services to individuals who have been committed to an outpatient setting because they have been determined to be gravely disabled as a result of their mental illness.

3. Allow the new Part I PATH funds to fund supportive housing for homeless mentally ill individuals who are committed to or were previously committed to outpatient treatment. This would help improve treatment outcomes for these individuals. Supportive housing is critical to the treatment of the gravely disabled mentally ill.

4. Permit the new Part I PATH funds to be used to educate the judiciary regarding mental illness and the appropriateness of outpatient commitment for the gravely disabled mentally ill homeless. Many experts believe that successful implementation of grave disability commitment laws for the mentally ill homeless will require education of the judges. This education is needed because judges are not often prepared to rule on the mental status of the homeless.

SUBSTANCE ABUSE PREVENTION AND TREATMENT

1. Reauthorize the substance abuse prevention and treatment services block grant as a Performance Partnership Block Grant (PPG). Under this provision, each State and the Federal Government would work in a partnership to develop goals and performance objectives. The State Needs Assessments could be utilized to assist States in selection of their objectives. Each State would submit a performance partnership proposal. Through a negotiated process the State and the Federal government would agree to objectives which would: 1) reduce the incidence and prevalence of substance abuse and dependence; 2) improve access to appropriate prevention and treatment programs for targeted populations; 3) enhance the effectiveness of substance abuse prevention and treatment programs; and 4) reduce the personal and community risks for substance abuse. Funding for this authority would be authorized at $1,300,000,000.

2. Establish a Transition Provision for implementing the PPGs. Under this provision, States would begin the PPGs no sooner than October 1, 1997. This minimum two-year transition period would allow for the development of partnerships between the Federal government and the states to: 1) develop the menu of objectives; 2) carry out a technical analysis of the availability, relevancy, and sufficiency of existing data sets; and 3) develop a plan to address insufficient data systems. This process would include individuals from states, local governments, consumers, and others who have technical expertise in this area.

3. Repeal set-asides for alcohol and drugs under the block grant. To allow States the flexibility to plan and implement services specific to their drug and alcohol treatment and prevention needs, set-asides for alcohol and drugs are repealed.

4. Establish a ''mandatory exemption'' provision as a transition to eliminating the set-asides in the PPGs. Under this provision, States would be required either to follow current law for set-asides or to select an objective which meets the intent of the set-aside. This process would remain in place until the menu of objectives and the data sets have been developed and are relevant, sufficient, and readily available to measure outcomes in each state. Then, using outcome data, the Secretary may require a state to select an objective which meets the intent of the set-aside if the Secretary determines that the State has a significant problem in an area previously addressed by the set-aside.

5. Maintain requirements that States spend certain amounts for primary prevention and for programs providing treatment services to pregnant women and women with dependent children under the block grant. The reauthorization bill will continue to provide a 20 percent set-aside for primary prevention activities and the development of effective substance abuse prevention strategies, programs, and systems to reduce drug and alcohol use and abuse.

6. Increase the minimum threshold from 10 per 100,000 cases of AIDS to 15 per 100,000 for a State to be required to carry out HIV Early Intervention services and repeal the provision of treatment requirement for tuberculosis under the block grant. The higher AIDS case rate threshold requirement for the provision of HIV Early Intervention services would allocate resources to States with the greatest need in addressing co-morbid conditions of substance abusers. Also, the higher threshold rate will moderately reflect proportionately the change in the increase number of AIDS cases since the CDC AIDS surveillance case definition was changed (in 1993). Requirement for HIV Early Intervention Services would remain as in current law. Requirements for TB have been streamlined to include only counseling and testing/screening.

7. Repeal the current (7) demonstration authorities and establish a transition funding period for the current substance abuse and prevention demonstration programs. This section would repeal separate categorical authorities for programs relating to: 1) residential treatment programs for pregnant women, 2) demonstration projects of national significance, 3) substance abuse treatment in State and local criminal justice systems, 4) training in the provision of treatment services, 5) community prevention programs, 6) clinical training of substance abuse prevention professionals; and 7) high risk youth and national capital area demonstrations. Also, this provision provides for a transition funding period of these programs. Each current demonstration grant would continue under the same terms and conditions until the expiration of the grant period.

8. Establish a general authority for priority substance abuse prevention and treatment needs of regional and national significance. Through this single demonstration authority, the SAMHSA could provide technical assistance, conduct applied research, or conduct demonstration projects to address compelling substance abuse prevention and treatment needs of regional and national importance. Substance abuse health needs would include prevention activities as a priority. All support for a specific problem would be time-limited to five years. Once successful solutions are developed, the SAMHSA would work with States to incorporate these solutions through the use of the State's performance partnership grant.

Funding for this authority would be authorized at $352,000,000. This funding level represents a ten-percent reduction from the combined total of the 14 demonstration programs consolidated in this authority. In the event of reductions in the appropriations for the demonstration and training programs, the Secretary would decide which existing programs to reduce or eliminate.

9. Maintain the state based loan funds used to establish group homes for recovering substance abusers only for States that have utilized such funds. To allow for greater flexibility to the States, this provision would apply only to States that have current obligations under the revolving loan fund. States which are not currently providing from their loan funds would be exempt from maintaining such loan funds. States would use funds established under this provision to provide other substance abuse treatment services. The requirement for such funds to be maintained in any State would be repealed on September 30, 1998.

10. Permit States to provide funding to for-profit organizations in order to facilitate integration of services. This provision would provide flexibility for States to utilize the

services of substance abuse treatment managed care programs to operate Medicaid managed substance abuse treatment programs. The provision would facilitate integration of substance abuse treatment services within each State to achieve standardization of care and cost reductions. However, for-profit organizations would have to agree to fulfill certain requirements in order to qualify for funds under this Act.

