United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, FIRST SESSION

Vol. 141 WASHINGTON, FRIDAY, JUNE 16, 1995 No. 99

Senate

(Legislative day of Monday, June 5, 1995)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, before us is a brand-new day filled with opportunities to live out our calling as servant leaders. We trust You to guide us so that all we do and say will be to Your glory.

Since we will pass through this day only once, if there is any kindness we can express, any affirmation we can communicate, any help we can give, free us to do it today. Help us to be sensitive to what is happening with people around us. We know that there are unmet needs beneath the surface of the most successful and the most self-assured. Today some are enduring hidden physical and emotional pain, others are fearful of an uncertain future, and still others carry burdens of worry for families or friends. May we take no one for granted, but instead be communicators of Your love and encouragement.

As this intense and busy week comes to a close, we express our gratitude for all of the people who make this Senate function so effectively: Each Senator's staff, the officers and staff of the Senate, the guards and the Secret Service, the maintenance crews and the people who work so faithfully in hundreds of crucial tasks. Today, as the Senate pages graduate, we thank You for these outstanding young men and women who have served in the Senate for these past months. We thank You for each one of these future leaders of our Nation. Lord, You have richly blessed this Senate so that You can bless this Nation through its inspired leadership. In Your holy name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader is recognized.

Mr. DOLE. Thank you, Mr. President.

SCHEDULE

Mr. DOLE. This morning, leader time has been reserved and there will be a period for morning business until the hour of 11 a.m. At 11 a.m., the Senate will resume consideration of the motion to proceed to S. 440, the National Highway System bill.

I have announced there will be no rollcall votes during today's session of the Senate. Cloture was filed last night on the motion to proceed, and there will be a vote on that cloture motion at 3 o'clock on Monday.

I am hopeful that maybe during today's session there can be some agreement reached on S. 440, the National Highway System Designation Act of 1995. It is a very important piece of legislation. It affects every State. There are one or two controversial areas. One is the Davis-Bacon Act, and one is the maximum speed limit compliance program. Those two issues, I assume, will be debated for some time. But it is my hope to complete action on this bill no later than Tuesday of next week, and then at that point to either go to regulatory reform, if that is ready—there are negotiations ongoing as we speak, and there are still about 10 areas of difference, but if we can reach a bipartisan compromise on regulatory reform, we would hope to take it up on Wednesday—or the other possible proposal would be welfare reform. And again, there is some difficulty on both sides, I might say. Republicans are having some difficulties. I understand the Democrats may be, too. But that is again a very important piece of legislation we hope to be able to resolve if not next week, take it up the following week.

THE TELECOMMUNICATIONS LEGISLATION

Mr. DOLE. Mr. President, let me also indicate, as I said yesterday, we passed a very important piece of legislation, telecommunications legislation. And obviously there were many, many people who deserved to be thanked for their effort. Certainly, the chairman of the committee, Senator LARRY PRESSLER of South Dakota, and members of his staff, and Senator HOLLINGS and members of his staff, and many members of the committee. I wanted to make certain I did not forget to thank David Wilson on my staff, who has been following this issue almost on a day-to-day basis for the past several months. I certainly appreciated his efforts and his insight into the very delicate issues which were involved in the legislation.

Mr. President, I understand there will be speakers coming to the floor. In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. THOMAS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DOLE. Mr. President, I know leaders' time was reserved.

THE ENTERTAINMENT INDUSTRY

Mr. DOLE. Mr. President, remarks I made in California a few weeks ago have played a role in starting a new national debate on how the entertainment industry has contributed to the coarsening of our culture.

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

Printed on recycled paper containing 100% post consumer waste

I was certainly not the first in this Chamber to take some to task for placing profits ahead of the innocence of our children. Senators SIMON and BRADLEY have fought the good fight on this matter for many years.

One thing that those Senators and I know, however, is that what we do here on the floor of the Senate, matters far less than what occurs out in the real world.

Until Americans hold accountable those who debase our culture, then there is little hope for progress.

But there are definite signs of progress all across the country. And today, I wanted to congratulate radio station KGRM, which is the campus radio station at Grambling State University in Shreveport, LA.

Earlier this week, the station announced that, as a protest against profanity and obscenity, it will not play rap music for 19 days.

The station's assistant director said—and I quote—''If we can give students a format that's free of obscenity as far as words and lyrics, I think they'll be receptive to it.''

Mr. President, Robert Kennedy once said ''Each time a man stands for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope.''

This morning, radio station KRGM is transmitting much more than just words and music. It is also transmitting a ripple of hope. I congratulate them for their courage.

THE ADARAND DECISION

Mr. DOLE. Mr. President, last Monday's Supreme Court ruling in the Adarand case is good news for those who believe that the Federal Government works best when it works to unite all Americans of all backgrounds.

In her majority opinion, Justice Sandra Day O'Connor correctly rejected the Clinton administration's position by insisting that Government-sponsored racial classifications, no matter how well intentioned, are inherently suspect and must meet the very highest standard of constitutional review—the standard of review known as strict scrutiny.

Whatever our race or ethnic background, the simple truth is that we are all Americans. We all pledge allegiance to the same flag. We all pay taxes to the same Government. We all share the same hope of a better future for our children and grandchildren. And on the battlefield, we all bleed the same blood. As Justice Scalia said in his concurring opinion, and I quote:

> In the eyes of government, we are just one race. It is American.

No doubt about it, the evil of discrimination continues to exist in the America of 1995. And, unfortunately, we have not yet achieved the colorblind ideal for which so many have valiantly struggled. But fighting discrimination cannot become an excuse to divide Americans by race, by ethnic background, by gender.

You do not cure discrimination with more discrimination.

So, Mr. President, I welcome the Supreme Court's Adarand decision. It clarifies the standard of review that must be applied to Federal laws and regulations that grant preferences on the basis of race. And perhaps as important, it is a wake-up call to Congress to put the Federal Government's own troubled house in order.

BOSNIA

Mr. DOLE. Mr. President, the facts are out: The New York Times reported last weekend that the Milosevic regime is actively aiding its Bosnian Serb allies—sending military assistance and fuel, SAM–6's, and even paying the salaries of many Bosnian Serb officers. This comes as little surprise to me, since I have been extremely skeptical of Slobodan Milosevic's reincarnation as peacemaker—an image the Clinton administration has actively promoted in a desperate bid to devise a Bosnia policy.

Indeed, the recent hostage taking by the Bosnian Serbs, followed by their release as a result of Milosevic's efforts, has called into question the theory of a split between Milosevic and Radovan Karadzic.

In my view the issue is not whether or not Milosevic and Karadzic are friends or political rivals, but whether or not their objectives are the same. The real question is, do Milosevic and Karadzic both want a greater Serbia?

It seems to me that the answer is yes—and that this charade of good cop, bad cop, has been useful in furthering that objective.

Apparently administration sources were aware of this support from Belgrade but continued with the approach of easing sanctions on Serbia. Those of us in the Congress who believed this policy was unwise for a number of reasons—including the fact that it removed leverage on the deteriorating situation in Kosova—were told that lifting sanctions would help bring peace to Bosnia because Milosevic would recognize Bosnia.

Mr. President, this report should prompt an immediate review of the administration's approach. Now is not the time to lift or further suspend sanctions on Serbia. The Milosevic regime is clearly supporting Bosnian Serb and Krajina Serb forces—and maybe even orchestrating their actions. In addition, it is continuing to oppress the Albanian majority in Kosova—which is in its 6th year under martial law.

Mr. President, I intend to offer an amendment to the foreign aid bill which would amend current Serbian sanctions legislation—originally sponsored by Senator LEVIN—to include strict criteria for the lifting of United States sanctions on Belgrade. This criteria will include a complete cutoff of military, political, or other material support from Belgrade to the Bosnian Serb and Krajina Serb militants; a restoration of civil rights to all minorities in Serbia; and a restoration of civil and human rights and political autonomy to the 2 million Albanians in Kosova.

It is time to stop this farce. Milosevic is no peacemaker. He is the author of the tragedies in Croatia, in Bosnia, in Kosova. His regime must be held responsible for its actions, not rewarded for its pretensions.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

Under the previous order, the Senator from Maryland [Mr. SARBANES] is recognized to speak for up to 15 minutes.

The Senator from Maryland is recognized.

Mr. SARBANES. I thank the Chair.

(The remarks of Mr. SARBANES pertaining to the introduction of S. 934, S. 935, S. 936, S. 937, and S. 938 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

THE TELECOMMUNICATIONS ACT OF 1995

Mr. MCCAIN. Mr. President, yesterday the Senate passed S. 652, the Telecommunications Reform Act of 1995. This is historic legislation that will substantially change the communications industry in this country.

Although the legislation alters the status quo, I was not able to support it due to the fact that the bill fundamentally reregulated, not deregulated the telecommunications industry.

I strongly support passing telecommunications reform. For too long this issue has been dictated by the courts. This is an abrogation of congressional authority, and the Congress is now compelled to play catch-up. It is imperative that the Congress implement a comprehensive, complete policy that will encourage free market competition and breed industry innovation that will ultimately benefit the consumer. Legislation that will accomplish this must contain provisions that deregulate and fosters true competition.

Unfortunately, the bill passed by the Senate, S. 652, does exactly the opposite. Regulation is increased and congressional, and Federal Communications Commission micromanagement is advanced. This bill establishes a regulatory regime that reallocates existing markets, controls and limits future growth, and effects changes to the communications industry through a series of complex, excessive regulation.

The best way to truly help the consumer is to allow industry the maximum flexibility to grow and prosper.

That can be accomplished through deregulation. History shows us that deregulation of industry benefits the consumer. We should be working to pass legislation that deregulates.

S. 652 contains a prescription for a larger and more intrusive Government in Washington.

The bill mandates over 80 new regulatory proceedings that the Congressional Budget Office estimates will cost over $81 million to implement. Moreover, it is squarely at odds with nearly a quarter century of well-considered, soundly crafted, and broadly successful regulatory reform initiatives which commanded strong bipartisan support and, in the final analysis, yielded substantial consumer dividends for the American public. Back in 1970, the Senate Commerce Committee began work to deregulate a number of key, infrastructure industries. Airline, truck and rail, broadcast, maritime, cable, and freight regulatory reforms were initiated and successfully carried forward. These reforms paralleled changes which were occurring in the world at large, as the notion of pervasive, central economic planning by Government—embodied in the now-bankrupt Communist teaching and doctrine—faltered and competitive free enterprise concepts were adopted and embraced.

Senator PACKWOOD and I offered a series of amendments to S. 652 to make the bill more deregulatory. One amendment would have eliminated from the bill provisions which give the FCC excessive and unnecessary policymaking power. Another would have struck the community users provisions in the bill. A third amendment would have replaced the bill's universal service scheme with a voucher system that would have truly empowered consumers.

Unfortunately, all of those amendments were defeated.

I do want to thank the Commerce Committee chairman and ranking member for accepting some other amendments. I had sought to change the definition of the universal service contained in the bill. The universal service definition was far too broad and would have potentially cost consumers and companies hundreds of millions of dollars. The committee adopted the definition of universal service that I proposed as part of the manager's package of amendments.

Also included in the manager's package was an amendment I intended to offer to strike the DBS tax provisions in the bill. The legislation contained language that would have authorized the States to order DBS television providers to act as State tax collectors. This was an ill-conceived concept and I am very pleased that it was struck from the bill.

I was also very pleased that the committee accepted my amendment mandating that the FCC report any increases in the fees charged to communications companies as part of their universal service obligation and another amendment to means test the community users section of the bill. Both improved the bill.

Last, although I could not support this legislation, I want to thank Chairman PRESSLER. He did a masterful job of shepherding this bill through the Senate. He deserves specific praise for his efforts.

I also want to thank ranking Member HOLLINGS, Senator ROCKEFELLER, Senator SNOWE, and Senator PACKWOOD.

Their staff also deserve considerable praise for their efforts and hard work. I also want to thank Adam Thier of the Heritage Foundation, Bob Corn-Revere of Hogan & Hartson, and Jeffrey Blumenfeld and Christy Kunin of Blumenfeld & Cohen for their input and advocacy regarding the telecommunications voucher program.

I appreciate their help, and I thank them for their efforts.

HOUSTON ROCKETS WIN NBA CHAMPIONSHIP

Mrs. HUTCHISON. Mr. President, on Wednesday a team from my home State, the Houston Rockets, won their second consecutive NBA Championship, defeating the Orlando Magic four games to none. The Rockets overcame everything from injuries to midseason trade to, finally, one of the toughest playoff schedules over.

To understand the full significance of Wednesday night's victory, Mr. President, you must understand the history of Houston's two star players, Hakeem Olajuwon and Clyde Drexler. Both attended the University of Houston in the first part of the 1980's. In 1983 and 1984, Olajuwon and Drexler took their University of Houston team to the NCAA National Championship game. Soon after, they both went their separate ways. But this past Valentine's Day, in a trade many sports critics called unnecessary, the Rockets put Drexler back with his old college teammate Olajuwon. Wednesday night, the critics were proven wrong.

The Houston Rockets set an NBA playoff record by winning seven road games in a row. On their way to the NBA title, they won 11 out of their last 13 games. In the Western Conference Finals, they defeated the team with the best record in the regular season, another treasured Texas gem the San Antonio Spurs. As a team that never got the respect that it deserved when it won the title last year, Houston can now celebrate a title that will long be remembered. For most of the team, the second one is so much sweeter; but to Clyde Drexler, after 12 years in the NBA, this is the sweetest.

Mr. President, to repeat as champions with a four-game sweep is unprecedented. Five times the Rockets faced elimination and five times—with poise, determination, and character—they prevailed. The championship was a total team effort and everyone contributed.

Mr. President, I am sure that my colleagues will be glad to join me in congratulating the 1995 NBA World Champion Houston Rockets. For a team that started the playoffs with the sixth seed in the tournament, they are the lowest seed ever to win a World Championship. The Rockets showed their most adamant critics that they were not about to give up. In the words of head coach Rudy Tomjonavich, ''Never underestimate the heart of a champion.''

Mr. President, I just wanted to make sure that we recognized this great team effort, and the heart of these champions. And I am very proud of the Houston Rockets today, as last year, for their repeat world championship in basketball Wednesday.

I yield the floor, and I thank you, Mr. President.

THE SURGEON GENERAL

Mr. SIMON. Mr. President, we have been without a Surgeon General now for 6 months. I was very pleased when Senator DOLE mentioned he was going to meet with Dr. Foster. I hope that meeting can take place. I think the vote in our committee clearly illustrated there is a will on the part of this body to confirm Dr. Foster. I notice even those who voted against Dr. Foster had praise for his dedication and sincerity. I hope we can move soon on this Foster nomination. I think we have delayed enough.

If he is going to be voted down, let us vote him down. But I think we will approve him. I think he should be approved. I think those of us who were on the committee who heard him testify were very impressed by what he had to say.

NOMINATION OF DR. HENRY FOSTER TO BE SURGEON GENERAL

Mr. KENNEDY. Mr. President, I wish to address the Senate on the situation facing the President's nomination submitted to the Senate for the office of Surgeon General.

Mr. President, it is now nearly 4 months since President Clinton sent to the Senate the nomination of Dr. Henry Foster to be Surgeon General of the United States. On May 2 and 3, the Labor Committee held hearings on the nomination and on May 26 the committee voted to approve the nomination and sent it to the full Senate for final action.

Already 3 weeks have passed and nothing further has happened. It is time for a vote.

Dr. Foster has demonstrated his impressive qualifications, his character, and his vision for the future of health care in this country. During the committee hearings, he successfully put to rest the charges attacking his character and his ability. He earned the admiration and respect of the committee and the American public. Even some who opposed the nomination have expressed the belief that the Senate

should vote. Other opponents have threatened to filibuster to prevent a final vote.

It is time for the Senate to act. By now it is obvious that Dr. Foster is a highly principled physician and educator who has devoted his life and his career to the service of others. His record is outstanding. He has been widely praised for his contributions to the quality of health care for his patients, for his service to his community, and for his research and teaching and medicine. We do a disservice to Dr. Foster, the Senate and the Nation as a whole by prolonging this process.

The Nation has now been without a Surgeon General for 6 months, and there is no justification for further delay. Only one issue is holding up this nomination. Many other issues have been raised as a smokescreen, but they are easily dispelled. The real issue delaying this nomination is the issue of abortion. The diehard opponents of a woman's right to choose are doing all they can to block this nomination because Dr. Foster participated in a small number of abortions during his 38-year career. But Dr. Foster is a baby doctor, not an abortion doctor. He has delivered thousands of healthy babies, often in the most difficult circumstances of poverty and neglect. As one commentator has observed, ''Dr. Foster has saved more babies than Operation Rescue.''

In any event, abortion is a legal medical procedure and a constitutionally protected right. It is not a disqualification for the office of Surgeon General of the United States. And there is no justification for some of our Republican colleagues to try to make it one.

Dr. Foster is an obstetrician and a gynecologist, and it is no surprise to anyone that he has participated in abortions. Those who have heard Dr. Foster describe his vision for health care and have examined his record know about the lives he has saved, the hundreds of young doctors he has trained, his outstanding research on sickle-cell anemia and infant mortality, his model program on maternal and infant care, and his groundbreaking work to combat teenage pregnancy. President George Bush thought so highly of Dr. Foster's ''I Have a Future Program'' in Nashville that he honored it with the designation as one of his thousand points of light.

With this nomination, the Nation has an unprecedented opportunity to deal more effectively with some of the more difficult challenges facing us in health care today and to do it under the leadership of an outstanding physician and an outstanding human being who has devoted his life to providing health care and for opportunity to those who need the help most.

As Dr. Foster has stated, his first priority will be to deal with the Nation's overwhelming problem of teenage pregnancy, and he is just what the doctor ordered to lead this important battle.

Teenage pregnancy is a crisis of devastating proportions. The United States has the highest rate of teenage pregnancy in the industrial world. More than a million U.S. teenagers become pregnant every year, and every day the problem gets worse. Dr. Foster can be the national spokesman we need on this issue to educate teenagers about the risks of pregnancy.

Every day, every week, every month, every year, the number of teenagers lost to this epidemic grows further out of control. With Dr. Foster's leadership, we have an unparalleled opportunity to deal more effectively with this cruel cycle of teenage pregnancy, dependency and hopelessness.

Dr. Foster's ''I Have a Future Program'' has been a beacon of hope to inner-city teenagers. His program provides the guidance they need to make responsible, sensible decisions about their health and their future and to put themselves on the road to self-sufficiency and productivity and away from dependency, violence and poverty. He has taught them to say no to early sex and yes to their futures and to their education and to their dreams.

Dr. Foster has devoted his life to giving people a chance, giving women the chance for healthy babies, giving babies a healthy childhood, giving teenagers a chance for successful futures.

Now Dr. Foster deserves a chance of his own, a chance to be voted on by the entire Senate. I urge the majority leader to do the right thing and bring this nomination up before the Senate and a vote by the entire Senate.

Mr. President, I heard earlier during the debate and discussion that we have legislation before us that is going to be necessary to pass by October. I daresay that every day that we delay in terms of approving Dr. Foster is a day when this Nation is lacking in the leadership of this extraordinary human being who can do something about today's problems, not problems and challenges that the States are going to face in the fall, but today's problems, tomorrow's problems, on the problems of teenage pregnancy and the problems of child and maternal care, and all the range of public health problems that are across this country.

That individual ought to be approved. We ought to have a debate. If the majority leader was looking for something to do on a Friday, we ought to be debating that today and voting on it today, instead of debating the issue that is going to deny working families income to put bread on the table.

We can ask what our priorities are. The majority has selected to debate Davis-Bacon, not to debate the qualifications of Dr. Foster. As much as I am sympathetic to where we might be in the fall, I am concerned about the public health conditions of the American public today. There is no excuse—no excuse whatsoever—not to bring him up, other than the power of those who have expressed their views about the issues on abortion. That is what is behind this delay, and it is wrong.

Dr. Foster has appeared before the committee, answered the questions, has been reported out, and he is entitled to a vote. Even two members of our committee who voted in opposition indicated that they believe the Senate ought to vote on this.

We have to ask ourselves, how much longer do we have to wait? This is a timely, important, sensitive position, and this country is being denied the leadership of Dr. Foster, and we have no adequate explanation about why that is the case. The nominees are entitled to be debated and to be reported out and, once reported out, they are entitled to be voted on in the U.S. Senate.

So, Mr. President, I hope that we will have an opportunity the next time the majority is looking around for something because we are not ready to deal with the welfare reform issues, and we are not prepared to deal with some other issue, that we can move ahead on the Dr. Foster nomination. We are ready to debate it. The committee is ready to debate it. We are entitled, he is entitled, and the country is entitled to have a vote on that nomination, and I hope that it will be very soon.

TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT

SECTION 252(a)(2)(A)

Mr. PACKWOOD. Section 252(a)(2)(A) requires a separate subsidiary for all information services except those that were being offered before July 24, 1991. Since that date literally hundreds of information services have been initiated and offered, because July 24, 1991, is the day before the information services line of business restriction was lifted by the MFJ court. This means that all of those services have to be shifted to a separate subsidiary on the date of enactment of this act.

Are there not two problems in your view: First, the bill does not grandfather all existing information services. Second, it will be impractical for Bell operating companies to transfer existing information services to a separate subsidiary prior to the date of enactment of this act.

Mr. PRESSLER. Yes; I agree. It is my intention to address these problems in conference.

ROTARY PEACE PROGRAM ON POPULATION AND DEVELOPMENT

Mr. NUNN. Mr. President, I have recently been contacted by Mr. David Stovall, a constituent from Cornelia, GA. In addition to his professional work at Habersham Bank and his community service with the chamber of commerce and the Georgia Mountains Private Industry and Local Coordinating Committee, Mr. Stovall serves in the Habersham County Rotary Club and as governor of Rotary District 6910.

It is in his capacity as a Rotary District Governor that Mr. Stovall brought to my attention a recent ''Rotary Peace Program'' put on by the Rotary Foundation of Rotary International. Entitled ''Population and Development: A Global Perspective for Rotary Service,'' the event brought together Rotarians from District 9100, which includes Rotary clubs in 15 West African nations, and Rotarians from District 6910, which includes 57 Rotary clubs from throughout North Georgia.

At the Dakar Peace Program, the Rotarians were examining an issue of concern to many Americans—that is, the population growth in a number of countries in the world which are incapable of meeting the agricultural, the environmental, the medical, and the economic challenges that accompany such high races of growth.

Mr. President, these Rotarians, meeting in Dakar, Senegal, serve as an example of how nonprofit service organizations can take actions which contribute to the public debate and help to further policy objectives. To this end, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks the resolution adopted at the Dakar Peace Forum.

I also want to recognize other Georgia Rotarians who participated in the Dakar Peace Forum. They include Buck Lindsay of Lawrenceville, David Roper of Martinez, James Lyle of Augusta, and Dr. Ruby Cheves of Union Point.

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

A ROTARY PEACE PROGRAM BY THE ROTARY FOUNDATION OF ROTARY INTERNATIONAL

RESOLUTION

Whereas, The Trustees of Rotary International have endorsed a Rotary Peace Program on the topic of World Population and Sustainable Development, held this date in Dakar;

Whereas, in Forum, assembled Rotarians from Districts 6910 and 9100, and other parts of the Rotary World, along with NGOS in the field of population, have discussed in detail the topic of Population and Development;

Whereas, Recognized international and governmental experts on the subject of population and development have presented detailed information on the subject and participated in the deliberations;

Whereas, the Forum considered the conclusions of the International Conference on Population and Development held in Cairo, Egypt in 1994, encouraging and promoting respect for all human rights and for fundamental freedoms for all;

Whereas, The participants in the Forum expressed unanimous consensus that World Population is an issue of extreme importance and is an area in which Rotary must accordingly apply its humanitarian attention; now therefore: be it *Resolved*, That recommendation should be and is hereby made to the Board of Directors of Rotary International and to the Trustees of TRF that the following priorities be recognized:

(1) That awareness be promoted at all levels among Rotarians and others on the subject of Population and Development, in forums, including conferences, assemblies, institutions and peace forum;

(2) That the Directors establish a Task Force on Population and Development;

(3) That the Trustees of the TRF, in their humanitarian works, give high priority to projects which promote the role of women in development and which recognize the importance of the environment and population;

(4) That the education of Rotarians and non-Rotarians on the subject of population be carried out through the existing infrastructure of Polioplus, or a variation thereof. Be it further

Resolved, (5) That the Trustees provide appropriation for and begin research and development in support of a 3–H product, to serve as a model, addressing the subject of population and development.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, as of the close of business yesterday, Thursday, June 15, the Federal debt stood at $4,893,073,460,637.78. On a per capita basis, every man, woman, and child in America owes $18,574.19 as his or her share of that debt.

WHAT AN AIR FORCE PILOT'S RESCUE SAYS ABOUT AMERICA

Mr. LIEBERMAN. Mr. President, America rejoiced last week when the news broke of Air Force Capt. Scott O'Grady's rescue from Serb-controlled territory of Bosnia after being missing for 6 days. We were relieved know that he was safe and sound and we were eager to receive a sliver of good news from a region where day after day for 3 years we have been besieged by reports of the murder of innocents, genocide, and international hooliganism on a scale unseen since the dark days of World War II.

Our elation could not help but grow when this young F–16 pilot stepped before the microphones for the first time after his rescue. His words filled us with pride and reminded us of what makes the men and women of our Armed Forces so special and what is special about America. After 6 days of eating grass, drinking rain water, and hiding from armed Serbs who were trying to kill him, this young man's first words were of his thanks to God, his parents, his comrades-in-arms, and his country. As remarkable as his own actions were in the face of considerable hardship and danger, Scott O'Grady told the world that he was not the hero in this situation—in his view it was the brave men and women who risked their lives for him by conducting a continuous search effort and, when at last he was located, flying into enemy territory to snatch him away and bring him home.

Though he spoke for less than 2 minutes in that first appearance before a cheering crowd at Aviano Air Base and, thanks to instant communications, the entire world, his words should give us all pause and cause us to consider the values he reflects: trust in God, love of family, unwavering confidence in his country, and faith in the abilities of his colleagues in each of the military services. Throughout the past week of interviews and ceremonies at the White House and Pentagon, Captain O'Grady has continued to talk about his faith in God, country, family, and coworker.

Are these values unique to Scott O'Grady or to members of the Armed Forces? Clearly, living, working, and, when called upon, fighting and dying together are unique aspects of life in the Armed Forces which build the camaraderie and faith in your fellow workers that are so evident in the military. These values are critically important when one's work requires you to put your life in the hands of others.

As a member of the Senate Armed Services Committee, I am involved in decisions on defense budgets and policies which remind me every day of the important responsibilities we have for the men and women of our Armed Forces. We must work to ensure that they are properly trained, equipped, and motivated—as Captain O'Grady and the members of the rescue forces clearly were—if they are going to be able to continue their vital work of ensuring our national security. Too often in recent times, the dedicated men and women of our military have been tarred with a brush of scandal because of the proper acts of just a few. These acts are cause for concern and should be taken seriously as the Senate always has. But at the end of the day, I believe that what we see in Captain O'Grady and those brave servicemen and women who rescued him is the best representation of what our Armed Forces are and what they stand for.

But the values we have seen reflected in the words and deeds of Scott O'Grady are, in fact, the values which Americans have prized throughout our history. They are what has made America great. They are the values which most of us learned from our parents in homes across America. Scott's mother and father should be proud of the way they taught these values to their son.

The daily barrage of headlines of violence in the homes and streets of America, stories of broken homes, and indications of racial and religious bigotry could lead one to conclude that there is a cancer growing on America's spirit. I do not believe it and I doubt that most Americans believe it.

Americans are as they have always been—people of faith, courage, patriotism, and hard work. Perhaps it is time to remind ourselves of what is good about us and to allow our values to come to the surface again where they can help pull us above our fears and insecurities.

America owes young Scott O'Grady a debt of gratitude—for the professional manner in which he performed his duties as an officer in the U.S. Air Force and for the reminder that he has given us of what it takes to survive in these troubled times. America should rejoice with his return—and reflect upon what it says about us as a nation.

AFFIRMATIVE ACTION

Mr. MCCONNELL. Mr. President, I would like to address the Supreme Court's historic decision in the Adarand case handed down earlier this week. A majority of the Court, led by Justice Sandra Day O'Connor, found that preference and set-aside programs ordered by the Federal Government must be examined under the strictest judicial scrutiny. Justice O'Connor's opinion states that equal protection of the laws, as guaranteed by the Constitution, extends to every person, not to particular groups.

These preference programs are based on notions of group entitlement. As a practical matter, this decision will make it very difficult for the Federal Government to justify the more than 150 preference programs that currently exist. This decision is an important step in making this Nation truly color blind.

The case involved a Federal subcontract on a highway project. Under the Surface Transportation Act of 1987, Department of Transportation gives a bonus to a general contractor who hires subcontractors who qualify as socially and economically disadvantaged. Under the Small Business Administration definitions, disadvantaged is presumed to include African-Americans, Hispanic-Americans, women, native Americans, and other minority group members.

Despite Adarand Construction's lowest bid on a Colorado highway project to build a guardrail, the general contractor gave the subcontract to a minority firm. Adarand sued, claiming a violation of its right to equal protection.

Justice O'Connor, citing earlier affirmative action cases which had clouded the issue of the validity of these programs, wrote that classification based upon race which appear to be benign are not really benign, but ''are in fact motivated by illegitimate notions of racial inferiority or simple racial politics.''—from her own plurality opinion in Croson.

This decision comes in the midst of lots of attention to these preference programs. There is a movement in California to abolish preference and set aside programs. Gov. Pete Wilson recently did away with preferences in State employment by executive order and there is likely to be a ballot initiative next year. President Clinton has ordered a review of Federal preference policies, and congressional leaders, including the majority leader, have called for close examination of these programs.

Americans have no tolerance for racial discrimination, but they also have no patience for discrimination which is committed under the guise of making up lost opportunity for those who belong to certain groups. You can't discriminate against one group to benefit another. Justice Scalia said it best in his concurrence in the Adarand case,

> . . . [U]nder our Constitution there can be no such thing as either a debtor or creditor race. . . . In the eyes of the government, we are just one race here.

Mr. President, in the Foreign Operations Subcommittee of the Appropriations Committee, which I chair, we will have an opportunity to review at least one of these set-aside programs. It requires a percentage of certain categories of foreign aid to be managed by minority contractors. Under the Court's decision in the Adarand case, we will now examine the set-aside program under the strict scrutiny test. The administration will have to establish a compelling interest to justify the continuation of preference and set-aside programs. In this time of very scarce dollars, and especially scarce in the context of foreign aid, it's hard to imagine the administration's justification for anything other than the most efficient and economical use of our foreign aid dollars.

I look forward to the ramifications and implications of the Adarand case and the revision and even end to many of the Federal Government's preference programs and policies.

The PRESIDING OFFICER. The Senator from Montana.

FEDERAL AVIATION ADMINISTRATION REFORM

Mr. BURNS. Mr. President, yesterday my good friend, the distinguished Senator from Oklahoma, introduced a bill to reform the FAA. There is probably no institution in this town that needs reform more than it does. In my home State of Montana we take aviation, particularly general aviation, very seriously because we are a very large State but we are the 44th in population. We are the fourth largest State, 148,000 square miles. The Chair understands about that, coming from Wyoming, our good friend to the south. So you could say both of us have quite a lot in common. There is quite a lot of dirt between light bulbs in our part of the world and not many folks in between. So, for us having general aviation in a healthy mode and our ability to fly point to point is not a luxury, it is often a necessity in the West.

So we have a very strong, hard-working and well organized pilot community in Montana. I am proud of my strong relationship with the thousands of pilots in my State. Many of them are flying ranchers and that is the way they get their parts, that is the way they do a lot of business, a lot of their travel.

I have been watching the debate about reform of the Federal Aviation Administration and the Air Traffic Control system with some concern, and I share those concerns with my friend from Oklahoma. The pilots who talk to me tell of outdated equipment that their air traffic controllers are forced to use. I have heard the same concerns from air traffic controllers all over the country, as a matter of fact. They tell me about the concerns that the FAA does not get the necessary funds and it is absolutely hamstrung in some areas by layers and layers of red tape. They say the FAA is ripe for reform. After serving in this body now in my second term, after 6 years, I would have to agree with that.

But many of the proposals I have seen are only superficially attractive. The numbers just do not add up. The administration's ATC Corporation idea—there is no industry support for an entirely privatized ATC.

So today I am joining with Senator INHOFE in his introduction of legislation to provide some realistic, meaningful reform for the FAA. It will reestablish the FAA as an independent agency with an administrator who has a fixed term in office of 7 years and a management advisory committee made up of members of the private sector to advise the administrator on management policy, spending, and regulatory matters.

This measure will provide the FAA with major personnel, procurement and finance reforms that I think it needs. It will mandate that the FAA take action on safety-critical regulations in a more timely manner. This bill will give the FAA more flexibility in making corrections without risking its record of safety.

It is my hope this bill will be a starting point from which we can gain some consensus among this body, and in this Congress, and we hope that consensus will evolve rather quickly. I understand Senator MCCAIN is also working on a proposal to reform FAA. He is the chairman of the Aviation Subcommittee on the Commerce Committee. His knowledge of not only flight but also this agency is unexcelled, and I hope he will welcome this bill and that it will be a valuable contribution to what he is trying to do. Maybe we can really get together and put reform on the fast track. We can work together. I think it can be supported by everyone in the aviation community. It is needed.

Also, we have to be very mindful that not just airlines use FAA. It is very important we maintain it at a healthy level for general aviation because of the points I spoke about earlier on today.

With that, I support this reform as it starts down the track. We hope we can get a consensus and reform it before the snow flies this fall.

Mr. President, seeing no other Senators on the floor, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the motion to proceed to S. 440.

The Senate resumed consideration of the motion to proceed.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair. Mr. President, I might say to my colleague from Rhode Island, I had some remarks prepared, and intend to speak for awhile, but I wondered, if he wanted to start off, he can.

Mr. CHAFEE. No. Mr. President, I thank the distinguished Senator from Minnesota. I am here to listen to the persuasiveness of his argument. I will say that this bill is important. As we all know, unless we pass this legislation by the end of September of this year, our States will be deprived of some $6.5 billion of highway funds, which we need. So I think it is unfortunate we are involved in this filibuster, but that is obviously the choice of those on the other side. I am perfectly prepared to hear the remarks of the Senator from Minnesota.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from Minnesota is recognized.

Mr. WELLSTONE. Given the few remarks of my colleague from Rhode Island, it probably would be important for me to clarify the situation.

Mr. President, I agree that the underlying bill, this highway bill, is extremely important to the country. The debate is really not about the underlying bill. The debate is about Federal prevailing wage standards under the Davis-Bacon law, and an effort to repeal Davis-Bacon, at least in relation to the highway construction work that is done.

What is attached to this bill is an amendment to repeal the Davis-Bacon law in relation to highway construction work. That is what is unfortunate. So those of us who are taking on this issue in this debate are not doing it, if you will, Mr. President, of our own choosing. That is to say, we are more than willing to have a full-scale debate about the importance of the Davis-Bacon legislation first passed in 1931. We do not believe that this debate should be taking place right now. We do not think this amendment to repeal Davis-Bacon should be a part of this piece of legislation. That is really the debate. The debate is not about the underlying bill at all. My colleague from Rhode Island will certainly find me to be very supportive of much of his work on the underlying bill. But in a letter of May 2, I and other colleagues indicated that we intended to engage in extended debate on this bill if this Davis-Bacon repeal amendment was adopted, so no one should be surprised by our presence here today.

I would like to talk first about the Davis-Bacon piece of legislation, just to summarize it for those who are watching this debate, and then talk about what I consider to be the larger question, the larger issue that is before the Senate, and therefore before the country.

First, on Davis-Bacon, Mr. President, back in the early thirties, this piece of legislation was passed and the basic idea was as follows: Where the Federal Government is involved in construction contracts, we want to make sure that wages that are paid to those workers are consistent with the prevailing wage of the community. In other words, the Federal Government is the big player here, and it is kind of right out of Florence Reese's song ''Which Side Are You On?'' Either the Federal Government is involved on the side of the contractor in paying wages below the prevailing level of the community or the Federal Government—being a Government that cares not just about the largest multinational corporations in the world, not just about the people who have the financial wherewithal, but a Government that cares about wage earners, cares about working families, and says we will make sure that our involvement is to assure that the wages paid to working people—in this particular case we are talking about highway construction workers—is consistent with the prevailing wage.

Mr. President, I would just simply tell you that proposition is based upon a standard of fairness in which I think the vast majority of the people of the United States of America believe.

Second, Mr. President, the importance of Davis-Bacon, which is why this piece of legislation has been with us for well over a half a century, is that by making sure you have some kind of prevailing wage standard you also have higher quality labor and higher quality work that is done. And when it comes to the highways and to the bridges and to our physical infrastructure, it is pretty darned important to the people of Minnesota and Michigan and Rhode Island and Virginia and elsewhere that the highest quality work is done. That is part of how we measure benefit and how we measure cost.

So, Mr. President, what is at issue is not the underlying bill. What is at issue is that within this piece of legislation is this one provision which would repeal Davis-Bacon as it relates to highway construction work, which I understand is about 40 percent of the work covered by Davis-Bacon. This is no small issue. This is no small issue to working people; this is no small issue when it comes to wages; this is no small issue when it comes to fair working conditions; this is no small issue for the Senate; and it is no small issue for people in this country. I have to tell you, Mr. President, that the larger issue, what is really at stake I think can be shown rather graphically by this chart.

If you look at historical trends in real family income—and the source of this is the Bureau of Census, Department of Commerce —if you look at real family income, what you get between 1950 and 1978 is something like this. For the bottom 20 percent of people in our country, real family income in 1993 dollars went up 138 percent.

Now, in our country I think people say that is the way it should be. The bottom 20 percent, their family income goes up 138 percent. The second 20 percent goes up 98 percent. The middle 20 percent, family income goes up 106 percent. The fourth 20 percent —now we are getting toward the top—111 percent, and then the top 20 percent, real family income goes up 90 percent, between the years 1950 to 1978.

That is sort of the American dream, Mr. President. That is what people care about, that is real growth in family income. And during this period, we see a trend that is very consistent, with the kind of standard of fairness that people in the country believe in.

Now, Mr. President, we look at 1979 to 1993, and what we see is a country growing apart.

As a matter of fact, more recent reports that have come out have shown that we have the greatest gap in income in wealth than we have ever had since we started measuring these things.

So, Mr. President, we see that between 1979 and 1993, for the bottom 20 percent, real family income goes down by 17 percent; the second 20 percent real family income goes down by 8 percent; the middle 20 percent real family income goes down by 3 percent; the fourth 20 percent real family income rises by 5 percent; and for the top 20 percent, real family income goes up by 18 percent.

So, Mr. President, what is really going on here is a debate about where the Federal Government fits in and what kind of public policy throughout the country is responsive to working families. This is the squeeze that people feel within the country, and I say to my colleague, and I say to people who are watching this debate, at the very time that real family income is going down, at the very time that the bottom 80 percent of the population feels this squeeze, what are we doing? Some are trying to overturn a piece of legislation that has served this country well and served working families well. We are now trying to bring down wages in our communities, and we have a Congress which, up to date, has been unwilling to even raise the minimum wage. So this debate is all about fairness. This debate is all about what matters to people in the country more

than any other issue: a good job at a good wage.

Mr. SIMON. If my colleague will yield for just a series of questions. If we repeal Davis-Bacon, does that, in any way, depress the wages of that top 20 percent that has already gone up 18 percent?

Mr. WELLSTONE. Certainly not. If you look at average wages in the construction field, it is about $25,000-$30,000, or thereabouts.

Mr. SIMON. Then where, if we pass the repeal of Davis-Bacon, does it have its impact?

Mr. WELLSTONE. I say to my colleague from Illinois that if we repeal Davis-Bacon as it applies to highway construction, or even beyond that—which has everything in the world to do with making sure that we do not depress prevailing wages in our communities—what you are really going to see is a drop in incomes for the middle 20 percent, the second 20 percent, and the bottom 20 percent.

Mr. SIMON. So what we will be doing if we pass Davis-Bacon is depressing the wages of those who already are losing in our society.

Mr. WELLSTONE. That is precisely the point, I say to my colleague.

Mr. President, the most fundamental flaw of all with this provision in the bill is that it depresses the wages of the very families that are the most hard pressed in this country. I say to my colleague, we are not talking just about the poor, we are talking about middle-income working families, around $25,000, $30,000, a year.

Mr. SIMON. I thank my colleague.

Mr. WARNER. Mr. President, will my colleague yield for the purpose of a question?

Mr. WELLSTONE. I will be pleased to yield.

Mr. WARNER. The amendment of the Senator from Virginia, which is the current subject of discussion, relates only to the highway program. And in the Senator's presentation, he is sort of talking about all Davis-Bacon when, in fact, it is only roughly 38 percent of the program.

So I think it is important to be accurate here. We are talking about just that part of Davis-Bacon relating to the Federal Highway Program, are we not, I ask my colleague?

Mr. WELLSTONE. Mr. President, I say to my colleague from Virginia, I used the figure 40 percent earlier, 38 percent or 40 percent; that is correct. About 40 percent of Davis-Bacon contracts are highway related. When you consider all of the billions of dollars that we spend on highway construction, I think that's a lot. I mean, 40 percent of Davis-Bacon, 40 percent of prevailing wages in communities across our country, 40 percent that affects these families that are most hard pressed is not an insignificant percentage.

Mr. WARNER. Mr. President, I do not contest that point, but let us be accurate that we are talking about only the Federal Highway Program.

Mr. WELLSTONE. I say to my colleague, I have been accurate.

Mr. WARNER. Mr. President, I am not sure the Senator pointed out that this chart—it seems to me the Senator was talking to the entirety of Davis-Bacon.

Mr. WELLSTONE. I say to my colleague from Virginia, Mr. President, that before he came in, I first defined Davis-Bacon, I talked about the purpose of Davis-Bacon, the public interest accomplishments of Davis-Bacon, and I then went on and said this amendment dealt with highway construction as it applies to Davis-Bacon and gave the figure 40 percent.

What I will now say to my colleague is that we are talking about something larger than just the highway construction workers and we are talking about a larger question than just Davis-Bacon. What we are talking about is, if you look at the most recent years, an enormous squeeze on really the bottom 80 percent of the population. So that is really the issue here, and that is what I am now trying to pinpoint.

Mr. President, I thank my colleague from Virginia for his questions.

So, the reason I am on the floor with Senator KENNEDY from Massachusetts and Senator SIMON from Illinois is, A, Davis-Bacon passed in 1931. Why? To make sure that when the Federal Government is involved in these contracts, we are on the side of making sure that the wages that are paid to those workers are at least consistent with the prevailing wages of the community and we do not get involved or we are not on the side of employers who depress wages for people in the community.

B, we support the underlying bill, but this provision should not be a part of this bill. We ought to have a separate debate on Davis-Bacon because of the significance of this. When you are trying to overturn a piece of legislation that has been a part of the political and social landscape of this Nation for over 60 years and has been a part of fundamental economic justice and has been consistent with the idea that people ought to make decent wages on which they can support their families, you do not put it in as part of a highway bill. You deal with the whole legislation separately, and then you have that debate.

And then C, what I am now trying to do in this presentation is point out again, if I can ask for the first chart, what is really the larger context. This is what I think American politics is all about in many ways.

From the years 1950 to 1978, the vast majority of people in this country—and this is the American dream—saw a real increase in real family income, and from 1979 to 1993, we have seen a growing apart in this Nation. That is a fact. And for the life of me I do not know why in the world colleagues would be so anxious to repeal a law that is so consistent with economic justice, economic opportunity, fair wages and opportunities for working middle-income families in America.

Mr. President, people in the country feel an economic squeeze. People are worried about whether or not there are going to be good jobs. Let me just present some alternatives to what I think this effort is all about, and I certainly hope my colleagues will support us in blocking this effort, because this effort to repeal this provision of Davis-Bacon that applies to highway construction workers does not take us into the 21st century. In fact, this takes us back to the 19th century.

Let me present an alternative formulation. You say you want to have welfare reform, and we need to reform that system. We are going to have a debate on welfare reform, and hopefully not on something that is called welfare reform, but is really an effort to punish women and children.

Here is real welfare reform: A good education, good health care, and a good job. If we want to reduce poverty in America—say, for example, the poverty that exists 10 blocks from where we are right now in Washington, DC, or the poverty in Minnesota, Illinois, Massachusetts, Rhode Island, or Virginia, the answer is a good education, good health care, and a good job.

Mr. President, if you want to reduce violence in this Nation—and we all do—you hold people accountable that commit these crimes, no question about it. But, Mr. President, talk to any judge, police chief, or sheriff, and they will all tell you the same thing: We also have to reduce violence by focusing on a good education, good health care, and a good job.

Mr. President, if you want to have a stable middle class, people need a good education, good health care and a good job. If you want to have a democracy—we have a democracy—that is why we love this country and why I love being in the U.S. Senate, you have to have men and women who can think on their own two feet and understand the world and the country and the community they live in. The only way that can happen is a good education and a good job.

Mr. President, this effort to repeal the part of Davis-Bacon that affects the highway program is mistaken. This takes us back to the 19th century, not forward into the 21st century. I simply contend that the future for our country is twofold. First, we need to understand that our real national security is to invest in the skills, intellect, and character of young people. The real national security is to make sure we focus on a good education for our citizens. The real national security is to make sure we focus on good jobs at decent wages.

This effort is mistaken. This effort turns the clock back, and that is why, in every way possible, those of us on the floor today intend to defeat this effort to repeal the provisions of Davis-Bacon.

I will yield for a question.

Mr. ABRAHAM. I would like to ask my colleague this on the chart indicating from 1979 to 1993. Can he say whether or not during that period of time the aggregate numbers he has there were reflective of a straight-line decrease in the share for the people in the lowest 20 percent and an increase for the people in the top 20 percent, or if there were fluctuations during that period, and if he is familiar with the year-by-year data during that timeframe?

Mr. WELLSTONE. I say to my colleague that I am not familiar with the year-to-year variation thereof. But I think, as a matter of fact, what happened in the United States, in the last decade and a half, is what's been called the deindustrialization of America. We have seen, in the United States of America, what Robert Kuttner and others have called a ''disappearing middle class.'' We have seen in the United States an economy that is producing some jobs, but not the kind of jobs that families can count on, because they do not pay a decent wage or, I say to my colleague from Michigan, do not provide a decent fringe benefit.

So the point is that as you look at this period of time from 1979 to 1993, we are now in a period where the vast majority of families—really if you get right down to it, the bottom 80 percent—have been under an enormous squeeze.

Mr. ABRAHAM. I have seen this chart, of course, in our Budget Committee meetings and our Labor Committee meetings, and on the floor several times. I think it may have originated with Secretary Reich from the Department of Labor, who used this chart to argue that the economic policies over that last period, the period in question, 1979 to 1993, have been consistent policies. This chart is usually employed to argue that it has been the Republican policies that were harmful to certain segments of the economy, particularly certain income groups. But I have tried to look at this chart in terms of the policies that were in place during that timeframe. What I discovered was that there were some very significant changes during that timeframe. It begins in 1979. That is during a timeframe in which we had President Carter in office, and we had policies of higher taxes and more regulation. We had very high interest rates in this country and quite high inflation during that timeframe. Those policies were pretty much in effect, Mr. President, until about 1982, when after 1 year of the Reagan administration, the change in policies took place.

Now, between 1979 and 1982, you have a significant decline, a very significant decline in family income during those years. Then from 1982, I discover that you have a reversal of course, and I think we all recall that there was a substantial increase for the next 8 years or so in family income. It starts back down again around 1989, 1990. And, as the Senator noted, it has gone especially down in the last year or so. But I think that to use this chart to reflect or create the illusion that there has been a sort of straight-line decrease really does not capture the essence of what happened during this timeframe when, in fact, there was a sharp decline during the first 3 years of this and a significant incline for all groups, all quintiles on the chart, for about 8 years, and a decline over the last 3 years. So I am not sure that the 14-year chart really reflects what happened in terms of policy or in terms of family income.

Mr. WELLSTONE. Mr. President, I will be pleased to yield the floor in a while, but let me just say to my colleague, in the spirit of collegiality, because I like debating my colleague from Michigan because he is so thoughtful, and the country would be a lot better off with more thoughtful debate.

First, I did not actually talk about political parties. I did not talk about President Reagan or President Bush. I did not talk about political parties. And for the families——

Mr. ABRAHAM. I did not mean to suggest that. The chart has been presented under a number of circumstances.

Mr. WELLSTONE. I am trying to say it is kind of an academic point for the bottom 80 percent of the population, who really feel an economic squeeze as to whether or not, for a while, it was a little better and then much worse. The fact is that this is what has happened in the United States in the last few decades. And that's why the vast majority of people are under tremendous economic pressure.

The second point. There is an interesting correlation between what my colleague from Michigan talked about and the debate we are now having on the deficit, which is to say that my colleague is quite correct that we actually had a very deep recession in 1982. Those were not good years. And then we had a recovery, although it was a recovery supported by a politics and economics of illusion, because it was based on debt. That, of course, was the proposition that we could slash the revenue base, which we did with what was euphemistically called the Economic Recovery Act of 1981, and dramatically increase the Pentagon budget and other expenditures. And all of that would lead to high levels of productivity, high levels of great jobs, middle-class jobs. And in addition, if we wanted to go back to the speeches given then, it would lead to reducing the deficit and eliminating the debt.

That was a politics of illusion. A politics that prompted an explosion of the debt during that period from under a trillion, as I remember, when President Reagan took office, to where we are right now, well over $4 trillion.

Mr. President, what we have seen happen is the worst of both worlds. On the one hand, we have piled up record debt, and the interest on that debt robs us of our capacity to invest in ourselves. And, on the other hand, we have not been able to invest in the economy and in education in such a way that we have an economy that produces the kinds of jobs that people can count on, thus leading to a disappearing middle.

In that context, I say to my colleague—and I will yield for a question from the Senator from Illinois—it simply baffles me why Senators would want to eliminate a law that now provides wage earners in the construction industry—who are paid right around $25,000 or $30,000 a year, with assurance that they will get a decent wage.

Why are we now trying to depress people's wages? Why are we now trying to repeal a piece of legislation that has been so important to workplace fairness and fair wages? Why in the world are we trying to pass a piece of legislation that will depress wages? We can have this academic debate over and over again as to when it went up, down, or who is to blame. But that is the central question.

Mr. ABRAHAM. Mr. President, I will say that I think it is an academic debate, because the question about wage earners that we are talking about—and we are going to encounter this question in the budget debate—is which policies cause wages and family income to go up, and which policies cause them to go down.

I submit policies of high tax and high regulation tend to cause these wage earner family incomes to go down. The concern I have using charts like these is that they do not necessarily reflect a consistent set of policies.

During the period that is involved there, we had two very traumatic shifts. It began in an era with a policy of higher taxes and low regulation, and wages went down. It shifted to a policy of lower taxes and less regulation, and family incomes went up dramatically, then shifted one last time to policies of higher taxes and higher regulation again, and they have begun to decline.

I think we need to examine this. My point today is to reflect the fact that there are changes within that timeframe that are reflected in changed policies that I think do affect workers and make these inquiries more than academic.

Mr. WELLSTONE. Mr. President, actually I think we interpret our history a little differently.

As a matter of fact, if we were to just take the period of the 1980's, and we were to take the Reagan and Bush administrations, what we saw—talking about real income going up—what we saw in this period, which the Senator views as such a heyday for wage earners, was a massive redistribution of income up the wage scale, leaving low- and moderate-income people behind.

This is what was called trickle down economics. It is simply not the case, that middle-income and working families found themselves benefiting from the decades of the 1980's. This was a decade of sharp income inequality, a

decade with a rise in poverty, a decade of fewer jobs people can count on. We still feel the squeeze.

I cannot understand why in the world some of my colleagues now want to repeal a piece of legislation that at least makes sure that those people who work get decent wages, and the wages are not depressed for people in the communities.

Mr. SIMON. If I could just respond very briefly to my friend from Michigan.

First of all, I think we have to be very careful. We go through this litany that higher taxes have caused depressed wages. Very interesting. As late as 1986, the average American industrial wage per hour was the highest in the world.

Today, 13 nations have higher average wages per manufacturing hour than we do, and every one of them has higher taxes than we do. We have to be careful about these kinds of economic myths that are going on out there.

Now, there are some reasons. Frankly, both political parties share some guilt. One is the deficit. We just had the Concord Coalition economic study that said if it were not for the deficit in the last two decades, the average family income today would be $15,000 a year higher.

The University of Michigan economics professor made a study and said the average family income, if it were not for the deficit, would be 25 percent higher. I do not know whose figure is right, but they are huge figures.

Both parties share the blame on this. The Reagan tax cut, as Howard Baker said, was a riverboat gamble. And it was a gamble that did not pay off. It was tragic. Democrats voted for it. I was not one of them. But Democrats voted for it, as well as Republicans.

The 1986 tax bill, I think, has turned out to be a disaster. I am pleased to say I voted against that.

Both parties share guilt on this. Part of this has nothing to do with either political party. That is just the economic trend. We demand more and more skills. Part of the reason for those changes are the unskilled, their wages are going down; the skilled, their wages are going up.

That is the reason for Bob Reich's statement, ''If you are well prepared, technology is your friend; if you are not well prepared, technology is your enemy.''

There was, during the Reagan years, a Democratic Party, so both parties share blame. There was kind of euphoria because we were living on a credit card. It is fun living on a credit card. We spent more money than we took in. It went very, very well.

Now, we have to face up to these things. That is why education, as part of that three-part program that Senator WELLSTONE is talking about, is so important.

It all fits into this, because one of the trends in our country today is there is a shrinking middle class; not dramatic, but it is shrinking. There are few people moving up, and more people moving down.

If we repeal Davis-Bacon, that trend will accelerate. That is not good for this country. What we need is to build the middle class. I intend to speak on that a little more later on.

I think again we have to examine these economic statistics. Both parties have plenty of blame to share. We ought to be working together to try to rectify this.

Mr. ABRAHAM addressed the Chair.

Mr. WELLSTONE. Mr. President, I believe I have the floor. I want to respond to the Senator briefly, and will be pleased to yield to the Senator from Michigan for a question in a moment.

I wanted to say to my colleague from Illinois, what is puzzling about this effort to repeal Davis-Bacon, is that we now have reached a point where our official measurement of unemployment is becoming almost meaningless because it is so incomplete.

You go State after State, and you have a figure of, say, 3 or 4 percent unemployed. That does not say anything about what kinds of jobs and what kinds of wages. It does not measure those people who are discouraged workers. It does not measure those people who are underemployed.

The key point, I think, is that what we find in many of our States with an officially defined ''low level'' of unemployment is a shockingly high level of families, as much as 50 percent, have incomes of under $25,000 a year.

That is the squeeze people feel. Why in the world we would be trying to repeal a provision that tries to keep the prevailing wages in communities at a higher level as opposed to depressing wages is what confuses me, and that is what I am so opposed to.

I am ready to yield the floor, but I will be pleased to yield for one more question from the Senator from Michigan.

Mr. ABRAHAM. Mr. President, I will be brief. I agree with the comments of the Senator from Illinois with respect to the comments we all have made with respect to some of the budget problems that have happened. I would assign them a little differently maybe. There was a tendency to see, as was implied earlier, that somehow by reducing taxes we generated less revenue for Washington. I always like to remind the Senate, what we are talking about when we reduce taxes is letting people keep a little more of what they earn. But I also point out that during the 1980's, the percentage of gross domestic product that ended up being paid in taxes did not change. In fact, it remained as it has for literally decades, right around the 19-percent level. What did change, and where I think both parties have the responsibility in particular, is in terms of our spending practices. Obviously, what we did during that decade was spend more. We spent on everybody's priorities. We refused to say we have to set some priorities. So it did create the kind of increased deficits that were referred to.

I agree with the assessments that those deficits did hurt. I do not know whether it is 19 or 25 percent. One of those figures was from the University of Michigan, so I will tend to be more likely to agree with the ones from my home State, but that clearly was a burden both parties, I think, were responsible for.

Mr. SIMON. Will my colleague yield for just 30 seconds?

Mr. WELLSTONE. I will be pleased to yield for more than 30 seconds.

Mr. SIMON. Mr. President, I think one of the reasons people resent taxes so much is they do not see the results. Two nations spend a disproportionately high percentage of their taxation on two things. There is only one nation that spends more among the modern nations, and that nation is Israel, on interest and on defense. No other nation come close to us in this. These are things that do not directly benefit the average person in Michigan, or the average person in Minnesota, or the average person in Illinois or Rhode Island.

I think one of the reasons people are so disheartened about government is they say: Next year we are going to spend $370 billion on interest, 12 times as much on interest as on education, 22 times as much on interest as on foreign aid, twice as much on interest as on our poverty programs.

On defense we are going to spend $270 billion, more than the next eight countries together.

We have to get ahold of our fiscal problems. We have to get ahold of our defense spending. Then I think people, if they see they are going to get out of their tax money education and health care and jobs and things like that, I think they are going to be more willing to spend it.

I thank my colleague for yielding.

Mr. WELLSTONE. Mr. President, I will finish up, too. I just would like to make two final points. I would like to say to the Senator from Illinois that I would add another reason as to why people have a fair amount of healthy indignation about taxes. Part of it is they want to make sure what they pay for works. But, if I could say this to my colleague from Illinois, there is another reason why people have a tremendous amount of skepticism about taxes. That is, ordinary citizens have a sneaking suspicion that they end up paying, but that there are a whole lot of other people who do not pay their fair share. That is called tax fairness. I make it clear, as I look at these proposals to reduce the deficit, including the President's proposal, the President's proposal is less harsh but we can do much better when the reconciliation bill comes out. Corporate welfare, deductions and loopholes and tax giveaways for energy companies and pharmaceutical companies—these are folks who have enormous clout here. They ought to be asked to tighten their belts too. I can tell you right now that has

not so far been on the table in any real way in any of the proposals. I intend to make sure it is.

Second, I say to my colleague, he is absolutely right about some of the large military contractors. It is one thing to have a strong defense. It is another thing to be spending money on weaponry that is obsolete, wasteful, has nothing to do with a strong defense at all. Why in the world is that so sacred? It has a lot to do with who has power. Why are the people we are asking to tighten their belts also the people who have little economic or political clout? Why are we making the cuts in some of these areas but then leaving other areas untouched?

Finally, I say to my colleague, when it comes to Medicare and Medicaid, you cannot do it without health care reform. But I have not heard that yet. I would like to see the administration push harder on it. I will. You have to have universal coverage and system-wide cost containment. If that means you have to put a limit on insurance company premiums to cost of living times percentage of increase in population, you would save huge amounts of money. It is much fairer. But when it comes to those people and those interests we seem to not be willing to ask them to be a part of this national sacrifice.

So, I do not disagree with my colleague about the importance of deficit reduction and getting to the point where we balance the budget. But I would like for it to be done on the basis of some standard of fairness, not based upon the path of least political resistance.

Which takes me back full circle to my remarks about Davis-Bacon. This effort to repeal Davis-Bacon, which is what this is all about, in a bill we all think is important, is an effort to do nothing less than to depress the wages of middle-income and working families in America. It should be defeated. It should be identified for what it is and it should be defeated.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I would point out to my colleagues, because I know Senator WARNER is a chief architect of this, I have great respect for Senator WARNER. If I were to give an award of courage for the last 2 years in the U.S. Senate to any single Senator, it would be an award of courage to Senator WARNER for how he has conducted himself in a very difficult situation in the State of Virginia. I greatly respect what he has done. He has handled himself with class.

But even the best of Senators can be wrong once in awhile. I believe Senator WARNER has erred in moving to repeal Davis-Bacon, in terms of highway construction. It is interesting that the National Alliance for Fair Contracting has come up with highway construction costs in low-wage States versus high-wage States. Listen to this. Total costs per mile on highway construction—and I assume this is State and interstate highways rather than local roads—total cost per mile in the low-wage States, $1,141,000. Total costs of highway construction per mile in high-wage States, $1,017,000 per mile.

The reason, in part anyway—and I have not looked at these statistics in detail. I do not know how they were arrived at. But one of the things that every study shows is that if you pay people well they are more productive workers. Davis-Bacon does not only apply to union workers, but the Harvard studies and others also show that union workers are more likely to be satisfied and more likely to be highly productive.

My hope is that we would not repeal Davis-Bacon. I think the reality is that if you repeal Davis-Bacon you do depress the wages of people who are struggling, people who are in the middle class or people who are trying to move up to the middle class.

When you see somebody out holding a flag because there is highway construction, that man or woman is not paid an awful lot of money; paid really probably above the minimum wage but not a great deal above the minimum wage. To depress that person's wage, which is what we would do if we pass this bill, I do not think is a direction the American people want us to go. We ought to be talking about lifting the wages of people. We ought to be talking about raising the minimum wage, not depressing wages. Yet, that is what we are really asked to do in the legislation that is before us.

Does Davis-Bacon need to be modified? There is no question that it should be modified. I had an amendment that Senator KENNEDY was a cosponsor of in the Labor and Human Resources Committee which applied to Davis-Bacon across the board, not simply to highway construction, which Senator WARNER says is about 38 percent of the application of Davis-Bacon. It would raise the threshold for coverage from $2,000 to $100,000. It would raise the threshold for repair work or alteration compared to new construction to $50,000. The current act, which is sometimes called the Copeland Act, is an—incidentally, Congressman Bacon, who was a cosponsor of Davis-Bacon, was a Republican Member of the House—but the Copeland Act currently requires weekly submission of payroll by contractors. We change that. So we reduce paperwork. And on contracts between $50,000 and $100,000 they would not be required to submit payrolls at all, simply a statement that they are complying with the law. And for the contracts over $100,000, instead of submitting a weekly payroll, they could submit a monthly payroll.

I think those kinds of changes are the changes that we need. I think they make sense. I hear reports that Senator HATFIELD may be coming up with a modification, something like the one that I offered in committee, and I hope that he does. I hope that somehow we move to a more sensible answer than simply repealing the Davis-Bacon legislation. Again, I see nothing to be gained for the country in highway construction costs, and in terms of what we are doing for our country to lift our people by repealing Davis-Bacon.

When people say, ''Well, if you pay less, should not we have to pay less for highways?'' The answer comes in productivity or it comes in profits. It is interesting to me. I was contacted as I walked into this body today by someone speaking in behalf of highway contractors who did not want to have Davis-Bacon repealed. I am not saying that he speaks in behalf of all highway contractors. But I was surprised to have someone contact me in behalf of highway contractors.

Labor costs per mile, according to the study in low-wage States, $216,000; labor costs per mile in high-wage States—my colleagues from Michigan and Rhode Island will be interested in this—in high-wage States costs per mile of labor costs are $241,000. Let me just repeat that because I know my colleagues from Michigan and Rhode Island would be persuaded by what I have to say on this now. The study shows in low-wage States the labor costs per mile are $216,000, in high-wage States the labor costs per mile are $241,000, and yet the total cost per mile, wages, everything—$1.141 million in a low-wage State, $1.17 million in a high-wage State.

(Mr. KYL assumed the chair)

Mr. SIMON. Mr. President, let me also digress for just a moment to say to the Presiding Officer, and to the Senator from Michigan, the only good thing about the Republicans taking over the Senate is Republicans have to preside and Democrats do not have to preside anymore. So I welcome the Republicans presiding up there.

But again, I say to my friends from Rhode Island, Arizona, and Michigan, and elsewhere, the evidence is just overwhelming that all we are going to do is depress wages. We are not going to reduce costs in highway construction if we repeal Davis-Bacon. The statistics show that.

I do not know why we should want to pass legislation that depresses wages for people in this country. You are talking about frequently very low-wage wages at the present time. Senator KENNEDY had a chart yesterday showing Davis-Bacon wages for carpenters in Tennessee, $6 an hour. That is not high wages. Some of you spend that much per hour for a babysitter.

Mr. CHAFEE. I wonder if the Senator from Illinois would like to engage in a discussion on this point?

Mr. SIMON. I would be pleased to. I am sure at the end of the discussion the Senator from Rhode Island will agree that we should not repeal Davis-Bacon.

Mr. CHAFEE. That is a leap that I am not quite prepared to agree to.

Let me just say this: We have a philosophic difference here. The philosophic difference is as follows: The Republicans are saying let competition work, let the marketplace take effect just like it is in 85 percent of construction. What the Democrats are saying is no, no, no—that we are going to give a special privilege, a fixed wage, as it were, to those who are working on Government jobs; namely, in this case, highway construction. What they are saying is that these wages are not going to be fixed by the free market or by what the employer wishes to pay or what the workers are prepared to accept. They are going to be guided solely by what is known as the prevailing wage. We all know that the prevailing wage is the union wage. That is a fact. I think you have great difficulty showing many sections of the country where the so-called prevailing wage under Davis-Bacon is not the union wage.

So what the Democrats are saying is this is the way we want to do business. We want to say that only those companies that have had a history of paying the union wage, that are big enough to handle all the complexities involved with the recordkeeping, with the forms, with the compliance with Davis-Bacon, will be able to bid on these jobs. The little fellow who is out there and has done well, in let us, say home construction or in sidewalk paving, or driveway paving, he cannot bid on a paving job for the U.S. Government or for the Highway Administration or for the State highways where there is Federal money contributed. He is out. That is a fact.

Davis-Bacon is a protective device for two things: For union wages, and union employees, union members, and for the big construction companies. It is no surprise that the Senator from Illinois is quoting some construction company saying we want to keep Davis-Bacon. Of course they do. And it is probably one of the biggest construction companies because they can keep everybody else out. The little fellow who comes in at a lower price, at a better bid, he is out.

To me that is a very, very strange way of doing business. It is saying that competition is not going to prevail. That is really what Davis-Bacon says. You cannot have competition except under these limited rules where you are going to pay the prevailing wage.

I listened carefully to the distinguished Senator from Massachusetts yesterday who had a very vigorous speech. As a matter of fact, all speeches the Senator from Massachusetts gives are vigorous speeches, with the volume turned up on occasion.

His point is that you are going to drive everybody else into the poorhouse. They are depressing wages, this wicked business of competition. That is like saying all the companies, the workers that work on the 85 percent of the other construction in the United States not covered by Davis-Bacon. What are we talking about? We are talking about building a building, building a warehouse, building housing, building apartment houses. That is not covered by Davis-Bacon unless the Government in some fashion has contributed, as the Senator knows. That is the rules that guide when Davis-Bacon applies.

The idea is that everybody that is doing construction in these other nongovernment jobs is just in rags, has been beaten down by the competitive system. That is nonsense. We all know that is nonsense. Those who are good, if you are a good worker and have the skills and can produce, you get the job and you get the pay. And to say that everybody is working at a minimum wage, a carpenter or a latheman, an electrician, a plumber, whatever it is, is working at some scroungy minimum wage because he does not have Davis-Bacon to protect him is total nonsense. I am sorry that the suggestion has been made. We can argue whether we want to have the Government getting into setting these wages, as in effect we are doing. That is fine. But to suggest that everybody is poverty stricken if Davis-Bacon should be eliminated is just not so.

Mr. SIMON. If I may reclaim my time and respond to my friend from Rhode Island, who on most things is very rational and reasonable, he has strayed on this one. I remember way back when taking a course in logic at Dana College, a small liberal arts college in Nebraska, and one of the things you set up is a series. There is an animal that has four legs. A horse has four legs; therefore, that animal is a horse. Well, it turns out that animal is a cat and not a horse, but you start off with some premises that are not accurate.

Do we want to have the free system? Yes, we want the free system. On that I agree with him. When he says the prevailing wage is the union wage, then the Senator from Rhode Island is off base. Only 11.8 percent of the nongovernmental employees in this Nation are union workers. The Senator from Massachusetts is here and I am sure will bear me out on this. Of the wages that are considered for prevailing wages, only—and if I may have the attention of my colleague from Rhode Island—of the wages that are considered for determining prevailing wages, only 29 percent are union workers. Of the rest, 48 percent are nonunion and then some mixed situations.

What Davis-Bacon says is go in and find out what the average wage is in Jones County, RI, or whatever the county is in Illinois or Arizona and do not let the Federal Government be the source for depressing wages for the workers of our country.

I think that is sound. That is what Davis-Bacon is all about. And then let businesses that pay the prevailing wage compete. Let the free market system work. Do not let it work by depressing people who are really struggling for a living.

I hope we will do the sensible thing and not repeal Davis-Bacon.

I see the presence of the senior Senator from Massachusetts, and I yield the floor, Mr. President.

Mr. KENNEDY. Mr. President, I want to commend my colleagues and friends who spoke earlier today about the issue that is before the Senate. It is described as a repealing of the Davis-Bacon Act but only in regard to the highway system.

It has been pointed out that represents 40 percent of all the Davis-Bacon protection. So it will have a very substantial impact on the construction workers of this country, depending upon what will be the will of the Senate on this particular issue.

As we have heard, even in the early parts of the debate by our good friend from Virginia, what he is basically talking about is taking approximately a billion dollars and getting more construction out of that billion dollars. Translated: That is taking more than a billion dollars during the life of this program out of the pockets of the men and women who work in the construction industry—that is basically what is being talked about here—depressing the wages of workers in the construction industry.

Yesterday, I took a few moments to point out what those workers were earning across the country. We are talking about men and women in the construction trade who are earning $26,000, $27,000 a year. Mr. President, $26,000 or $27,000 a year is hardly enough to pay a mortgage and put bread on the table and provide for the education and clothing of their kids and look to the future, plus being in an industry which is the second most dangerous industry, outside of the mining industry, in this country.

I reviewed what the workers were getting in different parts of the country, and we saw in those charts across the country, whether they were in heavy industry or in the residential area, what individuals were making. Some made $9,000, $10,000, $15,000 a year, going up even into the larger figures of up to $42,000 a year.

We saw that what we are talking about is their income and the assault on their income. That is basically what is the issue here. I have listened to the argument made that we are trying to jimmy the whole debate process on this thing in favor of denying competition. What we are saying is let us rule out the question of a competition to drive wages down when we are investing Federal taxpayers' money. That is what Davis-Bacon does.

If the companies and corporations are able to compete, showing better management, better skills, better administration, they can do it and win the contracts, but we are saying here that we are not going to permit driving wages down. We want the taxpayers, the middle-income families, to benefit from the opportunity to have real competition, not on driving wages down in

this country at this time, but having competition on the other measures. That is what this debate is really all about.

I went through some figures yesterday about construction income. If you are a carpenter in Tennessee, you are talking about $9,000 a year under Davis-Bacon. If you are a carpenter in Providence, RI, it is $23,000. Mr. President, $23,000 does not go a long way up in New England when you are paying for home heating oil, paying the mortgage, and putting food on the table. It does not go a very long way, and if you repeal Davis-Bacon, you are putting at risk even this income.

Mr. CHAFEE. Will the Senator yield?

Mr. KENNEDY. I will be glad to yield to the Senator, but I want to be able to make the case with regard to Davis-Bacon and some other comments about the context of this whole debate. I plan to be here for some time, and I will be more than glad to respond to questions on the various studies that we have had and some of those that we are going to get into.

In my State, carpenters working on residential construction make $28,000 a year; in Rhode Island, it is $23,000. It is hard to make ends meet if you are working 1,500 hours a year. That happens to be the fact.

Let me just go back and tell you what will happen if this amendment strikes Davis-Bacon—to give a little example. We are fortunate in this public policy issue to have seen what happens in States where they have repealed Davis-Bacon. So often we debate these issues and we do not really have good information. We have what we think, what I think, what those on the other side might think, or whatever individual Members think. We have some studies. But very interestingly, on the repeal of Davis-Bacon, we have some very important information that is directly related to what happens in terms of wages and in terms of the impact of the repeal of Davis-Bacon, and that is a study that was done in the State of Utah.

In February 1995, four researchers at the University of Utah—this is out in Utah. We are not talking about some college or university in some other part of the country, we are talking about a University of Utah study of the economic and social consequences that actually resulted when nine States that had prevailing wages repealed them. That is the issue here.

Under the proposal of the Senator from Rhode Island, he would effectively repeal Davis-Bacon on construction.

Now we have the example of what happened to nine States, according to the University of Utah. Unlike the CBO reports, or anyone's theoretical speculation about the benefits of repeal, the Utah study provides real world evidence about what happens when contractors are allowed to pay less than the prevailing wage. The nine States are: Utah, Arizona, Kansas, Idaho, New Hampshire, Alabama, Colorado, Florida, and Louisiana, which repealed their Davis-Bacon laws between 1979 and 1988.

The research should convince any Senator that repeal is not in the best interest of construction workers, the industry, or the Government.

First of all, repeal led to lower wages for all construction workers. The average earnings for construction workers in the nine repeal States fell from $24,000 before the repeals to $22,000 after.

That should not be very difficult for people to figure out. This proposal in the highway bill is to drive down those wages of working men and women. I do not know what it is about our Republican friends over there, or what they have against working families, but they are right out there now trying to say to those that are working 1,500 hours a year in the second most dangerous industry that we are going to drive your wages down $2,000 more. We ought to be debating how we are going to raise the minimum wage. We ought to be trying to honor work, saying work pays, and encouraging people.

Now, this is what happened in these States. In the nine repeal States, their incomes went from $24,000 before to $22,000 afterward. The analysis shows that because of the repeal in those States, the wages amounted to $1,477 less per worker every year since the State repeal. This is the obvious and expected result of allowing contractors to pay less than the prevailing wage. So that is what the result was. That should not be any surprise. You have those supporting the repeal, who have indicated they are going to take that money and use it in construction at the cost of income for working families that are making $27,000. We are not talking about the $100,000, $150,000 or about the million dollars workers that are skimming on that; we are talking about working men and women earning in the range of $24,000.

Now, this is the second one. Slightly increased construction employment. In the repeal States, a 1.7-percent increase in construction employment that would not have occurred if not for the repeal. But construction employees as a whole were harmed because their overall wages fell by 5 percent—much more than their employment increased.

Third, as wages dropped, so did State revenues. That is interesting. We have not heard much talk about what the impact is going to be in terms of the revenues, in terms of, in this instance, the Federal Government. We have not had that economic analysis. And we understand why. That is because the Environment and Public Works Committee does not deal with this issue. They are just picking up some cliches, bumper sticker solutions. We all know what Davis-Bacon is about, and we have debated that. We are just going to repeal. We hear that all of the time. Well, I hope they are able to tell us with this repeal what the impact is going to be in terms of the economy. As the wages drop, so do State revenues. Utah lost $3 to $5 million in sales tax and income tax revenues.

Fourth, repeal led to an increase in construction cost overruns. In Utah, cost overruns on the construction of State roads tripled after the repeal. Very interesting. The cost overruns escalated dramatically after contracts were awarded without the Davis-Bacon protections, because contractors bid low and got the job and then had to be bailed out. The amount of cost overruns tripled in the 10 years after repeal compared with the 10 years before.

Fifth, repeal led to a less skilled labor force. Union and nonunion apprenticeship rates fell 40 percent, whereas States that did not repeal the prevailing rate did not lose ground. The best apprenticeship programs that we have in this country are in the construction industry, which are a reflection of those in the construction industry working together in the development of these skills. They are the best that we have in this country. And what happens is when these individuals go through these training programs and work, their results in terms of performance are better. That is pretty logical. One of the attendant results of cutting back on Davis-Bacon is the significant reduction in participation in apprenticeship programs.

So we have the cost overruns, we have a less skilled work force, and sixth, we found out that minorities were hurt disproportionately. Their share of apprenticeships fell from 20 percent to 12 percent of apprenticeships in the repeal States. Minority opportunities to learn new skills and advance in the trades were doubly restricted. The apprenticeship pie got smaller, and their piece of the pie got smaller.

I am waiting for the argument that says if you repeal Davis-Bacon, it is going to offer new opportunities for minorities and women. Maybe we will have that argument later in the day. But it is not so. That is why none of the groups representing minorities and women support repeal. All they have to do is look at what happened in the various States.

I see my friend and colleague from Rhode Island leaving. I wanted to talk for a few moments, and I will be glad to yield. I do not want to be disrespectful.

Mr. WARNER. Mr. President, I will be here with the Senator.

Mr. KENNEDY. I thank the Senator. I wanted to just review this study and then get back into this. We have found now that the minorities were hurt disproportionately.

Seven. The injury rates rose. Construction work, which was already dangerous, became considerably more dangerous after repeal. Injury rates rose 15 percent, even after controlling for national trends in construction safety, and other factors, such as unemployment. So there is no good reason to believe that these grim consequences would not be replicated on a bigger

scale if the Federal Davis-Bacon Act were repealed.

In terms of injury rates, for example, a 15-percent nationwide increase would mean 30,000 more serious injuries a year, more than 670,000 additional lost work days, and direct workers' compensation costs of $300 million, which would be passed on to the Federal Government in increased construction costs.

Collectively, for all construction workers, the research estimates a loss of almost $5 billion a year in construction earnings, which would result in a loss to the Federal Government of roughly $1 billion a year in income taxes. Clearly, these losses dwarf any benefits the Government might derive from cutting wages on workers on Federal construction projects, based on a repeal of Davis-Bacon.

So, Mr. President, this is what we are faced with. As I just mentioned, we not only have the studies, we have the results of what happened in States where they repealed their State Davis-Bacon. What we found is a significant reduction in workers' salaries, about $2,000, from $24,000 down to $22,000.

If you are interested in depressing the wages of hard-working men and women in the construction trade, your vote is to repeal Davis-Bacon. If that is what you want to do—say to American workers in the construction area, men and women averaging $27,000 a year, you are doing too well in America, even though your real purchasing power has declined over the period of the last 10 years, even though you are working harder, that $27,000 is too much for someone who wants to work in the second most dangerous industry, we are going to take back $1,500 or $2,000 from you—then go ahead and support the Republican position.

If you want to say that the lost revenues the Federal Government is going to see—and the best estimate from the Utah study is lost revenues of a billion a year—are not much and that our economy is in such good shape that we can say we are going to deny that billion dollars, we do not need that billion dollars either in the deficit, or to try and invest in the education of the sons and daughters or the children or the parents.

Just go ahead and support that program right over there that repeals Davis-Bacon. If anyone is not concerned about the increase in the injury rate that the Utah study has pointed out, the 15 percent, if anyone is not concerned about it and you think you have the right position, repeal Davis-Bacon, and the case goes on, Mr. President.

I think, quite frankly, those that just believe that this is a nice little way, somehow, to try to find a magical $1 billion out there and will somehow mean the taxpayers will be better protected, better be able to consider the realities we have seen.

I think when they do, they will realize that this particular measure to repeal Davis-Bacon will have a terrible impact on these families. It is basically wrong.

What I want to point out, Mr. President, now, is just where these working families are, what we have seen in the States that have repealed the Davis-Bacon Act. In those nine States, we have seen decline in real income for those working families. And we have seen in the charts brought out here earlier what has been happening to the working families over the period of these past years.

My good friends from Wisconsin and from Illinois pointed out what has happened from 1950 to 1970. What we found out from 1950 to 1970, when the Nation was growing and expanding, from 1950 to 1978, when we were going up and growing together, we were all growing together. The bottom 20 percent was growing; the second 20 percent, almost 100 percent; the middle 20 percent was growing; the fourth and the top was growing. All groups were growing just about together, and the bottom group was growing the most.

That is what was happening from 1950 to 1978. We heard our good friend from Michigan talking about sometimes we had good growth policy and not good growth policy. Therefore, we ought to be more particular.

He was pointing out that what was happening in 1980 was not really so good to look at because we were still coming out of the Carter high-interest rates and increasing unemployment. I am familiar with that period because I differed with the economic policies at that time, as well.

If we look now, and I am sorry my friend from Michigan is not here, but if we look now to what has happened from 1983 to 1989, now we have the new federalism. We have not heard much recently about the new federalism. Remember, in the 1980's, we were hearing about federalism, tax cuts, budget cuts, increased military spending. That was the new federalism.

We have the same economic program now, but the new federalism has somehow disappeared. I do not know why we are not using those words. I think basically the reason they are not using those words is it sends a message to middle-income families of what has happened to them over the period of these last years.

Taking 1983 to 1989, that will be more in tune with what happened during the Reagan and Bush period. This is what happened. Remember the other figures I just discussed? We were all growing together. And now take the top 1 percent; their wealth is 61 percent. The next 19 percent is 37 percent. The bottom 80 percent is 1.2 percent.

Remember the other chart had virtually the same, a little disparity, and the greatest growth was taking place at the end. In 1979 to 1992, who got the growth? This chart shows shares of average household income growth, the Bureau of Census figures.

Here we see the top 25. And we can take the red line, adding it, to equal 100 percent. We do not have to have charts like this. Talk to any family, talk to any worker in this country, and they will say the same thing. They will say the only way family incomes stayed competitive is that women entered the work force during the period of the 1980's, and they were just able to hold on to their family income. Although the real wages were going down, they were working harder, and they were just able to stay above the waterline. Without that additional kind of work, we have seen what has happened. Family incomes took a beating. Now we are asked out here on the floor of the U.S. Senate to accelerate that, repeal Davis-Bacon and drive those working families down even further in their wealth.

That is what they are asking us to do. The proponents of repeal say take that $1 billion out of the pockets of working people and put it into construction. Said another way, that is, take the $1,500 to $2,000 out of the pockets of these working families here in construction, and put it over somewhere into the distribution of the higher income brackets. That is what is happening.

Now, Mr. President, this is what is happening on this particular measure on Davis-Bacon. If we juxtapose this position, because we are talking about what is happening to working families—that is what this issue is really all about, what is happening to working families in this country—we have made the case. We are opposed.

We have competition. We ought to have the competition. It ought to be based upon management skills, efficiency, ability to buy cheaper materials, the ways of being able to do business. But not as a result of depressing workers' wages. That is the basic tenet of Davis-Bacon.

Just to restate what the obvious was in the other charts, I wish we were out here debating the increase in the minimum wage. That is what we ought to be doing. That is what working families are really concerned about: Making work pay.

It used to be that the minimum wage was adjusted periodically, in the 1960's, 1970's, and 1980's, under Republican as well as Democratic administrations. President Reagan increased the minimum wage on two different occasions. George Bush increased it in 1989. Why? Why?

They said, ''Because anyone who works in the United States 40 hours a week, 52 weeks a year, ought to have sufficient income to not be in poverty, to put enough food on the table, pay their mortgage, and raise their children.''

That has been true since the 1930's, until now, Mr. President. Until now. Until now, when we find out what has been happening in terms of the minimum wage and its impact on taking families out of poverty.

Go back—and this is, again, a response to some of the points raised by

my good friend from Wisconsin—and look at the particular year. This is the percent of the poverty line, what a person has to get up to in order to be free of poverty. This is for the minimum wage for American workers. We are almost up there during the 1960's and 1970's, and even 1980's. And here it is. President Bush signed the increase to bring it back up, and it went right back down again. This is what is happening for men and women who are working in our economy, trying to make ends meet.

For those that advocate the repeal of Davis-Bacon, at least they would have much more credibility, much more credibility, if they said, ''Look, this is really a construction issue. We are happy to be for working families. We are for the increase in the minimum wage.'' I daresay, you will not find five votes difference between those who want to repeal the minimum wage and those who want to repeal Davis-Bacon. It is the same group, virtually, the same Senators who want to drive construction workers down and refuse to give working families any increase in the minimum wage, although Republicans and Democrats over a long period of time have been willing to do it.

Why do they not say, ''Look, Senator, you are wrong on the construction law. It is too bureaucratic, too much paperwork. I am for the minimum wage increase, and I want workers to get it, but this is not appropriate in terms of the construction industry.'' There is silence on it.

The Republican leaders in the House of Representatives said that only over their dead bodies would we increase the minimum wage. They are going to have an opportunity to lie down in front of that train, because we are going to make sure that this body will vote on it. We are going to make sure you will vote on it and vote on it and vote on it.

Men and women back in your home States are going to know whether you really honor work, whether you think work pays, or whether you are turning your back on working families. That is what has been happening on the minimum wage.

I am always told—''We cannot do the increase in the minimum wage, Senator KENNEDY''—and am always given a variety of reasons why. But let us look at the facts. I am not going to review the New Jersey studies today that show that the last time we had an increase in the minimum wage, the State of New Jersey had an increase in employment. But I will just take a moment of the Senate's time to show what has happened the last seven times we have seen an increase in the minimum wage.

In 1949 we went from 40 cents an hour to 75 cents, the change in the inflation rate reached a high of 1 percent. In 1955, the rate was increased from 75 cents to a dollar, and inflation reached a high of 3.6 percent.

From 1961 to 1963, the minimum wage was increased from $1 to $1.25, and inflation increased only 0.3 percent; not 3 percent, but only 0.3 percent. In 1967 and 1968, the minimum wage was increased from $1.25 to $1.60, and inflation remained stable, and did not increase at all.

From 1974 to 1976, the minimum wage was increased from $1.60 to $2.30, and inflation rate actually decreased—decreased—from 11 percent to 6.5 percent. From 1978 through 1981, the minimum wage increased from $2.30 to $3.35, and inflation actually increased and decreased intermittently. Then, from 1990 to 1991, the minimum wage increased from $3.35 to $4.25, and inflation decreased from 5.4 to 4.2 percent.

In effect, increases in the minimum wage had virtually no impact on the rate of inflation.

Let us look at the economy and the impact of an increase in the minimum wage on unemployment. If you look at the facts, you cannot make the case that an increase in the minimum wage has had an adverse effect on employment. You find that it has not had that impact.

Let us look back at the increases in the minimum wage since 1949. The first time the minimum wage was increased, unemployment decreased from 5.9 to 5.3 percent. Unemployment actually went down.

In 1955, the minimum wage was increased from 75 cents to a dollar, and unemployment decreased again from 4.4 to 4.1 percent. Again, unemployment went down.

From 1961 to 1963, when the minimum wage went from $1.00 to $1.25, unemployment decreased from 6.7 to 5.5 percent.

These facts show that there has been virtually no impact on either inflation or unemployment. And nonetheless, we have this blind opposition from the other side to any increase in the minimum wage.

So, what you are saying out here, Senators, is not just, ''Oh, this is a little highway bill. We have to get it by the fall.'' What you are doing is a continuing, ongoing assault on the middle-income families of America. We have seen the massive switch in terms of income and wealth in this country, from the stability from the 1950's to the early 1970's to the enormous dichotomy in the 1980's and 1990's where wealth for the wealthiest individuals has gone up, and 80 percent of these workers, construction workers, are being asked to sacrifice at least $1,500 a year. And at the same time when the Republicans say absolutely no to any kind of increase in the minimum wage.

President Clinton's proposal on the minimum wage increase, if it passed today to bring it to $5.15 would just bring it right back up here where President Bush was. But the answer is, ''No. No, we are not going to do that. No, we cannot afford in this country to do it. No, it is going to cause unemployment and inflation''—in spite of the facts and the history that show it is not.

So you cannot get away from this question: What is it we are talking about here this afternoon and what will we be voting on on Monday? It is real income. It is really an attack, an assault on working families for the privileged, taking the savings of the various cuts and giving them to the wealthiest individuals. It is perpetuating that. That is what is happening around here. That is what is at risk at this place.

Who are these families we are talking about here, who are going to be adversely impacted? What is going to be the impact on them? First of all, not only do we have, as I mentioned, the assault on the workers themselves, which means you have the assault on all those in construction and the denial of income to the 12 million who would be bumped up if they had some increase in the minimum wage. But what else is happening? What else is happening? We are saying to those construction workers: You care about your parents? You love your parents? They had some good Medicare, they had some degree of security—we are going to cut their Medicare programs by hundreds of billions of dollars over the period of the next 7 years. We will raise the out-of-pocket expenses, if the cuts the Republicans have suggested were evenly divided between beneficiaries and providers, $6,400 in the outyears. In the 7th year it is $6,400.

So, not only are we squeezing you on the Davis-Bacon, not only are we squeezing you by refusing to give you any increase in the minimum wage, but you better start putting some more of those scarce resources away because you are going to have to pay more out of your pocket to make sure that your parents, who are under Medicare, are going to be able to live.

And what about their children? What about the children of those working families, those construction workers? If they go to the fine schools and colleges up in Rhode Island, of Senator CHAFEE, or our other good friends from Virginia or Vermont or Massachusetts, what you are saying is if you are going to be able to qualify for any of those Stafford loans, you are going to have to pay a third more, a third more of indebtedness because of the cuts in terms of the education programs. Over the 7-year period, those families will lose more than $1.2 billion just from my State of Massachusetts for those scholarships. For the Stafford loans over the 7 years under the Republican budget that passed through here—$1.2 billion will be taken out of the pockets of the sons and daughters of working Americans—to go where? To continue their education; indebtedness of government transferred onto the indebtedness of those children. That will lead to a reduction in terms of the college opportunities for these kids.

And who benefits from all this? You are cutting back on the wages of working families, you are denying an increase in the minimum wage, you are

saying their parents are going to have to pay more for Medicare, you are saying if their children are going to school, they are going to pay more out of pocket.

Then look at the bottom line, at what happens next. The $350 billion that you get in savings goes to the wealthiest individuals of this country.

Let us not kid ourselves, that is what this whole debate is effectively about. It is coming in baloney slices but this is the end result of it. You are doing all this for the tax cuts that have just been reiterated by the Republicans in the House of Representatives this past week when they reaffirmed their commitment—because they evidently were getting somewhat jittery about where the Senate Republicans were going to be on it—they reiterated the $350 billion tax cut for the wealthiest individuals.

So that is all a part of this. And I have not even mentioned the cuts that were proposed in terms of the day care proposals and the support for working mothers. They will be lucky if they are able to find day care for $6,000 a year in my State of Massachusetts—very lucky. You take the percent of income that working mothers pay for day care and you wonder why they are not out there on the job rolls instead of on the welfare rolls. We are talking about increasing the minimum wage to try to get people off welfare, make work pay, and it is extraordinary to me, extraordinary to me for the millions of Americans who would make more by being on welfare—millions of Americans make more by being on welfare; they get the health care in terms of the Medicaid, some of them even get limited amounts of day care help, they get other kinds of help and assistance in terms of fuel assistance and other kinds of benefits.

If you give an increase in the minimum wage, do you know what is going to happen? Those people are going to have more resources, make more money, and they will not be eligible for these Federal programs and we will get savings at the Federal level because we will be paying people a livable wage.

I would think those people who want to diminish Government programs would say, Why should the Federal Government continue to subsidize the workers for companies and corporations? Because that is what you are doing. You are paying them a lower minimum wage, and then they are eligible for the safety net. Who pays for the safety net? The workers do. The employer does not. It is a subsidy for them. We talk a great deal about how we are going to make our American people understand the importance of work, and then we deny them the very wherewithal to make work pay. That is part of this whole point.

Mr. WARNER. Mr. President, I would like to ask the Senator a question.

Mr. KENNEDY. I will yield in just 2 more minutes.

Finally, Mr. President, I hear in this debate that we have to try to get our house in order, too. Part of our proposal is to make sure that whatever we pass here in the Congress is going to be applicable to people across this country and also apply to us. I believe that it should. I support those programs. We passed them this year. Congress could have passed them last year. I believe so. You remember all those speeches. I even heard some yesterday in our Labor and Human Resources Committee on a different subject saying: Whatever we do, we want to make sure that, if it is going to happen outside the Senate and Congress, it ought to be applied to us. I say amen to it.

But how interesting it is for those new Members who come to the U.S. Senate and sign that little blue sheet that gives them the Federal employees' health insurance program, which is the best health insurance program in the country; effectively, 11 million Federal employees have it, and every one of us has it. The most recent information I have is that there is not a Member of the U.S. Senate who has rejected it.

Where are all those voices that say, ''Look, we have it. Why not make it applicable to the American people? We have it.'' Is there not a flip side to the coin of all those speeches that we had to listen to day after day after day and which we agreed on—it passed overwhelmingly—which said we are going to make the laws which apply outside applicable to the inside? Amen. But how silent they are now. We have it for all those new Members, let alone older Members that get that Federal employees' health insurance, the premium of which is $101 for me with the Federal Government picking up the rest per month, and it gives me the best in terms of health care.

How silent we are in this debate about making that available to these working families that are having a tough enough time, who see the depletion of the value of their dollar. They are working harder and are paying more and more out for health care. We are shortchanging the children in terms of education. We are shortchanging the parents in the cuts in Medicare. We are denying them a decent kind of income, depressing those wages, refusing to increase it, and they are paying more and more out of their pockets for health care while we in the U.S. Senate have just made sure we are covered.

Mr. President, all of that really is wrapped in together because you are talking about income for families. We faced some of those measures early in this year when we had the budget cuts. We had the debates on education and on children's programs, and on other women's health care programs. That was a part of it. We will have another debate on reconciliation. We had debates in the budget with regard to the Medicare cuts. That was a part of it.

But the bottom line is that we are talking about the families of American workers. We are talking about their parents, we are talking about their kids, we are talking about their small children, their babies, and we are talking about their ability in this great country of ours to be full participants in the economic hopes, dreams, and economic justice of our Nation.

I daresay that all of that is what we are basically talking about when we are talking about the repeal of the Davis-Bacon Act.

I will be glad to yield for a question.

I will yield briefly for a question, and then I will yield the floor.

Mr. WARNER. Mr. President, for those following this debate who wish to be informed of what will occur for the balance of today and on Monday, I will make a brief announcement.

But to refocus the procedural as well as the substantive issue, procedurally this bill has been brought up, the national highway bill, and on it is a Davis-Bacon amendment. The Senator from Massachusetts is perfectly within his rights to discuss a broad range of issues because at the present time, it is my understanding he objects to further consideration of the bill, which is within his rights under the rules of the Senate.

My concern is that when you say that this amendment, that is, the Davis-Bacon amendment, takes wages and deprives workers of the ability to receive wages and to work, I ask the Senator if in fact what would occur here is simply that you take the highway trust fund, which is allocating money to the States, and the amendment would simply say that no longer would the States be required to take a percentage of those funds and apply it to the Davis-Bacon regulations; those funds would be expended on additional highways, providing additional work, and in a sense the same workers would get, relatively speaking, the same amount of money, but the people of that State will get additional work performed—more highways, better bridges. So it translates into a work product to be received by all the residents of the State. And the same workers end up, over a longer period of time, with the same amount in their pockets.

Is not that the case?

Mr. KENNEDY. I say to the Senator, no. That is absolutely not the case. I do not know where the Senator was earlier when I outlined the University of Utah study that analyzed the nine States that repealed their Davis-Bacon laws, which is effectively what you are doing with the construction industry. What you saw in those States is that there was a 1.7-percent increase in employment, but the total income for those workers in all of those States declined 5 percent. That amounted to between $1,500 and $1,700 per worker per year; the cost overruns went up three times over what they had been; the injury rates increased significantly; the total revenues to the States declined; and the total revenues, I think, to the Federal Government declined. The bottom line, I will just say, the most important part of that Utah study, is that

the real income for all of these workers declined.

Just finally, what we are saying is we want the competition but not the depressed wages. That I think is a basic difference.

Mr. WARNER. Mr. President, the Senator can certainly bring up all the studies he wishes. But the practical dollar and cents is, take the State of Virginia. We anticipate we get $150 million. Part of it is allocation. All of that has to go into highway construction or matters related to transportation. So it is not as if this money is going to be lost. It is going to the States, and simply this amendment translates those dollars into more road construction, bridges, whatever it may be—safety, more construction. And the same workers eventually get the same amount of money.

So I do not wish to conclude this debate today on the theory that this amendment reaches in and robs the people of the opportunity to work, or of their wages, or that the people in the States are deprived of the benefits that they are entitled to with the payment of their gas taxes.

MORNING BUSINESS

Mr. WARNER. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The leader will subsequently inform the Senate, but I expect the Senate to reconvene about 12 noon on Monday, with morning business until 1 o'clock. And there is currently set a cloture vote for 3 p.m. Monday afternoon.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Mr. President, reserving the right to object—of course, I shall not—I know the distinguished Senator from New Hampshire is on the floor and wishes to speak. He has already mentioned that. I know our side has been speaking for some time.

I wonder if we might know the order of the 10-minute order. Will the distinguished senior Senator from Virginia be willing to amend that to ask that the Senator from New Hampshire be recognized first in the order of those speaking as in morning business, and then the Senator from Vermont be recognized following that?