11. Permit the Secretary to reserve up to 5 percent of funding for data collection, technical assistance and evaluations. This provision would permit the Secretary to reserve up to 5 percent of the amount appropriated in any fiscal year for necessary data collection, technical assistance and program evaluation. Also, the Secretary could use these funds to assist states with developing and strengthening their capacity for data collection.

GENERAL PROVISIONS, PROTECTION AND ADVOCACY, AND INSTITUTES OF THE NATIONAL INSTITUTES OF HEALTH

1. Require States to report on performance. This provision would require each State to submit an annual report and to include data concerning its performance in relation to the core set of partnership objectives, including the State's objectives and performance targets.

2. Require State Review. This provision would replace current peer review requirements but establishes reviews by States in accordance with their existing accreditation and certification standards.

3. Require on site performance reviews. This provision would replace current requirements for annual investigations by the Secretary in at least 10 States with a new requirement for on site performance reviews in each State every two to three years.

4. Provide an additional year for obligation by State. This provision would allow States an additional year in which to obligate grant funds.

5. Repeal of Addict Referral Provisions. This section would repeal authority for Federal judges to refer drug addicts in the criminal justice system to the Surgeon General of the Public Health Service for treatment in lieu of prosecution for a criminal offense.

6. Reauthorize Protection and Advocacy for Mentally Ill Individuals. This reauthorization would reauthorize this program for three years and amends the name of the act to ''Protection and Advocacy for Individuals with Mental Illnesses Act of 1986.''

7. Reauthorize the National Institute on Alcohol Abuse and Alcoholism (NIAA), National Institute on Drug Abuse (NIDA) and the National Institute of Mental Health (NIMH). This provision reauthorizes each of the Institutes and programs for only one year in order to correspond with the reauthorization of the entire NIH next year.

ADDITIONAL COSPONSORS

S. 304

At the request of Mr. SANTORUM, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 304, a bill to amend the Internal Revenue Code of 1986 to repeal the transportation fuels tax applicable to commercial aviation.

S. 559

At the request of Mrs. BOXER, her name was added as a cosponsor of S. 559, a bill to amend the Lanham Act to require certain disclosures relating to materially altered films.

S. 789

At the request of Mr. CHAFEE, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 789, a bill to amend the Internal Revenue Code of 1986 to make permanent the section 170(e)(5) rules pertaining to gifts of publicly-traded stock to certain private foundations, and for other purposes.

S. 851

At the request of Mr. JOHNSTON, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 851, a bill to amend the Federal Water Pollution Control Act to reform the wetlands regulatory program, and for other purposes.

S. 854

At the request of Mr. LUGAR, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 854, a bill to amend the Food Security Act of 1985 to improve the agricultural resources conservation program, and for other purposes.

S. 885

At the request of Mr. SIMPSON, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Pennsylvania [Mr. SANTORUM], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Florida [Mr. MACK], the Senator from Arkansas [Mr. PRYOR], the Senator from Oklahoma [Mr. NICKLES], the Senator from Alabama [Mr. HEFLIN], the Senator from Iowa [Mr. HARKIN], the Senator from South Carolina [Mr. THURMOND], the Senator from Oregon [Mr. PACKWOOD], the Senator from New Hampshire [Mr. SMITH], the Senator from Utah [Mr. HATCH], the Senator from Indiana [Mr. COATS], the Senator from Kansas [Mr. DOLE], the Senator from Kentucky [Mr. FORD], the Senator from Louisiana [Mr. BREAUX], the Senator from Utah [Mr. BENNETT], the Senator from North Dakota [Mr. CONRAD], the Senator from Maine [Ms. SNOWE], the Senator from Mississippi [Mr. LOTT], and the Senator from Minnesota [Mr. GRAMS] were added as cosponsors of S. 885, a bill to establish United States commemorative coin programs, and for other purposes.

S. 895

At the request of Mr. BOND, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 895, a bill to amend the Small Business Act to reduce the level of participation by the Small Business Administration in certain loans guaranteed by the Administration, and for other purposes.

S. 955

At the request of Mr. HATCH, the names of the Senator from Maryland [Ms. MIKULSKI], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 955, a bill to clarify the scope of coverage and amount of payment under the medicare program of items and services associated with the use in the furnishing of inpatient hospital services of certain medical devices approved for investigational use.

S. 979

At the request of Mrs. BOXER, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 979, a bill to protect women's reproductive health and constitutional right to choice, and for other purposes.

S. 1000

At the request of Mr. BURNS, the names of the Senator from New Hampshire [Mr. SMITH], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 1000, a bill to amend the Internal Revenue Code of 1986 to provide that the depreciation rules which apply for regular tax purposes shall also apply for alternative minimum tax purposes, to allow a portion of the tentative minimum tax to be offset by the minimum tax credit, and for other purposes.

S. 1002

At the request of Mr. CHAFEE, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1002, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence.

S. 1006

At the request of Mr. PRYOR, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 1006, a bill to amend the Internal Revenue Code of 1986 to simplify the pension laws, and for other purposes.

S. 1014

At the request of Mr. NICKLES, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 1014, a bill to improve the management of royalties from Federal and Outer Continental Shelf oil and gas leases, and for other purposes.

S. 1028

At the request of Mrs. KASSEBAUM, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S. 1028, a bill to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes.

S. 1032

At the request of Mr. ROTH, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1032, a bill to amend the Internal Revenue Code of 1986 to provide nonrecognition treatment for certain transfers by common trust funds to regulated investment companies.

S. 1035

At the request of Mr. DASCHLE, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 1035, a bill to permit an individual to be treated by a health care practitioner with any method of medical treatment such individual requests, and for other purposes.