Mr. WARNER. Mr. President, I am perfectly willing to do that. I think the Chair should be addressed by the Senator from New Hampshire first.

Mr. SMITH. Reserving the right to object, I would like to have 20 minutes, if that would be agreeable to the Senator from Vermont.

Mr. LEAHY. And the Senator from Vermont be recognized, say, at 1:22.

Mr. WARNER. Mr. President, I so modify my request.

The PRESIDING OFFICER. Is it the Senator's request that we proceed to morning business with a limitation of 10 minutes, except that the Senator from New Hampshire have the opportunity to speak for 20 minutes; and what about the Senator from Vermont?

Mr. LEAHY. Also 20 minutes.

The PRESIDING OFFICER. Also 20 minutes. Is that the request?

Mr. WARNER. Mr. President, that is the request.

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

The Senator from New Hampshire is recognized.

Mr. SMITH. I thank the Chair.

MEASURE READ FOR THE FIRST TIME—S. 939

Mr. SMITH. I send a bill to the desk and ask that it be read for the first time.

The PRESIDING OFFICER. The clerk will read the bill by title.

The bill clerk read as follows:

A bill (S. 939) to amend title 18, United States Code, to ban partial-birth abortions.

Mr. SMITH. Mr. President, I ask the bill be read for a second time.

Mr. LEAHY. Mr. President, I will have to object.

The PRESIDING OFFICER. Did the Senator make an objection?

Mr. LEAHY. The Senator from Vermont objects to the second reading—obviously not to the first reading, but I object to the second reading.

The PRESIDING OFFICER. Objection is heard. The bill will be read for the second time on the next legislative day.

The Senator from New Hampshire is recognized.

Mr. SMITH. Mr. President, on behalf of myself and the Senator from Texas [Mr. GRAMM], I rise today to introduce the Partial-Birth Abortion Ban Act of 1995. This bill is the companion legislation to a measure that was recently introduced in the House of Represenatives by Congressman CHARLES CANADY of Florida. Congressman CANADY is the chairman of the House Judiciary Committee's Subcommittee on the Constitution which held a hearing on the bill yesterday.

Mr. President, partial-birth abortions are first performed at 19 to 20 weeks of gestation—and often much later. To give my colleagues a clear understanding of how well developed an unborn child is that late in pregnancy, I have here an anatomically correct medical model of an unborn child at 20 weeks' gestation. It is unlikely that the cameras will pick it all up, but this is the actual size of a 20-week child, and the bodily features are there—nose, eyes, lips, fingers, toes—almost perfectly formed so that anyone could see that this is a child.

I want to point out to my colleagues that this is the smallest that this child could be under this procedure, which begins at 5 months or 20 weeks. So that this child is aborted in this procedure minimally at this size and much larger as the child grows in the womb.

Now, I have brought some photographs to the floor that show perhaps a little more clearly premature babies of the very same age of many of those babies who are the victims of these partial-birth abortions.

This photograph here—this is an AP photograph, by the way—is of tiny Miss Faith Materowski. Little Faith Materowski was born at 23 weeks of gestation, approximately this size, weighing in at 1 pound and 3 ounces. This photograph was taken about a month after she was born. The good news is that little Faith Materowski survived, and she survived because her mother chose to have her receive medical attention. She did not choose to have an abortion.

In photograph No. 2, we see a little lady named Melissa Mauer. She was born at 24 weeks of gestation, weighing only 14 ounces, Mr. President—14 ounces—less than a pound. She is shown in the picture about 8 days after her birth, at which point she was breathing on her own in an incubator.

Unfortunately, Melissa died after briefly struggling for life after 3 months.

In photograph No. 3—this photograph was in the Miami Herald—we see a healthy little Miss Kenya King, who was born about 22 weeks into gestation, so is approximately the size of this model that I am holding. She weighed only 18 ounces at birth. She is shown here 4 months later, home at last with her parents.

Now, with a series of illustrations, in a moment I am going to try to demonstrate to you what is done to children like these and like this. This procedure is done to children—not fetuses or some inanimate object—children, Mr. President.

Now, as we put the pictures up, keep in mind that Dr. Martin Haskell, who by his own admission performed over 700 of these procedures—they are called partial-birth abortions—as of 1993, he told the American Medical News he had performed 700 of these. That is the official newspaper of the AMA. So the illustrations and descriptions that I am about to present are technical and from a technical point of view would be found or could be found in one of those journals.

In the first illustration, the doctor—excuse me, the abortionist—it is interesting that I made a slip there, saying doctor, because were this to be some type of a miscarriage or premature birth, the doctor would be assisting the birth of this child, because the mother wanted the child. But in this case, another decision has been made without the child's consent, of course, and the abortionist reaches in with forceps, using the ultrasound aid, and grabs the child with the forceps by the foot or leg, and then in the next picture he turns that child with the forceps so that he can pull the child out through the birth canal by the feet.

So you can see this being the birth canal, the child—this is a child, like this, and like those three children that we saw in those photographs.

With this child now, the forceps are around the legs and the child now is being pulled from the birth canal. In the next illustration, the abortionist delivers the entire body except for the head of the child. So we now have the abortionist pulling the child all the way out from the uterus with the exception of the head which the doctors tell me is approximately 85 to 90 percent of the child.

Now, the fourth illustration—this is pretty rough, Mr. President. I have seen a lot in my life. I am 54 years old, and I have seen some pretty rough things. But I cannot imagine, in a country as great as this why anyone could sanction—whether you be pro-choice or pro-life—how anyone could sanction what I am about to show you happens.

If the head of this child comes through the uterus, they must try to keep it alive. So the abortionist has to be certain that the head does not come through the uterus. So he stops the baby from coming through the uterus at the head, and takes a pair of scissors, as you can see—I am going to try to demonstrate it here with this little model, which would be just like this, superimposed upon that picture—he takes the scissors and places them into the back of the head, into the cranium, and opens those scissors, once he sticks them in like that, to open a gap in the child's head. After that procedure is done, they insert a catheter into the back of the neck, the back of the cranium, and literally suck the brains out of that child, and as you can see there, the baby is hanging limp, now dead.

That is called partial-birth abortion.

We are really talking about inches here, are we not? What is a birth? Ninety percent out of the uterus, is that a birth? One hundred percent out of the uterus? Is that what we are going to say is a birth?

So a couple of inches and this child can live, but because it is prevented from fully coming out of the uterus by the abortionist and he then places the scissors to the back of the head, opens up an incision and inserts the catheter into the brain to suck the brains out, because that decision is made by someone other than the child, that child is denied life.

Mr. President, by the 19th or 20th week of gestation, when this unspeakably brutal method of abortion is used, the child is clearly capable and able to feel what is happening. This is a living human being.

According to neurologists, premature babies born at this stage may be more sensitive to painful stimulation than others. We had testimony yesterday at a press conference that I attended with a neurologist who indicated that. He does surgery on babies all the time, and he indicated point blank that that child would suffer pain in that procedure.

I think that most of my colleagues, and certainly most if not all Americans, would be absolutely appalled, sickened, and angered at such a brutal act committed against another human being. I know I had that feeling. I did not know that this procedure existed, Mr. President, until a couple of weeks ago, and I have been for 11 years an advocate of the pro-life cause, but I never knew this. I never knew this happened, and doctors who are gynecologists have told me that they did not know it either.

I just ask my colleagues a very simple question: If you had a dog or a cat or a pet that you needed to put to sleep, would you do it that way? Would you do it that way? Would you insert a pair of scissors into the back of the head of your family pet and suck the brains out to put it to sleep, Mr. President? Would anybody do that? This is the United States of America, the greatest country in the world, that says under the Constitution that we have an obligation to protect life. This is happening in America, probably right now as I am speaking. We would not do it to an animal, not a pet, and we do it to our children.

Under the Supreme Court Roe versus Wade decision, this partial-birth abortion procedure that I just described is legal in all 50 States. So anyone listening out there who says, ''That doesn't happen in my State,'' it does. Somewhere in your State it is happening probably right now. Indeed, addressing the controversy over the partial-birth abortion method, the National Abortion Federation has written to its membership stating—and here is the document, here is what they say: ''Don't apologize: This is a legal abortion procedure.'' And they are right, it is legal.

But I am going to tell you something, Mr. President, if I have anything to do with it, it is not going to be legal very much longer. This is a sickening, disgusting act that should never be tolerated, not 1 day longer, not 1 minute longer.

My good friend—and he is a good friend—the Speaker of the House of Representatives, NEWT GINGRICH, has told audiences all over America for the past couple of months that America cannot survive with 12-year-olds having babies, 15-year-olds killing each other, 17-year-olds dying of AIDS and 18-year-olds receiving diplomas that they cannot read, and he is right. And I am going to add one more to it. America cannot survive when some of its doctors turn from being healers to stabbing innocent babies to death when they enter the birth canal. America is not going to survive doing that either.

Dr. Martin Haskell has claimed responsibility, proudly, for 700 of these partial-birth procedures as of 1993. Pro-choice, pro-life, I do not care what your position is. How can you tolerate this? How could you possibly condone this act? James McMahon, who was profiled in the January 1990 article in the L.A. Times makes late-term abortions his speciality—late-term abortions his speciality.

In that article, Dr. McMahon coldly claims credit for having developed the partial-birth method which he calls ''intrauterine cranial decompression.'' Nice way of saying murdering a child that is three-quarters of the way out of a birth canal. ''I want to deal with the head last,'' Dr. McMahon comments icily, ''because that's the biggest problem.''

In the United States of America, a doctor who took an oath to save lives is killing a child. That is not killing a child? Somebody stand up and tell me on the floor of the U.S. Senate that that is not killing a child. Have the guts to come down here and stand up—I will yield to you—and tell me that is not killing a child.

According to the American Medical News, Dr. McMahon does abortions through all 40 weeks of pregnancy, but he says he will not do an elective procedure after 26 weeks—26 weeks. At 26 weeks, many babies are capable of living independent of the mother; 40 weeks is a full-term pregnancy. That is nice of him.

Mr. President, this grotesque and brutal partial-birth abortion procedure that I have described on the floor of the Senate can be and must be—must be—outlawed. Simply stated, the legislation that Senator GRAMM and I have introduced today will do just that, it will amend title 8 of the United States Code and provide that ''Whoever, in or affecting interstate or foreign commerce, knowingly performs a partial-birth abortion and thereby kills a human fetus shall be fined under this title or imprisoned not more than 2 years, or both.''

Not the woman—the abortionist. Our bill defines ''partial-birth abortion'' as ''an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.''

Thus, the bill would ban not only the brain-suction, partial-birth abortion that I described, but any other abortion that involves the partial delivery of the child before he or she is killed.

The bill specifically prohibits the prosecution of a woman upon whom a partial-birth abortion is performed. The bill is aimed at the abortionist. It is aimed at the brutality of this act. In addition, the bill provides a life-of-the-mother exception.

Mr. President, I am confident that no matter how one feels about this very controversial issue of abortion, that reasonable people, caring people in this country are going to step up and say, ''This is wrong, this is wrong, and we are going to stop it.''

I am going to fight to the last day that this Congress is in session to get this bill voted on in the U.S. Senate, and I am going to stand up here again and again. I welcome my colleagues who want to come forth and defend this. I cannot wait to engage in the debate. Today I am introducing the bill, but there will be a day tomorrow or the

next day when I am looking forward to debating them. I want to hear what their rationale is for this procedure. I just want to hear their defense of it. Ultimately, I think, if we can get the bill through, the Supreme Court will find the bill to be constitutional. I think it stands the test of constitutionality. Even in Roe versus Wade, that decision recognized that a newborn child is a person. Is that a newborn child—90 percent birth?

I am confident that the court will find that the Congress has the power to protect unborn children, who have started their journey through the birth canal, before being brutally killed, before they travel those last few inches. That is all we are talking about, Mr. President—a few inches. That is the margin between life and death. Inches. Inches.

Do you know that in this procedure if an abortionist was distracted and that child came through the birth canal, the child would have to survive. They could not do this procedure because it is out of the birth canal. That is the tragic irony of all this. That is why they do it. That is why they do it, Mr. President, because there is nothing more embarrassing to the abortionist than having the aborted baby live. That has happened. I talked to a woman who is 18 years old who survived it, so I know it happens. A beautiful young lady she is, and she is contributing to America.

Of these 700 that Dr. Haskell killed, how many Presidents are in that number? How many doctors who might find a cure for cancer? How many inventors? Who knows. We will never know, will we? They are gone—to the scissors.

Sticking scissors. Take a pair of scissors when you go home tonight, and stick them into your hands a little bit, until you can just feel the nip of it. Or perhaps why do you not try doing it in the back of the neck and see how it feels, see if it hurts.

I am going to see that this bill gets on the desk of President Clinton if it is the last thing I do before we leave this Congress. I hope, Mr. President, if you are out their listening, that you will sign this bill and you will stop this. I know how you feel about abortion, but I want to know how you feel about this. I hope you will sign this bill, because this is an outrage. It is unbecoming of this country to even think about it, and to even have to be here on the floor of the U.S. Senate and admit that this is happening in this country.

So I am looking forward to the debate, as I say. I hope my colleagues who support this will be down on the floor and debating it here in front of all America—this cruel, horrible act against another human being, a precious little baby that is defenseless. We had a doctor yesterday, a gynecologist, who explained all of this, how it all works and how you turn the baby so carefully to remove it from the uterus as it is being born, and you are so careful with it, you take care of it and protect it. But not in this case. It is just a baby, an innocent baby. Surely, we have more important things to do in the United States of America than this. How could any doctor who took an oath ever perform those, and then brag about it?

Mr. President, I think I have made my point. It has, frankly, been a very difficult speech to get through. It is quite emotional for me, and I know how the occupant of the chair, the Senator from Minnesota, feels about this issue. It is difficult to get through these remarks. I do not do it to offend people or to be overly graphic. But it is important that we understand that this is happening, and we must use every public access that we have to stop it.

So there will be another time, Mr. President, sooner rather than later, when we are going to debate this again right here. I will be here. Thank you.

I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. How much time is reserved under the previous order for the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont has 20 minutes.

Mr. LEAHY. I thank the Chair.

(The remarks of Mr. LEAHY pertaining to the introduction of S. 940 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

NORMALIZING RELATIONS WITH VIETNAM

Mr. LEAHY. Mr. President, there are press reports that the administration is considering finally normalizing relations with Vietnam. I know that even after a quarter century this is an emotional and difficult issue, especially for the families of our POW/MIA's. But I believe strongly that it is time to take this step. The record is clear that closer relations will contribute to resolving the remaining discrepancy cases, and we have many other interests in Southeast Asia that will be furthered by closer relations with our former enemy.

The Vietnam war was a tragedy for both the United States and for Vietnam. More than 58,000 American soldiers and at least 2 million Vietnamese lost their lives. Countless others were injured. At least 60,000 Vietnamese are missing a leg or an arm, mostly from landmines. The war produced bitterness on both sides that poisoned relations between our countries for years.

But it is time to put that period behind us. Vietnam is slowly moving away from its Communist past. It has taken aggressive steps to promote private investment and permit a market economy to develop. It has invited representatives of human rights groups to discuss their concerns. The Vietnamese Government is even requiring its senior officials to study English as a way of accelerating its adoption of American-style practices.

There is no question that Vietnam still has a long way to go. We need to continue to challenge Vietnamese officials about reports of torture, arrests of dissidents, arbitrary detentions, political trials, and abuse of prisoners in forced labor camps. We need to press them to eliminate Vietnam's black-market trade in endangered species. And there are other issues.

But we need to recognize that the situation has changed. The United States shut the door to Vietnam after the war because its Government was engaging in practices abhorrent to Americans. There are still problems, but 25 years later almost half of Vietnam's citizens had not even been born by the war's end. The best way to encourage the Vietnamese Government to maintain progress toward openness and free markets is to expand dialog and contact, not refuse it.

Obtaining the fullest possible accounting of our POW's/MIA's is essential. I have provided funding in the foreign operations appropriations bill to help locate the remains of our POW/MIA's. But there is no longer any question that the Vietnamese Government is cooperating fully in this effort. They are working closely with our liaison office to continue the search for remains. Maintaining obstacles to full cooperation between our two Governments at this point will hinder, not reinforce progress, toward completion of this effort.

Mr. President, the cold war is over. We have no Soviet Union to hold in check any longer, and the largest remaining Communist power, China, which has a worse human rights record than Vietnam, has been granted MFN status.

It is time we recognized that times have changed in Vietnam, and in our own country, and we should move forward together. I urge the President to delay no longer in resuming full diplomatic relations with Vietnam.

The PRESIDING OFFICER. The Senator from Utah is recognized.

SALT LAKE CITY 2002 WINTER OLYMPICS

Mr. BENNETT. Mr. President, the Members of this body have had experience in Utah with our winter sports facilities, as my predecessor, Jake Garn, invited Senators to come to Utah and enjoy the Senators' Ski Cup.

It is now my happy duty and privilege to announce to all of the Members of the Senate that the winter sports facilities of Utah have now attracted more than even the U.S. Senate. Just a few minutes ago, the International Olympic Committee announced that Salt Lake City, UT, will be the site of the Winter Olympics in the year 2002. This is a demonstration of the superior facilities that are available in Utah. We think it is well deserved.

I want to pay tribute here on the floor to the thousands, if not tens of

thousands and even hundreds of thousands, of Utahns who have gathered together to support the Olympic bid. We lost it for the 1998 Olympics by one vote. We have learned here in this body how elections can be decided by one vote. There are some who suggested that the awarding of the Summer Olympics to Atlanta in 1996 hurt our bid, as the International Committee felt they did not want to have Winter and Summer Olympics back-to-back in the same country. Be that as it may, the disappointment of losing in 1998 has now been washed away in the excitement of winning in the year 2002.

We have a slogan in Utah that has been prepared for the Olympics. It is emblazoned on the banners as you come into our city. It is in the airports. It is all over the State. It is: ''The world is welcome here.'' We are delighted to be able to announce that the world that has been welcome in Utah is now coming to Utah. We are looking for the most exciting Winter Olympics in history in the State of Utah in just a few short years.

We were so excited I had to come over to share this news with the Members of the Senate. I thank the Chair and the Members for the opportunity to express this. It is a great day for the people of our State and, frankly, for the people of our Nation as well. This is the first time the Winter Olympics have come back to America since Lake Placid in 1980. I think that is a long enough wait. We are delighted to be able to say, as I said, the world is welcome in Utah. And the world is coming to Utah.

WINTER OLYMPICS IN UTAH

Mr. WARNER. Mr. President, may I be among the first to congratulate the people of Utah and, indeed, their Senator, who is here today. I shared with him the joy in his heart when I happened to hear him speak a few moments ago. Having had the pleasure of visiting his State on a number of occasions, it will be a marvelous place to host the world. Now, only the weather remains a question. You usually have a very constant weather pattern during that period of the year.

Mr. BENNETT. We do, Mr. President. Winter snows are not unknown in Utah. We hope in 2002 they do not desert us.

The Senator from Virginia is very generous in his remarks. He has been to the Senators' Ski Cup and, indeed, has an award named after him for his activity there.

Mr. WARNER. That is true.

Mr. BENNETT. We hope he not only comes to celebrate with us in 2002, but if I may, Mr. President, I hope he comes as a Senator in 2002, having been safely reelected between now and then.

Mr. WARNER. Mr. President, I thank my dear colleague. I would only say the quality and the quantity of the snow in your State, I think, is almost unmatched anywhere in the world, and will be there to greet the Olympians.

Momentarily I will address the Senate with respect to the calendar on Monday.

At this time I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. THOMAS). Without objection, it is so ordered.

VITIATION OF CLOTURE VOTE

Mr. WARNER. Mr. President, I ask unanimous consent that the cloture vote scheduled for 3 p.m. Monday be vitiated.

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

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT

Mr. WARNER. I now ask unanimous consent that the Senate proceed to S. 440, the highway bill.

The PRESIDING OFFICER. The clerk will read the bill by title.

The legislative clerk read as follows:

A bill (S. 440) to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Labor and Human Resources, with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''National Highway System Designation 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—HIGHWAY PROVISIONS

Sec. 101. National Highway System designation.
Sec. 102. Eligible projects for the National Highway System.
Sec. 103. Transferability of apportionments.
Sec. 104. Design criteria for the National Highway System.
Sec. 105. Applicability of transportation conformity requirements.
Sec. 106. Use of recycled paving material.
Sec. 107. Inapplicability of Davis-Bacon Act.
Sec. 108. Limitation on advance construction.
Sec. 109. Preventive maintenance.
Sec. 110. Eligibility of bond and other debt instrument financing for reimbursement as construction expenses.
Sec. 111. Federal share for highways, bridges, and tunnels.
Sec. 112. Streamlining for transportation enhancement projects.
Sec. 113. Non-Federal share for certain toll bridge projects.
Sec. 114. Congestion mitigation and air quality improvement program.
Sec. 115. Repeal of national maximum speed limit.
Sec. 116. Federal share for bicycle transportation facilities and pedestrian walkways.
Sec. 117. Repeal of restrictions on toll facilities.
Sec. 118. Suspension of management systems.
Sec. 119. Intelligent vehicle-highway systems.
Sec. 120. Donations of funds, materials, or services for federally assisted activities.
Sec. 121. Metric conversion of traffic control signs.
Sec. 122. Identification of high priority corridors.
Sec. 123. Revision of authority for innovative project in Florida.
Sec. 124. Revision of authority for priority intermodal project in California.
Sec. 125. National recreational trails funding program.
Sec. 126. Intermodal facility in New York.
Sec. 127. Clarification of eligibility.
Sec. 128. Bristol, Rhode Island, street marking.
Sec. 129. Public use of rest areas.
Sec. 130. Collection of tolls to finance certain environmental projects in Florida.
Sec. 131. Hours of service of drivers of ground water well drilling rigs.

TITLE II—NATIONAL CAPITAL REGION INTERSTATE TRANSPORTATION AUTHORITY

Sec. 201. Short title.
Sec. 202. Findings.
Sec. 203. Purposes.
Sec. 204. Definitions.
Sec. 205. Establishment of Authority.
Sec. 206. Government of Authority.
Sec. 207. Ownership of Bridge.
Sec. 208. Capital improvements and construction.
Sec. 209. Additional powers and responsibilities of Authority.
Sec. 210. Funding.
Sec. 211. Availability of prior authorizations.

TITLE I—HIGHWAY PROVISIONS

SEC. 101. NATIONAL HIGHWAY SYSTEM DESIGNATION.

Section 103 of title 23, United States Code, is amended by inserting after subsection (b) the following:

''(c) NATIONAL HIGHWAY SYSTEM DESIGNATION.—

''(1) DESIGNATION.—The most recent National Highway System (as of the date of enactment of this Act) as submitted by the Secretary of Transportation pursuant to this section is designated as the National Highway System.

''(2) MODIFICATIONS.—

''(A) IN GENERAL.—At the request of a State, the Secretary may—

''(i) add a new route segment to the National Highway System, including a new intermodal connection; or

''(ii) delete a route segment in existence on the date of the request and any connection to the route segment;

if the total mileage of the National Highway System (including any route segment or connection proposed to be added under this subparagraph) does not exceed 165,000 miles (265,542 kilometers).

''(B) PROCEDURES FOR CHANGES REQUESTED BY STATES.—Each State that makes a request for a change in the National Highway System pursuant to subparagraph (A) shall establish that each change in a route segment or connection referred to in the subparagraph has been identified by the State, in cooperation with local officials, pursuant to applicable transportation planning activities for metropolitan areas carried out under section 134 and statewide planning processes carried out under section 135.

''(3) APPROVAL BY THE SECRETARY.—The Secretary may approve a request made by a State for a change in the National Highway System pursuant to paragraph (2) if the Secretary determines that the change—

''(A) meets the criteria established for the National Highway System under this title; and

''(B) enhances the national transportation characteristics of the National Highway System.''.

SEC. 102. ELIGIBLE PROJECTS FOR THE NATIONAL HIGHWAY SYSTEM.

(a) IN GENERAL.—Section 103(i) of title 23, United States Code, is amended—

(1) by striking paragraph (8) and inserting the following:

''(8) Capital and operating costs for traffic monitoring, management, and control facilities and programs.''; and

(2) by adding at the end the following:

''(14) Construction, reconstruction, resurfacing, restoration, and rehabilitation of, and operational improvements for, public highways connecting the National Highway System to—

''(A) ports, airports, and rail, truck, and other intermodal freight transportation facilities; and

''(B) public transportation facilities.

''(15) Construction of, and operational improvements for, the Alameda Transportation Corridor along Alameda Street from the entrance to the ports of Los Angeles and Long Beach to Interstate 10, Los Angeles, California. The Federal share of the cost of the construction and improvements shall be determined in accordance with section 120(b).''.

(b) DEFINITION.—Section 101(a) of title 23, United States Code, is amended by striking the undesignated paragraph defining ''startup costs for traffic management and control'' and inserting the following:

''The term 'operating costs for traffic monitoring, management, and control' includes labor costs, administrative costs, costs of utilities and rent, and other costs associated with the continuous operation of traffic control activities, such as integrated traffic control systems, incident management programs, and traffic control centers.''.

SEC. 103. TRANSFERABILITY OF APPORTIONMENTS.

The third sentence of section 104(g) of title 23, United States Code, is amended by striking ''40 percent'' and inserting ''60 percent''.

SEC. 104. DESIGN CRITERIA FOR THE NATIONAL HIGHWAY SYSTEM.

Section 109 of title 23, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

''(a) IN GENERAL.—The Secretary shall ensure that the plans and specifications for each proposed highway project under this chapter provide for a facility that will—

''(1) adequately serve the existing and planned future traffic of the highway in a manner that is conducive to safety, durability, and economy of maintenance; and

''(2) be designed and constructed in accordance with criteria best suited to accomplish the objectives described in paragraph (1) and to conform to the particular needs of each locality.'';

(2) by striking subsection (c) and inserting the following:

''(c) DESIGN CRITERIA FOR THE NATIONAL HIGHWAY SYSTEM.—

''(1) IN GENERAL.—A design for new construction, reconstruction, resurfacing (except for maintenance resurfacing), restoration, or rehabilitation of a highway on the National Highway System (other than a highway also on the Interstate System) shall take into account, in addition to the criteria described in subsection (a)—

''(A) the constructed and natural environment of the area;

''(B) the environmental, scenic, aesthetic, historic, community, and preservation impacts of the activity; and

''(C) as appropriate, access for other modes of transportation.

''(2) DEVELOPMENT OF CRITERIA.—The Secretary, in cooperation with State highway agencies, shall develop criteria to implement paragraph (1). In developing the criteria, the Secretary shall consider the results of the committee process of the American Association of State Highway and Transportation Officials as adopted and published in 'A Policy on Geometric Design of Highways and Streets', after adequate opportunity for input by interested parties.''; and

(3) by striking subsection (q) and inserting the following:

''(q) ENVIRONMENTAL, SCENIC, AND HISTORIC VALUES.—Notwithstanding subsections (b) and (c), the Secretary may approve a project for the National Highway System if the project is designed to—

''(1) allow for the preservation of environmental, scenic, or historic values;

''(2) ensure safe use of the facility; and

''(3) comply with subsection (a).''.

SEC. 105. APPLICABILITY OF TRANSPORTATION CONFORMITY REQUIREMENTS.

(a) HIGHWAY CONSTRUCTION.—Section 109(j) of title 23, United States Code, is amended by striking ''plan for the implementation of any ambient air quality standard for any air quality control region designated pursuant to the Clean Air Act, as amended.'' and inserting the following: ''plan for—

''(1) the implementation of a national ambient air quality standard for which an area is designated as a nonattainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)); or

''(2) the maintenance of a national ambient air quality standard in an area that was designated as a nonattainment area but that was later redesignated by the Administrator as an attainment area for the standard and that is required to develop a maintenance plan under section 175A of the Clean Air Act (42 U.S.C. 7505a).''.

(b) CLEAN AIR ACT REQUIREMENTS.—Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) is amended by adding at the end the following:

''(5) APPLICABILITY.—This subsection shall apply only with respect to—

''(A) a nonattainment area and each specific pollutant for which the area is designated as a nonattainment area; and

''(B) an area that was designated as a nonattainment area but that was later redesignated by the Administrator as an attainment area and that is required to develop a maintenance plan under section 175A with respect to the specific pollutant for which the area was designated nonattainment.''.

SEC. 106. USE OF RECYCLED PAVING MATERIAL.

(a) IN GENERAL.—Section 1038 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 23 U.S.C. 109 note) is amended—

(1) by striking subsection (d) and inserting the following:

''(d) ASPHALT PAVEMENT CONTAINING RECYCLED RUBBER.—

''(1) CRUMB RUBBER MODIFIER RESEARCH.—Not later than 180 days after the date of enactment of the National Highway System Designation Act of 1995, the Administrator of the Federal Highway Administration shall develop testing procedures and conduct research to develop performance grade classifications, in accordance with the strategic highway research program carried out under section 307(d) of title 23, United States Code, for crumb rubber modifier binders. The testing procedures and performance grade classifications should be developed in consultation with representatives of the crumb rubber modifier industry and other interested parties (including the asphalt paving industry) with experience in the development of the procedures and classifications.

''(2) CRUMB RUBBER MODIFIER PROGRAM DEVELOPMENT.—

''(A) IN GENERAL.—The Administrator of the Federal Highway Administration shall make grants to States to develop programs to use crumb rubber from scrap tires to modify asphalt pavements. Each State may receive not more than $500,000 under this paragraph.

''(B) USE OF GRANT FUNDS.—Grant funds made available to States under this paragraph may be used—

''(i) to develop mix designs for crumb rubber modified asphalt pavements;

''(ii) for the placement and evaluation of crumb rubber modified asphalt pavement field tests; and

''(iii) for the expansion of State crumb rubber modifier programs in existence on the date the grant is made available.''; and

(2) in subsection (e), by striking paragraph (1) and inserting the following:

''(1) the term 'asphalt pavement containing recycled rubber' means any mixture of asphalt and crumb rubber derived from whole scrap tires, such that the physical properties of the asphalt are modified through the mixture, for use in pavement maintenance, rehabilitation, or construction applications; and''.

(b) FUNDING.—Section 307(e)(13) of title 23, United States Code, is amended by inserting after the second sentence the following: ''Of the amounts authorized to be expended under this paragraph, $500,000 shall be expended in fiscal year 1996 to carry out section 1038(d)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 23 U.S.C. 109 note) and $10,000,000 shall be expended in each of fiscal years 1996 and 1997 to carry out section 1038(d)(2) of the Act.''.

SEC. 107. INAPPLICABILITY OF DAVIS-BACON ACT.

Section 113 of title 23, United States Code, is amended to read as follows:

''§ 113. Prevailing rate of wage

''The Act entitled 'An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes', approved March 3, 1931 (commonly known as the 'Davis-Bacon Act') (40 U.S.C. 276a et seq.), shall not apply with respect to any project carried out or assisted under any chapter of this title.''.

SEC. 108. LIMITATION ON ADVANCE CONSTRUCTION.

Section 115(d) of title 23, United States Code, is amended to read as follows:

''(d) REQUIREMENT OF INCLUSION IN TRANSPORTATION IMPROVEMENT PROGRAM.—The Secretary may not approve an application under this section unless the project is included in the transportation improvement program of the State developed under section 135(f).''.

SEC. 109. PREVENTIVE MAINTENANCE.

Section 116 of title 23, United States Code, is amended by adding at the end the following:

''(d) PREVENTIVE MAINTENANCE.—A preventive maintenance activity shall be eligible for Federal assistance under this title if the State demonstrates to the satisfaction of the Secretary that the activity is a cost-effective means of extending the life of a Federal-aid highway.''.

SEC. 110. ELIGIBILITY OF BOND AND OTHER DEBT INSTRUMENT FINANCING FOR REIMBURSEMENT AS CONSTRUCTION EXPENSES.

(a) IN GENERAL.—Section 122 of title 23, United States Code, is amended to read as follows:

''SEC. 122. PAYMENTS TO STATES FOR BOND AND OTHER DEBT INSTRUMENT FINANCING.

''(a) DEFINITION OF ELIGIBLE DEBT FINANCING INSTRUMENT.—In this section, the term 'eligible debt financing instrument' means a bond or other debt financing instrument, including a note, certificate, mortgage, or lease agreement, issued by a State or political subdivision of a State, the proceeds of which are used for an eligible Federal-aid project under this title.

''(b) FEDERAL REIMBURSEMENT.—Subject to subsections (c) and (d), the Secretary may reimburse a State for expenses and costs incurred by

the State or a political subdivision of the State, for—

''(1) interest payments under an eligible debt financing instrument;

''(2) the retirement of principal of an eligible debt financing instrument;

''(3) the cost of the issuance of an eligible debt financing instrument;

''(4) the cost of insurance for an eligible debt financing instrument; and

''(5) any other cost incidental to the sale of an eligible debt financing instrument (as determined by the Secretary).

''(c) CONDITIONS ON PAYMENT.—The Secretary may reimburse a State under subsection (b) with respect to a project funded by an eligible debt financing instrument after the State has complied with this title to the extent and in the manner that would be required if payment were to be made under section 121.

''(d) FEDERAL SHARE.—The Federal share of the cost of a project payable under this section shall not exceed the pro-rata basis of payment authorized in section 120.

''(e) STATUTORY CONSTRUCTION.—Notwithstanding any other law, the eligibility of an eligible debt financing instrument for reimbursement under subsection (a) shall not—

''(1) constitute a commitment, guarantee, or obligation on the part of the United States to provide for payment of principal or interest on the eligible debt financing instrument; or

''(2) create any right of a third party against the United States for payment under the eligible debt financing instrument.''.

(b) DEFINITION OF CONSTRUCTION.—The first sentence of the undesignated paragraph defining ''construction'' of section 101(a) of title 23, United States Code, is amended by inserting ''bond costs and other costs relating to the issuance of bonds or other debt instrument financing in accordance with section 122,'' after ''highway, including''.

(c) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 122 and inserting the following:

''122. Payments to States for bond and other debt instrument financing.''.

SEC. 111. FEDERAL SHARE FOR HIGHWAYS, BRIDGES, AND TUNNELS.

Section 129(a) of title 23, United States Code, is amended by striking paragraph (5) and inserting the following:

''(5) LIMITATION ON FEDERAL SHARE.—The Federal share payable for an activity described in paragraph (1) shall be a percentage determined by the State, but not to exceed 80 percent.''.

SEC. 112. STREAMLINING FOR TRANSPORTATION ENHANCEMENT PROJECTS.

Section 133(e) of title 23, United States Code, is amended—

(1) in paragraph (3)—

(A) by striking ''(3) PAYMENTS.—The'' and inserting the following:

''(3) PAYMENTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the''; and

(B) by adding at the end the following:

''(B) ADVANCE PAYMENT OPTION FOR TRANSPORTATION ENHANCEMENT ACTIVITIES.—

''(i) IN GENERAL.—The Secretary may advance funds to the State for transportation enhancement activities funded from the allocation required by subsection (d)(2) for a fiscal year if the Secretary certifies for the fiscal year that the State has authorized and uses a process for the selection of transportation enhancement projects that involves representatives of affected public entities, and private citizens, with expertise related to transportation enhancement activities.

''(ii) LIMITATION ON AMOUNTS.—Amounts advanced under this subparagraph shall be limited to such amounts as are necessary to make prompt payments for project costs.

''(iii) EFFECT ON OTHER REQUIREMENTS.—This subparagraph shall not exempt a State from other requirements of this title relating to the surface transportation program.''; and

(2) by adding at the end the following:

''(5) TRANSPORTATION ENHANCEMENT ACTIVITIES.—

''(A) CATEGORICAL EXCLUSIONS.—To the extent appropriate, the Secretary shall develop categorical exclusions from the requirement that an environmental assessment or an environmental impact statement under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) be prepared for transportation enhancement activities funded from the allocation required by subsection (d)(2).

''(B) NATIONWIDE PROGRAMMATIC AGREEMENT.—The Administrator of the Federal Highway Administration, in consultation with the National Conference of State Historic Preservation Officers and the Advisory Council on Historic Preservation established under title II of the National Historic Preservation Act (16 U.S.C. 470i et seq.), shall develop a nationwide programmatic agreement governing the review of transportation enhancement activities funded from the allocation required by subsection (d)(2), in accordance with—

''(i) section 106 of the National Historic Preservation Act (16 U.S.C. 470f); and

''(ii) the regulations of the Advisory Council on Historic Preservation.''.

SEC. 113. NON-FEDERAL SHARE FOR CERTAIN TOLL BRIDGE PROJECTS.

Section 144(l) of title 23, United States Code, is amended by adding at the end the following: ''Any non-Federal funds expended for the seismic retrofit of the bridge may be credited toward the non-Federal share required as a condition of receipt of any Federal funds for seismic retrofit of the bridge made available after the date of the expenditure.''.

SEC. 114. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.

(a) AREAS ELIGIBLE FOR FUNDS.—

(1) IN GENERAL.—The first sentence of section 149(b) of title 23, United States Code, is amended—

(A) by inserting ''for areas in the State that were designated as nonattainment areas under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d))'' after ''may obligate funds''; and

(B) in paragraph (1)(A)—

(i) by striking ''contribute to the'' and inserting the following: ''contribute to—

''(i) the''; and

(ii) by adding at the end the following:

''(ii) the maintenance of a national ambient air quality standard in an area that was designated as a nonattainment area but that was later redesignated by the Administrator of the Environmental Protection Agency as an attainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)); or''.

(2) APPORTIONMENT.—Section 104(b)(2) of title 23, United States Code, is amended—

(A) in the second sentence, by striking ''is a nonattainment area (as defined in the Clean Air Act) for ozone'' and inserting ''was a nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(2))) for ozone during any part of fiscal year 1995''; and

(B) in the third sentence—

(i) by striking ''is also'' and inserting ''was also''; and

(ii) by inserting ''during any part of fiscal year 1995'' after ''monoxide''.

(b) REMOVAL OF CERTAIN FUNDING LIMITATIONS.—Section 149(b)(1)(A) of title 23, United States Code, is amended by striking ''(other than clauses (xii) and (xvi) of such section), that the project or program'' and inserting '', that the publicly sponsored project or program''.

SEC. 115. REPEAL OF NATIONAL MAXIMUM SPEED LIMIT.

(a) IN GENERAL.—Section 154 of title 23, United States Code, is repealed.

(b) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 154.

(2) Section 141 of title 23, United States Code, is amended—

(A) by striking subsection (a);

(B) by redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively; and

(C) in subsection (b) (as so redesignated), by striking ''subsection (b)'' each place it appears and inserting ''subsection (a)''.

(3) Section 123(c)(3) of the Federal-Aid Highway Act of 1978 (Public Law 95–599; 23 U.S.C. 141 note) is amended by striking ''section 141(b)'' and inserting ''section 141(a)''.

(4) Section 153(i)(2) of title 23, United States Code, is amended to read as follows:

''(2) MOTOR VEHICLE.—The term 'motor vehicle' means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways, except any vehicle operated exclusively on a rail or rails.''.

(5) Section 1029 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 23 U.S.C. 154 note) is amended—

(A) by striking subsection (d); and

(B) by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

(6) Section 157(d) of title 23, United States Code, is amended by striking ''154(f) or''.

(7) Section 410(i)(3) of title 23, United States Code, is amended to read as follows:

''(3) MOTOR VEHICLE.—The term 'motor vehicle' means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways, except any vehicle operated exclusively on a rail or rails.''.

SEC. 116. FEDERAL SHARE FOR BICYCLE TRANSPORTATION FACILITIES AND PEDESTRIAN WALKWAYS.

Section 217(f) of title 23, United States Code, is amended by striking ''80 percent'' and inserting ''determined in accordance with section 120(b)''.

SEC. 117. REPEAL OF RESTRICTIONS ON TOLL FACILITIES.

(a) IN GENERAL.—Section 301 of title 23, United States Code, is repealed.

(b) AUTHORIZATION FOR FEDERAL PARTICIPATION.—Section 129(a)(1) of title 23, United States Code, is amended to read as follows:

''(1) AUTHORIZATION FOR FEDERAL PARTICIPATION.—Subject to the other provisions of this section, the Secretary shall permit Federal participation in Federal-aid projects involving toll highways, bridges, and tunnels on the same basis and in the same manner as in the construction of free highways under this chapter.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 129 of title 23, United States Code, is amended—

(A) in subsection (b), by striking ''Notwithstanding the provisions of section 301 of this title, the'' and inserting ''The''; and

(B) in subsection (c), by striking ''Notwithstanding section 301 of this title, the'' and inserting ''The''.

(2) The analysis for chapter 3 of title 23, United States Code, is amended by striking the item relating to section 301.

SEC. 118. SUSPENSION OF MANAGEMENT SYSTEMS.

Section 303 of title 23, United States Code, is amended—

(1) by striking subsection (c) and inserting the following:

''(c) STATE ELECTION.—A State may, at the option of the State, elect, at any time, not to implement, in whole or in part, 1 or more of the management systems required under this section. The Secretary may not impose any sanction on, or withhold any benefit from, a State on the basis of such an election.''; and

(2) in subsection (f)—

(A) by striking ''(f) ANNUAL REPORT.—Not'' and inserting the following:

''(f) REPORTS.—

''(1) ANNUAL REPORTS.—Not''; and

(B) by adding at the end the following:

''(2) REPORT ON IMPLEMENTATION.—Not later than October 1, 1996, the Secretary, in consultation with States, shall transmit to Congress a report on the management systems required under this section that makes recommendations as to whether, to what extent, and how the management systems should be implemented.''.

SEC. 119. INTELLIGENT VEHICLE-HIGHWAY SYSTEMS.

(a) IMPROVED COLLABORATION IN INTELLIGENT VEHICLE-HIGHWAY SYSTEMS RESEARCH AND DEVELOPMENT.—Section 6054 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 23 U.S.C. 307 note) is amended by adding at the end the following:

''(e) COLLABORATIVE RESEARCH AND DEVELOPMENT.—In carrying out this part, the Secretary may carry out collaborative research and development in accordance with section 307(a)(2) of title 23, United States Code.''.

(b) TIME LIMIT FOR OBLIGATION OF FUNDS FOR INTELLIGENT VEHICLE-HIGHWAY SYSTEMS PROJECTS.—Section 6058 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 23 U.S.C. 307 note) is amended by adding at the end the following:

''(f) OBLIGATION OF FUNDS.—

''(1) IN GENERAL.—Funds made available pursuant to subsections (a) and (b) after the date of enactment of this subsection, and other funds made available after that date to carry out specific intelligent vehicle-highway systems projects, shall be obligated not later than the last day of the fiscal year following the fiscal year with respect to which the funds are made available.

''(2) REALLOCATION OF FUNDS.—If funds described in paragraph (1) are not obligated by the date described in the paragraph, the Secretary may make the funds available to carry out any other activity with respect to which funds may be made available under subsection (a) or (b).''.

SEC. 120. DONATIONS OF FUNDS, MATERIALS, OR SERVICES FOR FEDERALLY ASSISTED ACTIVITIES.

Section 323 of title 23, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

''(c) CREDIT FOR DONATIONS OF FUNDS, MATERIALS, OR SERVICES.—Nothing in this title or any other law shall prevent a person from offering to donate funds, materials, or services in connection with an activity eligible for Federal assistance under this title. In the case of such an activity with respect to which the Federal Government and the State share in paying the cost, any donated funds, or the fair market value of any donated materials or services, that are accepted and incorporated into the activity by the State highway agency shall be credited against the State share.''.

SEC. 121. METRIC CONVERSION OF TRAFFIC CONTROL SIGNS.

Notwithstanding section 3(2) of the Metric Conversion Act of 1975 (15 U.S.C. 205b(2)) or any other law, no State shall be required to—

(1) erect any highway sign that establishes any speed limit, distance, or other measurement using the metric system; or

(2) modify any highway sign that establishes any speed limit, distance, or other measurement so that the sign uses the metric system.

SEC. 122. IDENTIFICATION OF HIGH PRIORITY CORRIDORS.

Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Pub. L. 102–240; 105 Stat. 2032) is amended—

(1) by striking paragraph (5) and inserting the following:

''(5)(A) I–73/74 North-South Corridor from Charleston, South Carolina, through Winston-Salem, North Carolina, to Portsmouth, Ohio, to Cincinnati, Ohio, and Detroit, Michigan.

''(B)(i) In the Commonwealth of Virginia, the Corridor shall generally follow—

''(I) United States Route 220 from the Virginia-North Carolina border to I–581 south of Roanoke;

''(II) I–581 to I–81 in the vicinity of Roanoke;

''(III) I–81 to the proposed highway to demonstrate intelligent vehicle-highway systems authorized by item 29 of the table in section 1107(b) in the vicinity of Christiansburg to United States Route 460 in the vicinity of Blacksburg; and

''(IV) United States Route 460 to the West Virginia State line.

''(ii) In the States of West Virginia, Kentucky, and Ohio, the Corridor shall generally follow—

''(I) United States Route 460 from the West Virginia State line to United States Route 52 at Bluefield, West Virginia; and

''(II) United States Route 52 to United States Route 23 at Portsmouth, Ohio.

''(iii) In the State of North Carolina, the Corridor shall generally follow—

''(I) in the case of I–73—

''(aa) United States Route 220 from the Virginia State line to State Route 68 in the vicinity of Greensboro;

''(bb) State Route 68 to I–40;

''(cc) I–40 to United States Route 220 in Greensboro;

''(dd) United States Route 220 to United States Route 74 near Rockingham;

''(ee) United States Route 74 to United States Route 76 near Whiteville;

''(ff) United States Route 74/76 to United States Route 17 near Calabash; and

''(gg) United States Route 17 to the South Carolina State line; and

''(II) in the case of I–74—

''(aa) I–77 from Bluefield, West Virginia, to the junction of I–77 and the United States Route 52 connector in Surry County, North Carolina;

''(bb) the I–77/United States Route 52 connector to United States Route 52 south of Mount Airy, North Carolina;

''(cc) United States Route 52 to United States Route 311 in Winston-Salem, North Carolina; and

''(dd) United States Route 311 to United States Route 220 in the vicinity of Randleman, North Carolina.

''(iv) Each route segment referred to in clause (i), (ii), or (iii) that is not a part of the Interstate System shall be designated as a route included in the Interstate System, at such time as the Secretary determines that the route segment—

''(I) meets Interstate System design standards approved by the Secretary under section 109(b) of title 23, United States Code; and

''(II) meets the criteria for designation pursuant to section 139 of title 23, United States Code, except that the determination shall be made without regard to whether the route segment is a logical addition or connection to the Interstate System.''; and

(2) by adding at the end the following:

''(22) The Alameda Transportation Corridor along Alameda Street from the entrance to the ports of Los Angeles and Long Beach to Interstate 10, Los Angeles, California.

''(23) The Interstate Route 35 Corridor from Laredo, Texas, through Oklahoma City, Oklahoma, to Wichita, Kansas, to Kansas City, Kansas/Missouri, to Des Moines, Iowa, to Minneapolis, Minnesota, to Duluth, Minnesota.''.

SEC. 123. REVISION OF AUTHORITY FOR INNOVATIVE PROJECT IN FLORIDA.

Item 196 of the table in section 1107(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2058) is amended—

(1) by striking ''Orlando,''; and

(2) by striking ''Land & right-of-way acquisition & guideway construction for magnetic limitation project'' and inserting ''1 or more regionally significant, intercity ground transportation projects''.

SEC. 124. REVISION OF AUTHORITY FOR PRIORITY INTERMODAL PROJECT IN CALIFORNIA.

Item 31 of the table in section 1108(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2062) is amended by striking ''To improve ground access from Sepulveda Blvd. to Los Angeles, California'' and inserting the following: ''For the Los Angeles International Airport central terminal ramp access project, $3,500,000; for the widening of Aviation Boulevard south of Imperial Highway, $3,500,000; for the widening of Aviation Boulevard north of Imperial Highway, $1,000,000; and for transportation systems management improvements in the vicinity of the Sepulveda Boulevard/Los Angeles International Airport tunnel, $950,000''.

SEC. 125. NATIONAL RECREATIONAL TRAILS FUNDING PROGRAM.

(a) CONTRACT AUTHORITY.—Section 1302 of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1261) is amended—

(1) by redesignating subsection (g) as subsection (i); and

(2) by inserting after subsection (f) the following:

''(g) CONTRACT AUTHORITY.—Funds authorized to be appropriated under this section shall be available for obligation in the manner as if the funds were apportioned under title 23, United States Code, except that the Federal share of any project under this section shall be determined in accordance with this section and shall not be subject to any limitation on obligation applicable generally to the Federal-aid highway program.

''(h) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be 50 percent.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 1302 of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1261) is amended—

(A) by striking subsection (c) and inserting the following:

''(c) STATE ELIGIBILITY.—A State shall be eligible to receive moneys under this part if—

''(1) the Governor of the State has designated the State agency responsible for administering allocations under this section;

''(2) the State proposes to obligate and ultimately obligates any allocations received in accordance with subsection (e); and

''(3) a recreational trail advisory board on which both motorized and nonmotorized recreational trail users are represented exists in the State.'';

(B) in subsection (d), by striking paragraph (3);

(C) in subsection (e)—

(i) in paragraphs (3)(A), (5)(B), and (8)(B), by striking ''(c)(2)(A) of this section'' and inserting ''(c)(3)''; and

(ii) in paragraph (5)(A)(i), by striking ''(g)(5)'' and inserting ''(i)(5)''; and

(D) in subsection (i) (as redesignated by subsection (a)(1)), by striking paragraph (1) and inserting the following:

''(1) ELIGIBLE STATE.—The term 'eligible State' means a State (as defined in section 101 of title 23, United States Code) that meets the requirements of subsection (c).''.

(2) Section 104 of title 23, United States Code, is amended—

(A) by redesignating subsection (h) as subsection (i); and

(B) by inserting after subsection (g) the following:

''(h) NATIONAL RECREATIONAL TRAILS FUNDING.—The Secretary shall expend, from administrative funds deducted under subsection (a), to carry out section 1302 of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1261) $15,000,000 for each of fiscal years 1996 and 1997.''.

(3) Section 9511(c) of the Trust Fund Code of 1981 is amended by striking '', as provided in appropriation Acts,''.

SEC. 126. INTERMODAL FACILITY IN NEW YORK.

(a) IN GENERAL.—The Secretary of Transportation shall make grants to the National Railroad Passenger Corporation for—

(1) engineering, design, and construction activities to permit the James A. Farley Post Office in New York, New York, to be used as an intermodal transportation facility and commercial center; and

(2) necessary improvements to and redevelopment of Pennsylvania Station and associated service buildings in New York, New York.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section a total of $69,500,000 for fiscal years following fiscal year 1995, to remain available until expended.

SEC. 127. CLARIFICATION OF ELIGIBILITY.

The improvements to, or adjacent to, the main line of the National Railroad Passenger Corporation between milepost 190.23 at Central Falls, Rhode Island, and milepost 168.53 at Davisville, Rhode Island, that are necessary to support the rail movement of freight shall be eligible for funding under sections 103(e)(4), 104(b), and 144 of title 23, United States Code.

SEC. 128. BRISTOL, RHODE ISLAND, STREET MARKING.

Notwithstanding any other law, a red, white, and blue center line in the Main Street of Bristol, Rhode Island, shall be deemed to comply with the requirements of section 3B–1 of the Manual on Uniform Traffic Control Devices of the Department of Transportation.

SEC. 129. PUBLIC USE OF REST AREAS.

Notwithstanding section 111 of title 23, United States Code, or any project agreement under the section, the Secretary of Transportation shall permit the conversion of any safety rest area adjacent to Interstate Route 95 within the State of Rhode Island that was closed as of May 1, 1995, to use as a motor vehicle emissions testing facility. At the option of the State, vehicles shall be permitted to gain access to and from any such testing facility directly from Interstate Route 95.

SEC. 130. COLLECTION OF TOLLS TO FINANCE CERTAIN ENVIRONMENTAL PROJECTS IN FLORIDA.

Notwithstanding section 129(a) of title 23, United States Code, on request of the Governor of the State of Florida, the Secretary of Transportation shall modify the agreement entered into with the transportation department of the State and described in section 129(a)(3) of the title to permit the collection of tolls to liquidate such indebtedness as may be incurred to finance any cost associated with a feature of an environmental project that is carried out under State law and approved by the Secretary of the Interior.

SEC. 131. HOURS OF SERVICE OF DRIVERS OF GROUND WATER WELL DRILLING RIGS.

(a) DEFINITIONS.—In this section:

(1) 8 CONSECUTIVE DAYS.—The term ''8 consecutive days'' means the period of 8 consecutive days beginning on any day at the time designated by the motor carrier for a 24-hour period.

(2) 24-HOUR PERIOD.—The term ''24-hour period'' means any 24-consecutive-hour period beginning at the time designated by the motor carrier for the terminal from which the driver is normally dispatched.

(3) GROUND WATER WELL DRILLING RIG.—The term ''ground water well drilling rig'' means any vehicle, machine, tractor, trailer, semi-trailer, or specialized mobile equipment propelled or drawn by mechanical power and used on highways to transport water well field operating equipment, including water well drilling and pump service rigs equipped to access ground water.

(b) GENERAL RULE.—In the case of a driver of a commercial motor vehicle subject to regulations prescribed by the Secretary of Transportation under sections 31136 and 31502 of title 49, United States Code, who is used primarily in the transportation and operation of a ground water well drilling rig, for the purpose of the regulations, any period of 8 consecutive days may end with the beginning of an off-duty period of 24 or more consecutive hours.

(c) REPORT.—The Secretary of Transportation shall monitor the commercial motor vehicle safety performance of drivers of ground water well drilling rigs. If the Secretary determines that public safety has been adversely affected by the general rule established by subsection (b), the Secretary shall report to Congress on the determination.

TITLE II—NATIONAL CAPITAL REGION INTERSTATE TRANSPORTATION AUTHORITY

SEC. 201. SHORT TITLE.

This title may be cited as the ''National Capital Region Interstate Transportation Authority Act of 1995''.

SEC. 202. FINDINGS.

Congress finds that—

(1) traffic congestion imposes serious economic burdens on the metropolitan Washington, D.C., area, costing each commuter an estimated $1,000 per year;

(2) the volume of traffic in the metropolitan Washington, D.C., area is expected to increase by more than 70 percent between 1990 and 2020;

(3) the deterioration of the Woodrow Wilson Memorial Bridge and the growing population of the metropolitan Washington, D.C., area contribute significantly to traffic congestion;

(4) the Bridge serves as a vital link in the Interstate System and in the Northeast corridor;

(5) identifying alternative methods for maintaining this vital link of the Interstate System is critical to addressing the traffic congestion of the area;

(6) the Bridge is—

(A) the only drawbridge in the metropolitan Washington, D.C., area on the Interstate System;

(B) the only segment of the Capital Beltway with only 6 lanes; and

(C) the only segment of the Capital Beltway with a remaining expected life of less than 10 years;

(7) the Bridge is the only part of the Interstate System owned by the Federal Government;

(8)(A) the Bridge was constructed by the Federal Government;

(B) prior to the date of enactment of this Act, the Federal Government has contributed 100 percent of the cost of building and rehabilitating the Bridge; and

(C) the Federal Government has a continuing responsibility to fund future costs associated with the upgrading of the Interstate Route 95 crossing, including the rehabilitation and reconstruction of the Bridge;

(9) the Woodrow Wilson Bridge Coordination Committee, established by the Federal Highway Administration and comprised of representatives of Federal, State, and local governments, is undertaking planning studies pertaining to the Bridge, consistent with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable Federal laws;

(10) the transfer of ownership of the Bridge to a regional entity under the terms and conditions described in this title would foster regional transportation planning efforts to identify solutions to the growing problem of traffic congestion on and around the Bridge;

(11) any material change to the Bridge must take into account the interests of nearby communities, the commuting public, Federal, State, and local government organizations, and other affected groups; and

(12) a commission of congressional, State, and local officials and transportation representatives has recommended to the Secretary of Transportation that the Bridge be transferred to an independent authority to be established by the Capital Region jurisdictions.

SEC. 203. PURPOSES.

The purposes of this title are—

(1) to grant consent to the Commonwealth of Virginia, the State of Maryland, and the District of Columbia to establish the National Capital Region Interstate Transportation Authority; and

(2) to authorize the transfer of ownership of the Bridge to the Authority for the purposes of owning, constructing, maintaining, and operating a bridge or tunnel or a bridge and tunnel project across the Potomac River.

SEC. 204. DEFINITIONS.

In this title:

(1) AUTHORITY.—The term ''Authority'' means the National Capital Region Interstate Transportation Authority authorized by this title and by similar enactment by each of the Capital Region jurisdictions.

(2) AUTHORITY FACILITY.—The term ''Authority facility'' means—

(A) the Bridge (as in existence on the date of enactment of this Act);

(B) any southern Capital Beltway crossing of the Potomac River constructed in the vicinity of the Bridge after the date of enactment of this Act; or

(C) any building, improvement, addition, extension, replacement, appurtenance, land, interest in land, water right, air right, franchise, machinery, equipment, furnishing, landscaping, easement, utility, approach, roadway, or other facility necessary or desirable in connection with or incidental to a facility described in subparagraph (A) or (B).

(3) BOARD.—The term ''Board'' means the board of directors of the Authority established under section 206.

(4) BRIDGE.—The term ''Bridge'' means the Woodrow Wilson Memorial Bridge across the Potomac River.

(5) CAPITAL REGION JURISDICTION.—The term ''Capital Region jurisdiction'' means—

(A) the Commonwealth of Virginia;

(B) the State of Maryland; or

(C) the District of Columbia.

(6) INTERSTATE SYSTEM.—The term ''Interstate System'' means the Dwight D. Eisenhower National System of Interstate and Defense Highways designated under section 103(e) of title 23, United States Code.

(7) NATIONAL CAPITAL REGION.—The term ''National Capital Region'' means the region consisting of the metropolitan areas of—

(A)(i) the cities of Alexandria, Fairfax, and Falls Church, Virginia; and

(ii) the counties of Arlington and Fairfax, Virginia, and the political subdivisions of the Commonwealth of Virginia located in the counties;

(B) the counties of Montgomery and Prince Georges, Maryland, and the political subdivisions of the State of Maryland located in the counties; and

(C) the District of Columbia.

(8) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

SEC. 205. ESTABLISHMENT OF AUTHORITY.

(a) CONSENT TO AGREEMENT.—Congress grants consent to the Commonwealth of Virginia, the State of Maryland, and the District of Columbia to enter into an interstate agreement or compact to establish the National Capital Region Interstate Transportation Authority in accordance with this title.

(b) ESTABLISHMENT OF AUTHORITY.—

(1) IN GENERAL.—On execution of the interstate agreement or compact described in subsection (a), the Authority shall be considered to be established.

(2) GENERAL POWERS.—The Authority shall be a body corporate and politic, independent of all other bodies and jurisdictions, having the powers and jurisdiction described in this title and such additional powers as are conferred on the Authority by the Capital Region jurisdictions, to

the extent that the additional powers are consistent with this title.

SEC. 206. GOVERNMENT OF AUTHORITY.

(a) IN GENERAL.—The Authority shall be governed in accordance with this section and with the terms of any interstate agreement or compact relating to the Authority that is consistent with this title.

(b) BOARD.—The Authority shall be governed by a board of directors consisting of 12 members appointed by the Capital Region jurisdictions and 1 member appointed by the Secretary.

(c) QUALIFICATIONS.—One member of the Board shall have an appropriate background in finance, construction lending, or infrastructure policy.

(d) CHAIRPERSON.—The chairperson of the Board shall be elected biennially by the members of the Board.

(e) SECRETARY AND TREASURER.—The Board may—

(1) biennially elect a secretary and a treasurer, or a secretary-treasurer, without regard to whether the individual is a member of the Board; and

(2) prescribe the powers and duties of the secretary and treasurer, or the secretary-treasurer.

(f) TERMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), a member of the Board shall serve for a 6-year term, and shall continue to serve until the successor of the member has been appointed in accordance with this subsection.

(2) INITIAL APPOINTMENTS.—

(A) BY CAPITAL REGION JURISDICTIONS.—Members initially appointed to the Board by a Capital Region jurisdiction shall be appointed for the following terms:

(i) 1 member shall be appointed for a 6-year term.

(ii) 1 member shall be appointed for a 4-year term.

(iii) 2 members shall each be appointed for a 2-year term.

(B) BY SECRETARY.—The member of the Board appointed by the Secretary shall be appointed for a 6-year term.

(3) FAILURE TO APPOINT.—The failure of a Capital Region jurisdiction to appoint 1 or more members of the Board, as provided in this subsection, shall not impair the establishment of the Authority if the condition of the establishment described in section 205(b)(1) has been met.

(4) VACANCIES.—Subject to paragraph (5), a person appointed to fill a vacancy on the Board shall serve for the unexpired term.

(5) REAPPOINTMENTS.—A member of the Board shall be eligible for reappointment for 1 additional term.

(6) PERSONAL LIABILITY OF MEMBERS.—A member of the Board, including any nonvoting member, shall not be personally liable for—

(A) any action taken in the capacity of the member as a member of the Board; or

(B) any note, bond, or other financial obligation of the Authority.

(7) QUORUM.—

(A) IN GENERAL.—Subject to subparagraph (B), for the purpose of carrying out the business of the Authority, 7 members of the Board shall constitute a quorum.

(B) APPROVAL OF BOND ISSUES AND BUDGET.—Eight affirmative votes of the members of the Board shall be required to approve bond issues and the annual budget of the Authority.

(8) COMPENSATION.—A member of the Board shall serve without compensation and shall reside within a Capital Region jurisdiction.

(9) EXPENSES.—A member of the Board shall be entitled to reimbursement for the expenses of the member incurred in attending a meeting of the Board or while otherwise engaged in carrying out the duties of the Board.

SEC. 207. OWNERSHIP OF BRIDGE.

(a) CONVEYANCE BY SECRETARY.—

(1) IN GENERAL.—After the Capital Region jurisdictions enter into the agreement described in subsection (c), the Secretary shall convey all right, title, and interest of the Department of Transportation in and to the Bridge to the Authority. Except as provided in paragraph (2), upon conveyance by the Secretary, the Authority shall accept the right, title, and interest in and to the Bridge, and all duties and responsibilities associated with the Bridge.

(2) INTERIM RESPONSIBILITIES.—Until such time as a new crossing of the Potomac River described in section 208 is constructed and operational, the conveyance under paragraph (1) shall in no way—

(A) relieve the Capital Region jurisdictions of the sole and exclusive responsibility to maintain and operate the Bridge; or

(B) relieve the Secretary of the responsibility to rehabilitate the Bridge or to comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and all other requirements applicable with respect to the Bridge.

(b) CONVEYANCE BY THE SECRETARY OF THE INTERIOR.—At the same time as the conveyance of the Bridge by the Secretary under subsection (a), the Secretary of the Interior shall transfer to the Authority all right, title, and interest of the Department of the Interior in and to such land under or adjacent to the Bridge as is necessary to carry out section 208. Upon conveyance by the Secretary of the Interior, the Authority shall accept the right, title, and interest in and to the land.

(c) AGREEMENT.—The agreement referred to in subsection (a) is an agreement among the Secretary, the Governors of the Commonwealth of Virginia and the State of Maryland, and the Mayor of the District of Columbia as to the Federal share of the cost of the activities carried out under section 208.

SEC. 208. CAPITAL IMPROVEMENTS AND CONSTRUCTION.

The Authority shall take such action as is necessary to address the need of the National Capital Region for an enhanced southern Capital Beltway crossing of the Potomac River that serves the traffic corridor of the Bridge (as in existence on the date of enactment of this Act), in accordance with the recommendations in the final environmental impact statement prepared by the Secretary. The Authority shall have the sole responsibility for the ownership, construction, operation, and maintenance of a new crossing of the Potomac River.

SEC. 209. ADDITIONAL POWERS AND RESPONSIBILITIES OF AUTHORITY.

In addition to the powers and responsibilities of the Authority under the other provisions of this title and under any interstate agreement or compact relating to the Authority that is consistent with this title, the Authority shall have all powers necessary and appropriate to carry out the duties of the Authority, including the power—

(1) to adopt and amend any bylaw that is necessary for the regulation of the affairs of the Authority and the conduct of the business of the Authority;

(2) to adopt and amend any regulation that is necessary to carry out the powers of the Authority;

(3) subject to section 207(a)(2), to plan, establish, finance, operate, develop, construct, enlarge, maintain, equip, or protect the Bridge or a new crossing of the Potomac River described in section 208;

(4) to employ, in the discretion of the Authority, a consulting engineer, attorney, accountant, construction or financial expert, superintendent, or manager, or such other employee or agent as is necessary, and to fix the compensation and benefits of the employee or agent, except that—

(A) an employee of the Authority shall not engage in an activity described in section 7116(b)(7) of title 5, United States Code, with respect to the Authority; and

(B) an employment agreement entered into by the Authority shall contain an explicit prohibition against an activity described in subparagraph (A) with respect to the Authority by an employee covered by the agreement;

(5) to—

(A) acquire personal and real property (including land lying under water and riparian rights), or any easement or other interest in real property, by purchase, lease, gift, transfer, or exchange; and

(B) exercise such powers of eminent domain in the Capital Region jurisdictions as are conferred on the Authority by the Capital Region jurisdictions, in the exercise of the powers and the performance of the duties of the Authority;

(6) to apply for and accept any property, material, service, payment, appropriation, grant, gift, loan, advance, or other fund that is transferred or made available to the Authority by the Federal Government or by any other public or private entity or individual;

(7) to borrow money on a short-term basis and issue notes of the Authority for the borrowing payable on such terms and conditions as the Board considers advisable, and to issue bonds in the discretion of the Authority for any purpose consistent with this title, which notes and bonds—

(A) shall not constitute a debt of the United States, a Capital Region jurisdiction, or any political subdivision of the United States or a Capital Region jurisdiction;

(B) may be secured solely by the general revenues of the Authority, or solely by the income and revenues of the Bridge or a new crossing of the Potomac River described in section 208; and

(C) shall be exempt as to principal and interest from all taxation (except estate and gift taxes) by the United States;

(8) to fix, revise, charge, and collect any reasonable toll or other charge;

(9) to enter into any contract or agreement necessary or appropriate to the performance of the duties of the Authority or the proper operation of the Bridge or a new crossing of the Potomac River described in section 208;

(10) to make any payment necessary to reimburse a local political subdivision having jurisdiction over an area where the Bridge or a new crossing of the Potomac River is situated for any extraordinary law enforcement cost incurred by the subdivision in connection with the Authority facility;

(11) to enter into partnerships or grant concessions between the public and private sectors for the purpose of—

(A) financing, constructing, maintaining, improving, or operating the Bridge or a new crossing of the Potomac River described in section 208; or

(B) fostering development of a new transportation technology;

(12) to obtain any necessary Federal authorization, permit, or approval for the construction, repair, maintenance, or operation of the Bridge or a new crossing of the Potomac River described in section 208;

(13) to adopt an official seal and alter the seal, as the Board considers appropriate;

(14) to appoint 1 or more advisory committees;

(15) to sue and be sued in the name of the Authority; and

(16) to carry out any activity necessary or appropriate to the exercise of the powers or performance of the duties of the Authority under this title and under any interstate agreement or compact relating to the Authority that is consistent with this title, if the activity is coordinated and consistent with the transportation planning process implemented by the metropolitan planning organization for the Washington, District of Columbia, metropolitan area under section 134 of title 23, United States Code, and section 5303 of title 49, United States Code.

SEC. 210. FUNDING.

(a) SET-ASIDE.—Section 104 of title 23, United States Code (as amended by section 125(b)(2)(A)), is further amended—

(1) in the first sentence of subsection (b), by striking ''subsection (f) of this section'' and inserting ''subsections (f) and (i)'';

(2) by redesignating subsection (i) as subsection (j); and

(3) by inserting before subsection (j) the following:

''(i) WOODROW WILSON MEMORIAL BRIDGE.—Before making an apportionment of funds under subsection (b), the Secretary shall set aside $17,550,000 for fiscal year 1996 and $80,050,000 for fiscal year 1997 for the rehabilitation of the Woodrow Wilson Memorial Bridge and for the planning, preliminary design, engineering, and acquisition of a right-of-way for, and construction of, a new crossing of the Potomac River.''.

(b) APPLICABILITY OF TITLE 23.—Funds made available under this section shall be available for obligation in the manner provided for funds apportioned under chapter 1 of title 23, United States Code, except that—

(1) the Federal share of the cost of any project funded under this section shall be 100 percent; and

(2) the funds made available under this section shall remain available until expended.

(c) STUDY.—Not later than May 31, 1997, the Secretary, in consultation with each of the Capital Region jurisdictions, shall prepare and submit to Congress a report identifying the necessary Federal share of the cost of the activities to be carried out under section 208.

(d) DISTRIBUTION OF OBLIGATION AUTHORITY.—Section 1002(e)(3) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 23 U.S.C. 104 note) is amended by inserting before the period at the end the following: ''and the National Capital Region Interstate Transportation Authority Act of 1995''.

(e) REMOVAL OF ISTEA AUTHORIZATION FOR BRIDGE REHABILITATION.—Section 1069 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2009) is amended by striking subsection (i).

SEC. 211. AVAILABILITY OF PRIOR AUTHORIZATIONS.

In addition to the funds made available under section 210, any funds made available for the rehabilitation of the Bridge under sections 1069(i) and 1103(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2009 and 2028) (as in effect prior to the amendment made by section 210(e)) shall continue to be available after the conveyance of the Bridge to the Authority under section 207(a), in accordance with the terms under which the funds were made available under the Act.

Mr. WARNER. Mr. President, I now ask unanimous consent that the committee substitute be modified to delete section 107 of the bill. That is the section which contains the amendment of the Senator from Virginia, the Davis-Bacon amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. WARNER. I further ask unanimous consent that during the Senate's consideration of S. 440 no Davis-Bacon related amendments be in order.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. WARNER. Mr. President, I recommended this action after consultation with the managers of the bill and the chairmen of the respective committees and the leadership of the Senate, because I am very anxious that consideration of the National Highway System bill be moved forward expeditiously.

The Senate will have further opportunity to consider issues related to Davis-Bacon on other pieces of legislation, most notably S. 141, a bill reported from the Labor and Human Resources Committee.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SARBANES (for himself, Ms. MIKULSKI, and Mr. ROBB):

S. 934. A bill to authorize the establishment of a pilot program to provide environmental assistance to non-Federal interests in the Chesapeake Bay watershed, and for other purposes; to the Committee on Environment and Public Works.

S. 935. A bill to amend the Food Security Act of 1985 to require the Secretary to establish a program to promote the development of riparian forest buffers in conservation priority areas, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SARBANES (for himself, Mr. WARNER, Ms. MIKULSKI, and Mr. ROBB):

S. 936. A bill to amend the Federal Water Pollution Control Act to assist in the restoration of the Chesapeake Bay, and for other purposes; to the Committee on Environment and Public Works.

By Mr. SARBANES (for himself, Ms. MIKULSKI, and Mr. ROBB):

S. 937. A bill to reauthorize the National Oceanic and Atmospheric Administration Chesapeake Bay Estuarine Resources Office, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SARBANES (for himself, Mr. WARNER, Ms. MIKULSKI, and Mr. ROBB):

S. 938. A bill to provide for ballast water management to prevent aquatic nonindigenous species from being introduced and spread into the waters of the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

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

S. 939. A bill to amend title 18, United States Code, to ban partial-birth abortions; read the first time.

By Mr. LEAHY (for himself, Mr. BRADLEY, Mr. GRAHAM, Mr. DASCHLE, Mr. SIMON, Mr. INOUYE, Mr. JEFFORDS, Mr. REID, Mr. HATFIELD, Mr. FORD, Mr. HARKIN, Mr. SARBANES, Mr. FEINGOLD, Mr. KOHL, Mr. LAUTENBERG, Mr. DODD, Mr. KERRY, Mrs. KASSEBAUM, Ms. MOSELEY-BRAUN, Mr. BUMPERS, Mr. KENNEDY, Mrs. BOXER, Mr. PELL, Mr. CHAFEE, Mr. DORGAN, Ms. MIKULSKI, Mr. WELLSTONE, Mr. SIMPSON, Mrs. MURRAY, Mr. ROCKEFELLER, Mr. BRYAN, Mr. MOYNIHAN, Mr. KERREY, Mrs. FEINSTEIN, Mr. AKAKA, Mr. CONRAD, Mr. JOHNSTON, Mr. PRYOR, Mr. BREAUX, Mr. EXON, and Mr. CAMPBELL):

S. 940. A bill to support proposals to implement the United States goal of eventually eliminating antipersonnel landmines; to impose a moratorium on use of antipersonnel landmines except in limited circumstances; to provide for sanctions against foreign governments that export antipersonnel landmines, and for other purposes; to the Committee on Foreign Relations.

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

S. 941. A bill to provide for the termination of the status of the College Construction Loan Insurance Association (''the Corporation'') as a Government Sponsored Enterprise, to require the Secretary of Education to divest himself of the Corporation's stock, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BOND (for himself, Mr. DOMENICI, Mr. WARNER, Mrs. HUTCHISON, Mr. BURNS, Mr. FRIST, and Mr. COVERDELL):

S. 942. A bill to promote increased understanding of Federal regulations and increased voluntary compliance with such regulations by small entities, to provide for the designation of regional ombudsmen and oversight boards to monitor the enforcement practices of certain Federal agencies with respect to small business concerns, to provide relief from excessive and arbitrary regulatory enforcement actions against small entities, and for other purposes; to the Committee on Small Business.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SARBANES (for himself, Ms. MIKULSKI, and Mr. ROBB):

S. 934. A bill to authorize the establishment of a pilot program to provide environmental assistance to non-Federal interests in the Chesapeake Bay watershed, and for other purposes; to the Committee on Environment and Public Works.

S. 935. A bill to amend the Food Security Act of 1985 to require the Secretary to establish a program to promote the development of riparian forest buffers in conservation priority areas, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SARBANES (for himself, Mr. WARNER, Ms. MIKULSKI, and Mr. ROBB):

S. 936. A bill to amend the Federal Water Pollution Control Act to assist in the restoration of the Chesapeake Bay, and for other purposes; to the Committee on Environment and Public Works.

By Mr. SARBANES (for himself, Ms. MIKULSKI, and Mr. ROBB):

S. 937. A bill to reauthorize the National Oceanic and Atmospheric Administration Chesapeake Bay Estuarine Resources Office, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SARBANES (for himself, Mr. WARNER, Ms. MIKULSKI, and Mr. ROBB):

S. 938. A bill to provide for ballast water management to prevent aquatic nonindigenous species from being introduced and spread into the waters of the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

CHESAPEAKE BAY LEGISLATION

Mr. SARBANES.

Mr. President, today, I am introducing, along with a number of my colleagues, a package of five bills directed to continuing and enhancing the efforts to clean up the Chesapeake Bay.

Joining me in sponsoring elements of this package are my distinguished colleague from Maryland, Senator MIKULSKI, and my two distinguished Virginia colleagues, Senators WARNER and ROBB.

Mr. President, the Chesapeake Bay is the largest estuary in the United States and the key to the ecological and economic health of the mid-Atlantic region. The bay, in fact, is one of the world's great natural resources. We tend to take it for granted, since it is right here at hand, so to speak, and I know many Members of this body have enjoyed the Chesapeake Bay. The bay provides thousands of jobs for the people in this region. It is a world-class fishery that produces a significant portion of the country's fin fish and shellfish catch. It is a major commercial waterway and shipping center for the region and for much of the eastern United States. And it is an unparalleled recreational center for almost 10 million people.

The Chesapeake Bay also provides vital habitat for living resources. Over 2,700 plant and animal species live in the bay. It provides a major resting area for migratory birds and waterfowl along the Atlantic flyway, including many endangered and threatened species.

I could go on and on about this dimension of the bay, but most people are aware of it. Certainly, our Nation's scientists are aware of it and have consistently regarded the protection and the enhancement of the quality of the Chesapeake Bay as an extremely important national objective.

It is a treasured asset for those of us in Maryland—in fact, for all those who live around the bay in the other States, our neighboring State of Virginia, and the States to the north of us. Much of the water that comes into the bay comes from the Susquehanna River which originates in New York State.

The Chesapeake Bay is a defining element in Maryland history and a key to the quality of Maryland life throughout our history.

When the bay began to experience serious unprecedented declines in water quality and living resources in recent decades, the people in my State suffered as well. We lost thousands of jobs in the fishing industry. We lost much of the wilderness that defined the watershed.

We began to appreciate for the first time the profound impact that human activity could have on the Chesapeake Bay ecosystem.

Untreated sewage, deforestation, toxic chemicals, farm runoff, and increased development resulted in a degradation of water quality and a destruction of wildlife and its habitat.

Now, fortunately, over the last two decades we have also come to understand that humans can have a positive influence on the environment, and that we can, if we choose, assist nature to repair much of the damage which has been done.

We now treat sewage before it enters our waters. We ban toxic chemicals that were killing the wildlife, we have initiated programs to reduce nonpoint source pollution, and we have taken aggressive steps to restore depleted fisheries.

The States of Maryland, Virginia, and Pennsylvania deserve much of the credit for undertaking many of the actions that have put the bay and its watershed on the road to recovery.

All three States have had major cleanup programs. They have made significant commitments in terms of resources. It is an important priority item on the agendas of the bay States. Successive administrations—Governors have been strongly committed, State legislatures, the public. There are a number of private organizations—the Chesapeake Bay Foundation, for example—which do extraordinarily good work in this area.

But there has been an involvement of the Federal Government as well in helping to bring about the recent successes. It has been an essential and critical involvement.

Without the Federal Clean Water Act, the Federal ban on DDT, and EPA's watershed-wide coordination of Chesapeake Bay restoration and cleanup activities, we would not have been able to bring about the concerted effort, the real partnership, that is succeeding in improving the water quality of the bay and is succeeding in bringing back many of the fish and wildlife species that were on their way to simply being a memory.

So there has been an important role that has been played by the National Government in serving as a catalyst to bring together the State and local effort and the private sector effort. An extraordinary partnership has been built that is much greater than the sum of its parts.

There is a dynamic element that has resulted, as a consequence, that has enabled us to gain a significant momentum in raising the quality of the Chesapeake Bay to the benefit of everyone.

The Chesapeake Bay is getting cleaner, but we cannot afford to be complacent. There are tremendous stresses imposed upon the bay. This is a fast-growing area of the country, with increased population. The commercial stresses intensify.

So we need to address the continuing needs of the bay restoration effort. The hard work, investment, and commitment, at all levels, which has brought gains over the last two decades, must not be allowed to relax.

The measures I am introducing today are designed to build upon our National Government's past role in the Chesapeake Bay program, the highly successful Federal-State-local partnership to which I made reference, that so ably coordinates and directs efforts to restore the bay.

The proposed legislation reauthorizes the bay program and expands the responsibilities of the Federal agencies with a stake in the future of the bay so as to address continuing trouble spots in the watershed.

Difficulties identified by the Chesapeake Bay community include loss of wetlands and forests, soil erosion, toxics, nuisance species, and shellfish disease.

Let me just outline briefly how these various measures seek to accomplish this. First among this package of five bills is legislation that carries forward and enhances the role of the Environmental Protection Agency as the lead Federal agency committed to cleaning up the bay. It establishes a mechanism for interagency coordination and cooperation in the Chesapeake Bay restoration efforts.

The proposal also calls on EPA to initiate new programs to conduct watershed-wide research, programs to restore essential habitat, and programs to reduce toxics in the watershed.

Another bill in this package directs the Coast Guard to develop guidelines for ships entering U.S. waters, to limit the opportunity for the introduction of potentially harmful nonindigenous species through ballast water releases.

In other words, the bay is a ship artery. It is a commercial waterway. The Port of Baltimore is one of our Nation's leading ports. Ships coming into the Chesapeake Bay often release ballast water. The concern is that in the course of doing so they will release into the bay species that are nonindigenous to the bay. In other words, species that had been taken on elsewhere in the world and then would be released into the bay to its detriment.

In fact, this legislation builds on the program undertaken in the Great Lakes where nonindigenous species, such as the zebra mussel, are already causing millions of dollars in damage. We want to avoid such a situation developing in the Chesapeake Bay, and this provision giving the Coast Guard a role to play with respect to the release of ballast water is important in that regard.

Third, the package of legislation continues NOAA's role as the Federal agency responsible for providing key marine research in the Chesapeake Bay. It directs NOAA to continue to undertake research on and to develop solutions for the diseases that have ravaged oyster fisheries throughout the United States and, in particular, in the Chesapeake Bay. We have been very hard hit by these diseases that have virtually decimated the oyster industry. NOAA is the agency to carry forward this key marine research.

Fourth, the package of legislation calls on the Army Corps of Engineers to provide assistance to State and local governments in the design and construction of water-related infrastructure, and to assist in developing resource protection projects.

Let me just give an example of the projects I am talking about. The beneficial use of dredge material which offers a win-win situation. We have to dredge the bay channels for shipping purposes. There is a problem with the disposal of the spoil from that dredging. We now realize that if we move it to eroding islands, we can rebuild the islands. In other words, you have a disposal site so that you dispose of it in a way that is beneficial to the environment by renewing habitat.

We also are interested in the corps addressing sediment and erosion control questions, the protection of eroding shoreline, and the protection of essential public works such as waste water treatment and water supply facilities.

The final piece of legislation in this package directs the U.S. Department of Agriculture, acting through the Natural Resources Conservation Service and through the Forest Service, to encourage the planting of streamside forests in the Chesapeake Bay watershed and in other conservation priority areas. In other words, we encourage the planting of forest buffers, which then help to limit the pollution of water resources by reducing the entry of nonpoint pollutants into streams, and by stabilizing stream banks.

It is a very important and worthwhile program. By planting these buffer zones of trees we are able to stabilize the stream bank, and also filter out pollutants which otherwise would go into the bodies of water.

Mr. President, it is the hope of the cosponsors that most of these measures will ultimately be incorporated into larger pieces of legislation that are due to be reauthorized or considered this year. However, if such legislation is not considered or should become stalled in the legislative process—the larger legislation covers a whole range of issues—it is our intention to try to move forward with this legislation separately.

The Chesapeake Bay cleanup effort has been a major bipartisan undertaking in this body. It has consistently, over the years, been strongly supported by virtually all Members of the Senate. I strongly urge my colleagues to join with us in supporting this legislation and contributing to the improvement and the enhancement of one of our Nation's most valuable and treasured natural resources.

Mr. President, I ask unanimous consent that the text of these bills and a section-by-section analysis of the bills be printed in the RECORD.

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

S. 934

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

SECTION 1. CHESAPEAKE BAY ENVIRONMENTAL RESTORATION AND PROTECTION PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary of the Army (referred to in this section as the ''Secretary'') shall establish a pilot program to provide environmental assistance to non-Federal interests in the Chesapeake Bay watershed.

(2) FORM.—The assistance shall be in the form of design and construction assistance for water-related environmental infrastructure and resource protection and development projects affecting the Chesapeake Bay estuary, including projects for sediment and erosion control, protection of eroding shorelines, protection of essential public works, wastewater treatment and related facilities, water supply and related facilities, and beneficial uses of dredged material, and other related projects that may enhance the living resources of the estuary.

(b) PUBLIC OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned, and will be publicly operated and maintained.

(c) LOCAL COOPERATION AGREEMENT.—

(1) IN GENERAL.—Before providing assistance under this section, the Secretary shall enter into a local cooperation agreement with a non-Federal interest to provide for design and construction of the project to be carried out with the assistance.

(2) REQUIREMENTS.—Each local cooperation agreement entered into under this subsection shall provide for—

(A) the development by the Secretary, in consultation with appropriate Federal, State, and local officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications and an estimate of expected resource benefits; and

(B) the establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation and maintenance of the project by the non-Federal interest.

(d) COST SHARING.—

(1) FEDERAL SHARE.—Except as provided in paragraph (2)(B), the Federal share of the total project costs of each local cooperation agreement entered into under this section shall be 75 percent.

(2) NON-FEDERAL SHARE.—

(A) VALUE OF LANDS, EASEMENTS, RIGHTS-OF-WAY, AND RELOCATIONS.—In determining the non-Federal contribution toward carrying out a local cooperation agreement entered into under this section, the Secretary shall provide credit to a non-Federal interest for the value of lands, easements, rights-of-way, and relocations provided by the non-Federal interest, except that the amount of credit provided for a project under this paragraph may not exceed 25 percent of total project costs.

(B) OPERATION AND MAINTENANCE COSTS.—The non-Federal share of the costs of operation and maintenance of a project carried out under an agreement under this section shall be 100 percent.

(e) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS AND AGREEMENTS.—

(1) IN GENERAL.—Nothing in this section waives, limits, or otherwise affects the applicability of any provision of Federal or State law that would otherwise apply to a project carried out with assistance provided under this section.

(2) COOPERATION.—In carrying out this section, the Secretary shall cooperate fully with the heads of appropriate Federal agencies, including—

(A) the Administrator of the Environmental Protection Agency;

(B) the Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration;

(C) the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service; and

(D) the heads of such other Federal agencies and departments and agencies of a State or political subdivision of a State as the Secretary determines to be appropriate.

(f) DEMONSTRATION PROJECT.—The Secretary shall establish at least 1 project under this section in each of the States of Maryland, Virginia, and Pennsylvania. A project established under this section shall be carried out using such measures as are necessary to protect environmental, historic, and cultural resources.

(g) REPORT.—Not later than December 31, 1998, the Secretary shall transmit to Congress a report on the results of the program carried out under this section, together with a recommendation concerning whether or not the program should be implemented on a national basis.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $30,000,000 for the period consisting of fiscal years 1996 through 1998, to remain available until expended.

S. 935

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 ''Riparian Forest Pilot Program Establishment Act''.

SEC. 2. RIPARIAN FOREST PILOT PROGRAM.

Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following:

''(g) RIPARIAN FOREST PILOT PROGRAM.—

''(1) IN GENERAL.—The Secretary shall establish a program to promote the development of riparian forest buffers in conservation priority areas designated under subsection (f) by entering into contracts to assist owners and operators of lands described in paragraph (2) to improve water quality and living resources in the conservation priority areas.

''(2) ELIGIBLE LANDS.—Notwithstanding subsection (b), the Secretary may include in the program established under this subsection any cropland or pasture land that, when converted to a riparian forest buffer consisting of trees, shrubs, or other vegetation, will—

''(A)(i) intercept surface runoff, wastewater, and subsurface flows from upland sources for the purpose of removing or buffering the effects of associated nutrients, sediment, organic matter, pesticides, or other pollutants, prior to entry into surface waters or ground water recharge areas; or

''(ii) accomplish specific objectives for terrestrial or aquatic habitat identified by the Secretary; and

''(B) meet specifications for size, vegetation, and tree species established by the Natural Resources Conservation Service and the Forest Service, in cooperation with appropriate State agencies.

''(3) DURATION, MODIFICATION, AND EXTENSION OF CONTRACTS.—Notwithstanding subsection (e), during calendar years 1996 through 2000, the Secretary may, in carrying out the program established under this subsection—

''(A) enter into contracts of not more than 20 years;

''(B) with the consent of the owner or operator, modify a contract entered into under this subchapter prior to the date of enactment of this paragraph to include land that meets the eligibility criteria of paragraph (2); and

''(C) extend a contract entered into or modified under this subchapter with respect to land that meets the eligibility criteria of paragraph (2) for a period of not more than 20 years.

''(4) PRIORITY FOR ENROLLMENT OF ELIGIBLE LANDS.—In enrolling lands under the program established under this subchapter, the Secretary shall—

''(A) give priority to land that meets the eligibility criteria of paragraph (2); and

''(B) to the extent practicable, ensure that at least 20 percent of enrolled lands in conservation priority areas designated under subsection (f) meets the eligibility criteria of paragraph (2).

''(5) TECHNICAL ASSISTANCE.—Through the Natural Resources Conservation Service and the Forest Service, in cooperation with States that contain conservation priority areas designated under subsection (f), the Secretary shall provide technical assistance for the design, establishment, and maintenance of riparian forest buffers.

''(6) COST-SHARE ASSISTANCE.—Notwithstanding any other provision of this title, the Secretary may pay not more than 100 percent of the cost of the design, establishment, and short-term maintenance of riparian forest buffers consisting of trees, shrubs, or other vegetation under the program established under this subchapter.

''(7) SELECTIVE HARVEST.—Notwithstanding any other provision of this title, an owner or operator participating in the program established under this subsection, with the prior approval of the Secretary, may selectively harvest mature timber if the harvest would not prevent accomplishment of the objectives of this subchapter.''.

S. 936

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 ''Chesapeake Bay Restoration Act of 1995''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Chesapeake Bay is a national treasure and a resource of worldwide significance;

(2) in recent years, the productivity and water quality of the Chesapeake Bay and the tributaries of the Bay have been diminished by pollution, excessive sedimentation, shoreline erosion, the impacts of growth and development of population in the Chesapeake Bay watershed, and other factors;

(3) the Federal Government, State governments, the District of Columbia and the governments of political subdivisions of the States with jurisdiction over the Chesapeake Bay watershed have committed to a comprehensive and cooperative program to achieve improved water quality and improvements in the productivity of living resources of the Bay;

(4) the cooperative program described in paragraph (3) serves as a national model for the management of estuaries; and

(5) there is a need to expand Federal support for research, monitoring, management, and restoration activities in the Chesapeake Bay and the tributaries of the Bay in order to meet and further the goals and commitments of the Chesapeake Bay Program.

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

(1) expand and strengthen the cooperative efforts to restore and protect the Chesapeake Bay; and

(2) achieve the goals embodied in the Chesapeake Bay Agreement.

SEC. 3. CHESAPEAKE BAY.

Section 117 of the Federal Water Pollution Control Act (33 U.S.C. 1267) is amended to read as follows:

''CHESAPEAKE BAY

''SEC. 117. (a) DEFINITIONS.—In this section:

''(1) CHESAPEAKE BAY AGREEMENT.—The term 'Chesapeake Bay Agreement' means the formal, voluntary agreements executed to achieve the goal of restoring and protecting the Chesapeake Bay ecosystem and the living resources of the ecosystem and signed by the Governor of the State of Maryland, the Governor of the Commonwealth of Pennsylvania, the Governor of the Commonwealth of Virginia, the Mayor of the District of Columbia, the chairman of the tri-State Chesapeake Bay Commission, and the Administrator, on behalf of the executive branch of the Federal Government.

''(2) CHESAPEAKE BAY PROGRAM.—The term 'Chesapeake Bay Program' means the program directed by the Chesapeake Executive Council in accordance with the Chesapeake Bay Agreement.

''(3) CHESAPEAKE BAY WATERSHED.—The term 'Chesapeake Bay watershed' shall have the meaning determined by the Administrator.

''(4) CHESAPEAKE EXECUTIVE COUNCIL.—The term 'Chesapeake Executive Council' means the signatories to the Chesapeake Bay Agreement.

''(5) SIGNATORY JURISDICTION.—The term 'signatory jurisdiction' means a jurisdiction of a signatory to the Chesapeake Bay Agreement.

''(b) CONTINUATION OF CHESAPEAKE BAY PROGRAM.—

''(1) IN GENERAL.—In cooperation with the Chesapeake Executive Council (and as a member of the Council), the Administrator shall continue the Chesapeake Bay Program.

''(2) PROGRAM OFFICE.—The Administrator shall maintain in the Environmental Protection Agency a Chesapeake Bay Program Office. The Chesapeake Bay Program Office shall provide support to the Chesapeake Executive Council by—

''(A) implementing and coordinating science, research, modeling, support services, monitoring, and data collection activities that support the Chesapeake Bay Program;

''(B) making available, through publications, technical assistance, and other appropriate means, information pertaining to the environmental quality and living resources of the Chesapeake Bay Program;

''(C) in cooperation with appropriate Federal, State, and local authorities, assisting the signatories to the Chesapeake Bay Agreement that participate in the Chesapeake Bay Program in developing and implementing specific action plans to carry out the responsibilities of the authorities under the Chesapeake Bay Agreement;

''(D) assisting the Administrator in coordinating the actions of the Environmental Protection Agency with the actions of the appropriate officials of other Federal agencies and State and local authorities in developing strategies to—

''(i) improve the water quality and living resources of the Chesapeake Bay; and

''(ii) obtain the support of the appropriate officials of the agencies and authorities in achieving the objectives of the Chesapeake Bay Agreement; and

''(E) implementing outreach programs for public information, education, and participation to foster stewardship of the resources of the Chesapeake Bay.

''(3) INTERAGENCY COOPERATION AND COORDINATION.—

''(A) IN GENERAL.—There is established a Chesapeake Bay Federal Agencies Committee (referred to in this paragraph as the 'Committee'). The purposes of the Committee shall be to—

''(i) facilitate collaboration, cooperation, and coordination among Federal agencies and programs of Federal agencies in support of the restoration of the Chesapeake Bay;

''(ii) ensure the integration of Federal activities relating to the restoration of the Chesapeake Bay with State and local restoration activities, and the restoration activities of nongovernmental entities; and

''(iii) provide a framework for activities that effectively focus the expertise and resources of Federal agencies on problems identified by the Committee in such manner as to produce demonstrable environmental results and demonstrable improvements in programs of Federal agencies.

''(B) DUTIES OF THE COMMITTEE.—The Committee shall share information, set priorities, and develop and implement plans, programs, and projects for collaborative activities to carry out the following duties:

''(i) Reviewing all Federal research, monitoring, regulatory, planning, educational, financial, and technical assistance, and other programs that the Committee determines to be appropriate, that relate to the maintenance, restoration, preservation, or enhancement of the environmental quality and natural resources of the Chesapeake Bay.

''(ii) Reviewing each Federal program administered by the head of each participating Federal agency that may influence or contribute to point and nonpoint source pollution and establishing a means for the mitigation of any potential impacts of the pollution.

''(iii) Developing and implementing an annual and long-range work program that specifies the responsibilities of each Federal agency in meeting commitments and goals of the Chesapeake Bay Agreement.

''(iv) Assessing priority needs and making recommendations to the Chesapeake Executive Council for improved environmental and living resources management of the Chesapeake Bay ecosystem.

''(C) APPOINTMENT OF MEMBERS.—The members of the Committee shall be appointed as follows:

''(i) At least 1 member who is an employee of the Environmental Protection Agency shall be appointed by the Administrator.

''(ii) At least 1 member who is an employee of the National Oceanic and Atmospheric Administration of the Department of Commerce shall be appointed by the Secretary of Commerce.

''(iii) At least 3 members shall be appointed by the Secretary of the Interior, of whom—

''(I) 1 member shall be an employee of the United States Fish and Wildlife Service;

''(II) 1 member shall be an employee of the National Park Service; and

''(III) 1 member shall be an employee of the United States Geological Survey.

''(iv) At least 4 members shall be appointed by the Secretary of Agriculture, of whom—

''(I) 1 member shall be an employee of the Natural Resources Conservation Service;

''(II) 1 member shall be an employee of the Forest Service;

''(III) 1 member shall be an employee of the Consolidated Farm Service Agency; and

''(IV) 1 member shall be an employee of the Cooperative State Research, Education, and Extension Service.

''(v) At least 3 members shall be appointed by the Secretary of Defense, of whom—

''(I) at least 2 members shall be employees of the Department of the Army, of whom 1 member shall be an employee of the Army Corps of Engineers; and

''(II) 1 member shall be an employee of the Department of the Navy.

''(vi) At least 1 member who is an employee of the Federal Highway Administration shall be appointed by the Secretary of Transportation.

''(vii) At least 1 member who is an employee of the Coast Guard shall be appointed by the head of the department in which the Coast Guard is operating.

''(viii) At least 1 member shall be appointed by the Secretary of Housing and Urban Development.

''(ix) At least 1 member shall be appointed by Board of Regents of the Smithsonian Institution.

''(D) CHAIRPERSON.—The Committee shall, at the initial meeting of the Committee, and biennially thereafter, select a Chairperson from among the members of the Committee.

''(E) PROCEDURES.—The Committee may establish such rules and procedures (including rules and procedures relating to the internal structure and function of the Committee) as the Committee determines to be necessary to best fulfill the responsibilities of the Committee.

''(F) MEETINGS.—The initial meeting of the Committee shall be not later than 60 days after the date of enactment of this subparagraph. Subsequent meetings shall be held on a regular basis at the call of the Chairperson.

''(c) REPORTS.—The Committee shall prepare and submit to the President a report to be submitted to Congress that identifies—

''(1) the activities that have been carried out or are being undertaken to carry out the responsibilities of the Federal agency under this section or that are otherwise required under the Chesapeake Bay Program;

''(2) planned activities to carry out the responsibilities referred to in paragraph (1); and

''(3) the resources provided by the Federal agency to meet the responsibilities of the agency under this section and under the Chesapeake Bay Program.

''(d) INTERSTATE DEVELOPMENT PLAN GRANTS.—

''(1) AUTHORITY.—The Administrator shall, at the request of the Governor of a State affected by the interstate management plan developed pursuant to the Chesapeake Bay Program (referred to in this subsection as the 'plan'), make a grant for the purpose of implementing the management mechanisms contained in the plan if the State has, within 1 year after the date of enactment of the Chesapeake Bay Restoration Act of 1995, approved and committed to implement all or substantially all aspects of the plan. The grants shall be made subject to such terms and conditions as the Administrator considers appropriate.

''(2) SUBMISSION OF PROPOSAL.—A State or combination of States may apply for the benefits provided under this subsection by submitting to the Administrator a comprehensive proposal to implement management mechanisms contained in the plan, which shall include—

''(A) a description of proposed abatement actions that the State or combination of States commits to take within a specified time period to reduce pollution in the Chesapeake Bay and to meet applicable water quality standards; and

''(B) the estimated cost of the abatement actions proposed to be taken during the next fiscal year.

If the Administrator finds that the proposal is consistent with the plan and the national policies set forth in section 101(a), the Administrator shall approve the proposal.

''(3) FEDERAL SHARE.—For any fiscal year, the amount of grants made under this subsection shall not exceed 50 percent of the costs of implementing the management mechanisms contained in the plan during the fiscal year and shall be made on the condition that non-Federal sources provide the remainder of the cost of implementing the management mechanisms contained in the plan during the fiscal year.

''(4) ADMINISTRATIVE COSTS.—Administrative costs in the form of salaries, overhead, or indirect costs for services provided and charged against programs or projects supported by funds made available under this subsection shall not exceed in any 1 fiscal year an amount equal to 10 percent of the annual Federal grant made to a State under this subsection.

''(e) COMPLIANCE BY FEDERAL FACILITIES.—

''(1) ASSESSMENT.—Not later than 1 year after the date of enactment of this subsection, and annually thereafter, the head of each Federal agency that owns or operates a facility (as defined by the Administrator) within the Chesapeake Bay watershed shall perform an assessment of the facility for the purpose of ensuring consistency and compliance with the commitments, goals, and objectives of the Chesapeake Bay Program and the enforceable requirements of this Act.

''(2) CONTENTS OF ASSESSMENTS.—The assessment referred to in paragraph (1) shall identify any then existing or potential impact on the water quality or living resources of the Chesapeake Bay (or both) by the facility, including any potential land-use impacts of activities related to new development, man-made obstructions to fish passage, shoreline erosion, and ground water and storm water runoff.

''(3) STATE PLANS AND PROGRAMS.—To the maximum extent practicable, the head of each Federal agency that owns or occupies real property in the Chesapeake Bay watershed shall ensure conformance with any applicable State plan or program to protect environmentally sensitive areas in the Chesapeake Bay watershed.

''(4) REPORT REQUIREMENTS.—As part of each report required under subsection (c)(3), the head of each Federal agency shall include a detailed plan, funding mechanism, and schedule for ensuring compliance with this Act and addressing or mitigating the impacts referred to in paragraph (2).

''(f) HABITAT RESTORATION AND ENHANCEMENT DEMONSTRATION PROGRAM.—

''(1) ESTABLISHMENT OF PROGRAM.—The Administrator, in cooperation with the heads of other appropriate Federal agencies, agencies of States, and political subdivisions of States, shall establish a habitat restoration program in the Chesapeake Bay watershed. The purpose of the program shall be to develop and demonstrate cost-effective techniques for restoring or enhancing wetlands, forest riparian zones, and other types of habitat associated with the Chesapeake Bay and the tributaries of the Chesapeake Bay.

''(2) CRITERIA FOR IDENTIFICATION OF AREAS FOR HABITAT RESTORATION.—Not later than 1 year after the date of enactment of this subsection, the Administrator, in consultation with the Chesapeake Executive Council, shall develop criteria to identify areas for habitat restoration, including—

''(A) unique, significant, or representative habitat types;

''(B) areas that are subject to, or threatened by, habitat loss or habitat degradation (or both) attributable to human or natural causes; and

''(C) areas inhabited by endangered, threatened, or rare species, neotropical migratory birds, or species that have a unique function within the Chesapeake Bay ecosystem.

''(3) PLAN.—Not later than 2 years after the date of enactment of this subsection, the Administrator, in consultation with the Chesapeake Executive Council, shall develop a plan for the restoration of wetlands, contiguous riparian forests, and other habitats within the Chesapeake Bay watershed.

''(4) DUTIES OF THE ADMINISTRATOR.—In carrying out the demonstration program under this subsection, the Administrator, in consultation with the Chesapeake Executive Council, shall—

''(A) identify opportunities for the restoration of major habitat resources in the Chesapeake Bay watershed;

''(B) characterize the importance of the habitat resources identified pursuant to subparagraph (A) to the health and functioning of the Chesapeake Bay ecosystem;

''(C) conduct a prerestoration characterization assessment of each habitat resource identified pursuant to subparagraph (A) to evaluate with respect to the habitat resource—

''(i) the potential effectiveness of a restoration effort;

''(ii) enhancement options; and

''(iii) the cost-effectiveness of each effort or option referred to in clauses (i) and (ii);

''(D) consider the degree to which restored and enhanced habitats may—

''(i) mitigate the effects of nutrient loading caused by nonpoint source pollution from developed areas and agricultural activities;

''(ii) reduce erosion and mitigate flood damage; and

''(iii) assist in the protection or recovery of living resources;

''(E) ensure coordination with all then existing management, regulatory, and incentive programs;

''(F) implement habitat restoration projects on a demonstration basis, including submerged aquatic vegetation plantings, breakwaters, forest buffer strips, and artificial wetlands;

''(G) monitor and evaluate the effectiveness of the demonstration projects;

''(H) establish and maintain a central clearinghouse to facilitate access to information related to habitat of the Chesapeake Bay watershed, including information relating to habitat location, type, acreage, function, condition and status, and restoration and design techniques and trends related to the information; and

''(I) develop and carry out educational programs (including training programs), research programs, and programs for technical assistance to assist in the efforts of State and local governments and private citizens related to habitat restoration and enhancement.

''(5) ASSISTANCE.—

''(A) IN GENERAL.—In carrying out the demonstration program under this subsection, the Administrator is authorized to provide, in cooperation with the Chesapeake Executive Council, technical assistance and financial assistance in the form of a grant to any State government, interstate entity, local government, or any other public or nonprofit private agency that submits an approved application.

''(B) FEDERAL SHARE OF GRANTS.—The Federal share of the amount of any grant awarded under this subsection shall be—

''(i) with respect to a project conducted by the grant recipient on land owned or leased by the Federal Government, 100 percent of the cost of the activities that are the subject of the grant; and

''(ii) with respect to a project conducted by the grant recipient on land that is not owned or leased by the Federal Government, 75 percent of the cost of the activities that are the subject of the grant.

''(C) FEDERAL SHARE OF PROJECTS.—The Federal share of any project conducted by the Administrator under this subsection shall be—

''(i) with respect to a project conducted on land owned or leased by the Federal Government, 100 percent of the cost of the activities that are the subject of the project; and

''(ii) with respect to a project conducted on land that is not owned or leased by the Federal Government, 75 percent of the cost of

the activities that are the subject of the project.

''(6) HABITAT PROTECTION AND RESTORATION PROGRESS ASSESSMENT.—Not later than 3 years after the date of enactment of this subsection, and biennially thereafter, the Administrator shall submit a report to Congress concerning the results of the demonstration projects conducted under the habitat restoration demonstration program described in paragraph (1). The report shall also include a summary of scientific information concerning habitat restoration and protection in existence at the time of preparation of the report, and a description of methods, procedures, and processes to assist State and local governments and other interested entities in carrying out projects for the protection and restoration of habitat that the Administrator determines to be appropriate.

''(g) BASINWIDE TOXICS REDUCTION.—

''(1) IN GENERAL.—The Administrator, in cooperation with the Chesapeake Executive Council, shall develop a comprehensive basinwide toxics reduction strategy (referred to in this subsection as the 'Strategy'). The Strategy shall, with respect to inputs of toxic pollutants to the Chesapeake Bay and the tributaries of the Bay, establish basinwide reduction objectives and describe actions that are necessary to achieve a multijurisdictional approach to the reduction of the inputs.

''(2) RESEARCH AND MONITORING.—The Administrator shall undertake such research and monitoring activities as the Administrator determines to be necessary for the improvement of the understanding of intermedia transfers of toxic pollutants and the ultimate fate of the pollutants within the Chesapeake Bay ecosystem.

''(3) ELEMENTS OF STRATEGY.—The Strategy shall include a process to assist signatory jurisdictions with—

''(A) improving the identification of the sources and transport mechanisms of toxic pollutant loadings to the Chesapeake Bay and the tributaries of the Bay from point and nonpoint sources; and

''(B) the periodic integration, in a consistent format and manner, of the information obtained pursuant to subparagraph (A) into a toxics loading inventory for the Chesapeake Bay.

''(4) DEADLINE FOR COMPLETION OF STRATEGY.—The Strategy shall be completed not later than 2 years after the date of enactment of this subsection.

''(5) FEDERAL ASSISTANCE.—The Administrator, in cooperation with the Chesapeake Executive Council, shall provide such financial and technical assistance as the Administrator determines to be necessary to—

''(A) by not later than 1 year after the date of enactment of this subsection, develop a process to assist signatory jurisdictions—

''(i) with improving the identification of the sources and transport mechanisms of toxic pollutant loadings to the Chesapeake Bay and the tributaries of the Bay from point and nonpoint sources; and

''(ii) with the periodic integration, in a consistent format and manner, of the information obtained pursuant to clause (i) into a toxics loading inventory for the Chesapeake Bay maintained pursuant to the Chesapeake Bay Program (referred to in this subsection as the 'Chesapeake Bay Program Toxics Loading Inventory'); and

''(B) by not later than 2 years after the date of enactment of this subsection, commence the implementation of toxics reduction, pollution prevention, and management actions designed to achieve the toxics reduction goals of the Chesapeake Bay Agreement.

''(6) ACTIONS.—The toxics reduction, pollution prevention, and management actions referred to in paragraph (5)(B) shall—

''(A) be based upon the findings and recommendations of a reevaluation of the Strategy; and

''(B) include targeted demonstration projects designed to reduce the level of toxic pollutant loadings from major sources identified in the Chesapeake Bay Program Toxics Loading Inventory.

''(h) CHESAPEAKE BAY WATERSHED, TRIBUTARY, AND RIVER BASIN PROGRAM.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Administrator, in cooperation with the Chesapeake Executive Council, the Secretary of Commerce (acting through the Administrator of the National Oceanic and Atmospheric Administration), the Secretary of the Interior (acting through the Director of the United States Fish and Wildlife Service), and the heads of such other Federal agencies as the Administrator determines to be appropriate, shall implement a coordinated research, monitoring, and data collection program to—

''(A) assess the status of, and trends in, the environmental quality and living resources of the major tributaries, rivers, and streams within the Chesapeake Bay watershed; and

''(B) assist in the development of management plans for the waters referred to in subparagraph (A).

''(2) CONTENTS OF PROGRAM.—The program referred to in paragraph (1) shall include—

''(A) a comprehensive inventory of water quality and living resource data for waters within the Chesapeake Bay watershed;

''(B) an assessment of major issues and problems concerning water quality in the Chesapeake Bay watershed, including the extent to which the waters provide for the protection and propagation of a balanced indigenous population of fish, shellfish, and wildlife;

''(C) a program to identify sources of water pollution within the Chesapeake Bay watershed, including a system of accounting for sources of nutrients, and the movement of nutrients, pollutants, and sediments through the Chesapeake Bay watershed; and

''(D) the development of a coordinated Chesapeake Bay watershed land-use database that incorporates resource inventories and analyses for the evaluation of the effects of different land-use patterns on hydrological cycles, water quality, living resources, and other environmental features as an aid to making sound land-use management decisions.

''(3) MANAGEMENT STRATEGIES.—In a manner consistent with each applicable deadline established by the Chesapeake Executive Council, the Administrator, in consultation with the Chesapeake Executive Council, shall assist each signatory jurisdiction of the Chesapeake Bay Council in the development and implementation of a management strategy for each of the major tributaries of the Chesapeake Bay, designed for the achievement of—

''(A) a reduction, in a manner consistent with the terms of the Chesapeake Bay Agreement, in the quantity of nitrogen and phosphorous entering the main stem Chesapeake Bay; and

''(B) the water quality requirements necessary to restore living resources in both the tributaries and the main stem of the Chesapeake Bay.

''(4) ASSISTANCE.—

''(A) IN GENERAL.—The Administrator, in consultation with the Chesapeake Executive Council, is authorized to provide technical and financial assistance to any State government, interstate entity, local government, or any other public or nonprofit private agency, institution, or organization in the Chesapeake Bay watershed to—

''(i) support the research, monitoring, and data collection program under this subsection;

''(ii) develop and implement cooperative tributary basin strategies that address the water quality and living resource needs; and

''(iii) encourage and coordinate locally based public and private watershed protection and restoration efforts that aid in the development and implementation of programs that complement the tributary basin strategies developed by the Chesapeake Executive Council.

''(B) GRANTS.—

''(i) IN GENERAL.—In providing financial assistance pursuant to subparagraph (A), the Administrator may carry out a grant program. Under the grant program, the Administrator may award a grant to any person (including the government of a State) who submits an application that is approved by the Administrator.

''(ii) FEDERAL SHARE.—A grant awarded under this subsection for a fiscal year shall not exceed an amount equal to 75 percent of the total annual cost of carrying out the activities that are the subject of the grant, and be awarded on the condition that the non-Federal share of the costs of the activities referred to in clause (i) is paid from non-Federal sources.

''(iii) WATERSHED PROTECTION AND RESTORATION.—As part of the grant program authorized under this paragraph, the Administrator may award a grant to a signatory jurisdiction to implement a program referred to in subparagraph (A)(iii).

''(C) PRIORITIZATION.—In carrying out the technical and financial assistance program under this subsection, the Administrator shall give priority to proposals that facilitate the participation of local governments and entities of the private sector in efforts to improve water quality and the productivity of living resources of rivers and streams in the Chesapeake Bay watershed.

''(D) COORDINATION WITH OTHER FEDERAL PROGRAMS.—The Administrator shall ensure that assistance made available under this subsection—

''(i) is consistent with the requirements of other Federal financial assistance programs;

''(ii) is provided in coordination with the programs referred to in subparagraph (A); and

''(iii) furthers the objectives of the Chesapeake Bay Program.

''(i) STUDY OF CHESAPEAKE BAY PROGRAM.—Not later than January 1, 1997, the Administrator, in cooperation with the Chesapeake Bay Executive Council, shall complete a study and submit a comprehensive report to Congress on the results of the study. The study and report shall, at a minimum—

''(1) evaluate the implementation of the Chesapeake Bay Agreement, including activities of the Federal Government and State and local governments;

''(2) determine whether Federal environmental programs and other activities adequately address the priority needs identified in the Chesapeake Bay Agreement;

''(3) assess the priority needs required by the Chesapeake Bay Program management strategies and how the priorities are being met; and

''(4) make recommendations for the improved management of the Chesapeake Bay Program.

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Environmental Protection Agency to carry out this section $30,000,000 for each of fiscal years 1996 through 2001.''.

S. 937

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

SECTION 1. AUTHORIZATIONS OF APPROPRIATIONS.

Section 2 of the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98–210; 97 Stat. 1409) is amended—

(1) by striking subsection (e) and inserting the following new subsection:

''(e) CHESAPEAKE BAY ESTUARINE RESOURCES OFFICE.—

''(1) OPERATION OF CHESAPEAKE BAY ESTUARINE RESOURCES OFFICE.—Of the sums authorized under subsection (a), to operate the Chesapeake Bay Estuarine Resources Office established under section 307 of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (15 U.S.C. 1511d), there are authorized to be appropriated—

''(A) $2,500,000 for each of fiscal years 1996 and 1997; and

''(B) $3,000,000 for each of fiscal years 1998 through 2000.

''(2) FUNDING FOR OYSTER DISEASE INVESTIGATIONS.—Of the sums authorized under subsection (a), to fund a program of investigations of oyster disease described in subsection (f), there are authorized to be appropriated $3,000,000 for each of fiscal years 1996 through 2000.

''(3) ADMINISTRATIVE EXPENSES.—Not more than 20 percent of the amounts authorized to be appropriated under this subsection may be used for administrative expenses of the Chesapeake Bay Estuarine Resources Office.''; and

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

''(f) OYSTER DISEASE INVESTIGATIONS.—The Chesapeake Bay Estuarine Resources Office established under section 307 of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (15 U.S.C. 1511d) shall conduct a program of investigations to—

''(1) improve the understanding of the etiology of the diseases of the eastern oyster (Crassostrea virginica); and

''(2) provide new scientific and management tools to counteract the consequences of diseases of oysters in the coastal waters of the United States, with particular emphasis on diseases of oysters in the Chesapeake Bay.''.

SEC. 2. AUTHORITIES OF THE DIRECTOR OF THE CHESAPEAKE BAY ESTUARINE RESOURCES OFFICE.

Section 307(a) of the National Oceanic and Atmospheric Administration Act of 1992 (15 U.S.C. 1511d(a)) is amended—

(1) in paragraph (1), by inserting ''and operate'' after ''establish''; and

(2) by striking paragraph (3) and inserting the following new paragraph:

''(3) To carry out this section, the Director may—

''(A) appoint such additional personnel as may be necessary; and

''(B) transfer funds to another Federal department or agency or provide financial assistance to a department or agency of a State or political subdivision thereof or a nonprofit organization for conducting research, assessment, monitoring, data management, or outreach activities.''.

S. 938

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

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the ''Chesapeake Bay Ballast Water Management Act of 1995''.

(b) REFERENCES.—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 Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701 et seq.).

SEC. 2. AMENDMENTS TO THE NONINDIGENOUS AQUATIC NUISANCE PREVENTION AND CONTROL ACT OF 1990.

(a) AQUATIC NUISANCE SPECIES CONTROL PROGRAM.—Section 1101 (16 U.S.C. 4711) is amended—

(1) by striking the heading and inserting the following new heading:

''SEC. 1101. AQUATIC NUISANCE SPECIES CONTROL PROGRAM.'';

(2) by striking subsection (a) and inserting the following new subsection:

''(a) GUIDELINES.—

''(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Ballast Water Management Act of 1995, the Secretary shall issue voluntary guidelines to prevent the introduction and spread of aquatic nuisance species into the waters of the United States that result from the release of ballast water.

''(2) CONTENTS OF GUIDELINES.—The guidelines issued under this subsection shall—

''(A) ensure that, to the maximum extent practicable, ballast water containing aquatic nuisance species is not discharged into the waters of the United States;

''(B) take into consideration—

''(i) variations in the ecological conditions of coastal waters of the United States; and

''(ii) different vessel operating conditions;

''(C) not jeopardize the safety of—

''(i) any vessel; or

''(ii) the crew and passengers of any vessel;

''(D) provide for reporting by vessels concerning ballast water practices; and

''(E) be based on the best scientific information available.'';

(3) in subsection (b)—

(A) by striking the paragraph (3) added by section 302(b)(1) of the Water Resources Development Act of 1992 (106 Stat. 4839); and

(B) in the paragraph (3) added by section 4002 of the Oceans Act of 1992 (106 Stat. 5068)—

(i) by striking ''issue'' and inserting ''promulgate''; and

(ii) by adding at the end the following: ''Subject to the requirements of this subsection, the Secretary shall, on a periodic basis, promulgate such revised regulations as are necessary to ensure the prevention of the introduction and spread of aquatic nuisance species into the Hudson River.'';

(4) in subsection (c)—

(A) by striking ''subsection (b)'' and inserting ''this subsection''; and

(B) by striking ''(c) CIVIL PENALTIES.—'' and inserting the following:

''(4) CIVIL PENALTIES.—'';

(5) in subsection (d)—

(A) by striking ''subsection (b)'' and inserting ''this subsection''; and

(B) by striking ''(d) CRIMINAL PENALTIES.—'' and inserting the following:

''(5) CRIMINAL PENALTIES.—'';

(6) in subsection (e), by striking ''(e) CONSULTATION WITH CANADA.—'' and inserting the following:

''(6) CONSULTATION WITH CANADA.—'';

(7) in subsection (b), by striking ''(b) AUTHORITY OF SECRETARY.—(1)'' and inserting the following:

''(d) GREAT LAKES.—

''(1) IN GENERAL.—'';

(8) in subsection (d) (as redesignated by paragraph (7) of this subsection)—

(A) in paragraph (1)—

(i) by striking ''issue'' and inserting ''promulgate''; and

(ii) by adding at the end the following: ''Subject to the requirements of this subsection, the Secretary shall, on a periodic basis, promulgate such revised regulations as are necessary to ensure the prevention of the introduction and spread of aquatic nuisance species into the Great Lakes.'';

(B) in paragraph (2)—

(i) by striking ''(2) The regulations issued under this subsection shall—'' and inserting the following:

''(2) REQUIREMENTS FOR REGULATIONS.—The regulations promulgated under this subsection shall—'';

(ii) by indenting subparagraphs (A) through (I) appropriately; and

(iii) in subparagraph (A), by striking ''require'' and inserting ''cover''; and

(C) in paragraph (6) (as redesignated by paragraph (6) of this subsection), by striking ''the guidelines and regulations'' and inserting ''the regulations promulgated under this subsection''; and

(9) by inserting after subsection (a) the following new subsections:

''(b) EDUCATION AND TECHNICAL ASSISTANCE.—At the same time as the Secretary issues voluntary guidelines under subsection (a), the Secretary shall implement multilingual (as defined and determined by the Secretary) education and technical assistance programs and other measures to encourage compliance with the guidelines issued under this subsection. To the extent practicable, in carrying out the programs implemented under this subsection, the Secretary shall arrange to use the expertise, facilities, members, or personnel of established agencies and organizations that have routine contact with vessels, including the Animal and Plant Health Inspection Service of the Department of Agriculture, port administrations, and ship pilots associations.

''(c) REPORT TO CONGRESS.—Not later than 3 years after the issuance of guidelines under subsection (a), the Secretary shall submit to the Congress a report concerning—

''(1) the effectiveness of the voluntary guidelines; and

''(2) the need for a mandatory program to prevent the spread of aquatic nuisance species through the exchange of ballast water.''.

(b) BALLAST WATER CONTROL STUDIES.—

(1) HEADING.—The heading of section 1102 (16 U.S.C. 4712) is amended to read as follows:

''SEC. 1102. BALLAST WATER CONTROL STUDIES.''.

(2) ADDITIONAL STUDIES.—Section 1102(a) (16 U.S.C. 4712(a)) is amended by adding at the end the following new paragraphs:

''(4) BALLAST RELEASE PRACTICES.—

''(A) INITIAL STUDY.—Not later than the date of issuance of the guidelines required under section 1101(a), the Secretary shall conduct a study to determine trends in ballast water releases in the Chesapeake Bay and other waters of the United States that the Secretary determines to—

''(i) be highly susceptible to invasion from aquatic nuisance species; and

''(ii) require further study.

''(B) FOLLOWUP STUDY.—Not later than 2 years after the date of issuance of the guidelines required under section 1101(a), the Secretary shall conduct a followup study of the ballast water releases described in subparagraph (A) to determine the extent of compliance with the guidelines and the effectiveness of the guidelines in reducing the introduction and spread of aquatic nuisance species.

''(5) AQUATIC NUISANCE INVASIONS.—

''(A) INITIAL STUDY.—Not later than the date of issuance of the guidelines required under section 1101(a), the Task Force shall conduct a study to examine the attributes and patterns of invasions of aquatic nuisance species that occur as a result of ballast

water releases in the Chesapeake Bay and other waters of the United States that the Task Force determines to—

''(i) be highly susceptible to invasion from aquatic nuisance species; and

''(ii) require further study.

''(B) FOLLOWUP STUDY.—Not later than 2 years after the date of issuance of the guidelines required under section 1101(a), the Task Force shall conduct a followup study of the attributes and patterns described in subparagraph (A) to determine the effectiveness of the guidelines in reducing the introduction and spread of aquatic nuisance species.''.

(c) NAVAL BALLAST WATER PROGRAM.—Subtitle B (16 U.S.C. 4701 et seq.) is amended by adding at the end the following new section:

''SEC. 1103. NAVAL BALLAST WATER PROGRAM.

''Subject to operational conditions, the Chief of Naval Operations of the Department of the Navy, in consultation with the Secretary, the Task Force, and the International Maritime Organization, shall implement a ballast water management program for the seagoing fleet of the Navy to limit the risk of invasion by nonindigenous species resulting from releases of ballast water.''.

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 1301(a) (16 U.S.C. 4741(a)) is amended to read as follows:

''(a) PREVENTION OF UNINTENTIONAL INTRODUCTIONS.—There are authorized to be appropriated to develop and implement the provisions of subtitle B—

''(1) $500,000 to the department in which the Coast Guard is operating, for the period beginning with fiscal year 1996 and ending with fiscal year 2000, to be used by the Secretary to carry out the study under section 1102(a)(4);

''(2) $2,000,000 to the Task Force, for the period beginning with fiscal year 1996 and ending with fiscal year 2000, to be used by the Director and the Under Secretary (as co-chairpersons of the Task Force) to carry out the study under section 1102(a)(5); and

''(3) $1,250,000 to the department in which the Coast Guard is operating, for each of fiscal years 1996 through 2000, to be used by the Secretary for the development and implementation of the guidelines issued under section 1101(a) and the implementation and enforcement of the regulations promulgated under section 1101(d).''.

CHESAPEAKE BAY RESTORATION ACT OF 1995—SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

Establishes the title of the bill as the ''Chesapeake Bay Restoration Act of 1995.''

SECTION 2. FINDINGS AND PURPOSE

States that the purpose of the Act is to expand and strengthen the cooperative efforts to restore and protect the Chesapeake Bay and to achieve the goals embodied in the Chesapeake Bay Agreement.

SECTION 3. CHESAPEAKE BAY

Definitions

Defines the terms, ''Chesapeake Bay Agreement,'' ''Chesapeake Bay Program,'' ''Chesapeake Bay Watershed,'' ''Chesapeake Executive Council,'' and ''Signatory Jurisdiction.

Continuation of Chesapeake Bay Program

Provides authority for EPA to lead and coordinate federal agency participation in the Chesapeake Bay Program, in cooperation with the Chesapeake Executive Council, and to maintain a Chesapeake Bay Program Office.

Directs the Chesapeake Bay Program Office to provide support and coordinate federal, state and local efforts in developing strategies and action plans and conducting system-wide monitoring and assessment to improve the water quality and living resources of the Bay.

Establishes a ''Chesapeake Bay Federal Agencies Committee'' to facilitate collaboration, cooperation and coordination among the agencies and programs of the federal government in support of the restoration of Chesapeake Bay.

Directs the committee to provide to the Congress a report on the activities being undertaken and planned and the resources being provided to assist in the Bay restoration effort.

Interstate development plan grants

Directs the Administrator to continue to make grants to states affected by the interstate management plan developed under the Chesapeake Bay Program if the state has approved and committed to implement the plan.

Federal facilities compliance

Requires each department, agency or instrumentality of the United States which owns or operates facilities within the Bay watershed to perform an annual assessment of their facilities to ensure consistency and compliance with the commitments, goals and objectives of the Bay program. Also requires the agencies to develop a detailed plan, funding mechanism and schedule for addressing or mitigating any potential impacts.

Habitat Restoration and Enhancement Demonstration Program

Establishes a habitat restoration and enhancement demonstration program to develop, demonstrate and showcase various low-cost techniques for restoring or enhancing wetlands, forest riparian zones and other types of habitat associated with the Chesapeake Bay and its tributaries.

Directs the Administrator, in cooperation with the Chesapeake Executive Council, to develop a plan for the protection and conservation of wetlands, contiguous riparian forests and other habitats within the Bay watershed, within two years from the date of enactment of the act.

Establishes a central clearinghouse to facilitate access to information about Bay watershed habitat locations, types, acreages, status and trends and restoration and design techniques.

Directs the Administrator to publish and disseminate on a periodic basis a habitat protection and restoration report describing methods, procedures and processes to guide State and local efforts in the protection and restoration of various types of habitat.

Basinwide toxics reduction

Authorizes EPA to assist the States in the implementation of specific actions to reduce toxics use and risks throughout the Bay watershed. Directs the Administrator to assist the States in improving data collection on the sources of toxic pollutants entering the Bay and integrating this information into the Chesapeake Bay Program Toxics Loading Inventory. Also directs the Administrator to begin implementing toxics reduction, pollution prevention and management actions, including targeted demonstration projects, to achieve the toxics reduction goals of the Bay Agreement.

Chesapeake Bay Watershed, Tributary and River Basin Program

Authorizes a comprehensive research, monitoring and data collection program to assess the status and trends in the environmental quality and living resources of the major tributaries, rivers and streams within the Chesapeake Bay watershed and to assist in the development of management plans for such waters. Directs the establishment of a system for accounting for sources of nutrients, and the movements of nutrients, pollutants and sediments through the watershed.

Provides for development of a coordinated Chesapeake Bay watershed land-use database, incorporating resource inventories and analyses, to provide information necessary to plan for and manage growth and development and associated impacts on the Bay system.

Encourages local and private sector participation in efforts to protect and restore the rivers and streams in the Bay watershed by establishing a technical assistance and small grants program.

Study of Chesapeake Bay Protection Program

Directs EPA to undertake an assessment of the Chesapeake Bay Program and evaluate implementation of the Bay Agreement. Also directs EPA to assess priority needs for the Bay and make recommendations for improved management of the program.

Authorizations

Authorizes $30 million for each of fiscal years 1996 through 2001 to be appropriated to the EPA to carry out the act.

CHESAPEAKE BAY BALLAST WATER MANAGEMENT ACT OF 1995—SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

Establishes the title of the bill as the ''Ballast Management Act of 1995.''

SECTION 2. AMENDMENT TO NONINDIGENOUS AQUATIC NUISANCE PREVENTION AND CONTROL ACT

Amends the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 by adding the following provisions:

Ballast water guidelines

Directs the Secretary of Transportation, acting through the Coast Guard, to develop and publicize voluntary ballast water management guidelines for vessels entering U.S. waters, and to create a reporting mechanism to assess participation.

Not later than three years after the issuance of the voluntary guidelines, the Secretary must submit a report to Congress on the effectiveness of the guidelines and the need for a mandatory program to prevent the spread of aquatic nuisance species through ballast water.

Great Lakes Program

Continues in effect the existing regulatory program established by the Aquatic Nuisance Species Prevention and Control Act, as amended, for the Great Lakes and Hudson River.

Research

Directs the Secretary and the Aquatic Nuisance Species Task Force to undertake research to establish recent trends in ballast water releases and to examine the attributes and patterns of ballast-mediated invasions in the Chesapeake Bay and other U.S. waters.

These studies are to be conducted both prior to and two years following the issuance of voluntary guidelines so that the extent of compliance with the guidelines and the effectiveness of the guidelines in reducing the introduction and spread of aquatic nuisance species may be determined.

Naval Program

Directs the Chief of Naval Operations to implement a ballast water management program for the seagoing fleet of the Navy.

Authorizations

Authorizes a total of $2.5 million to the Coast Guard and the Aquatic Nuisance Species Task Force for the conduct of research required by the act.

Authorizes $1.25 million to the Coast Guard for each of fiscal years 1996 through 2000 for

the development and implementation of voluntary guidelines and the implementation and enforcement of regulations in the Great Lakes and Hudson River.

CHESAPEAKE BAY ESTUARINE RESOURCES ACT OF 1995—SECTION-BY-SECTION ANALYSIS

SECTION 1. AUTHORIZATION OF APPROPRIATIONS

Reauthorizes the National Oceanic and Atmospheric Administration's Chesapeake Bay Estuarine Resources Office through the year 2000.

Authorizes $3,000,000 for each fiscal year through 2000 for investigations to improve understanding of oyster diseases and provide new scientific and management tools to counteract the consequences of oyster disease.

SECTION 2. AUTHORITIES OF THE DIRECTOR

Clarifies the authority of the Office Director to establish that the Office may provide financial assistance to federal, state, and local governments as well as non-profit organizations for the conduct of activities necessary to carry out the act, including research, monitoring and data management.

CHESAPEAKE BAY ENVIRONMENTAL RESTORATION AND PROTECTION PILOT PROGRAM—SECTION-BY-SECTION ANALYSIS

SECTION 1. PROGRAM

Instructs the Secretary of the Army to provide assistance to non-federal interests in the form of design and construction assistance for water-related infrastructure and resource protection and development projects affecting the Chesapeake Bay estuary. Such projects include sediment and erosion control, protection of essential public works such as wastewater treatment facilities, use of dredge material for beneficial purposes such as habitat restoration, and other projects that enhance the living resources of the estuary.

Only publicly owned and operated projects qualify for assistance. The Federal share of the cost of each such projects shall be 75%.

Directs the Secretary to establish at least one project in each of the states of Maryland, Virginia and Pennsylvania.

Authorizes $30,000,000 to carry out this section for fiscal years 1996 through 1998, which amount shall remain available, without regard to fiscal year, until expended.

RIPARIAN FOREST BUFFER PILOT PROGRAM ESTABLISHMENT ACT—SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

Establishes the title of the Act as the ''Riparian Forest Pilot Program Establishment Act.''

SECTION 2. RIPARIAN FOREST PILOT PROGRAM

In general

Amends the Food Security Act Conservation Reserve Program by directing the Secretary of Agriculture to establish a program to promote the development of riparian forest buffers in designated conservation priority areas for the purpose of improving water quality and living resources in such areas.

Eligible lands

Authorizes the Secretary to include in the program crop or pasture land that, when converted to a forest buffer, will intercept the flow of pollutants into surface or ground water or accomplish specific objectives for terrestrial and aquatic habitat identified by the Secretary.

Duration, modification and extension of contracts

Authorizes the Secretary to (1) enter into new contracts with land owners or operators for the lease of eligible lands for a period of up to 20 years, (2) modify existing contracts to meet the program eligibility criteria, and (3) extend the duration of existing or modified contracts meeting eligibility criteria for a period of 20 years.

Duty of Secretary

Directs the Secretary, in enrolling lands under the Conservation Reserve Program, to give priority to those lands that meet the criteria for the riparian buffer program, and to ensure, to the extent practicable, that at least 20% of enrolled lands in designated conservation priority areas meet the eligibility criteria.

Technical assistance

Directs the Secretary, acting through the Natural Resources Conservation Service and the Forest Service, to provide technical assistance for the design, establishment and maintenance of forest buffers.

Cost share assistance

Authorizes the Secretary to pay 100 percent of the cost for the design, establishment and short-term maintenance of riparian buffers.

Selective harvest

Permits program participants to selectively harvest mature timber with the approval of the Secretary, provided such harvest does not defeat the purposes of the riparian forest program.

By Mr. LEAHY (for himself, Mr. BRADLEY, Mr. GRAHAM, Mr. DASCHLE, Mr. SIMON, Mr. INOUYE, Mr. JEFFORDS, Mr. REID, Mr. HATFIELD, Mr. FORD, Mr. HARKIN, Mr. SARBANES, Mr. FEINGOLD, Mr. KOHL, Mr. LAUTENBERG, Mr. DODD, Mr. KERRY, Mrs. KASSEBAUM, Ms. MOSELEY-BRAUN, Mr. BUMPERS, Mr. KENNEDY, Mrs. BOXER, Mr. PELL, Mr. CHAFEE, Mr. DORGAN, Ms. MIKULSKI, Mr. WELLSTONE, Mr. SIMPSON, Mrs. MURRAY, Mr. ROCKEFELLER, Mr. BRYAN, Mr. MOYNIHAN, Mr. KERREY, Mrs. FEINSTEIN, Mr. AKAKA, Mr. CONRAD, Mr. JOHNSTON, Mr. PRYOR, Mr. BREAUX, Mr. EXON, and Mr. CAMPBELL):

S. 940. A bill to support proposals to implement the U.S. goal of eventually eliminating antipersonnel landmines; to impose a moratorium on use of antipersonnel landmines except in limited circumstances; to provide for sanctions against foreign governments that export antipersonnel landmines, and for other purposes; to the Committee on Foreign Relations.

THE 1995 LANDMINE USE MORATORIUM ACT

Mr. LEAHY. Mr. President, earlier today, I spoke of a worldwide scourge of landmines and the use of antipersonnel landmines. I noted that there have been few times in history when the nations of the world joined together to outlaw the use of a weapon of war.

It was done with chemical and biological weapons, because it was understood that once they were unleashed, they could not be controlled. They maim or kill whoever comes in contact with them, and they do that whether it is civilians or combatants. In fact, if they are in the hands of terrorists, they could wreak havoc on whole societies. We had a terrifying glimpse of that in Japan a few months ago.

Now, while chemical weapons are relatively easy to produce, the political cost of using them is enormous. There is worldwide revulsion if they are used, and any perpetrator is branded a war criminal, a pariah, and ostracized by the entire world community. And so we ban them.

We did the same with dum dum bullets, which expand on contact with the human body and cause horrific injuries. They have been outlawed for a century.

I mention this because every weapon may have some military utility, as do chemical weapons and dum dum bullets. Some have been repudiated as inhumane and a violation of the laws of war.

That is what Civil War General Sherman that about landmines over a century ago. Sherman was no humanitarian, but he condemned landmines as ''a violation of civilized warfare.'' It was in the Civil War that landmines—actually live artillery shells, were first concealed beneath the surface of roads, in houses, even concealed in flour barrels, where they maimed and killed soldiers and civilians alike. But even though Sherman and others condemned them, they have been used ever since in steadily increasing numbers.

Today, vast areas of many countries have become deathtraps from millions of unexploded landmines. The State Department estimates that there are 80 to 110 million of these tiny explosives in 62 countries, each one waiting to explode from the pressure of a footstep.

To give you an idea, Mr. President, this is a landmine in my hand. I am sure my colleagues know it is a deactivated landmine, but this is a landmine. It is tiny and costs $3 or $4 to produce. It is all rubber or plastic except for one tiny piece of metal about the size of a thumbtack. So it is nearly undetectable. If this had been real, in just touching it like this, my arm would be gone and most of my face would be gone. If you step on it, your leg is gone. If you are a child, you are probably killed. Children are killed daily on these. In fact, every day, it is estimated that 70 people are maimed or killed by landmines. That is one person every 22 minutes. That is 26,000 people every year. Most of them are not combatants. They are civilians going about their daily lives—bringing their animals to a field, collecting wood, or they are getting water, or going to market, or they are going to business. They are like Ken Rutherford, a humanitarian worker from Colorado, working with others in Africa.

He hit a landmine. As he described it in his very painful and very graphic testimony before the Senate, he sat there holding his foot in his hand, trying to figure out how he could put it back on. Of course, he never did. And there was surgery after surgery. We watched him walk painfully to the

table where he testified before the Senate.

These pictures, Mr. President, behind me, tell a gruesome story. But, in a way, these are the lucky ones—lucky because they survived, but unlucky that they are in a country where they will face a lifetime of hardship.

There are tens of thousands of people like them. Many others die, just from a lack of blood or from shock, before they can reach a hospital. In many of these countries the hospitals are overwhelmed.

I do not have the slightest doubt, Mr. President, that any Member of the Senate, Republican or Democrat, could not see what I have seen without feeling as passionately as I do. Young children with their legs blown off at the knees, mothers with an arm or leg missing, hospital rows filled with rows of amputees. I have visited these hospitals.

My wife, a registered nurse, has visited these hospitals. We know what they are like. Tim Rieser, from my staff, has traveled to all parts of the world to see what landmines have done.

Senators JOHNSTON and SPECTER, Senators SIMPSON and NICKLES saw firsthand what mines can do when they visited a center for amputees in Vietnam. Most people have not been to Vietnam, Afghanistan, Cambodia, Bosnia, Angola, or Mozambique where mines have been a fact of daily life and, in most places, still are. There you see, over and over, the terrible human tragedy these insidious weapons cause.

Civilians are not the only victims of landmines. They have become the scourge of the U.N. peacekeepers. An article in this week's issue of Defense Week is titled, ''If U.S. Troops Get the Call in Bosnia, Mines Will Pose Serious Threat.'' It says American troops sent to former Yugoslavia would have to combat an estimated 1.7 million mines in Bosnia alone. It says that mines have been used by all sides in that war to intimidate U.N. peacekeepers.

We are called in there as the most powerful nation history has ever known. But we will be facing $3 and $4 and $5 and $8 landmines and be brought to the level of just about any other country, powerful or otherwise.

Landmines have become a cheap, popular weapon in Third World countries, the same countries where American troops are likely to be sent in the future. The $2 or $3 antipersonnel mine hidden under a layer of sand or dust can blow the leg off the best-trained, best-equipped American soldier, even though he or she represents the most powerful nation on earth.

Two years ago, almost no one was paying attention to this global crisis. Then the U.S. Senate passed my amendment for a moratorium on the export of antipersonnel landmines. Republicans and Democrats together joined to pass that.

The amendment had one goal: To challenge other countries to join with us to stop the spread of these hidden killers. As I spoke to the leaders of the other countries, I could tell them this was something—and probably the only thing during that same Congress—that united Senators as nothing else had, no matter what their party or political philosophy.

With the public pressure that grew out of that and the efforts of people around this world, 26 countries have now halted all or most of their exports of antipersonnel landmines in just 2 years, starting with what we were able to do here. Mr. President, 26 countries have halted all or most of their exports of antipersonnel landmines.

If, in my 21 years, I had to point to what I was most proud of, I could not think of anything I could be more proud of or have more pride in than knowing men and women both in this body and in parliamentary bodies around the world who have joined with the Senate.

Last September, in a historic speech to the U.N. General Assembly, President Clinton announced the goal of eventually eliminating antipersonnel landmines. On December 15, the 184 members of the U.N. General Assembly passed a resolution calling for further steps toward the eventual elimination of antipersonnel landmines.

This is the first time since the banning of chemical weapons that the nations of the world have singled out a type of weapon for total elimination. It reflects a growing worldwide consensus that these weapons are unacceptable because they are indiscriminate.

They are so cheap, so easy to mass produce, so easy to conceal and transport and scatter by the thousands. They cannot be controlled. They are used routinely to terrorize civilian populations.

In March of this year, Belgium passed a law prohibiting production, export, and use of antipersonnel mines. Belgium had been a major producer. Now they have outlawed them. Norway did the same just last week. Half a dozen other countries have declared support for a global ban on these weapons.

U.N. Secretary-General Boutros-Ghali, Pope John Paul II, former President Jimmy Carter, American Red Cross President Elizabeth Dole, these are but a few of the world leaders who have called for an end to the use of antipersonnel mines.

But despite this progress, the use of landmines continues unabated. Millions of new mines are being produced each year, and today the Russians are dropping them by the thousands, out of airplanes, over Chechnya.

Mr. President, today I introduce legislation that builds on the steps we have taken. It would impose a 1-year moratorium on the use of antipersonnel mines, to take effect 3 years from the date of enactment.

It would permit the use of these mines along international borders, for example between North and South Korea, in minefields that are monitored to keep out civilians. It also permits the use of Claymore mines, which are used to guard a perimeter, and antitank mines.

The purpose of the legislation is simple: Like the landmine export moratorium and the nuclear testing moratorium, it aims, by setting an example, to challenge other countries to join to bring an end to the mass destruction in slow motion caused by landmines.

As a step toward that goal, it would temporarily halt the scattering of antipersonnel mines that cause such a massive number of civilian casualties. One person who has worked on this in Cambodia said, sitting in my office in Burlington, VT, ''Yes, we clear landmines in Cambodia. We clear them an arm and a leg at a time.''

In addition, my legislation would provide for sanctions against countries that continue to export antipersonnel mines.

Mr. President, this is a global crisis. Even with all of our power, the United States cannot solve it alone. But neither will it be solved without strong U.S. leadership.

That is what the legislation does. It sets an example. It says, ''For 1 year, we will take time out.'' We will challenge other countries to live up to what they said at the United Nations last December when they agreed to work to rid the world of these weapons.

Every ambassador from other countries I have talked to, every leader, every foreign minister, has told me in words the same thing: If the United States, the most powerful nation history has ever known, if the United States cannot set the moral leadership, this will not be done. But if the United States sets the example, then it can be done.

Our people will be safer. The people in 180 other countries ultimately will be safer, certainly the people of the 60 or more countries that are littered with mines can now begin to get rid of them. With 500 new landmine casualties each week, resolutions are not enough. We have to jolt the world out of complacency. Only the United States can do that.

I have two minds about this legislation. I believe it could be the spark that leads to international cooperation to stop this senseless slaughter, because what we do is being watched around the globe, and there is great support.

It will take a determined effort over the next few years, but if our leadership gets other governments to join, and I believe it will, Americans who are sent into harm's way in the future will have far more to gain from what we do here. Whether we send our men and women in uniform, whether we send our people on humanitarian missions, whatever else, to the other parts of the world, they will be safer because of what we can do here.

At the same time, it is only a 1-year moratorium and does not take effect for 3 years. Between now and then,

82,000 people will die or be horribly maimed by landmines.

Frankly, Mr. President, this legislation is the least we can do as the world's only superpower with by far the most powerful military. It is the least we can do to stigmatize these weapons, because they are indiscriminate and inhumane, whether they are the simple $2 or $3 type or the more complex self-destructive type.

What is our alternative? To accept that large areas of the world will be forever littered with hidden deadly explosives? I cannot accept that. Or that every 22 minutes of every day of every year someone, often a child, usually a civilian, will lose a leg or an arm, or life, as the result of a landmine? I and the 40 other Senators of both parties sponsoring this legislation cannot accept that. It is a global catastrophe. Landmines are causing more unnecessary suffering than any other weapon of war, and people everywhere are calling for the end of this.

Today, if armies leave the field they take their weapons with them. They take away their guns, their tanks, and their cannons. But they leave behind landmines that continue to kill long after anybody even remembers what the armies were fighting about. Long after their leaders, their generals, their politicians are dead and gone, the landmines stay there. It is the weapon that keeps on killing.

There are some weapons that are so inhumane they do not belong on this Earth. Antipersonnel landmines are in that category. This is not a weapon we need for our national security. It is a terrorist weapon used most often against the defenseless, like these children here who are no threat to anybody. They are the victims. It is, above all, a moral issue.

I want to close with a quote from Archbishop Desmond Tutu, because he has spoken eloquently about the 20 million landmines in Africa that have already destroyed so many innocent lives. Archbishop Tutu said:

> Anti-personnel landmines are not just a crime perpetrated against people, they are a sin. Why has the world been so silent about these obscenities? It is because most of the victims of landmines are neither heard nor seen.

Mr. President, the legislation I am introducing today shows that we do hear, that we do see, and we are going to stop this.

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

S. 941. A bill to provide for the termination of the status of the College Construction Loan Insurance Association (''the Corporation'') as a Government-sponsored enterprise, to require the Secretary of Education to divest himself of the Corporation's stock, and for other purposes; to the Committee on Labor and Human Resources.

THE COLLEGE CONSTRUCTION LOAN INSURANCE ASSOCIATION PRIVATIZATION ACT OF 1995

● Mr. DODD. Mr. President, I am pleased to introduce legislation offered by the Clinton administration to privatize the College Construction Loan Insurance Association, better known as Connie Lee. I am pleased to be joined in the effort by the ranking member of the committee, Senator KENNEDY.

Connie Lee was created in the Higher Education Act Amendments of 1986, and I was pleased to have shepherded this part of that larger effort through the Congress. So it is particularly rewarding for me to be here today to begin this exciting transition for Connie Lee.

Connie Lee was created with a vital and focused mission—to assist colleges in the repair, modernization, and construction of their facilities. Like many institutions, colleges, and universities need multiyear financing to keep up with their construction and renovation needs. For institutions with strong financial backing and large endowments, issuing bonds and securing capital has not been a major problem. Institutions that are less secure and have a lower bond rating, however, face major obstacles in obtaining the necessary financing.

It was clear to us in 1986 that we, as a nation, have a major stake in assuring that our higher education institutions both literally and figuratively sit on a strong foundation. Connie Lee was created to address this need and, since its incorporation in 1987, it has provided increased access to the bond markets for nearly 100 needy institutions through bond insurance. Connie Lee has insured bond issues totaling just over $2.5 billion and has assisted institutions such as the University of Denver, the University of Massachusetts Medical School, several community colleges, and numerous other institutions in nearly every State.

With its significant record, Connie Lee has clearly proven its maturity and strength. Since its founding, Connie Lee has maintained its triple-A financial rating, and a recent Standard and Poor's report confirmed its strong financial position. Connie Lee is clearly ready for privatization. Even though the original Federal investment of $19 million was small, every dollar is clearly needed in our effort to eliminate the budget deficit.

The administration's bill is quite straightforward. It would repeal the section of the Higher Education Act that authorized the creation of Connie Lee and governs its activities. In addition, it would provide for the Secretary of the Treasury to sell the 15-percent share the Government holds in Connie Lee.

The Subcommittee on Education, Arts and Humanities of the Labor and Human Resources Committee will hold hearings on this matter, as well as the proposal to privatize Sallie Mae early next week. While I think the administration's proposal is clearly a good start, there are some important issues for us to examine in the committee.

These issues are modest, however, and I hope that the committee can move quickly on this important and ground-breaking legislation.●

By Mr. BOND (for himself, Mr. DOMENICI, Mr. WARNER, Mrs. HUTCHISON, Mr. BURNS, Mr. FRIST, and Mr. COVERDELL):

S. 942. A bill to promote increased understanding of Federal regulations and increased voluntary compliance with such regulations by small entities, to provide for the designation of regional ombudsmen and oversight boards to monitor the enforcement practices of certain Federal agencies with respect to small business concerns, to provide relief from excessive and arbitary regulatory enforcement actions against small entities, and for other purposes; to the Committee on Small Business.

THE SMALL BUSINESS REGULATORY FAIRNESS ACT OF 1995

● Mr. BOND. Mr. President, today I am announcing the opening of a new front in our fight against oppressive, onerous, and overly meddlesome Government regulations. I believe this new front will, for the time, take the fight outside the beltway and attack regulations and agencies where they impact people in their day-to-day lives.

Since the election, there has been tremendous activity in reforming the way Federal agencies develop and issue regulations, and I have been deeply involved in this effort as cochair, along with Senator KAY BAILEY HUTCHISON, of the Senate Republican Regulatory Relief Task Force. As we speak, we are working with Senator DOLE and others on his Comprehensive Regulatory Reform Act, S. 343. These efforts are vitally important if we are to slow runaway regulation and better control Federal agencies. Equally important for small business is to add some meaningful judicial enforcement provisions to the Regulatory Flexibility Act, and I have introduced legislation to accomplish this.

All of these efforts focus on changing the way agencies enact regulations. Today, I announce an effort to reform the way Government officials enforce Federal regulations. After all, most people, most small business people, do not have the time to concern themselves with the process of reviewing and commenting on proposed and final rules in the Federal Register. Small businesses have to deal with regulations when the regulator shows up on the doorstep to inspect their facility or to enforce a new Federal mandate. As chairman of the Senate Committee on Small Business, I have heard numerous horror stories about burdensome regulations. But as I have listened and learned from businessmen and women with real life problems, I have become increasingly convinced that the enforcement of regulations is a problem as troublesome as the regulations themselves.

Today I am introducing legislation to make fundamental changes in the way regulatory agencies think about small

business. It should be every regulatory agency's mission to encourage compliance by making rules easier to understand and by not enforcing their regulations in a way that unnecessarily frustrates law abiding small businesses. To this end, my bill includes a three part attack on unfair enforcement of Government regulations.

First, small businesses should be able to understand what is expected of them. I want small businesses to know that if they are playing by the rules of the game as expressed in plain English compliance guides the agencies will be required to print, then they have nothing to fear from inspectors. Sound like common sense? It should be, but for too long agencies like EPA and OSHA have refused to tell businesses how they can avoid the threat of regulatory action. Like the merchant who responds to questions about his product with the phrase caveat emptor, some regulators have taken the attitude that it is not their responsibility to make complying with the law easy, preferring instead to punish small business owners who deviate in the smallest way from the most complicated regulation.

The second part of my bill is designed to give small businesses a place to voice complaints about excessive, unfair or incompetent enforcement of regulations, with the knowledge that their voices will be heard. My bill sets up regional Small Business and Agriculture Ombudsmen through the Small Business Administration's offices around the country to give small businesses assurance that their confidential complaints and comments will be recorded and heard. These Ombudsmen also will coordinate the activities of volunteer Small Business Regulatory Fairness Boards, made up of small business people from each region. These boards will be able to investigate and make recommendations about troublesome patterns of enforcement activities. Any small business that is subject to an inspection or enforcement action will have the chance to rate and critique the inspectors or lawyers they deal with. In dealing with small businesses today, agencies sometimes seem to assume that every one is a violator of their rules, trying to get away with something. Some agencies do a good job of fulfilling their legal mandate while assisting small business, but many agencies seem stuck in an enforcement mentality where everyone is presumed guilty until proven innocent. I think we should let small businesses compare their dealings with one agency to dealings with another so that the abusive agencies or agents can be weeded out and exposed. Agencies should be vying to see which can fulfill their statutory mandate in a way that helps and empowers small business. We need direct feedback from small businessmen and women around the country on how well the regulators are doing their jobs.

The third part of the legislation will create some financial accountability at Federal agencies and level the playing field for small businesses when they disagree with a fine or penalty imposed on them this bill will make the Government inspectors and lawyers responsible for their actions in assessing fines, penalties, and citations because it will allow small businesses to recover their legal costs from the Government when the enforcers and the lawyers have been unreasonable. If Federal agencies make excessive demands that they can not sustain in court, then the Federal agency will have to pay the legal fees of the small business. Small businessmen and women in American are more than willing to comply with regulations and pay appropriate penalties when they are in the wrong. But it is time we put a stop to powerful Federal agencies swooping down on small businesses and insisting on unreasonable fines just because they agency enjoys an enormous financial and resource advantage and can afford an expensive and time consuming court challenge. If the small business can reduce or eliminate the penalty, this bill will require the legal costs to be paid directly out of the agency's budget.

On Monday of this week, the President told the White House conference that he wants Government regulators to stop treating small business men and women as criminals and start treating them as partners or customers. I believe this legislation will make that goal a reality and bring much needed relief to small businesses across the country. I hope the President will follow through on his speech to small business and join with the National Federation of Independent Businesses in supporting this bill. I urge all of my colleagues to join with me in supporting small business by supporting this legislation.

Mr. President, I ask unanimous consent that the bill and additional material be printed in the RECORD.

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

S. 942

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 ''Small Business Regulatory Fairness Act of 1995''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Purposes.
TITLE I—REGULATORY SIMPLIFICATION AND VOLUNTARY COMPLIANCE
Sec. 101. Definitions.
Sec. 102. Compliance guides.
Sec. 103. No action letter.
Sec. 104. Voluntary self-audits.
Sec. 105. Defense to enforcement actions.
TITLE II—SMALL BUSINESS RESPONSIVENESS OF COVERED AGENCIES
Sec. 201. Small business and agriculture ombudsman.
Sec. 202. Small business regulatory fairness boards.
Sec. 203. Services provided by small business development centers.
TITLE III—FINANCIAL ACCOUNTABILITY OF COVERED AGENCIES RELATING TO FEES AND EXPENSES
Sec. 301. Administrative proceedings.
Sec. 302. Judicial proceedings.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to change the relationship between regulators and small entities;

(2) to ameliorate the concern of small entities regarding the effects of arbitrary Federal regulatory enforcement actions on small entities;

(3) to increase the comprehensibility of Federal regulations affecting small entities;

(4) to make Federal regulators accountable for their actions; and

(5) to provide small entities with a meaningful opportunity for the redress of arbitrary enforcement actions by Federal regulators.

TITLE I—REGULATORY SIMPLIFICATION AND VOLUNTARY COMPLIANCE

SEC. 101. DEFINITIONS.

For purposes of this title, the following definitions shall apply:

(1) COMPLIANCE GUIDE.—The term ''compliance guide'' means a publication made by a covered agency under section 102(a).

(2) COVERED AGENCY.—The term ''covered agency'' has the same meaning as in section 30(a) of the Small Business Act (as added by section 201 of this Act).

(3) NO ACTION LETTER.—The term ''no action letter'' means a written determination from a covered agency stating that, based on a no action request submitted to the agency by a small entity, the agency will not take enforcement action against the small entity under the rules of the covered agency.

(4) NO ACTION REQUEST.—The term ''no action request'' means a written correspondence submitted by a small entity to a covered agency—

(A) stating a set of facts; and

(B) requesting a determination by the agency of whether the agency would take an enforcement action against the small entity based on such facts and the application of any rule of the agency.

(5) RULE.—The term ''rule'' has the same meaning as in section 601(2) of title 5, United States Code.

(6) SMALL ENTITY.—The term ''small entity'' has the same meaning as in section 601(6) of title 5, United States Code.

(7) SMALL BUSINESS CONCERN.—The term ''small business concern'' has the same meaning as in section 3 of the Small Business Act.

(8) VOLUNTARY SELF-AUDIT.—The term ''voluntary self-audit'' means an audit, assessment, or review of any operation, practice, or condition of a small entity that—

(A) is initiated by an officer, employee, or agent of the small entity; and

(B) is not required by law.

SEC. 102. COMPLIANCE GUIDES.

(a) COMPLIANCE GUIDE.—

(1) PUBLICATION.—If a covered agency is required to prepare a regulatory flexibility analysis for a rule or group of related rules under section 603 of title 5, United States Code, the agency shall publish a compliance guide for such rule or group of related rules.

(2) REQUIREMENTS.—Each compliance guide published under paragraph (1) shall—

(A) contain a summary description of the rule or group of related rules;

(B) contain a citation to the location of the complete rule or group of related rules in the Federal Register;

(C) provide notice to small entities of the requirements under the rule or group of related rules and explain the actions that a small entity is required to take to comply with the rule or group of related rules;

(D) be written in a manner to be understood by the average owner or manager of a small entity; and

(E) be updated as required to reflect changes in the rule.

(b) DISSEMINATION.—

(1) IN GENERAL.—Each covered agency shall establish a system to ensure that compliance guides required under this section are published, disseminated, and made easily available to small entities.

(2) SMALL BUSINESS DEVELOPMENT CENTERS.—In carrying out this subsection, each covered agency shall provide sufficient numbers of compliance guides to small business development centers for distribution to small businesses concerns under section 21(c)(3)(R) of the Small Business Act (as added by section 202 of this Act).

(c) LIMITATION ON ENFORCEMENT.—

(1) IN GENERAL.—No covered agency may bring an enforcement action in any Federal court or in any Federal administrative proceeding against a small entity to enforce a rule for which a compliance guide is not published and disseminated by the covered agency as required under this section.

(2) EFFECTIVE DATES.—This subsection shall take effect—

(A) 1 year after the date of the enactment of this Act with regard to a final regulation in effect on the date of the enactment of this Act; and

(B) on the date of the enactment of this Act with regard to a regulation that takes effect as a final regulation after such date of enactment.

SEC. 103. NO ACTION LETTER.

(a) APPLICATION.—This section applies to all covered agencies, except—

(1) the Federal Trade Commission;

(2) the Equal Employment Opportunity Commission; and

(3) the Consumer Product Safety Commission.

(b) ISSUANCE OF NO ACTION LETTER.—Not later than 90 days after the date on which a covered agency receives a no action request, the agency shall—

(1) make a determination regarding whether to grant the no action request, deny the no action request, or seek further information regarding the no action request; and

(2) if the agency makes a determination under paragraph (1) to grant the no action request, issue a no action letter and transmit the letter to the requesting small entity.

(c) RELIANCE ON NO ACTION LETTER OR COMPLIANCE GUIDE.—In any enforcement action brought by a covered agency in any Federal court, or Federal administrative proceeding against a small entity, the small entity shall have a complete defense to any allegation of noncompliance or violation of a rule if the small entity affirmatively pleads and proves by a preponderance of the evidence that the act or omission constituting the alleged noncompliance or violation was taken in good faith with and in reliance on—

(1) a no action letter from that agency; or

(2) a compliance guide of the applicable rule published by the agency under section 102(a).

SEC. 104. VOLUNTARY SELF-AUDITS.

(a) INADMISSIBILITY OF EVIDENCE AND LIMITATION ON DISCOVERY.—The evidence described in subsection (b)—

(1) shall not be admissible, unless agreed to by the small entity, in any enforcement action brought against a small entity by a Federal agency in any Federal—

(A) court; or

(B) administrative proceeding; and

(2) may not be the subject of discovery in any enforcement action brought against a small entity by a Federal agency in any Federal—

(A) court; or

(B) administrative proceeding.

(b) APPLICATION.—For purposes of subsection (a), the evidence described in this subsection is—

(1) a voluntary self-audit made in good faith; and

(2) any report, finding, opinion, or any other oral or written communication made in good faith relating to such voluntary self-audit.

(c) EXCEPTIONS.—Subsection (a) shall not apply if—

(1) the act or omission that forms the basis of the enforcement action is a violation of criminal law; or

(2) the voluntary self-audit or the report, finding, opinion, or other oral or written communication was prepared for the purpose of avoiding disclosure of information required for an investigative, administrative, or judicial proceeding that, at the time of preparation, was imminent or in progress.

SEC. 105. DEFENSE TO ENFORCEMENT ACTIONS.

(a) IN GENERAL.—No covered agency may impose a fine or penalty on a small entity if the small entity proves by a preponderance of the evidence that—

(1) the covered agency rule is vague or ambiguous; and

(2) the interpretation by the small entity of the rule is reasonable considering the rule and any applicable compliance guide.

(b) INTERPRETATION OF RULE.—In determining whether the interpretation of a rule by a small entity is reasonable, no deference shall be given to any interpretation of the rule by the agency that is not included in a compliance guide.

TITLE II—SMALL BUSINESS RESPONSIVENESS OF COVERED AGENCIES

SEC. 201. SMALL BUSINESS AND AGRICULTURE OMBUDSMAN.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 30 as section 31; and

(2) by inserting after section 29 the following new section:

"SEC. 30. OVERSIGHT OF REGULATORY ENFORCEMENT.

''(a) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

''(1) BOARD.—The term 'Board' means a Small Business Regulatory Fairness Board established under subsection (c).

''(2) COVERED AGENCY.—The term 'covered agency' means any agency that, as of the date of enactment of the Small Business Regulatory Fairness Act of 1995, has promulgated any rule for which a regulatory flexibility analysis was required under section 605 of title 5, United States Code, and any other agency that promulgates any such rule, as of the date of such promulgation.

''(3) OMBUDSMAN.—The term 'ombudsman' means a Regional Small Business and Agriculture Ombudsman designated under subsection (b).

''(4) REGION.—The term 'region' means any area for which the Administrator has established a regional office of the Administration pursuant to section 4(a).

''(5) RULE.—The term 'rule' has the same meaning as in section 601(2) of title 5, United States Code.

''(b) OMBUDSMAN.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Small Business Regulatory Fairness Act of 1995, the Administrator shall designate in each region a senior employee of the Administration to serve as the Regional Small Business and Agriculture Ombudsman in accordance with this subsection.

''(2) DUTIES.—Each ombudsman designated under paragraph (1) shall—

''(A) on a confidential basis, solicit and receive comments from small business concerns regarding the enforcement activities of covered agencies;

''(B) based on comments received under subparagraph (A), annually assign and publish a small business responsiveness rating to each covered agency;

''(C) publish periodic reports compiling the comments received under subparagraph (A);

''(D) coordinate the activities of the Small Business Regulatory Fairness Board established under subsection (c); and

''(E) establish a toll-free telephone number to receive comments from small business concerns under subparagraph (A).''.

SEC. 202. SMALL BUSINESS REGULATORY FAIRNESS BOARDS.

Section 30 of the Small Business Act (as added by section 201 of this Act) is amended by adding at the end the following new subsection:

''(c) SMALL BUSINESS REGULATORY FAIRNESS BOARDS.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Small Business Regulatory Fairness Act of 1995, the Administrator shall establish in each region a Small Business Regulatory Fairness Board in accordance with this subsection.

''(2) DUTIES.—Each Board established under paragraph (1) shall—

''(A) advise the ombudsman on matters of concern to small business concerns relating to the enforcement activities of covered agencies;

''(B) conduct investigations into enforcement activities by covered agencies with respect to small business concerns;

''(C) issue advisory findings and recommendations regarding the enforcement activities of covered agencies with respect to small business concerns;

''(D) review and approve, prior to publication—

''(i) each small business responsiveness rating assigned under subsection (b)(2)(B); and

''(ii) each periodic report prepared under subsection (b)(2)(C); and

''(E) prepare written opinions regarding the reasonableness and understandability of rules issued by covered agencies.

''(3) MEMBERSHIP.—Each Board shall consist of—

''(A) 1 member appointed by the President;

''(B) 1 member appointed by the Speaker of the House of Representatives;

''(C) 1 member appointed by the Minority Leader of the House of Representatives;

''(D) 1 member appointed by the Majority Leader of the Senate; and

''(E) 1 member appointed by the Minority Leader of the Senate.

''(4) PERIOD OF APPOINTMENT; VACANCIES.—

''(A) PERIOD OF APPOINTMENT.—

''(i) PRESIDENTIAL APPOINTEES.—Each member of the Board appointed under subparagraph (A) of paragraph (2) shall be appointed for a term of 3 years, except that the initial member appointed under such subparagraph shall be appointed for a term of 1 year.

''(ii) HOUSE OF REPRESENTATIVES APPOINTEES.—Each member of the Board appointed under subparagraph (B) or (C) of paragraph (2) shall be appointed for a term of 3 years, except that the initial members appointed under such subparagraphs shall each be appointed for a term of 2 years.

''(iii) SENATE APPOINTEES.—Each member of the Board appointed under subparagraph (D) or (E) of paragraph (2) shall be appointed for a term of 3 years.

''(B) VACANCIES.—Any vacancy on the Board—

''(i) shall not affect the powers of the Board; and

''(ii) shall be filled in the same manner and under the same terms and conditions as the original appointment.

''(5) CHAIRPERSON.—The Board shall select a Chairperson from among the members of the Board.

''(6) MEETINGS.—

''(A) IN GENERAL.—The Board shall meet at the call of the Chairperson.

''(B) INITIAL MEETING.—Not later than 90 days after the date on which all members of the Board have been appointed, the Board shall hold its first meeting.

''(7) QUORUM.—A majority of the members of the Board shall constitute a quorum for the conduct of business, but a lesser number may hold hearings.

''(8) POWERS OF THE BOARD.—

''(A) HEARINGS.—The Board or, at its direction, any subcommittee or member of the Board, may, for the purpose of carrying out the provisions of this section—

''(i) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

''(ii) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tapes, and materials as the Board or such subcommittee or member considers advisable.

''(B) ISSUANCE AND ENFORCEMENT OF SUBPOENAS.—

''(i) ISSUANCE.—Each subpoena issued pursuant to subparagraph (A) shall bear the signature of the Chairperson and shall be served by any person or class of persons designated by the Chairperson for that purpose.

''(ii) ENFORCEMENT.—

''(I) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under subparagraph (A), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence.

''(II) CONTEMPT OF COURT.—Any failure to obey the order of the court issued under subclause (I) may be punished by the court as a contempt of that court.

''(C) WITNESS ALLOWANCES AND FEES.—Section 1821 of title 28, United States Code, shall apply to witnesses requested or subpoenaed to appear at any hearing of the Board. The per diem and mileage allowances for any witness shall be paid from funds available to pay the expenses of the Board.

''(D) INFORMATION FROM FEDERAL AGENCIES.—Upon the request of the Chairperson, the Board may secure directly from the head any Federal department or agency such information as the Board considers necessary to carry out the provisions of this section.

''(E) POSTAL SERVICES.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

''(F) DONATIONS.—The Board may accept, use, and dispose of donations of services or property.

''(9) BOARD PERSONNEL MATTERS.—

''(A) COMPENSATION.—Members of the Board shall serve without compensation.

''(B) TRAVEL EXPENSES.—Members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.''.

SEC. 203. SERVICES PROVIDED BY SMALL BUSINESS DEVELOPMENT CENTERS.

Section 21(c)(3) of the Small Business Act (15 U.S.C. 648(c)(3)) is amended—

(1) in subparagraph (O), by striking ''and'' at the end;

(2) in subparagraph (P), by striking the period at the end and inserting a semicolon; and

(3) by inserting immediately after subparagraph (P) the following new subparagraphs:

''(Q) providing assistance to small business concerns regarding regulatory requirements, including providing training with respect to cost-effective regulatory compliance;

''(R) developing informational publications, establishing resource centers of reference materials, and distributing compliance guides published under section 102(a) of the Small Business Regulatory Fairness Act of 1995 to small business concerns; and

''(S) developing a program to provide confidential onsite assessments and recommendations regarding regulatory compliance to small business concerns and assisting small business concerns in analyzing the business development issues associated with regulatory implementation and compliance measures.''.

TITLE III—FINANCIAL ACCOUNTABILITY OF COVERED AGENCIES RELATING TO FEES AND EXPENSES

SEC. 301. ADMINISTRATIVE PROCEEDINGS.

Section 504 of title 5, United States Code, is amended—

(1) in subsection (b)(1)(B)—

(A) by striking '', or (ii)'' and inserting '', (ii)''; and

(B) by striking the semicolon at the end of the subparagraph and inserting the following: '', or (iii) a small entity as such term is defined in subsection (g)(1)(D);'' and

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

''(g)(1) For purposes of this subsection, the term—

''(A) 'covered agency' has the same meaning as in section 30(a) of the Small Business Act;

''(B) 'fees and other expenses' has the same meaning as in subsection (b)(1)(A), except that—

''(i) clause (ii) of such subparagraph (A) shall not apply; and

''(ii) attorney's fees shall not be awarded at a rate of pay in excess of $150 per hour unless the adjudicative party determines that regional costs or other special factors justify a higher fee;

''(C) 'prevailing small entity'—

''(i) means a small entity that raised a successful defense to an agency enforcement action by a covered agency in an adversary adjudication; and

''(ii) includes a small entity that is a party in an adversary adjudication in which the adjudicative officer orders a corrective action or penalty against the small entity that is less burdensome than the corrective action or penalty initially sought or demanded by the covered agency; and

''(D) 'small entity' has the same meaning as in section 601(6).

''(2) For the purpose of making a finding of whether an award under subsection (a)(1) is unjust, in any case in which fees and other expenses would be awarded to a prevailing small entity as a prevailing party—

''(A) the adjudicative officer of the agency shall not consider whether the position of the agency was substantially justified; and

''(B) special circumstances shall be limited to circumstances in which—

''(i) the matters in the adversary adjudication are matters for which there is little or no legal precedent; or

''(ii) findings of fact or conclusions of law are based on inconsistent interpretations of applicable law by different courts.

''(3) If a prevailing small entity is awarded fees and other expenses as a prevailing party under subsection (a)(1), such fees and other expenses shall include all fees and expenses incurred by the small entity in appearing in any proceeding the purpose of which is to determine the amount of fees and other expenses.

''(4) Fees and other expenses awarded to a prevailing small entity as a prevailing party under this section shall be paid by the covered agency from funds made available to the agency by appropriation or from fees or other amounts charged to the public if authorized by law. A covered agency may not increase any such fee or amount charged for the purpose of paying fees and other expenses awarded to a prevailing small entity as a prevailing party under this section.''.

SEC. 302. JUDICIAL PROCEEDINGS.

Section 2412 of title 28, United States Code, is amended—

(1) in subsection (d)(2)(B)—

(A) by striking '', or (ii)'' and inserting '', (ii)''; and

(B) by striking the semicolon at the end of the subparagraph and inserting the following: '', or (iii) a small entity as defined under subsection (g)(1)(D);'' and

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

''(g)(1) For purposes of this subsection, the term—

''(A) 'covered agency' has the same meaning as in section 30(a) of the Small Business Act;

''(B) 'fees and other expenses' has the same meaning as in subsection (d)(2)(A), except that—

''(i) clause (ii) of such subparagraph (A) shall not apply; and

''(ii) attorney's fees shall not be awarded at a rate of pay in excess of $150 per hour unless the court determines that regional costs or other special factors justify a higher fee;

''(C) 'prevailing small entity'—

''(i) means a small entity that raised a successful defense to an agency enforcement action by a covered agency in a civil action; and

''(ii) includes a small entity that is a party in a civil action in which the court orders a corrective action or penalty against the small entity that is less burdensome than the corrective action or penalty initially sought or demanded by the covered agency; and

''(D) 'small entity' has the same meaning as the term 'small entity' in section 601(6) of title 5.

''(2) For the purpose of making a finding of whether an award under subsection (d)(1)(A) is unjust, in any case in which fees and other expenses would be awarded to a prevailing small entity as a prevailing party—

''(A) the court shall not consider whether the position of the United States was substantially justified; and

''(B) special circumstances shall be limited to circumstances in which—

''(i) the matters in the civil action are matters for which there is little or no legal precedent; or

''(ii) findings of fact or conclusions of law are based on inconsistent interpretations of applicable law by different courts.

''(3) If a prevailing small entity is awarded fees and other expenses as a prevailing party under subsection (d)(1)(A), such fees and expenses shall include all fees and expenses incurred by the small entity in appearing in any proceeding the purpose of which is to determine the amount of fees and other expenses.

''(4) Fees and other expenses awarded to a prevailing small entity as a prevailing party under this section shall be paid by the covered agency from funds made available to the agency by appropriation or from fees or other amounts charged to the public if authorized by law. A covered agency may not increase any such fee or amount charged for the purpose of paying fees and other expenses awarded to a prevailing small entity as a prevailing party under this section.''.

THE SMALL BUSINESS REGULATORY FAIRNESS ACT—SECTION-BY-SECTION ANALYSIS

Sec. 1. Short Title. ''The Small Business Regulatory Fairness Act of 1995.''

Sec. 2. Purposes. The purposes of the act are to change the relationship between agencies and small business, to increase the understandability of regulations, to increase the accountability of regulatory agencies, and to provide meaningful opportunities for redress of arbitrary enforcement actions.

Sec. 101. Definitions. Defines covered agency (those that have regs requiring a Regulatory Flexibility Act analysis), compliance guide, no-action letter, small business concern (as defined in sec. 3 of the Small Business Act) and voluntary self-audit.

Sec. 102. Compliance Guides. Directs regulatory agencies to publish small business compliance guides for regulations with significant economic impact on small entities, to disseminate the guides through Small Business Development Centers and prohibits enforcement actions of these regs against small entities until such time as the compliance guide is published.

Sec. 103. No Action Letter. Directs regulatory agencies to establish a system for issuing ''no-action letters'' similar to those used by the IRS and SEC, and allows small entities to rely on those no-action letters.

Sec. 104. Voluntary self-audits. Provides that information developed during a voluntary self-audit by a small entity is not admissible or discoverable by a Federal Agency.

Sec. 105. Defense to Enforcement Actions. Provides small entities with an affirmative defense where the agency rule is vague or ambiguous and the interpretation of the small entity is reasonable, and limits the court from giving deference to agencies' interpretations of their own rules.

Sec. 201. Small Business and Agriculture Ombudsman. Establishes Small Business and Agriculture Ombudsmen in each of the Small Business Administration's regional offices who will receive complaints about the enforcement activities of other federal agencies, develop a small business responsiveness rating to each regulatory agency, publish reports on those activities, and establish a toll-free telephone number to receive comments from small business.

Sec. 202. Small Business Regulatory Fairness Boards. Establishes volunteer Small Business Regulatory Fairness Boards in Small Business Administration offices around the country, appointed by the President and the Congressional leadership to advise the Ombudsmen, conduct investigations into agency enforcement activities, prepare independent reports and review the reports of the Ombudsmen.

Sec. 203. Services Provided by Small Business Development Centers. Expands the role of Small Business Development Centers to include providing regulatory compliance assistance, serving as a resource for compliance information including the distribution of compliance guides, and developing a program to provide regulatory compliance audits.

Sec. 301. Administrative Proceedings. Amends the Administrative Procedures Act to allow small entities to recover their attorneys fees in litigation against the government where the government has made unreasonable demands of settlement that are not sustained by a court, and without having to prove that the government position was not ''substantially justified.''

Sec. 302. Judicial Proceedings. Makes conforming changes to Title 28 U.S.C. Section 2412.●

ADDITIONAL COSPONSORS

S. 304

At the request of Mr SANTORUM, the name of the Senator from Utah [Mr. BENNETT] 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. 571

At the request of Mrs. BOXER, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 571, a bill to amend title 10, United States Code, to terminate entitlement of pay and allowances for members of the Armed Forces who are sentenced to confinement and a punitive discharge or dismissal, and for other purposes.

NOTICE OF HEARING

CANCELLATION OF COMMITTEE HEARINGS

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that the oversight hearing previously scheduled before the full Committee on Energy and Natural Resources for Tuesday, June 20, 1995, at 9:30 a.m. to review existing oil production at Prudhoe Bay, AK, and opportunities for new production on the coastal plain of Arctic Alaska has been canceled and will be rescheduled at a later date.

In addition, the hearing previously scheduled before the full Committee on Energy and Natural Resources for Wednesday, June 21, 1995, at 9:30 a.m. regarding the Secretary of Energy's strategic alignment and downsizing proposal and other alternatives to the existing structure of the Department of Energy has also been canceled and will be rescheduled at a later date.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Friday, June 16, 1995, session of the Senate for the purpose of conducting a hearing on the future of Amtrak and the Local Rail Freight Assistance Program.

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

ADDITIONAL STATEMENTS

PRISON WORK ACT OF 1995

● Mr. SHELBY. Mr. President, one of the many controversial provisions of the 1994 crime bill was the requirement that states have in place an array of dubious programs, including social rehabilitation, job skills, and even postrelease programs, in order to qualify for the prison construction grant money contained in the bill.

This requirement is yet another manifestation of the criminal rights philosophy, which has wreaked havoc on our criminal justice system. This view holds that criminals are victims of society, are not to blame for their actions, and should be rehabilitated at the taxpayers expense. In their zeal to rehabilitate violent criminals, proponents of this ideology have worked overtime to ensure that murderers, rapists, and child molesters are treated better than the victims of these acts and that these criminals have access to perks and amenities most hard-working taxpayers cannot afford.

Award-winning journalist Robert Bidinotto has revealed myriad abuses. For example, at Mercer Regional Correctional Facility in Pennsylvania, hardened criminals have routine access to a full-sized basketball court, handball area, punching bags, volleyball nets, 15 sets of barbells, weightlifting machines, electronic bicycles, and stairmasters facing a TV, so the prisoners do not have to miss their favorite show while working out.

Or consider David Jirovec, a resident of Washington State who hired two hit men to kill his wife for insurance money. His punishment? Regular conjugal visits from his new wife.

At Sullivan high-security prison in Fallsburg, NY, prisoners hold regular jam sessions in a music room crowded with electric guitars, amplifiers, drums, and keyboards.

In Jefferson City, MO, inmates run an around-the-clock closed-circuit TV studio and broadcast movies filled with gratuitous sex and graphic violence.

Perhaps the winner in the race for rehabilitation is the Massachusetts Correctional Institution in Norfolk, MA. There, prisoners sentenced to life in prison—known as the Lifers Group—held its annual Lifers Banquet in the $2 million visitor's center. These 33 convicts—mostly murderers—and 49 of their invited guests dined on catered prime rib.

This is just the tip of the iceberg. These are not isolated incidents, but have become commonplace in our criminal justice system. Violent criminals have by definition committed brutal acts of violence on innocent women, children, the elderly, and other citizens. That the government continues to take money out of the pockets of law-abiding taxpayers—many of whom are victims of those behind bars—to create resorts for prisoners to mull

around in is incomprehensible. The rationale for this system is likely summed up by Larry Meachum, commissioner of correction in the State of Connecticut: ''We must attempt to modify criminal behavior and hopefully not return a more damaged human being to society than we received.''

Mr. President, I reject this liberal social rehabilitation philosophy. I introduced legislation yesterday, the Prison Work Act of 1995, which has a different message: prisons should be places of work and organized education, not resort hotels, counseling centers, or social laboratories. It ensures that time spent in prison is not good time, but rather devoted to hard work and education. This is a far more constructive approach to rehabilitation.

Specifically, the Prison Work Act repeals the social program requirements of the 1994 crime bill and instead makes the receipt of State prison construction grant money conditional on States requiring all inmates to perform at least 48 hours of work per week, and engage in at least 16 hours of organized educational activities per week. States may not provide to any prisoner failing to meet the work and education requirement any extra privileges, including the egregious items listed above.

The critics of this legislation are likely to portend that it is too costly or too unworkable. However, as prison reform expert and noted author John DiIulio has pointed out, one-half of every taxdollar spent on prisons goes not to the basics of security, but to amenities and services for prisoners. However, these extra perks would be severely restricted under my legislation. No one failing to meet the work and organized study requirements would have access to them, and since the inmates would be occupied for 11 hours per day fulfilling the work and study requirement, the opportunity for these costly privileges would be reduced. Moreover, to reduce operation costs even further, prison labor could be used to replace labor that is currently contracted out. Thus, these programs could easily be implemented.

The other charge will likely be that the Federal Government should not micromanage State prison efforts. However, this bill does not micromanage at all. Rather, States have been micromanaged by the Federal courts which have mandated that States provide prisoners with every possible amenity imaginable. For example, Federal Judge William Wayne Justice of the Eastern District Court required scores of changes in the Texas prison system, designed to improve the living conditions of Texas prisoners. These changes increased Texas's prison operating expenses tenfold, from $91 million in 1980 to $1.84 billion in 1994—even though the prison population only doubled.

This legislation will empower State and local prison officials to operate their systems in a cost-efficient manner, and will give them the much needed protection from the overreaching Federal courts. More importantly, it will put the justice back in our criminal justice system and ensure that criminals are not treated better than the victims.●

THE FIFTH ANNUAL DAY OF THE AFRICAN CHILD

● Mr. FEINGOLD. Mr. President, I rise today to observe the fifth annual Day of the African Child, a day this year which will focus international attention on Africa's potential amidst critical challenges.

The Day of the African Child was declared in 1991 to commemorate the massacre of South African schoolchildren in the black township of Soweto 19 years ago. These elementary and high school children were shot and killed simply for protesting the deplorable system of apartheid education. On this anniversary, we have the opportunity to celebrate the achievements of countries like South Africa, and reflect on the challenges ahead for the African child—indeed, the next generation of Africa.

There have been considerable strides made in Africa over the last 30 years. In partnership with the international community, the mortality rate of children under 5 has decreased by half since 1960. The average life expectancy in the subcontinent is now 54 years, 13 years longer than it was in 1960. Two-thirds of African countries have immunized 75 percent of all children under 5, and UNICEF reports that the governments of Africa expanded the provision of safe water to over 120 million more people during the 1980's. Primary school enrollment has risen dramatically since the 1970's for both boys and girls, with 69 percent of African girls enrolled in primary school now.

Yet, hardships continue for many African children. Life expectancy in Africa is still 20 years behind that of developed states. Basic health care is not accessible to half of all Africans. Children in Africa continue to die at 10 times the rate of children in industrialized nations.

But today, in addition to hunger and disease, war is also ravaging the minds and bodies of Africa's children. It is no coincidence that the countries with the first, second, and third highest rates of child mortality—Mozambique, Afghanistan, and Angola—are those that have been embroiled in the bloodiest of civil wars. Ethiopia, Somalia, and Liberia are close behind.

The armed conflicts throughout Africa have taken their toll on the children. Last year in Rwanda, for instance, almost 100,000 children reportedly were killed in just a few months. In Sudan, according to a 1992 report by the U.N. High Commissioner for Refugees, one criterion for conscription was ''the presence of two molar teeth'': as a result, almost 12,500 boys from the ages of 9 to 16 years were enlisted.

Last year in Liberia, I raised the issue of child soldiers with members of the Transitional Government, and was told that this is truly a problem which is rotting the country. UNICEF estimates that thousands of children are participating in Liberia's civil war—either to avenge murders of their family members or to make some hard-found money—and that factions abuse their young soldiers with alcohol, drugs, and gunpowder.

Mr. President, while we recognize the progress made in Africa thus far, we must not forget these daunting challenges ahead. As we debate the role of the United States in Africa, we must do so with an eye to the future, and with an appreciation for what international partnership can achieve.●

DAY OF THE AFRICAN CHILD

● Mrs. KASSEBAUM. Mr. President, I rise today to honor the fifth annual Day of the African Child. As chairman of the African Affairs Subcommittee, I have long been concerned about Africa's children.

Earlier this year, the world community lost one of its foremost champions for the cause of children, Mr. James Grant. As head of UNICEF, Jim Grant worked tirelessly to improve the lives of children all around the world, particularly in Africa. His dedication, energy, and moral leadership will be sorely missed. On this day of African children, we mourn his loss but also celebrate his contributions.

Since I first chaired the subcommittee in 1980, there has been real and significant progress in improving the lives of children of Africa. Through the commitment of African governments, private voluntary groups, and international organizations like UNICEF, access to education has increased notably. The under-5 mortality rates are now half what they were in 1960. Malnutrition, while still affecting some 30 percent of African children, is less pronounced than many had feared entering the 1980's.

But much remains to be done. I am particularly concerned about the devastating effect of civil conflict on children. While political factions and armed groups fight for power, it is often the most vulnerable and voiceless—Africa's children—who are most affected. Entire generations have lost opportunities for basic education. Many have lost parents and siblings. From Sudan to Angola, Rwanda to Liberia, the brutality of war has scarred millions of innocent children.

Mr. President, the Day of the African Child, June 15, commemorates the 1976 uprising and massacre of the children of Soweto, South Africa. Their struggle to bring down the inhumane apartheid system vividly symbolizes the difficult plight of children in Africa. Their struggle, however, also represents the possibilities and hope for Africa as President Nelson Mandela finishes his

first year as leader of a democratic, nonracial South Africa.

Today we celebrate the progress that has been made in bettering the lives of African children. But today also stands as a challenge to all of us to continue efforts to improve education and basic health care for all the children of Africa. Their future is the hope for the entire African Continent.●

COMMEMORATING THE DAY OF THE AFRICAN CHILD

● Mr. SIMON. Mr. President, today marks the 19th anniversary of the Soweto massacre where more than 100 black South African students—children—were killed while protesting against the tyranny of South African apartheid. These children are martyrs to the cause of freedom and justice. Their sacrifices, along with those of many others, contributed to a far brighter future in South Africa than could have been foreseen at that time. And so, June 16 has been designated by the Organization of African Unity as the ''Day of the African Child.'' On this day, we not only mark the past, but we should also commit ourselves to creating a brighter future for the children of Africa.

Our commemoration of the children of Soweto should be solemn, as we reflect on the loss of far too many African children to conflict and war, to disease, to famine, and to the neglect of a world that often cares more about amassing material wealth than about ensuring the health and well-being of all of its children. An African child deserves no less than any other child born anywhere else in the world. They deserve to be cared for, to be protected, to have adequate food, shelter, and health care, to have safe drinking water, to be educated, and to live in a peaceful world. Yet, a child born in sub-Saharan Africa has a life expectancy 20 years shorter than a child born in an industrialized country. An African child is 8 times less likely to survive infancy and 10 times less likely to survive beyond 5 years old than a child in an industrialized country. The mother of an African child is 29 times more likely to die in childbirth than the mother of a child in the industrialized country. As many as 30 percent of African children suffer from malnutrition. Only 45 percent of Africans have access to safe drinking water.

Thanks to U.S. assistance, there has been progress in reducing the under-5 mortality rate, increasing child immunizations and increasing life expectancy over the last 30 years. But clearly, there is much work to be done. As we commemorate the Day of the African Child let us also recognize the very positive affect that our foreign assistance has on improving the prospects for Africa's children to have healthy, productive lives—to have no less than what we would want for our own children.

The theme of this year's observance is ''Children in Armed Conflict.'' War has a devasting affect on children. Prior to 1945, most of the victims of war were soldiers. In the 160 wars and conflicts since 1945, 80 percent of the dead and wounded have been civilians—most of them women and children. The effect of armed conflict on African women and children has been particularly devastating. Ninety-two percent of the war-related deaths in Africa are women and children. In the Sudanese war, children die at 14 times the rate of government and guerrilla soldiers combined. Most often, in conflict zones children die as a result of the dispersal that leads to malnutrition and disease. Child mortality rates are highest in those countries that are ravaged by armed conflicts. As we observe the Day of the African Child let us also commit ourselves to playing whatever positive role we can through diplomacy, support for U.N. peacekeeping operations, or whatever measures appropriate to help resolve those conflicts that still remain on the African Continent. There has been great progress in ending conflicts on the African Continent over the last decade. Much more has to be done.

I join today with the Organization of African Unity, the United Nations Children's Fund and all those who care about the health and well-being of all the world's children in recognizing June 16 as the Day of the African Child. I salute the U.S. Committee for UNICEF for its hard work in organizing today's celebration. Let us resolve to do all that we can to provide hope for Africa's children that they may have the kind of future that each of us wants for our own children.

Mr. President, on the topic of aid to Africa, I would like to share with my colleagues a letter I received from a young lady, Miss Julie Haronik, from Moline, IL. Julie is 13 years old and she wrote to me asking that we maintain the Development Fund for Africa.

I have received many letters supporting foreign aid to Africa over the last month. Julie's letter demonstrated how a child can sometimes be wiser, more caring, and more compassionate than many adults far older than herself. Among Julie's reasons for supporting aid to Africa, she says that, ''If you cut off aid some projects in Africa that have been started recently may fall apart without aid [before] they can sustain themselves.'' In the last paragraph of Julie's letter she writes:

> You may wonder why a thirteen year old would be concerned about Africa. One reason is that I want society to be on equal terms with all people when I am an adult. Another reason is that if America ever needed an African resource I would hope Africa would help us in our time of need. I also hope for world peace which can be achieved only through kindness, recognizing fellow humans, and helping those in need.

I am so proud of this young lady both for her world outlook and compassion for others, and for her willingness to write and participate in public debate on the political issues of the day. Mr. President, I ask that the full text of the letter be printed in the RECORD.

The letter follows:

MOLINE, IL.

Senator PAUL SIMON,
U.S. Senate,
Washington, DC.

DEAR SENATOR SIMON: Although you may not realize it Africa has come a long way, with outside aid. If you cut off aid some projects in Africa that have been started recently may fall part without aid until they can sustain themselves. Africa still has a way to go, but it is a place of hope. Please don't cut off aid to the Development Fund for Africa!

The United States of America has a duty to itself and the rest of the world. That duty is to help all people whether they can repay debts or not. One tenth of one percent of the budget is not very much money to give to those in need. Africa doesn't just take aid from people it has been its own resources, which are scarce. The government's duty is to make sure Africa does not lose all aid, but develop enough not to need it.

You may wonder why a thirteen year old would be concerned about Africa. One reason is that I want society to be on equal terms with all people when I am an adult. Another reason is that if America ever needed African resources I would hope Africa would help us in our time of need. I also hope for world peace which can be achieved only through kindness, recognizing fellow humans, and helping those in need. Thank you for your time.

Sincerely,

JULIE HARONIK.●

CIVIC EDUCATION GATHERING IN PRAGUE

● Mr. HATFIELD. Mr. President, during the first few days of June, one of the largest international gatherings of educators and representatives of the public and private sectors supporting civic education met in Prague, Czechoslovakia. Four hundred and twenty-five representatives from 52 nations participated.

Entitled CIVITAS@PRAGUE.1995, the conference was sponsored by 36 civic education organizations from North America, Western and Eastern Europe, and the former Soviet Union.

A declaration was adopted by CIVITAS participants that asserts the essential importance of civic education for developing the support required for the establishment and maintenance of stable democratic institutions. Constitutional democracies must ultimately rely upon citizens and leaders possessing a reasoned commitment to those fundamental values and principles which enable them to flourish. Stable democracies, in turn, are vital for economic development, national security, and for overcoming destructive religious and ethnic conflicts. The declaration also argues that civic education should have a more prominent place in the programs of all governments and international organizations.

American participation in the project was organized by a steering committee composed of representatives of the Center for Civic Education, American

Federation of Teachers, National Endowment for Democracy, Institute for Democracy in Eastern Europe, Mershon Center at Ohio State University, and the Social Studies Development Center at Indiana University. All these groups worked in cooperation with the U.S. Department of Education and the U.S. Information Agency.

I urge my colleagues to join me in supporting this declaration and in giving greater recognition to the need to improve civic education for students in the United States and in other nations throughout the world.

The text of the CIVITAS declaration follows:

CIVIC EDUCATION—AN INTERNATIONAL PRIORITY

On June 2–6, 1995, representatives from fifty-two countries met in Prague at one of the largest international meetings on civic education ever held. The following is a declaration adopted by the participants. A list of the individual signers is available on CIVNET.

The wave of change toward democracy and the open economy that swept the world at the beginning of this decade has slowed, and, in some respects, even turned around. Religious and ethnic intolerance; abuses of human rights; cynicism toward politics and government; corruption, crime and violence; ignorance, apathy and irresponsibility—all represent growing challenges to freedom, the marketplace, democratic government, and the rule of law.

All this makes clear how central knowledge, skills, and democratic values are to building and sustaining democratic societies that are respectful of human rights and cultural diversity. Once again, we see the importance of education which empowers citizens to participate competently and responsibly in their society.

Despite great differences in the more than fifty countries represented among us, we find many similarities in the challenges we face in our civic life. These challenges exist not only in the countries represented here; they also exist in other parts of the world, and in all aspects of social, economic, and political life. People involved in civic education have much to learn from one another.

It is time again to recognize the crucial role that civic education plays in many areas of concern to the international community: Shared democratic values, and institutions that reflect these values, are the necessary foundation for national and international security and stability; The breakup of Cold War blocs, while bringing much good, has also created openings for aggressive and undemocratic movements, even in the established democracies themselves; Civic development is an essential element in—not just a side effect of—economic development. Investments and guarantees made by private enterprise, governments, and international financial institutions will fail where political and legal systems fail, and where corruption and violence flourish.

The challenge of civic education is too great for educators alone. They need far greater cooperation from their own peoples, governments, and the international community.

We seek increased support for civic education—formal and informal—from the widest range of institutions and governments. In particular, we urge greater involvement in civic education by international organizations such as the Council of Europe, the European Union, the North Atlantic Assembly, the Organization for Security and Cooperation in Europe, the United Nations, UNESCO, and the World Bank.

We seek an active personal and electronic on-line-exchange (through CIVNET) of curricular concepts, teaching methods, study units, and evaluation programs for all elements of continuing education in civics, economics, and history.

We pledge ourselves to create and maintain a worldwide network that will make civic education a higher priority on the international agenda.●

THE 31ST CONSTITUTIONAL CONVENTION OF THE UNITED AUTO WORKERS

● Mr. LEVIN. Mr. President, the United Auto Workers are concluding their 31st Constitutional Convention today in Anaheim, CA. This is a momentous occasion, marking the end of one era and the beginning of another for one of the world's most important labor organizations. Owen Bieber, who has held the presidency for the past 12 years, has retired and has handed over his duties to Stephen Yokich, the incoming president. Each of these leaders, with over 75 years of service to the UAW between them, has made it his life's work to fight for workers' rights both in the United States and around the world. They carry on an outstanding tradition of progressive union leadership that was established by the late Walter Reuther and continued by Leonard Woodcock and Douglas Fraser.

Owen Bieber has dedicated more than 45 years of his life to promoting fair labor standards. Bieber went to work right after high school bending wire for car seats at the McInerney Spring and Wire Company in Grand Rapids, Michigan. In 1948, he became a member of UAW Local 687, thus beginning a journey that would see him rise to the highest level of the organization. Bieber was quickly voted in to several leadership positions and in 1956, he was elected president of Local 687. Bieber served as president of the local until 1961, when he was appointed to be a staff representative for UAW Region 1D. He remained with UAW Region 1D for the next 20 years. He was elected regional director in 1974, and reelected in 1977. In 1980, delegates to the Union's 26th Constitutional Convention elected him to be an international vice-president and he then took charge of the UAW's largest department—General Motors. His final step to the presidency of the UAW came at the 27th Constitutional Convention in Dallas in 1983. Since then, he has been reelected every 3 years, with his fourth and final term beginning in 1992.

Owen Bieber has always been committed to the belief that in order for U.S. industry to be successful, there must be a strong partnership between management and labor. As UAW president, Bieber's strategy of building new cooperation with the auto companies laid the foundation for future success. It is this strategy that has allowed the U.S. auto industry to bounce back and once again lead the world. Bieber has worked to increase security for union members while at the same time helping improve the quality of both work and work life in the plants. Bieber has focused the union on efforts to raise wages, protect jobs, strengthen work place safety and ensure fully paid health care. Under Bieber's leadership, the UAW established and fostered successful bargaining relationships with Japanese manufacturers. Bieber also expanded membership in the UAW to include workers in the media, academia, and government.

Owen Bieber has also expressed a strong commitment to civil and human rights, both at home and abroad. During his tenure as president, the world saw workers win their basic rights in countries such as Poland and South Africa. These struggles were strongly supported by the UAW. In 1986, Bieber negotiated on behalf of South African workers who were jailed without being charged with a crime. A high point of his career came in 1990, when Bieber had the opportunity to escort recently freed Nelson Mandela through Ford Motor Company's Rouge plant.

Throughout the years, Bieber has always remained committed to his local community. He has also been a strong booster of the city of Detroit, where the union is headquartered. His broad civic involvement has included such organizations as the NAACP and the United Way.

Owen Bieber has always shown the highest regard and respect for the American worker. This giant of a man has also been a booming voice for a tough and fair American trade policy. It is only fitting that now, as he retires, we have an administration that is willing to stand up for American manufacturers and American workers and to insist that foreign markets are as open to our products as our markets are to imports.

The new president, Stephen Yokich, has spent the past three decades working on behalf of labor. The UAW has always meant a great deal to Yokich and his family. Both of Yokich's parents and grandfathers were members of the UAW. Yokich has been one the UAW's strongest negotiators. Yokich has been in charge of UAW's General Motors Department since 1989. He was on hand to oversee the downsizing of GM's work force. Yokich's handling of the situation enabled more workers to keep their jobs and has ultimately led to a more cooperative relationship between the UAW and GM. One of his main responsibilities in the near future will be to increase UAW membership, a task that will benefit from his great personal energy.

It is heartening to see that the leadership of one of the world's most important labor organizations will remain in able hands. I know my Senate colleagues join me in congratulating these two outstanding leaders for the extraordinary work they have done on behalf of our Nation's workers and for their efforts to make our automobile

industry the foremost example of American manufacturing. I ask that the text of the remarks of Owen Bieber at the UAW's 31st Constitutional Convention be placed in the RECORD following my statement.

The text of the remarks follows:

REMARKS OF OWEN BIEBER

Brothers and sisters, I cannot tell you how much that video tribute, and how much your warm applause means to me.

What I can tell you is that when all is said and done—it is you and those you represent who have—time and again, inspired me.

It is your passion for justice, your love of your country and your love for the UAW that drives this union.

It is you who have created the opportunities for me to take the UAW's message from California to South Africa.

It is the clout of one-point-three million active and retired UAW members, that has carried me to the offices of Presidents and Senators and CEO's.

Without this union, a young worker in an auto parts plant in Grand Rapids, Michigan could hardly dream of meeting Lech Walesa or Nelson Mandela or Bill and Hillary Clinton—let alone actually do so.

It is also the collective UAW that has generated the great team of colleagues I have had the privilege to work with over the years.

Leonard Woodcock and Doug Fraser, especially, have been there for advice and counsel whenever I needed them.

Ken Bannon, Don Ephlin, Martin Gerber, Pat Greathouse, Irving Bluestone, Marc Stepp, Odessa Komer, Olga Madar and retired board members have also remained loyal supporters and advisors.

I cannot think of anyone I would rather have had on my side and at my side for the battles we've been through than Steve Yokich, Stan Marshall, Ernie Lofton, Carolyn Forrest, and Secretary-Treasurer, Bill Casstevens.

In case you don't already know this, let me tell you that the thing about the president's staff is that they are supposed to be kind of invisible.

But believe you me, without Dick Shoemaker and the rest of my fine staff and department heads, this union would be nowhere near as effective as we have been.

There are many unsung warriors in the UAW army, but I think there are none who contribute more than our clerical staff, and I thank them for the great work they do.

I want to say a special word about my personal secretary, Mary Shoemaker, who has been of great help to me and I thank her for that.

You know when you elect a president of the UAW—whether they like it or not—you are electing their family to serve, as well.

The family, too, must adjust to the travel and the long hours and the phone calls that can come at any time.

They, too, carry the weight of the office.

In my own case, my wife, Shirley, has, in essence, worked for this union for many years.

Thanks to all of those I have mentioned and many, many more that I have not—it is a remarkable life I have had.

It is, I hope, a life that has taught me a thing or two along the way.

Brothers and sisters, as I look back across the twelve years you have given me the honor of serving you as president . . . and as I look forward to the future—one thing in particular stands out as strong and clear as the sun on a bright, shiny morning.

It is this:

When you put the opportunities that are before us, together with the rock solid strengths of this union—I have no doubt that the UAW's future will be even greater than our past.

Let me speak, for a moment, of the nature of our times and the opportunities they create.

As many of you have heard me say before, a new economic order has upset boundaries and assumptions that guided our society for many decades.

Corporate globalization . . . new technology . . . the end of the cold war . . . and the relentless commercialization of our values are pulling and tugging with great force at our social fabric.

As a result, fear and frustration are being expressed from many points on the compass.

We hear it in the bitterness of the debate over affirmative action and immigration.

We felt it in the explosion in Oklahoma City.

It is part and parcel of the coast-to-coast angry talk show voices that denounce the legitimacy of our government . . . day . . . after . . . day . . . after . . . day.

By the way, as First Lady Hillary Clinton suggested back in Michigan recently—aren't any of those people ever in a good mood?

Not that I can tell.

As I have said, it's obvious that many people react to political, social and economic change with fear and uncertainty.

I, however, see something very different.

I see a time of hope and opportunity.

Why is that?

What do I see that others don't?

I see the drive that inspires men and women to band together for justice, as we in the trade union movement have done.

My friends, I have spent all of my adult life in this union.

And believe you me, I know first-hand that life for our members now is better than it was when I joined the UAW . . . forty-seven years ago.

Much better.

Brothers and sisters, a lifetime spent in the UAW does not make one fearful of change.

To the contrary, a lifetime in the UAW makes one aware of the desire and the ability of working people to control their own destiny.

A lifetime in the UAW makes one aware of the value of collective action.

Call it solidarity . . . call it brotherhood and sisterhood . . . call it what you will—it is what happens when the power of community hooks up with the power of justice.

As I said in the video we saw earlier—that is a tradition that I have been proud to uphold.

I am proud of what this union did for our members, during very difficult times.

When you look back at the 80's and 90's, if there was any kind of insurance . . . any kind of protection . . . any kind of good fortune that a working man or woman could have that delivered more than being a member of the UAW—I cannot think what it might be.

The record speaks for itself.

No union did better at defending the standard of living of its members. None.

In insecure times . . . did we break new ground on job security?

Yes, we did.

Did we make our workplaces healthier and safer?

We sure did.

Did we set out to defend the core idea of employer-paid health care that previous UAW generations fought so hard to win?

And did that idea come under attack in every single negotiation we entered?

You know it did.

But you know, too, that UAW members held on to employer-paid health care during a time when millions of workers were losing that benefit.

And what about our retirees?

Did we take care of those who built this great union?

We sure did.

And did we uphold the UAW's pioneering tradition, when it came to gaining worker involvement in decisions on sourcing and quality and manufacturing design?

Did we break new ground when it comes to education and training, child care services and assistance for workers' personal problems?

You know the answer.

Add it all up and this whole union has a lot to be proud of.

Brothers and sisters, as well as we have done at the collective bargaining table, that is by no means the extent of our accomplishments.

Let's look at our impact on politics and legislative issues.

A very good place to begin is with the fight that's going on right now to bring fairness to the economics of global trade.

I don't know if you noticed or not, but the Wall Street Journal recently paid this union quite a compliment.

In a lead editorial, they said, in so many words, that the reason that something is done about trade is because the UAW has made so much noise and created so much pressure on this issue.

Well, brothers and sisters, on behalf of the thousands of UAW members who have fought long and hard for fairness from the Japanese, I propose we accept the compliment from the Wall Street Journal with a big round of applause.

And while we're at it, let's also give a cheer to President Bill Clinton for standing up to the Wall Street Journal and the rest of the free-trade hypocrites—not to mention the Japanese themselves.

It's about time we had a President with the guts to act on this issue.

Brothers and sisters, the President is exactly right when he says that one-way trade is not free trade at all.

He is taking a lot of heat in this struggle and he deserves our support.

It is time for us to, show, again, where we stand.

Let us write and call our Senators and House members in support of the President's courageous position on auto trade with the Japanese.

Let me go further.

It is also important to mobilize now because the President needs our help in fighting the budget-cut atrocities that the Republicans will try to impose on our country's working families in the next one-hundred days.

As we approach these battles—let us not surrender to defeatism.

I tell you, brothers and sisters: the Republicans are weaker now than they were when Congress convened last January.

They do not have a popular mandate to wreck the country and it is our job to make sure they know that.

Let me tell you one more thing.

It is critical that we line up with President Clinton now for one more reason.

The 1996 elections will be here sooner than you can blink an eye.

And make no mistake about it—it is Bill Clinton who is standing between us and Phil Gramm . . . or Bob Dole . . . or, God forbid, Pat Buchanan, coming to live in the White House in January of 1997.

Need I say more?

I don't think so.

Turning now to another subject—as we all know, there is a huge gap between the accomplishments of the UAW . . . and how we are perceived.

Generally speaking, unions do not get the credit we deserve for what we contribute to the lives of our members or the well-being of our society.

Well, you know what, brothers and sisters—I say the time has come to quit believing what our critics say about us.

I say it's time to rely not on what somebody else says, but on what we know.

It is time to say—enough—to those who say that the trade union movement is too weak and too small and too old-fashioned to make a difference in today's world.

It is time to quit believing the propaganda put out by corporations, politicians and the media who want us to feel powerless and be powerless so that they may be even more powerful.

Brothers and sisters, ask yourself this question . . . if we're so damn weak, why have powerful corporations spent hundreds of millions of dollars to create a union-busting industry in this country?

And just why do they work so hard to make union organizing so difficult?

And have you ever wondered about this: Why does the media write our obituary . . . over and over and over again?

Let's really think about this.

You don't read story after story about how the Prohibition Party is dead do you?

Of course not.

That's because the Prohibition party really is dead!

They don't have to write their obituary over and over like they do ours.

Sometimes I wonder who is it they are trying to convince—themselves, or us?

Either way, my friends—it's time to quit believing this baloney about how weak we are.

It is time to put our media-induced inferiority complex behind us.

It's time for us to stand up to convicted felons and right-wing wackos like G. Gordon Liddy, Rush Limbaugh, and Bo Gritz.

There is nothing to be gained by keeping our mouths shut, and our pens in our pockets.

Let's start talking back to talk radio and writing more letters to the editor than ever.

Let's be clear here about something else.

It is not trade unions that are dinosaurs left over from some other age.

It's the G. Gordon Liddy's who find themselves in the wrong century and I'm sick and tired of those who try to tell us differently.

The truth is the truth.

It is trade unions who have proven time and again that we can and do adapt to new circumstances.

The UAW was born from the challenges created by the new industrial economy of the 1930's.

Since then we've shifted from peace to war and back again.

We've been leaders in integrating minorities into our economic, political and social life.

We've brought trade unions into new sectors of the economy and new places on the globe.

From the Chrysler bailout forward, we helped American industry turn around from its deepest peacetime crisis ever.

We've helped Ford and GM and John Deere and lot's of other companies change with the times.

And just so there is no confusion in anyone's mind—this entire union remains one-hundred percent solid in supporting the struggle of our members at Caterpillar.

They are trying to keep that company from backsliding completely into the nineteenth century.

And they have our full support.

You know, when you look at it closely, the basic situation now is very much the same as it was sixty years ago when this great union was founded.

Now, as then, the questions before us have to do with how to distribute the wealth that dynamic new economic developments have the potential to create.

We are a richer country today than we have ever been.

Yet more people are poor.

We were once a rich country that led the world in the just distribution of wealth.

Now, we lead the industrialized world in how unfairly wealth is distributed.

That is not just sad. It's dangerous.

For if there is one lesson that emerges from the twentieth century, it is this: How fairly wealth is distributed has a great deal to do with how much wealth gets created.

We have also demonstrated in the past, that we will commit the financial means to sustain us in long and difficult collective bargaining and organizing campaigns.

Speaking of organizing, all across this union, in workplaces large and small, we have demonstrated that we can help workers organize under the most difficult conditions.

Not only is that true in our traditional industrial base—it's true in the growing service sector as well.

In fact, the UAW is now represented in just about every section of the economy.

By way of example, Local 6000, which represents the state employees of Michigan, is now the largest local in the entire UAW.

There is another kind of diversity that is also a basic UAW strength.

Our union unites whites, blacks, Latinos . . . and men and women, as does no other organization in American life.

In a time of media manipulation and hate-mongering—that unity is a mighty weapon in the fight for justice and democracy.

In that same spirit, I would also point out that the UAW has a solid and growing core of experienced, dynamic and talented trade union women.

The UAW also possesses widely respected technical expertise in its legal; research; health and safety; retired workers, communications; social security; community service; political action and other departments.

And speaking of political action—we have a political army of active and retired members that is second to none.

Another great strength is the leadership that is nominated to take the reins of this union.

They are battle tested. They are smart. They are dedicated and hard-working. They have a clear vision of the future.

They are the right leaders, in the right time, at the right place to do what needs to be done.

What's more, come next fall, they will have the added advantage of dynamic new leadership in the AFL–CIO.

Finally, the most important reason for my confidence in our future is represented right here in this room.

It is the membership of this union—the men and women that elected you to be here—that make up our ultimate weapon.

It is you, and those like you, in workplaces all over this country who build this union and keep it strong.

And it is you for whom I have been proud to work as your president.

I welcome, therefore, this opportunity to say thank you for all that you have done for me * * * and all that you have meant to me over the years.

No matter how trying the times, I knew that I could always count on you.

I knew that with teamwork in the leadership and solidarity in the ranks—I could call on this membership at any time.

And I have done so, many times.

You have never let me down.

You have never let your union down.

For that, I say thank you from the bottom of my heart.

And on Thursday I will hand over the gavel knowing that this union's future will be even greater than its past.

Thank you again for everything.●

RECOGNITION OF WHITE HOUSE CONFERENCE ON SMALL BUSINESS

● Mr. CHAFEE. Mr. President, as I'm sure my colleagues are aware, this week Washington has been host to the White House Conference on Small Business. This officially sanctioned conference brings small businesspeople from all over the country together to make recommendations to the President and the Congress regarding policy changes that are needed to improve the Nation's business climate.

In the past, many of the proposals made by the Conference have later been adopted by both the executive and legislative branches. The process of bringing together those that our actions affect directly for their input is a fine example of the kind of communication and democratic governance that sets our Nation apart.

I take the recommendations of the Conference most seriously. Rhode Island is a State of small business. Of the nearly 25,000 firms doing business in my State, over 21,000 of those have fewer than 20 employees. Enterprises with less than 20 employees account for more than 50 percent of the payroll expenditures in our State each year.

Clearly, then, what helps small business helps Rhode Island. One of the most important themes Rhode Island's delegation has sounded throughout the Conference and the preliminary activities associated with its is the extraordinary role the Small Business Administration [SBA] has played in our State.

As my colleagues will recall, Rhode Island suffered a double-whammy in the early 1990's. We had the same recession experienced by the rest of the Nation—but it was quite a bit worse in our manufacturing State. On top of that recession, we also had a private deposit insurance collapse that led to the closing of many of our credit unions, the lender of choice for many of our small businesses. The net result was an economic downturn compounded by a credit crunch of considerable proportions.

It was at this point that our Providence SBA office began to work with our surviving private lenders to establish designated small business lending funds that the SBA would consider guaranteeing on a case-by-case basis. This activist, entrepreneurial approach is one important ingredient in the small business recovery that has occurred. Lending is up; in 1994 the SBA backed nearly 300 loans in Rhode Island, And in 1995 expectations are that the agency will guarantee over 500 small business loans.

This rapid expansion is also a function of the Federal Government's decision to use fees to offset the cost of expanding SBA lending authority. It is likely that further reductions in SBA's subsidy rate will be used to preserve the SBA's ability to meet demand at the same time that SBA's cost of doing business are reduced. I applaud this and other changes being made at SBA that will allow programs to continue even while SBA does its part in reducing the Federal deficit.

Thus, Mr. President, the SBA is important to Rhode Islanders. I look forward to working with the chairman of the Senate Small Business Committee, Senator BOND, and other small business backers as we work our way through this year's appropriations bills and try to preserve the positive contributions of the SBA.

As further evidence of Rhode Islanders' strong support for this program, I ask that a resolution recently approved by the Rhode Island General Assembly be printed at the conclusion of my remarks.

The resolution follows:

JOINT RESOLUTION

Whereas, the U.S. Small Business Administration was created in 1953 by President Dwight D. Eisenhower to foster the growth of small entrepreneurs, and

Whereas, our Nation's economic prosperity is linked directly to the health of the small business community, and

Whereas, the Rhode Island business community is comprised of over 97 percent small businesses, and

Whereas, small businesses have grown 49 percent since 1982, they employ 54 percent of the American work force, account for 50 percent of the gross domestic product, and account for 71 percent in new job growth in 1993, and

Whereas, the Small Business Administration's (SBA) 504 and 7(a) financing programs are a public/private partnership that leverages private dollars and allows for continued access to capital for Rhode Island's small business community, and

Whereas, SBA's technical resources including the Small Business Development Center at Bryant College and the Service Corps of Retired Executives provide much needed counseling to the Rhode Island small business community, and

Whereas, the Rhode Island SBA District Office has approved over 800 loans totaling $168.5 million in guarantee and 504 financing to the Rhode Island small business community from October 1992 to present, and

Whereas, this financial assistance has played a vital role in reviving the Rhode Island economy; now be it

Resolved, That the General Assembly of the State of Rhode Island and Providence Plantations hereby respectfully requests the United States Congress to financially support the U.S. Small Business Administration and its 7(a) and 504 financing programs, as well as its education/training and advocacy programs, and be it further

Resolved, That the Secretary of State be and he hereby is authorized and directed to transmit a duly certified copy of this resolution to the Speaker of the U.S. House of Representatives and the President of the United States Senate, and to the Rhode Island Delegation in the Congress of the United States.●

TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT

The text of the bill (S. 652) entitled the ''Telecommunications Competition and Deregulation Act,'' as passed by the Senate on June 15, 1995, is as follows:

S. 652

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 ''Telecommunications Competition and Deregulation Act of 1995''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Purpose.
Sec. 4. Goals.
Sec. 5. Findings.
Sec. 6. Amendment of Communications Act of 1934.
Sec. 7. Effect on other law.
Sec. 8. Definitions.

TITLE I—TRANSITION TO COMPETITION

Sec. 101. Interconnection requirements.
Sec. 102. Separate affiliate and safeguard requirements.
Sec. 103. Universal service.
Sec. 104. Essential telecommunications carriers.
Sec. 105. Foreign investment and ownership reform.
Sec. 106. Infrastructure sharing.
Sec. 107. Coordination for telecommunications network-level interoperability.

TITLE II—REMOVAL OF RESTRICTIONS TO COMPETITION

SUBTITLE A—REMOVAL OF RESTRICTIONS

Sec. 201. Removal of entry barriers.
Sec. 202. Elimination of cable and telephone company cross-ownership restriction.
Sec. 203. Cable Act reform.
Sec. 204. Pole attachments.
Sec. 205. Entry by utility companies.
Sec. 206. Broadcast reform.

SUBTITLE B—TERMINATION OF MODIFICATION OF FINAL JUDGMENT

Sec. 221. Removal of long distance restrictions.
Sec. 222. Removal of manufacturing restrictions.
Sec. 223. Existing activities.
Sec. 224. Enforcement.
Sec. 225. Alarm monitoring services.
Sec. 226. Nonapplicability of Modification of Final Judgment.

TITLE III—AN END TO REGULATION

Sec. 301. Transition to competitive pricing.
Sec. 302. Biennial review of regulations; elimination of unnecessary regulations and functions.
Sec. 303. Regulatory forbearance.
Sec. 304. Advanced telecommunications incentives.
Sec. 305. Regulatory parity.
Sec. 306. Automated ship distress and safety systems.
Sec. 307. Telecommunications numbering administration.
Sec. 308. Access by persons with disabilities.
Sec. 309. Rural markets.
Sec. 310. Telecommunications services for health care providers for rural areas, educational providers, and libraries.
Sec. 311. Provision of payphone service and telemessaging service.
Sec. 312. Direct Broadcast Satellite.

TITLE IV—OBSCENE, HARASSING, AND WRONGFUL UTILIZATION OF TELECOMMUNICATIONS FACILITIES

Sec. 401. Short title.
Sec. 402. Obscene or harassing use of telecommunications facilities under the Communications Act of 1934.
Sec. 403. Obscene programming on cable television.
Sec. 404. Broadcasting obscene language on radio.
Sec. 405. Separability.
Sec. 406. Additional prohibition on billing for toll-free telephone calls.
Sec. 407. Scrambling of cable channels for nonsubscribers.
Sec. 408. Scrambling of sexually explicit adult video service programming.
Sec. 409. Cable operator refusal to carry certain programs.
Sec. 410. Restrictions on access by children to obscene and indecent material on electronic information networks open to the public.

TITLE V—PARENTAL CHOICE IN TELEVISION

Sec. 501. Short title.
Sec. 502. Findings.
Sec. 503. Rating code for violence and other objectionable content on television.
Sec. 504. Requirement for manufacture of televisions that block programs.
Sec. 505. Shipping or importing of televisions that block programs.

TITLE VI—NATIONAL EDUCATION TECHNOLOGY FUNDING CORPORATION

Sec. 601. Short title.
Sec. 602. Findings; purpose.
Sec. 603. Definitions.
Sec. 604. Assistance for educational technology purposes.
Sec. 605. Audits.
Sec. 606. Annual report; testimony to the Congress.

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Spectrum auctions.
Sec. 702. Renewed efforts to regulate violent programming.
Sec. 703. Prevention of unfair billing practices for information or services provided over toll-free telephone calls.
Sec. 704. Disclosure of certain records for investigations of telemarketing fraud.
Sec. 705. Telecommuting public information program.
Sec. 706. Authority to acquire cable systems.

SEC. 3. PURPOSE.

It is the purpose of this Act to increase competition in all telecommunications markets and provide for an orderly transition from regulated markets to competitive and deregulated telecommunications markets consistent with the public interest, convenience, and necessity.

SEC. 4. GOALS.

This Act is intended to establish a national policy framework designed to accelerate rapidly the private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, and to meet the following goals:

(1) To promote and encourage advanced telecommunications networks, capable of enabling users to originate and receive affordable, high-quality voice, data, image, graphic, and video telecommunications services.

(2) To improve international competitiveness markedly.

(3) To spur economic growth, create jobs, and increase productivity.

(4) To deliver a better quality of life through the preservation and advancement of universal service to allow the more efficient delivery of educational, health care, and other social services.

SEC. 5. FINDINGS.

The Congress makes the following findings:

(1) Competition, not regulation, is the best way to spur innovation and the development of new services. A competitive market place is the most efficient way to lower prices and increase value for consumers. In furthering the principle of open and full competition in all telecommunications markets, however, it must be recognized that some markets are more open than others.

(2) Local telephone service is predominantly a monopoly service. Although business customers in metropolitan areas may have alternative providers for exchange access service, consumers do not have a choice of local telephone service. Some States have begun to open local telephone markets to competition. A national policy framework is needed to accelerate the process.

(3) Because of their monopoly status, local telephone companies and the Bell operating companies have been prevented from competing in certain markets. It is time to eliminate these restrictions. Nonetheless, transition rules designed to open monopoly markets to competition must be in place before certain restrictions are lifted.

(4) Transition rules must be truly transitional, not protectionism for certain industry segments or artificial impediments to increased competition in all markets. Where possible, transition rules should create investment incentives through increased competition. Regulatory safeguards should be adopted only where competitive conditions would not prevent anticompetitive behavior.

(5) More competitive American telecommunications markets will promote United States technological advances, domestic job and investment opportunities, national competitiveness, sustained economic development, and improved quality of American life more effectively than regulation.

(6) Congress should establish clear statutory guidelines, standards, and time frames to facilitate more effective communications competition and, by so doing, will reduce business and customer uncertainty, lessen regulatory processes, court appeals, and litigation, and thus encourage the business community to focus more on competing in the domestic and international communications marketplace.

(7) Where competitive markets are demonstrably inadequate to safeguard important public policy goals, such as the continued universal availability of telecommunications services at reasonable and affordable prices, particularly in rural America, Congress should establish workable regulatory procedures to advance those goals, provided that in any proceeding undertaken to ensure universal availability, regulators shall seek to choose the most procompetitive and least burdensome alternative.

(8) Competitive communications markets, safeguarded by effective Federal and State antitrust enforcement, and strong economic growth in the United States which such markets will foster are the most effective means of assuring that all segments of the American public command access to advanced telecommunications technologies.

(9) Achieving full and fair competition requires strict parity of marketplace opportunities and responsibilities on the part of incumbent telecommunications service providers as well as new entrants into the telecommunications marketplace, provided that any responsibilities placed on providers should be the minimum required to advance a clearly defined public policy goal.

(10) Congress should not cede its constitutional responsibility regarding interstate and foreign commerce in communications to the Judiciary through the establishment of procedures which will encourage or necessitate judicial interpretation or intervention into the communications marketplace.

(11) Ensuring that all Americans, regardless of where they may work, live, or visit, ultimately have comparable access to the full benefits of competitive communications markets requires Federal and State authorities to work together affirmatively to minimize and remove unnecessary institutional and regulatory barriers to new entry and competition.

(12) Effectively competitive communications markets will ensure customers the widest possible choice of services and equipment, tailored to individual desires and needs, and at prices they are willing to pay.

(13) Investment in and deployment of existing and future advanced, multipurpose technologies will best be fostered by minimizing government limitations on the commercial use of those technologies.

(14) The efficient development of competitive United States communications markets will be furthered by policies which aim at ensuring reciprocal opening of international investment opportunities.

SEC. 6. AMENDMENT OF COMMUNICATIONS ACT OF 1934.

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 Communications Act of 1934 (47 U.S.C. 151 et seq.).

SEC. 7. EFFECT ON OTHER LAW.

(a) ANTITRUST LAWS.—Except as provided in subsections (b) and (c), nothing in this Act shall be construed to modify, impair, or supersede the applicability of any antitrust law.

(b) MODIFICATION OF FINAL JUDGMENT.—This Act shall supersede the Modification of Final Judgment to the extent that it is inconsistent with this Act.

(c) TRANSFER OF MFJ.—After the date of enactment of this Act, the Commission shall administer any provision of the Modification of Final Judgment not overridden or superseded by this Act. The District Court for the District of Columbia shall have no further jurisdiction over any provision of the Modification of Final Judgment administered by the Commission under this Act or the Communications Act of 1934. The Commission may, consistent with this Act (and the amendments made by this Act), modify any provision of the Modification of Final Judgment that it administers.

(d) GTE CONSENT DECREE.—This Act shall supersede the provisions of the Final Judgment entered in United States v. GTE Corp., No. 83–1298 (D.C. D.C.), and such Final Judgment shall not be enforced after the effective date of this Act.

SEC. 8. DEFINITIONS.

(a) TERMS USED IN THIS ACT.—As used in this Act—

(1) COMMISSION.—The term ''Commission'' means the Federal Communications Commission.

(2) MODIFICATION OF FINAL JUDGMENT.—The term ''Modification of Final Judgment'' means the decree entered on August 24, 1982, in United States v. Western Electric Civil Action No. 82-0192 (United States District Court, District of Columbia), and includes any judgment or order with respect to such action entered on or after August 24, 1982, and before the date of enactment of this Act.

(3) GTE CONSENT DECREE.—The term ''GTE Consent Decree'' means the order entered on December 21, 1984, as restated January 11, 1985, in United States v. GTE Corporation, Civil Action No. 83-1298 (United States District Court, District of Columbia), and includes any judgment or order with respect to such action entered on or after January 11, 1985, and before the date of enactment of this Act.

(4) INTEGRATED TELECOMMUNICATIONS SERVICE PROVIDER.—The term ''integrated telecommunications service provider'' means any person engaged in the provision of multiple services, such as voice, data, image, graphics, and video services, which make common use of all or part of the same transmission facilities, switches, signalling, or control devices.

(b) TERMS USED IN THE COMMUNICATIONS ACT OF 1934.—Section 3 (47 U.S.C. 153) is amended by adding at the end thereof the following:

''(gg) 'Modification of Final Judgment' means the decree entered on August 24, 1982, in United States v. Western Electric Civil Action No. 82-0192 (United States District Court, District of Columbia), and includes any judgment or order with respect to such action entered on or after August 24, 1982, and before the date of enactment of the Telecommunications Competition and Deregulation Act of 1995.

''(hh) 'Bell operating company' means any company listed in appendix A of the Modification of Final Judgment to the extent such company provides telephone exchange service or exchange access service, and includes any successor or assign of any such company, but does not include any affiliate of such company.

''(ii) 'Affiliate' means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this paragraph, the term 'own' means to own an equity interest (or the equivalent thereof) of more than 10 percent.

''(jj) 'Telecommunications Act of 1995' means the Telecommunications Competition and Deregulation Act of 1995.

''(kk) 'Local exchange carrier' means a provider of telephone exchange service or exchange access service.

''(ll) 'Telecommunications' means the transmission, between or among points specified by the user, of information of the user's choosing, including voice, data, image, graphics, and video, without change in the form or content of the information, as sent and received, with or without benefit of any closed transmission medium.

''(mm) 'Telecommunications service' means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used to transmit the telecommunications service.

''(nn) 'Telecommunications carrier' means any provider of telecommunications services, except that such term does not include hotels, motels, hospitals, and other aggregators of telecommunications services (as defined in section 226). A telecommunications carrier shall only be treated as a common carrier under this Act to the extent that it is engaged in providing telecommunications services for voice, data, image, graphics, or video that it does not own, control, or select, except that the Commission shall continue to determine whether the provision of fixed and mobile satellite service shall be treated as common carriage.

''(oo) 'Telecommunications number portability' means the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.

''(pp) 'Information service' means the offering of services that—

''(1) employ computer processing applications that act on the format, content, code, protocol, or similar aspects of the subscriber's transmitted information;

''(2) provide the subscriber additional, different, or restructured information; or

''(3) involve subscriber interaction with stored information.

''(qq) 'Cable service' means cable service as defined in section 602.

''(rr) 'Rural telephone company' means a telecommunications carrier operating entity to the extent that such entity provides telephone exchange service, including access service subject to part 69 of the Commission's rules (47 C.F.R. 69.1 et seq.), to—

''(1) any service area that does not include either—

''(A) any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recent population statistics of the Bureau of the Census; or

''(B) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of the Census as of January 1, 1995; or

''(2) fewer than 100,000 access lines within a State.

''(ss) 'Service area' means a geographic area established by the Commission and the States for the purpose of determining universal service obligations and support mechanisms. In the case of an area served by a rural telephone company, 'service area' means such company's 'study area' unless and until the Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company.

''(tt) 'LATA' means a local access and transport area as defined in United States v. Western Electric Co., 569 F. Supp. 990 (U. S. District Court, District of Columbia) and subsequent judicial orders relating thereto, except that, with respect to commercial mobile services, the term 'LATA' means the geographic areas defined or used by the Commission in issuing licenses for such services: *Provided however,* That in the case of a Bell operating company cellular affiliate, such geographic area shall be no smaller than the LATA area for such affiliate on the date of enactment of the Telecommunications Act of 1995.''.

TITLE I—TRANSITION TO COMPETITION

SEC. 101. INTERCONNECTION REQUIREMENTS.

(a) REQUIRED INTERCONNECTION.—Title II (47 U.S.C. 201 et seq.) is amended by inserting after section 228 the following:

''Part II—Competition in Telecommunications

''SEC. 251. INTERCONNECTION.

''(a) DUTY TO PROVIDE INTERCONNECTION.—

''(1) IN GENERAL.—A local exchange carrier, or class of local exchange carriers, determined by the Commission to have market power in providing telephone exchange service or exchange access service has a duty under this Act, upon request—

''(A) to enter into good faith negotiations with any telecommunications carrier requesting interconnection between the facilities and equipment of the requesting telecommunications carrier and the carrier, or class of carriers, of which the request was made for the purpose of permitting the telecommunications carrier to provide telephone exchange or exchange access service; and

''(B) to provide such interconnection, at rates that are reasonable and nondiscriminatory, according to the terms of the agreement and in accordance with the requirements of this section.

''(2) INITIATION.—A local exchange carrier, or class of carriers, described in paragraph (1) shall commence good faith negotiations to conclude an agreement, whether through negotiation under subsection (c) or arbitration or intervention under subsection (d), within 15 days after receiving a request from any telecommunications carrier seeking to provide telephone exchange or exchange access service. Nothing in this Act shall prohibit multilateral negotiations between or among a local exchange carrier or class of carriers and a telecommunications carrier or class of carriers seeking interconnection under subsection (c) or subsection (d). At the request of any of the parties to a negotiation, a State may participate in the negotiation of any portion of an agreement under subsection (c).

''(3) MARKET POWER.—For the purpose of determining whether a carrier has market power under paragraph (1), the relevant market shall include all providers of telephone exchange or exchange access services in a local area, regardless of the technology used by any such provider.

''(b) MINIMUM STANDARDS.—An interconnection agreement entered into under this section shall, if requested by a telecommunications carrier requesting interconnection, provide for—

''(1) nondiscriminatory access on an unbundled basis to the network functions and services of the local exchange carrier's telecommunications network (including switching software, to the extent defined in implementing regulations by the Commission);

''(2) nondiscriminatory access on an unbundled basis to any of the local exchange carrier's telecommunications facilities and information, including databases and signaling, necessary to the transmission and routing of any telephone exchange service or exchange access service and the interoperability of both carriers' networks;

''(3) interconnection to the local exchange carrier's telecommunications facilities and services at any technically feasible point within the carrier's network;

''(4) interconnection that is at least equal in type, quality, and price (on a per unit basis or otherwise) to that provided by the local exchange carrier to itself or to any subsidiary, affiliate, or any other party to which the carrier provides interconnection;

''(5) nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by the local exchange carrier at just and reasonable rates;

''(6) the local exchange carrier to take whatever action under its control is necessary, as soon as is technically feasible, to provide telecommunications number portability and local dialing parity in a manner that—

''(A) permits consumers to be able to dial the same number of digits when using any telecommunications carrier providing telephone exchange service or exchange access service in the market served by the local exchange carrier;

''(B) permits all such carriers to have nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing with no unreasonable dialing delays; and

''(C) provides for a reasonable allocation of costs among the parties to the agreement;

''(7) telecommunications services and network functions of the local exchange carrier to be available to the telecommunications carrier on an unbundled basis without any unreasonable conditions on the resale or sharing of those services or functions, including the origination, transport, and termination of such telecommunications services, other than reasonable conditions required by a State; and for purposes of this paragraph, it is not an unreasonable condition for a State to limit the resale—

''(A) of services included in the definition of universal service to a telecommunications carrier who resells that service to a category of customers different from the category of customers being offered that universal service by such carrier if the State orders a carrier to provide the same service to different categories of customers at different prices necessary to promote universal service; or

''(B) of subsidized universal service in a manner that allows companies to charge another carrier rates which reflect the actual cost of providing those services to that carrier, exclusive of any universal service support received for providing such services in accordance with section 214(d)(5);

''(8) reciprocal compensation arrangements for the origination and termination of telecommunications;

''(9) reasonable public notice of changes in the information necessary for the transmission and routing of services using that local exchange carrier's facilities or networks, as well as of any other changes that would affect the interoperability of those facilities and networks; and

''(10) a schedule of itemized charges and conditions for each service, facility, or function provided under the agreement.

''(c) AGREEMENTS ARRIVED AT THROUGH NEGOTIATION.—Upon receiving a request for interconnection, a local exchange carrier may meet its interconnection obligations under this section by negotiating and entering into a binding agreement with the telecommunications carrier seeking interconnection without regard to the standards set forth in subsection (b). The agreement shall include a schedule of itemized charges for each service, facility, or function included in the agreement. The agreement, including any interconnection agreement negotiated before the date of enactment of the Telecommunications Act of 1995, shall be submitted to the State under subsection (e).

''(d) AGREEMENTS ARRIVED AT THROUGH ARBITRATION OR INTERVENTION.—

''(1) IN GENERAL.—Any party negotiating an interconnection agreement under this section may, at any point in the negotiation, ask a State to participate in the negotiation and to arbitrate any differences arising in the course of the negotiation. The refusal of any other party to the negotiation to participate further in the negotiations, to cooperate with the State in carrying out its function as a arbitrator, or to continue to negotiate in good faith in the presence, or with the assistance, of the State shall be considered a failure to negotiate in good faith.

''(2) INTERVENTION.—If any issues remain open in a negotiation commenced under this section more than 135 days after the date upon which the local exchange carrier received the request for such negotiation, then the carrier or any other party to the negotiation may petition a State to intervene in the negotiations for purposes of resolving any such remaining open issues. Any such request must be made during the 25-day period that begins 135 days after the carrier receives the request for such negotiation and ends 160 days after that date.

''(3) DUTY OF PETITIONER.—

''(A) A party that petitions a State under paragraph (2) shall, at the same time as it submits the petition, provide the State all relevant documentation concerning the negotiations necessary to understand—

''(i) the unresolved issues;

''(ii) the position of each of the parties with respect to those issues; and

''(iii) any other issue discussed and resolved by the parties.

''(B) A party petitioning a State under paragraph (2) shall provide a copy of the petition and any documentation to the other party not later than the day on which the State receives the petition.

''(4) OPPORTUNITY TO RESPOND.—A party to a negotiation under this section with respect to which the other party has petitioned a State under paragraph (2) may respond to the other party's petition and provide such additional information as it wishes within 25 days after the State receives the petition.

''(5) ACTION BY STATE.—

''(A) A State proceeding to consider a petition under this subsection shall be conducted in accordance with the rules promulgated by the Commission under subsection (i). The State shall limit its consideration of any petition under paragraph (2) (and any response thereto) to the issues set forth in the petition and in the response, if any, filed under paragraph (4).

''(B) The State may require the petitioning party and the responding party to provide such information as may be necessary for the State to reach a decision on the unresolved issues. If either party refuses or fails unreasonably to respond on a timely basis to any reasonable request from the State, then the State may proceed on the basis of the best information available to it from whatever source derived.

''(C) The State shall resolve each issue set forth in the petition and the response, if any, by imposing appropriate conditions upon the parties to the agreement, and shall conduct the review of the agreement (including the issues resolved by the State) not later than 10 months after the date on which the local exchange carrier received the request for interconnection under this section.

''(D) In resolving any open issues and imposing conditions upon the parties to the agreement, a State shall ensure that the requirements of this section are met by the solution imposed by the State and are consistent with the Commission's rules defining minimum standards.

''(6) CHARGES.—If the amount charged by a local exchange carrier, or class of local exchange carriers, for an unbundled element of the interconnection provided under subsection (b) is determined by arbitration or intervention under this subsection, then the charge—

''(A) shall be

''(i) based on the cost (determined without reference to a rate-of-return or other rate-based proceeding) of providing the unbundled element,

''(ii) nondiscriminatory, and

''(iii) individually priced to the smallest element that is technically feasible and economically reasonable to provide; and

''(B) may include a reasonable profit.

''(e) APPROVAL BY STATE.—Any interconnection agreement under this section shall be submitted for approval to the State. A State to which an agreement is submitted shall approve or reject the agreement, with written findings as to any deficiencies. The State may only reject—

''(1) an agreement under subsection (c) if it finds that the agreement discriminates against a telecommunications carrier not a party to the agreement; and

''(2) an agreement under subsection (d) if it finds that—

''(B) the agreement does not meet the standards set forth in subsection (b), or

''(B) the implementation of the agreement is not in the public interest.

If the State does not act to approve or reject the agreement within 90 days after receiving the agreement, or 30 days in the case of an agreement negotiated under subsection (c), the agreement shall be deemed approved. No State court shall have jurisdiction to review the action of a State in approving or rejecting an agreement under this section.

''(f) FILING REQUIRED.—A State shall make a copy of each agreement approved under subsection (e) available for public inspection and copying within 10 days after the agreement is approved. The State may charge a reasonable and nondiscriminatory fee to the parties to the agreement to cover the costs of approving and filing such agreement.

''(g) AVAILABILITY TO OTHER TELECOMMUNICATIONS CARRIERS.—A local exchange carrier shall make available any service, facility, or function provided under an interconnection agreement to which it is a party to any other telecommunications carrier that requests such interconnection upon the same terms and conditions as those provided in the agreement.

''(h) COLLOCATION.—A State may require telecommunications carriers to provide for actual collocation of equipment necessary for interconnection at the premises of the carrier at reasonable charges, if the State finds actual collocation to be in the public interest.

''(i) IMPLEMENTATION.—

''(1) RULES AND STANDARDS.—The Commission shall promulgate rules to implement the requirements of this section within 6 months after the date of enactment of the Telecommunications Act of 1995. In establishing the standards for determining what facilities and information are necessary for purposes of subsection (b)(2), the Commission shall consider, at a minimum, whether—

''(A) access to such facilities and information that are proprietary in nature is necessary; and

''(B) the failure to provide access to such facilities and information would impair the ability of the telecommunications carrier seeking interconnection to provide the services that it seeks to offer.

''(2) COMMISSION TO ACT IF STATE WILL NOT ACT.—If a State, through action or inaction, fails to carry out its responsibility under this section in accordance with the rules prescribed by the Commission under paragraph (1) in any proceeding or other matter under this section, then the Commission shall issue an order preempting the State's jurisdiction of that proceeding or matter within 90 days after being notified (or taking notice) of such failure, and shall assume the responsibility of the State under this section with respect to the proceeding or matter and act for the State.

''(3) WAIVERS AND MODIFICATIONS FOR RURAL CARRIERS.—The Commission or a State shall, upon petition or on its own initiative, waive or modify the requirements of subsection (b) for a rural telephone company or companies, and may waive or modify the requirements of subsection (b) for local exchange carriers with fewer than 2 percent of the Nation's subscriber lines installed in the aggregate nationwide, to the extent that the Commission or a State determines that such requirements would result in unfair competition, impose a significant adverse economic impact on users of telecommunications services, be technically infeasible, or otherwise not be in the public interest. The Commission or a State shall act upon any petition filed under this paragraph within 180 days of receiving such petition. Pending such action, the Commission or a State may suspend enforcement of the requirement or requirements to which the petition applies with respect to the petitioning carrier or carriers.

''(j) STATE REQUIREMENTS.—Nothing in this section precludes a State from imposing requirements on a telecommunications carrier for intrastate services that are necessary to further competition in the provision of telephone exchange service or exchange access service, as long as the State's requirements are not inconsistent with the Commission's regulations to implement this section.

''(k) ACCESS CHARGE RULES.—Nothing in this section shall affect the Commission's interexchange-to-local exchange access charge rules for local exchange carriers or interexchange carriers in effect on the date of enactment of the Telecommunications Act of 1995.

''(l) REVIEW OF INTERCONNECTION STANDARDS.—Beginning 3 years after the date of enactment of the Telecommunications Act of 1995 and every 3 years thereafter, the Commission shall review the standards and requirements for interconnection established under subsection (b). The Commission shall complete each such review within 180 days and may modify or waive any requirements or standards established under subsection (b) if it determines that the modification or waiver meets the requirements of section 260.

''(m) COMMERCIAL MOBILE SERVICE PROVIDERS.—The requirements of this section shall not apply to commercial mobile services provided by a wireline local exchange carrier unless the Commission determines under subsection (a)(3) that such carrier has market power in the provision of commercial mobile service.''.

(c) TECHNICAL AMENDMENTS.—

(1) Title II (47 U.S.C. 201 et seq.) is amended by inserting before section 201 the following:

''PART I—GENERAL PROVISIONS''.

(2) Section 2(b) (47 U.S.C. 152(b)) is amended by striking ''sections 223 through 227, inclusive, and section 332,'' and inserting ''section 214(d), sections 223 through 227, part II of title II, and section 332,''.

SEC. 102. SEPARATE AFFILIATE AND SAFEGUARD REQUIREMENTS.

(a) IN GENERAL.—Part II of title II (47 U.S.C. 251 et seq.), as added by section 101 of this Act, is amended by inserting after section 251 the following new section:

''SEC. 252. SEPARATE AFFILIATE; SAFEGUARDS.

''(a) SEPARATE AFFILIATE REQUIRED FOR COMPETITIVE ACTIVITIES.—

''(1) IN GENERAL.—A Bell operating company (including any affiliate) which is a local exchange carrier that is subject to the requirements of section 251(a) may not provide any service described in paragraph (2) unless it provides that service through one or more affiliates that—

''(A) are separate from any operating company entity that is subject to the requirements of section 251(a); and

''(B) meet the requirements of subsection (b).

''(2) SERVICES FOR WHICH A SEPARATE AFFILIATE IS REQUIRED.—The services for which a separate affiliate is required by paragraph (1) are:

''(A) Information services, including cable services and alarm monitoring services, other than any information service a Bell operating company was authorized to provide before July 24, 1991.

''(B) Manufacturing services.

''(C) InterLATA services other than—

''(i) incidental services, not including information services;

''(ii) out-of-region services; or

''(iii) services authorized under an order entered by the United States District Court

for the District of Columbia pursuant to the Modification of Final Judgment before the date of enactment of the Telecommunications Act of 1995.

''(b) STRUCTURAL AND TRANSACTIONAL REQUIREMENTS.—The separate affiliate required by this section—

''(1) shall maintain books, records, and accounts in the manner prescribed by the Commission which shall be separate from the books, records, and accounts maintained by the Bell operating company of which it is an affiliate;

''(2) shall have separate officers, directors, and employees from the Bell operating company of which it is an affiliate;

''(3) may not obtain credit under any arrangement that would permit a creditor, upon default, to have recourse to the assets of the Bell operating company; and

''(4) shall conduct all transactions with the Bell operating company of which it is an affiliate on an arm's length basis with any such transactions reduced to writing and available for public inspection.

''(c) NONDISCRIMINATION SAFEGUARDS.—In its dealings with its affiliate described in subsection (a) a Bell operating company—

''(1) may not discriminate between that company or affiliate and any other entity in the provision or procurement of goods, services, facilities, and information, or in the establishment of standards;

''(2) may not provide any goods, services, facilities, or information to such company or affiliate unless the goods, services, facilities, or information are made available to other persons on reasonable and nondiscriminatory terms and conditions, unbundled to the smallest element that is technically feasible and economically reasonable to provide, and at just and reasonable rates that are not higher on a per-unit basis than those charged for such services to any affiliate of such company; and

''(3) shall account for all transactions with an affiliate described in subsection (a) in accordance with generally accepted accounting principles.

''(d) BIENNIAL AUDIT.—

''(1) GENERAL REQUIREMENT.—A company required to operate a separate affiliate under this section shall obtain and pay for a joint Federal/State audit every 2 years conducted by an independent auditor selected by the Commission, and working at the direction of, the Commission and the State commission of each State in which such company provides service, to determine whether such company has complied with this section and the regulations promulgated under this section, and particularly whether such company has complied with the separate accounting requirements under subsection (b).

''(2) RESULTS SUBMITTED TO COMMISSION; STATE COMMISSIONS.—The auditor described in paragraph (1) shall submit the results of the audit to the Commission and to the State commission of each State in which the company audited provides service, which shall make such results available for public inspection. Any party may submit comments on the final audit report.

''(3) ACCESS TO DOCUMENTS.—For purposes of conducting audits and reviews under this subsection—

''(A) the independent auditor, the Commission, and the State commission shall have access to the financial accounts and records of each company and of its affiliates necessary to verify transactions conducted with that company that are relevant to the specific activities permitted under this section and that are necessary for the regulation of rates;

''(B) the Commission and the State commission shall have access to the working papers and supporting materials of any auditor who performs an audit under this section; and

''(C) the State commission shall implement appropriate procedures to ensure the protection of any proprietary information submitted to it under this section.

''(e) JOINT MARKETING.—

''(1) A Bell operating company affiliate required by this section may not market or sell telephone exchange services provided by the Bell operating company unless that company permits other entities offering the same or similar service to market and sell its telephone exchange services.

''(2) A Bell operating company may not market or sell any service provided by an affiliate required by this section until that company has been authorized to provide interLATA services under section 255.

''(3) The joint marketing and sale of services permitted under this subsection shall not be considered to violate the nondiscrimination provisions of subsection (c).

''(f) ADDITIONAL REQUIREMENTS FOR PROVISION OF INTERLATA SERVICES.—A Bell operating company—

''(1) shall fulfill any requests from an unaffiliated entity for exchange access service within a period no longer than that in which it provides such exchange access service to itself or to its affiliates;

''(2) shall fulfill any such requests with exchange access service of a quality that meets or exceeds the quality of exchange access service provided by the Bell operating company to itself or its affiliate;

''(3) shall provide exchange access service to all carriers at rates that are just, reasonable, not unreasonably discriminatory, and based on costs;

''(4) shall not provide any facilities, services, or information concerning its provision of exchange access service to the affiliate described in subsection (a) unless such facilities, services, or information are made available to other providers of interLATA services in that market on the same terms and conditions;

''(5) shall charge the affiliate described in subsection (a), and impute to itself or any intraLATA interexchange affiliate, the same rates for access to its telephone exchange service and exchange access service that it charges unaffiliated interexchange carriers for such service; and

''(6) may provide any interLATA or intraLATA facilities or services to its interLATA affiliate if such services or facilities are made available to all carriers at the same rates and on the same terms and conditions so long as the costs are appropriately allocated.

''(g) PROPRIETARY INFORMATION.—

''(1) IN GENERAL.—In complying with the requirements of this section, each Bell operating company and any affiliate of such company has a duty to protect the confidentiality of propriety information relating to other common carriers, to equipment manufacturers, and to customers. A Bell operating company may not share customer proprietary information in aggregate form with its affiliates unless such aggregate information is available to other carriers or persons under the same terms and conditions. Individually identifiable customer proprietary information and other proprietary information may be—

''(A) shared with any affiliated entity required by this section or with any unaffiliated entity only with the consent of the person to which such information relates or from which it was obtained (including other carriers); or

''(B) disclosed to appropriate authorities pursuant to court order.

''(2) EXCEPTIONS.—Paragraph (1) does not limit the disclosure of individually identifiable customer proprietary information by each Bell operating company as necessary—

''(A) to initiate, render, bill, and collect for telephone exchange service, interexchange service, or telecommunications service requested by a customer; or

''(B) to protect the rights or property of the carrier, or to protect users of any of those services and other carriers from fraudulent, abusive, or unlawful use of, or subscription to, any such service.

''(3) SUBSCRIBER LIST INFORMATION.—For purposes of this subsection, the term 'customer proprietary information' does not include subscriber list information.

''(h) COMMISSION MAY GRANT EXCEPTIONS.—The Commission may grant an exception from compliance with any requirement of this section upon a showing that the exception is necessary for the public interest, convenience, and necessity.

''(i) APPLICATION TO UTILITY COMPANIES.—

''(1) REGISTERED PUBLIC UTILITY HOLDING COMPANY.—A registered company may provide telecommunications services only through a separate subsidiary company that is not a public utility company.

''(2) OTHER UTILITY COMPANIES.—Each State shall determine whether a holding company subject to its jurisdiction—

''(A) that is not a registered holding company, and

''(B) that provides telecommunications service,

is required to provide that service through a separate subsidiary company.

''(3) SAVINGS PROVISION.—Nothing in this subsection or the Telecommunications Act of 1995 prohibits a public utility company from engaging in any activity in which it is legally engaged on the date of enactment of the Telecommunications Act of 1995; provided it complies with the terms of any applicable authorizations.

''(4) DEFINITIONS.—For purposes of this subsection, the terms 'public utility company', 'associate company', 'holding company', 'subsidiary company', 'registered holding company', and 'State commission' have the same meaning as they have in section 2 of the Public Utility Holding Company Act of 1935.''.

(b) IMPLEMENTATION.—The Commission shall promulgate any regulations necessary to implement section 252 of the Communications Act of 1934 (as added by subsection (a)) not later than one year after the date of enactment of this Act. Any separate affiliate established or designated for purposes of section 252(a) of the Communications Act of 1934 before the regulations have been issued in final form shall be restructured or otherwise modified, if necessary, to meet the requirements of those regulations.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act.

SEC. 103. UNIVERSAL SERVICE.

(a) FINDINGS.—The Congress finds that—

(1) the existing system of universal service has evolved since 1930 through an ongoing dialogue between industry, various Federal-State Joint Boards, the Commission, and the courts;

(2) this system has been predicated on rates established by the Commission and the States that require implicit cost shifting by monopoly providers of telephone exchange service through both local rates and access charges to interexchange carriers;

(3) the advent of competition for the provision of telephone exchange service has led to industry requests that the existing system be modified to make support for universal service explicit and to require that all telecommunications carriers participate in the modified system on a competitively neutral basis; and

(4) modification of the existing system is necessary to promote competition in the provision of telecommunications services and to allow competition and new technologies to reduce the need for universal service support mechanisms.

(b) FEDERAL-STATE JOINT BOARD ON UNIVERSAL SERVICE.—

(1) Within one month after the date of enactment of this Act, the Commission shall institute and refer to a Federal-State Joint Board under section 410(c) of the Communications Act of 1934 a proceeding to recommend rules regarding the implementation of section 253 of that Act, including the definition of universal service. The Joint Board shall, after notice and public comment, make its recommendations to the Commission no later than 9 months after the date of enactment of this Act.

(2) The Commission may periodically, but no less than once every 4 years, institute and refer to the Joint Board a proceeding to review the implementation of section 253 of that Act and to make new recommendations, as necessary, with respect to any modifications or additions that may be needed. As part of any such proceeding the Joint Board shall review the definition of, and adequacy of support for, universal service and shall evaluate the extent to which universal service has been protected and advanced.

(c) COMMISSION ACTION.—The Commission shall initiate a single proceeding to implement recommendations from the initial Joint Board required by subsection (a) and shall complete such proceeding within 1 year after the date of enactment of this Act. Thereafter, the Commission shall complete any proceeding to implement recommendations from any further Joint Board required under subsection (b) within one year after receiving such recommendations.

(d) SEPARATIONS RULES.—Nothing in the amendments made by this Act to the Communications Act of 1934 shall affect the Commission's separations rules for local exchange carriers or interexchange carriers in effect on the date of enactment of this Act.

(e) AMENDMENT OF COMMUNICATIONS ACT.—Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 252 the following new section:

"SEC. 253. UNIVERSAL SERVICE.

''(a) UNIVERSAL SERVICE PRINCIPLES.—The Joint Board and the Commission shall base policies for the preservation and advancement of universal service on the following principles:

''(1) Quality services are to be provided at just, reasonable, and affordable rates.

''(2) Access to advanced telecommunications and information services should be provided in all regions of the Nation.

''(3) Consumers in rural and high cost areas should have access to telecommunications and information services, including interexchange services, that are reasonably comparable to those services provided in urban areas.

''(4) Consumers in rural and high cost areas should have access to telecommunications and information services at rates that are reasonably comparable to rates charged for similar services in urban areas.

''(5) Consumers in rural and high cost areas should have access to the benefits of advanced telecommunications and information services for health care, education, economic development, and other public purposes.

''(6) There should be a coordinated Federal-State universal service system to preserve and advance universal service using specific and predictable Federal and State mechanisms administered by an independent, nongovernmental entity or entities.

''(7) Elementary and secondary schools and classrooms should have access to advanced telecommunications services.

''(b) DEFINITION.—

''(1) IN GENERAL.—Universal service is an evolving level of intrastate and interstate telecommunications services that the Commission, based on recommendations from the public, Congress, and the Federal-State Joint Board periodically convened under section 103 of the Telecommunications Act of 1995, and taking into account advances in telecommunications and information technologies and services, determines—

''(A) should be provided at just, reasonable, and affordable rates to all Americans, including those in rural and high cost areas and those with disabilities;

''(B) are essential in order for Americans to participate effectively in the economic, academic, medical, and democratic processes of the Nation; and

''(C) are, through the operation of market choices, subscribed to by a substantial majority of residential customers.

''(2) DIFFERENT DEFINITION FOR CERTAIN PURPOSES.—The Commission may establish a different definition of universal service for schools, libraries, and health care providers for the purposes of section 264.

''(c) ALL TELECOMMUNICATIONS CARRIERS MUST PARTICIPATE.—Every telecommunications carrier engaged in instrastate, interstate, or foreign communication shall participate, on an equitable and nondiscriminatory basis, in the specific and predictable mechanisms established by the Commission and the States to preserve and advance universal service. Such participation shall be in the manner determined by the Commission and the States to be reasonably necessary to preserve and advance universal service. Any other provider of telecommunications may be required to participate in the preservation and advancement of universal service, if the public interest so requires.

''(d) STATE AUTHORITY.—A State may adopt regulations to carry out its responsibilities under this section, or to provide for additional definitions, mechanisms, and standards to preserve and advance universal service within that State, to the extent that such regulations do not conflict with the Commission's rules to implement this section. A State may only enforce additional definitions or standards to the extent that it adopts additional specific and predictable mechanisms to support such definitions or standards.

''(e) ELIGIBILITY FOR UNIVERSAL SERVICE SUPPORT.—To the extent necessary to provide for specific and predictable mechanisms to achieve the purposes of this section, the Commission shall modify its existing rules for the preservation and advancement of universal service. Only essential telecommunications carriers designated under section 214(d) shall be eligible to receive support for the provision of universal service. Such support, if any, shall accurately reflect what is necessary to preserve and advance universal service in accordance with this section and the other requirements of this Act.

''(f) UNIVERSAL SERVICE SUPPORT.—The Commission and the States shall have as their goal the need to make any support for universal service explicit, and to target that support to those essential telecommunications carriers that serve areas for which such support is necessary. The specific and predictable mechanisms adopted by the Commission and the States shall ensure that essential telecommunications carriers are able to provide universal service at just, reasonable, and affordable rates. A carrier that receives universal service support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

''(g) INTEREXCHANGE SERVICES.—The rates charged by any provider of interexchange telecommunications service to customers in rural and high cost areas shall be no higher than those charged by such provider to its customers in urban areas.

''(h) SUBSIDY OF COMPETITIVE SERVICES PROHIBITED.—A telecommunications carrier may not use services that are not competitive to subsidize competitive services. The Commission, with respect to interstate services, and the States, with respect to intrastate services, shall establish any necessary cost allocation rules, accounting safeguards, and guidelines to ensure that services included in the definition of universal service bear no more than a reasonable share of the joint and common costs of facilities used to provide those services.

''(i) CONGRESSIONAL NOTIFICATION REQUIRED.—

''(1) IN GENERAL.—The Commission may not take action to require participation by telecommunications carriers or other providers of telecommunications under subsection (c), or to modify its rules to increase support for the preservation and advancement of universal service, until—

''(A) the Commission submits to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Commerce of the House of Representatives a report on the participation required, or the increase in support proposed, as appropriate; and

''(B) a period of 120 days has elapsed since the date the report required under paragraph (1) was submitted.

''(2) NOT APPLICABLE TO REDUCTIONS.—This subsection shall not apply to any action taken to reduce costs to carriers or consumers.

''(j) EFFECT ON COMMISSION'S AUTHORITY.—Nothing in this section shall be construed to expand or limit the authority of the Commission to preserve and advance universal service under this Act.

''(k) EFFECTIVE DATE.—This section takes effect on the date of enactment of the Telecommunications Act of 1995, except for subsections (c), (d), (e), (f), and (i) which take effect one year after the date of enactment of that Act.''.

(f) PROHIBITION ON EXCLUSION OF AREAS FROM SERVICE BASED ON RURAL LOCATION, HIGH COSTS, OR INCOME.—Part II of title II (47 U.S.C. 201 et seq.) as amended by this Act, is amended by adding after section 253 the following:

"SEC. 253A PROHIBITION ON EXCLUSION OF AREAS FROM SERVICE BASED ON RURAL LOCATION, HIGH COSTS, OR INCOME.

''(a) The Commission shall prohibit any telecommunications carrier from excluding from any of such carrier's services any high-cost area, or any area on the basis of the rural location or the income of the residents of such area: *Provided,* That a carrier may exclude an area in which the carrier can demonstrate that—

''(1) there will be insufficient consumer demand for the carrier to earn some return over the long term on the capital invested to provide such service to such area, and—

''(2) providing a service to such area will be less profitable for the carrier than providing the service in areas to which the carrier is already providing or has proposed to provide the service.

''(b) The Commission shall provide for public comment on the adequacy of the carrier's proposed service area on the basis of the requirements of this section.''.

SEC. 104. ESSENTIAL TELECOMMUNICATIONS CARRIERS.

(a) IN GENERAL.—Section 214(d) (47 U.S.C. 214(d)) is amended—

(1) by inserting ''(1) ADEQUATE FACILITIES REQUIRED.—'' before ''The Commission''; and

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

''(2) DESIGNATION OF ESSENTIAL CARRIER.—If one or more common carriers provide telecommunications service to a geographic area, and no common carrier will provide universal service to an unserved community or any portion thereof that requests such service within such area, then the Commission, with respect to interstate services, or a State, with respect to intrastate services, shall determine which common carrier serving that area is best able to provide universal service to the requesting unserved community or portion thereof, and shall designate that common carrier as an essential telecommunications carrier for that unserved community or portion thereof.

''(3) ESSENTIAL CARRIER OBLIGATIONS.—A common carrier may be designated by the Commission, or by a State, as appropriate, as an essential telecommunications carrier for a specific service area and become eligible to receive universal service support under section 253. A carrier designated as an essential telecommunications carrier shall—

''(A) provide through its own facilities or through a combination of its own facilities and resale of services using another carrier's facilities, universal service and any additional service (such as 911 service) required by the Commission or the State, to any community or portion thereof which requests such service;

''(B) offer such services at nondiscriminatory rates established by the Commission, for interstate services, and the State, for intrastate services, throughout the service area; and

''(C) advertise throughout the service area the availability of such services and the rates for such services using media of general distribution.

''(4) MULTIPLE ESSENTIAL CARRIERS.—If the Commission, with respect to interstate services, or a State, with respect to intrastate services, designates more than one common carrier as an essential telecommunications carrier for a specific service area, such carrier shall meet the service, rate, and advertising requirements imposed by the Commission or State on any other essential telecommunications carrier for that service area. A State shall require that, before designating an additional essential telecommunications carrier, the State agency authorized to make the designation shall find that—

''(A) the designation of an additional essential telecommunications carrier is in the public interest and that there will not be a significant adverse impact on users of telecommunications services or on the provision of universal service;

''(B) the designation encourages the development and deployment of advanced telecommunications infrastructure and services in rural areas; and

''(C) the designation protects the public safety and welfare, ensures the continued quality of telecommunications services, or safeguards the rights of consumers.

''(5) RESALE OF UNIVERSAL SERVICE.—The Commission, for interstate services, and the States, for intrastate services, shall establish rules to govern the resale of universal service to allocate any support received for the provision of such service in a manner that ensures that the carrier whose facilities are being resold is adequately compensated for their use, taking into account the impact of the resale on that carrier's ability to maintain and deploy its network as a whole. The Commission shall also establish, based on the recommendations of the Federal-State Joint Board instituted to implement this section, rules to permit a carrier designated as an essential telecommunications carrier to relinquish that designation for a specific service area if another telecommunications carrier is also designated as an essential telecommunications carrier for that area. The rules—

''(A) shall ensure that all customers served by the relinquishing carrier continue to be served, and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining essential telecommunications carrier if such remaining carrier provided universal service through resale of the facilities of the relinquishing carrier; and

''(B) shall establish criteria for determining when a carrier which intends to utilize resale to meet the requirements for designation under this subsection has adequate resources to purchase, construct, or otherwise obtain the facilities necessary to meet its obligation if the reselling carrier is no longer able or obligated to resell the service.

''(6) ENFORCEMENT.—A common carrier designated by the Commission or a State as an essential telecommunications carrier that refuses to provide universal service within a reasonable period to an unserved community or portion thereof which requests such service shall forfeit to the United States, in the case of interstate services, or the State, in the case of intrastate services, a sum of up to $10,000 for each day that such carrier refuses to provide such service. In determining a reasonable period the Commission or the State, as appropriate, shall consider the nature of any construction required to serve such requesting unserved community or portion thereof, as well as the construction intervals normally attending such construction, and shall allow adequate time for regulatory approvals and acquisition of necessary financing.

''(7) INTEREXCHANGE SERVICES.—The Commission, for interstate services, or a State, for intrastate services, shall designate an essential telecommunications carrier for interexchange services for any unserved community or portion thereof requesting such services. Any common carrier designated as an essential telecommunications carrier for interexchange services under this paragraph shall provide interexchange services included in universal service to any unserved community or portion thereof which requests such service. The service shall be provided at nationwide geographically averaged rates for interstate interexchange services and at geographically averaged rates for intrastate interexchange services, and shall be just and reasonable and not unjustly or unreasonably discriminatory. A common carrier designated as an essential telecommunications carrier for interexchange services under this paragraph that refuses to provide interexchange service in accordance with this paragraph to an unserved community or portion thereof that requests such service within 180 days of such request shall forfeit to the United States a sum of up to $50,000 for each day that such carrier refuses to provide such service. The Commission or the State, as appropriate, may extend the 180-day period for providing interexchange service upon a showing by the common carrier of good faith efforts to comply within such period.

''(8) IMPLEMENTATION.—The Commission may, by regulation, establish guidelines by which States may implement the provisions of this section.''.

(b) CONFORMING AMENDMENT.—The heading for section 214 is amended by inserting a semicolon and ''essential telecommunications carriers'' after ''lines''.

(c) TRANSITION RULE.—A rural telephone company is eligible to receive universal service support payments under section 253(e) of the Communications Act of 1934 as if such company were an essential telecommunications carrier until such time as the Commission, with respect to interstate services, or a State, with respect to intrastate services, designates an essential telecommunications carrier or carriers for the area served by such company under section 214 of that Act.

SEC. 105. FOREIGN INVESTMENT AND OWNERSHIP REFORM.

(a) IN GENERAL.—Section 310 (47 U.S.C. 310) is amended by adding at the end thereof the following new subsection:

''(f) TERMINATION OF FOREIGN OWNERSHIP RESTRICTIONS.—

''(1) RESTRICTION NOT TO APPLY WHERE RECIPROCITY FOUND.—Subsection (b) shall not apply to any common carrier license held, or for which application is made, after the date of enactment of the Telecommunications Act of 1995 with respect to any alien (or representative thereof), corporation, or foreign government (or representative thereof) if the Commission determines that the foreign country of which such alien is a citizen, in which such corporation is organized, or in which such foreign government is in control provides equivalent market opportunities for common carriers to citizens of the United States (or their representatives), corporations organized in the United States, and the United States Government (or its representative): *Provided*, That the President does not object within 15 days of such determination. If the President objects to a determination, the President shall, immediately upon such objection, submit to Congress a written report (in unclassified form, but with a classified annex if necessary) that sets forth a detailed explanation of the findings made and factors considered in objecting to the determination. The determination of whether market opportunities are equivalent shall be made on a market segment specific basis within 180 days after the application is filed. While determining whether such opportunities are equivalent on that basis, the Commission shall also conduct an evaluation of opportunities for access to all segments of the telecommunications market of the applicant.

''(2) SNAPBACK FOR RECIPROCITY FAILURE.—If the Commission determines that any foreign country with respect to which it has made a determination under paragraph (1) ceases to meet the requirements for that determination, then—

''(A) subsection (b) shall apply with respect to such aliens, corporations, and government (or their representatives) on the date on which the Commission publishes notice of its determination under this paragraph, and

''(B) any license held, or application filed, which could not be held or granted under subsection (b) shall be withdrawn, or denied, as the case may be, by the Commission under the provisions of subsection (b).''.

(b) CONFORMING AMENDMENT.—Section 332(c)(6) (47 U.S.C. 332(c)(6)) is amended by adding at the end thereof the following:

''This paragraph does not apply to any foreign ownership interest or transfer of ownership to which section 310(b) does not apply because of section 310(f).''.

(c) THE APPLICATION OF THE EXON-FLORIO LAW.—Nothing in this section (47 U.S.C. 310) shall limit in any way the application of the Exon-Florio law (50 U.S.C. App. 2170) to any transaction.

SEC. 106. INFRASTRUCTURE SHARING.

(a) REGULATIONS REQUIRED.—The Commission shall prescribe, within one year after

the date of enactment of this Act, regulations that require local exchange carriers that were subject to Part 69 of the Commission's rules on or before that date to make available to any qualifying carrier such public switched network infrastructure, technology, information, and telecommunications facilities and functions as may be requested by such qualifying carrier for the purpose of enabling such qualifying carrier to provide telecommunications services, or to provide access to information services, in the service area in which such qualifying carrier has requested and obtained designation as an essential telecommunications carrier under section 214(d) and provides universal service by means of its own facilities.

(b) TERMS AND CONDITIONS OF REGULATIONS.—The regulations prescribed by the Commission pursuant to this section shall—

(1) not require a local exchange carrier to which this section applies to take any action that is economically unreasonable or that is contrary to the public interest;

(2) permit, but shall not require, the joint ownership or operation of public switched network infrastructure and services by or among such local exchange carrier and a qualifying carrier;

(3) ensure that such local exchange carrier will not be treated by the Commission or any State as a common carrier for hire or as offering common carrier services with respect to any infrastructure, technology, information, facilities, or functions made available to a qualifying carrier in accordance with regulations issued pursuant to this section;

(4) ensure that such local exchange carrier makes such infrastructure, technology, information, facilities, or functions available to a qualifying carrier on just and reasonable terms and conditions that permit such qualifying carrier to fully benefit from the economies of scale and scope of such local exchange carrier, as determined in accordance with guidelines prescribed by the Commission in regulations issued pursuant to this section;

(5) establish conditions that promote cooperation between local exchange carriers to which this section applies and qualifying carriers;

(6) not require a local exchange carrier to which this section applies to engage in any infrastructure sharing agreement for any services or access which are to be provided or offered to consumers by the qualifying carrier in such local exchange carrier's telephone exchange area; and

(7) require that such local exchange carrier file with the Commission or State for public inspection, any tariffs, contracts, or other arrangements showing the rates, terms, and conditions under which such carrier is making available public switched network infrastructure and functions under this section.

(c) INFORMATION CONCERNING DEPLOYMENT OF NEW SERVICES AND EQUIPMENT.—A local exchange carrier to which this section applies that has entered into an infrastructure sharing agreement under this section shall provide to each party to such agreement timely information on the planned deployment of telecommunications services and equipment, including any software or upgrades of software integral to the use or operation of such telecommunications equipment.

(d) DEFINITIONS.—For purposes of this section—

(1) QUALIFYING CARRIER.—The term ''qualifying carrier'' means a telecommunications carrier that—

(A) lacks economies of scale or scope, as determined in accordance with regulations prescribed by the Commission pursuant to this section; and

(B) is a common carrier which offers telephone exchange service, exchange access service, and any other service that is included in universal service, to all consumers without preference throughout the service area for which such carrier has been designated as an essential telecommunications carrier under section 214(d) of the Communications Act of 1934.

(2) OTHER TERMS.—Any term used in this section that is defined in the Communications Act of 1934 has the same meaning as it has in that Act.

SEC. 107. COORDINATION FOR TELECOMMUNICATIONS NETWORK-LEVEL INTEROPERABILITY.

(a) IN GENERAL.—To promote nondiscriminatory access to telecommunications networks by the broadest number of users and vendors of communications products and services through—

(1) coordinated telecommunications network planning and design by common carriers and other providers of telecommunications services, and

(2) interconnection of telecommunications networks, and of devices with such networks, to ensure the ability of users and information providers to seamlessly and transparently transmit and receive information between and across telecommunications networks,

the Commission may participate, in a manner consistent with its authority and practice prior to the date of enactment of this Act, in the development by appropriate voluntary industry standards-setting organizations to promote telecommunications network-level interoperability.

(b) DEFINITION OF TELECOMMUNICATIONS NETWORK-LEVEL INTEROPERABILITY.—As used in this section, the term ''telecommunications network-level interoperability'' means the ability of 2 or more telecommunications networks to communicate and interact in concert with each other to exchange information without degeneration.

(c) COMMISSION'S AUTHORITY NOT LIMITED.—Nothing in this section shall be construed as limiting the existing authority of the Commission.

TITLE II—REMOVAL OF RESTRICTIONS TO COMPETITION

Subtitle A—Removal of Restrictions

SEC. 201. REMOVAL OF ENTRY BARRIERS.

(a) PREEMPTION OF STATE RULES.—Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 253 the following:

''SEC. 254. REMOVAL OF BARRIERS TO ENTRY.

''(a) IN GENERAL.—No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications services.

''(b) STATE REGULATORY AUTHORITY.—Nothing in this section shall affect the ability of a State to impose, on a competitively neutral basis and consistent with section 253, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.

''(c) STATE AND LOCAL GOVERNMENT AUTHORITY.—Nothing in this section affects the authority of a State or local government to manage the public rights-of-way or to require fair and reasonable compensation from telecommunications providers, on a competitively neutral and nondiscriminatory basis, for use of public rights-of-way on a nondiscriminatory basis, if the compensation required is publicly disclosed by such government.

''(d) PREEMPTION.—If, after notice and an opportunity for public comment, the Commission determines that a State or local government has permitted or imposed any statute, regulation, or legal requirement that violates subsection (a) or (b), the Commission shall preempt the enforcement of such statute, regulation, or legal requirement to the extent necessary to correct such violation or inconsistency.

''(e) COMMERCIAL MOBILE SERVICES PROVIDERS.—Nothing in this section shall affect the application of section 332(c)(3) to commercial mobile services providers.''.

(b) PROVISION OF TELECOMMUNICATIONS SERVICES BY A CABLE OPERATOR.—

(1) JURISDICTION OF FRANCHISING AUTHORITY.—Section 621(b) (47 U.S.C. 541(b)) is amended by adding at the end thereof the following new paragraph:

''(3)(A) To the extent that a cable operator or affiliate thereof is engaged in the provision of telecommunications services—

''(i) such cable operator or affiliate shall not be required to obtain a franchise under this title for the provision of telecommunications services; and

''(ii) the provisions of this title shall not apply to such cable operator or affiliate for the provision of telecommunications services.

''(B) A franchising authority may not order a cable operator or affiliate thereof to discontinue the provision of a telecommunications service.

''(C) A franchising authority may not require a cable operator to provide any telecommunications service or facilities as a condition of the initial grant of a franchise, franchise renewal, or transfer of a franchise.

''(D) Nothing in this paragraph affects existing Federal or State authority with respect to telecommunications services.''.

(2) FRANCHISE FEES.—Section 622(b) (47 U.S.C. 542(b)) is amended by inserting ''to provide cable services'' immediately before the period at the end of the first sentence.

(c) STATE AND LOCAL TAX LAWS.—Except as provided in section 202, nothing in this Act (or in the Communications Act of 1934 as amended by this Act) shall be construed to modify, impair, or supersede, or authorize the modification, impairment, or supersession of, any State or local law pertaining to taxation that is consistent with the requirements of the Constitution of the United States, this Act, the Communications Act of 1934, or any other applicable Federal law.

(d) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act.

SEC. 202. ELIMINATION OF CABLE AND TELEPHONE COMPANY CROSS-OWNERSHIP RESTRICTION.

(a) IN GENERAL.—Section 613(b) (47 U.S.C. 533(b)) is amended to read as follows:

''(b) VIDEO PROGRAMMING AND CABLE SERVICES.—

''(1) DISTINCTION BETWEEN VIDEO PLATFORM AND CABLE SERVICE.—To the extent that any telecommunications carrier carries video programming provided by others, or provides video programming that it owns, controls, or selects directly to subscribers, through a common carrier video platform, neither the telecommunications carrier nor any video programming provider making use of such platform shall be deemed to be a cable operator providing cable service. To the extent that any telecommunications carrier provides video programming directly to subscribers through a cable system, the carrier shall be deemed to be a cable operator providing cable service.

''(2) BELL OPERATING COMPANY ACTIVITIES.—

''(A) Notwithstanding the provisions of section 252, to the extent that a Bell operating company carries video programming provided by others or provides video programming that it owns, controls, or selects over a common carrier video platform, it need not use a separate affiliate if—

''(i) the carrier provides facilities, services, or information to all programmers on the same terms and conditions as it provides such facilities, services, or information to its own video programming operations, and

''(ii) the carrier does not use its telecommunications services to subsidize its provision of video programming.

''(B) To the extent that a Bell operating company provides cable service as a cable operator, it shall provide such service through an affiliate that meets the requirements of section 252 (a), (b), and (d) and the Bell operating company's telephone exchange services and exchange access services shall meet the requirements of subparagraph (A)(ii) and section 252(c); except that, to the extent the Bell operating company provides cable service utilizing its own telephone exchange facilities, section 252(c) shall not require the Bell operating company to make video programming services capacity available on a non-discriminatory basis to other video programming services providers.

''(C) Upon a finding by the Commission that the requirement of a separate affiliate under the preceding subparagraph is no longer necessary to protect consumers, competition, or the public interest, the Commission shall exempt a Bell operating company from that requirement.

''(3) COMMON CARRIER VIDEO PLATFORM.—Nothing in this Act precludes a telecommunications carrier from carrying video programming provided by others directly to subscribers over a common carrier video platform. Nothing in this Act precludes a video programming provider making use of a common carrier video platform from being treated as an operator of a cable system for purposes of section 111 of title 17, United States Code.

''(4) RATES; ACCESS.—Notwithstanding paragraph (2)(A)(i), a provider of common carrier video platform services shall provide local broadcast stations, and to those public, educational, and governmental entities required by local franchise authorities to be given access to cable systems operating in the same market as the common carrier video platform, with access to that platform for the transmission of television broadcast programming at rates no higher than the incremental-cost-based rates of providing such access. Local broadcast stations shall be entitled to obtain access on the first tier of programming on the common carrier video platform. If the area covered by the common carrier video platform includes more than one franchising area, then the Commission shall determine the number of channels allocated to public, educational, and governmental entities that may be eligible for such rates for that platform.

''(5) COMPETITIVE NEUTRALITY.—A provider of video programming may be required to pay fees in lieu of franchise fees (as defined in section 622(g)(1)) if the fees—

''(A) are competitively neutral; and

''(B) are separately identified in consumer billing.

''(6) ACQUISITIONS; JOINT VENTURES; PARTNERSHIPS; JOINT USE OF FACILITIES.—

''(A) LOCAL EXCHANGE CARRIERS.—No local exchange carrier or any affiliate of such carrier owned by, operated by, controlled by, or under common control with such carrier may purchase or otherwise acquire more than a 10 percent financial interest, or any management interest, in any cable operator providing cable service within the local exchange carrier's telephone service area.

''(B) CABLE OPERATORS.—No cable operator or affiliate of a cable operator that is owned by, operated by, controlled by, or under common ownership with such cable operator may purchase or otherwise acquire, directly or indirectly, more than a 10 percent financial interest, or any management interest, in any local exchange carrier providing telephone exchange service within such cable operator's franchise area.

''(C) JOINT VENTURE.—A local exchange carrier and a cable operator whose telephone service area and cable franchise area, respectively, are in the same market may not enter into any joint venture or partnership to provide video programming directly to subscribers or to provide telecommunications services within such market.

''(D) EXCEPTION.—Notwithstanding subparagraphs (A), (B), and (C) of this paragraph, a local exchange carrier (with respect to a cable system located in its telephone service area) and a cable operator (with respect to the facilities of a local exchange carrier used to provide telephone exchange service in its cable franchise area) may obtain a controlling interest in, management interest in, or enter into a joint venture or partnership with such system or facilities to the extent that such system or facilities only serve incorporated or unincorporated—

''(i) places or territories that have fewer than 50,000 inhabitants; and

''(ii) are outside an urbanized area, as defined by the Bureau of the Census.

''(E) WAIVER.—The Commission may waive the restrictions of subparagraph (A), (B), or (C) only if the Commission determines that, because of the nature of the market served by the affected cable system or facilities used to provide telephone exchange service—

''(i) the incumbent cable operator or local exchange carrier would be subjected to undue economic distress by the enforcement of such provisions,

''(ii) the system or facilities would not be economically viable if such provisions were enforced, or

''(iii) the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

''(F) JOINT USE.—Notwithstanding subparagraphs (A), (B), and (C), a telecommunications carrier may obtain within such carrier's telephone service area, with the concurrence of the cable operator on the rates, terms, and conditions, the use of that portion of the transmission facilities of such a cable system extending from the last multiuser terminal to the premises of the end user in excess of the capacity that the cable operator uses to provide its own cable services. A cable operator that provides access to such portion of its transmission facilities to one telecommunications carrier shall provide nondiscriminatory access to such portion of its transmission facilities to any other telecommunications carrier requesting such access.

''(G) SAVINGS CLAUSE.—Nothing in this paragraph affects—

''(i) the authority of a local franchising authority (in the case of the purchase or acquisition of a cable operator, or a joint venture to provide cable service) or a State Commission (in the case of the acquisition of a local exchange carrier, or a joint venture to provide telephone exchange service) to approve or disapprove a purchase, acquisition, or joint venture, or

''(ii) the antitrust laws, as described in section 7(a) of the Telecommunications Competition and Deregulation Act of 1995.''.

(b) NO PERMIT REQUIRED FOR VIDEO PROGRAMMING SERVICES.—Section 214 (47 U.S.C. 214) is amended by adding at the end thereof the following:

''(e) SPECIAL RULE.—No certificate is required under this section for a carrier to construct facilities to provide video programming services.''.

(c) SAFEGUARDS.—Within one year after the date of enactment of this Act, the Commission shall prescribe regulations that—

(1) require a telecommunications carrier that provides video programming directly to subscribers to ensure that subscribers are offered the means to obtain access to the signals of local broadcast television stations identified under section 614 as readily as they are today;

(2) require such a carrier to display clearly and prominently at the beginning of any program guide or menu of program offerings the identity of any signal of any television broadcast station that is carried by the carrier;

(3) require such a carrier to ensure that viewers are able to access the signal of any television broadcast station that is carried by that carrier without first having to view advertising or promotional material, or a navigational device, guide, or menu that omits broadcasting services as an available option;

(4) except as required by paragraphs (1) through (3), prohibit such carrier and a multichannel video programming distributor using the facilities of such carrier from discriminating among video programming providers with respect to material or information provided by the carrier to subscribers for the purposes of selecting programming, or in the way such material or information is presented to subscribers;

(5) require such carrier and a multichannel video programming distributor using the facilities of such carrier to ensure that video programming providers or copyright holders (or both) are able suitably and uniquely to identify their programming services to subscribers;

(6) if such identification is transmitted as part of the programming signal, require a telecommunications carrier that provides video programming directly to subscribers and a multichannel video programming distributor using the facilities of such carrier to transmit such identification without change or alteration;

(7) prohibit such carrier from discriminating among video programming providers with regard to carriage and ensure that the rates, terms, and conditions for such carriage are just, reasonable, and nondiscriminatory;

(8) extend to such carriers and multichannel video programming distributors using the facilities of such carrier the Commission's regulations concerning network nonduplication (47 C.F.R. 76.92 et seq.) and syndicated exclusivity (47 C.F.R. 76.171 et seq.); and

(9) extend to such carriers and multichannel video programming distributors using the facilities of such carrier the protections afforded to local broadcast signals in section 614(b)(3), 614(b)(4)(A), and 615(g)(1) and (2) of such Act (47 U.S.C. 534(b)(3), 534(b)(4)(A), and 535(g)(1) and (2)).

(d) ENFORCEMENT.—The Commission shall resolve disputes under subsection (c) and the regulations prescribed under that subsection. Any such dispute shall be resolved with 180 days after notice of the dispute is submitted to the Commission. At that time, or subsequently in a separate proceeding, the Commission may award damages sustained in consequence of any violation of this section to any person denied carriage, or require carriage, or both. Any aggrieved party may also

seek any other remedy available under the law.

(e) EFFECTIVE DATES.—The amendment made by subsection (a) takes effect on the date of enactment of this Act. The amendment made by subsection (b) takes effect 1 year after that date.

SEC. 203. CABLE ACT REFORM.

(a) CHANGE IN DEFINITION OF CABLE SYSTEM.—Section 602(7) (47 U.S.C. 522(7)) is amended by striking out ''(B) a facility that serves only subscribers in 1 or more multiple unit dwellings under common ownership, control, or management, unless such facility or facilities uses any public right-of-way;'' and inserting ''(B) a facility that serves subscribers without using any public right-of-way;''.

(b) RATE DEREGULATION.—

(1) Section 623(c) (47 U.S.C. 543(c)) is amended—

(A) by striking ''subscriber,'' and the comma after ''authority'' in paragraph (1)(B);

(B) by striking paragraph (2) and inserting the following:

''(2) STANDARD FOR UNREASONABLE RATES.—The Commission may only consider a rate for cable programming services to be unreasonable if it substantially exceeds the national average rate for comparable cable programming services provided by cable systems other than small cable systems, determined on a per-channel basis as of June 1, 1995, and redetermined, and adjusted if necessary, every 2 years thereafter.''.

(2) Section 623(l)(1) (47 U.S.C. 543(l)(1)) is amended—

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

(B) by striking the period at the end of subparagraph (C) and inserting a semicolon and ''or''; and

(C) by adding at the end the following:

''(D) a local exchange carrier offers video programming services directly to subscribers, either over a common carrier video platform or as a cable operator, in the franchise area of an unaffiliated cable operator which is providing cable service in that franchise area, but only if the video programming services offered by the carrier in that area are comparable to the video programming services provided by the unaffiliated cable operator in that area.''.

(c) GREATER DEREGULATION FOR SMALLER CABLE COMPANIES.—Section 623 (47 U.S.C. 543) is amended by adding at the end thereof the following:

''(m) SPECIAL RULES FOR SMALL COMPANIES.—

''(1) IN GENERAL.—Subsection (a), (b), or (c) does not apply to a small cable operator with respect to—

''(A) cable programming services, or

''(B) a basic service tier that was the only service tier subject to regulation as of December 31, 1994,

in any franchise area in which that operator serves 35,000 or fewer subscribers.

''(2) DEFINITION OF SMALL CABLE OPERATOR.—For purposes of this subsection, the term 'small cable operator' means a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.''.

(d) PROGRAM ACCESS.—Section 628 (47 U.S.C. 628) is amended by adding at the end the following:

''(j) COMMON CARRIERS.—Any provision that applies to a cable operator under this section shall apply to a telecommunications carrier or its affiliate that provides video programming by any means directly to subscribers. Any such provision that applies to a satellite cable programming vendor in which a cable operator has an attributable interest shall apply to any satellite cable programming vendor in which such common carrier has an attributable interest.''.

(e) EXPEDITED DECISION-MAKING FOR MARKET DETERMINATIONS UNDER SECTION 614.—

(1) IN GENERAL.—Section 614(h)(1)(C)(iv) (47 U.S.C. 614(h)(1)(C)(iv)) is amended to read as follows:

''(iv) Within 120 days after the date on which a request is filed under this subparagraph, the Commission shall grant or deny the request.''.

(2) APPLICATION TO PENDING REQUESTS.—The amendment made by paragraph (1) shall apply to—

(A) any request pending under section 614(h)(1)(C) of the Communications Act of 1934 (47 U.S.C. 614(h)(1)(C)) on the date of enactment of this Act; and

(B) any request filed under that section after that date.

(f) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act.

SEC. 204. POLE ATTACHMENTS.

Section 224 (47 U.S.C. 224) is amended—

(1) by inserting the following after subsection (a)(4):

''(5) The term 'telecommunications carrier' shall have the meaning given such term in subsection 3(nn) of this Act, except that, for purposes of this section, the term shall not include any person classified by the Commission as a dominant provider of telecommunications services as of January 1, 1995.'';

(2) by inserting after ''conditions'' in subsection (c)(1) a comma and the following: ''or access to poles, ducts, conduits, and rights-of-way as provided in subsection (f),'';

(3) by inserting after subsection (d)(2) the following:

''(3) This subsection shall apply to the rate for any pole attachment used by a cable television system solely to provide cable service. Until the effective date of the regulations required under subsection (e), this subsection shall also apply to the pole attachment rates for cable television systems (or for any telecommunications carrier that was not a party to any pole attachment agreement prior to the date of enactment of the Telecommunications Act of 1995) to provide any telecommunications service or any other service subject to the jurisdiction of the Commission.''; and

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

''(e)(1) The Commission shall, no later than 2 years after the date of enactment of the Telecommunications Act of 1995, prescribe regulations in accordance with this subsection to govern the charges for pole attachments by telecommunications carriers. Such regulations shall ensure that utilities charge just and reasonable and non-discriminatory rates for pole attachments.

''(2) A utility shall apportion the cost of providing space on a pole, duct, conduit, or right-of-way other than the usable space among entities so that such apportionment equals the sum of—

''(A) two-thirds of the costs of providing space other than the usable space that would be allocated to such entity under an equal apportionment of such costs among all attachments, plus

''(B) the percentage of usable space required by each such entity multiplied by the costs of space other than the usable space;

but in no event shall such proportion exceed the amount that would be allocated to such entity under an equal apportionment of such costs among all attachments.

''(3) A utility shall apportion the cost of providing usable space among all entities according to the percentage of usable space required for each entity. Costs shall be apportioned between the usable space and the space on a pole, duct, conduit, or right-of-way other than the usable space on a proportionate basis.

''(4) The regulations required under paragraph (1) shall become effective 5 years after the date of enactment of the Telecommunications Act of 1995. Any increase in the rates for pole attachments that result from the adoption of the regulations required by this subsection shall be phased in equal annual increments over a period of 5 years beginning on the effective date of such regulations.

''(f)(1) A utility shall provide a cable television system or any telecommunications carrier with nondiscriminatory access to any pole, duct, conduit, or right-of-way owned or controlled by it.

''(2) Notwithstanding paragraph (1), a utility providing electric service may deny a cable television system or telecommunications carrier access to its poles, ducts, conduits, or rights-of-way, on a non-discriminatory basis where there is insufficient capacity and for reasons of safety, reliability, and generally applicable engineering purposes.

''(g) A utility that engages in the provision of telecommunications services shall impute to its costs of providing such services (and charge any affiliate, subsidiary, or associate company engaged in the provision of such services) an amount equal to the pole attachment rate for which such company would be liable under this section.''.

SEC. 205. ENTRY BY UTILITY COMPANIES.

(a) IN GENERAL.—

(1) AUTHORIZED ACTIVITIES OF UTILITIES.—Notwithstanding any other provision of law to the contrary (including the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.)), an electric, gas, water, or steam utility, and any subsidiary company, affiliate, or associate company of such a utility, other than a public utility company that is an associate company of a registered holding company, may engage, directly or indirectly, in any activity whatsoever, wherever located, necessary or appropriate to the provision of—

(A) telecommunications services,

(B) information services,

(C) other services or products subject to the jurisdiction of the Federal Communications Commission under the Communications Act of 1934 (47 U.S.C. 151 et seq.), or

(D) products or services that are related or incidental to a product or service described in subparagraph (A), (B), or (C).

(2) REMOVAL OF SEC JURISDICTION.—The Securities and Exchange Commission has no jurisdiction under the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.) over a holding company, or a subsidiary company, affiliate, or associate company of a holding company, to grant any authorization to enforce any requirement with respect to, or approve or otherwise review, any activity described in paragraph (1), including financing, investing in, acquiring, or maintaining any interest in, or entering into affiliate transactions or contracts, and any authority over audits or access to books and records.

(3) APPLICABILITY OF TELECOMMUNICATIONS REGULATION.—Nothing in this section shall affect the authority of the Federal Communications Commission under the Communications Act of 1934, or the authority of State commissions under State laws concerning the provision of telecommunications services, to regulate the activities of an associate company engaged in activities described in paragraph (1).

(4) COMMISSION RULES.—The Commission shall consider and adopt, as necessary, rules

to protect the customers of a public utility company that is a subsidiary company of a registered holding company against potential detriment from the telecommunications activities of any other subsidiary of such registered holding company.

(b) PROHIBITION OF CROSS-SUBSIDIZATION.—Nothing in the Public Utility Holding Company Act of 1935 shall preclude the Federal Energy Regulatory Commission or a State commission from exercising its jurisdiction under otherwise applicable law to determine whether a public utility company may recover in rates the costs of any activity described in subsection (a)(1) which is performed by an associate company regardless of whether such costs are incurred through the direct or indirect purchase of goods and services from such associate company.

(c) ASSUMPTION OF LIABILITIES.—Any public utility company that is an associate company of a registered holding company and that is subject to the jurisdiction of a State commission with respect to its retail electric or gas rates shall not issue any security for the purpose of financing the acquisition, ownership, or operation of an associate company engaged in activities described in subsection (a)(1) without the prior approval of the State commission. Any public utility company that is an associate company of a registered holding company and that is subject to the jurisdiction of a State commission with respect to its retail electric or gas rates shall not assume any obligation or liability as guarantor, endorser, surety, or otherwise by the public utility in respect of any security of an associate company engaged in activities described in subsection (a)(1) without the prior approval of the State commission.

(d) PLEDGING OR MORTGAGING UTILITY ASSETS.—Any public utility company that is an associate company of a registered holding company and that is subject to the jurisdiction of a State commission with respect to its retail electric or gas rates shall not pledge, mortgage, or otherwise use as collateral any utility assets of the public utility or utility assets of any subsidiary company thereof for the benefit of an associate company engaged in activities described in subsection (a)(1) without the prior approval of the State commission.

(e) BOOKS AND RECORDS.—An associate company engaged in activities described in subsection (a)(1) which is an associate company of a registered holding company shall maintain books, records, and accounts separate from the registered holding company which identify all transactions with the registered holding company and its other associate companies, and provide access to books, records, and accounts to State commissions and the Federal Energy Regulatory Commission under the same terms of access, disclosure, and procedures as provided in section 201(g) of the Federal Power Act.

(f) INDEPENDENT AUDIT AUTHORITY FOR STATE COMMISSIONS.—

(1) STATE MAY ORDER AUDIT.—Any State commission with jurisdiction over a public utility company that—

(A) is an associate company of a registered holding company, and

(B) transacts business, directly or indirectly, with a subsidiary company, affiliate, or associate company of that holding company engaged in any activity described in subsection (a)(1),

may order an independent audit to be performed, no more frequently than on an annual basis, of all matters deemed relevant by the selected auditor that reasonably relate to retail rates: *Provided*, That such matters relate, directly or indirectly, to transactions or transfers between the public utility company subject to its jurisdiction and the subsidiary company, affiliate, or associate company engaged in that activity.

(2) SELECTION OF FIRM TO CONDUCT AUDIT.—

(A) If a State commission orders an audit in accordance with paragraph (1), the public utility company and the State commission shall jointly select within 60 days a firm to perform the audit. The firm selected to perform the audit shall possess demonstrated qualifications relating to:

(i) competency, including adequate technical training and professional proficiency in each discipline necessary to carry out the audit, and

(ii) independence and objectivity, including that the firm be free from personal or external impairments to independence, and should assume an independent position with the State commission and auditee, making certain that the audit is based upon an impartial consideration of all pertinent facts and responsible opinions.

(B) The public utility company and the company engaged in activities under subsection (a)(1) shall cooperate fully with all reasonable requests necessary to perform the audit and the public utility company shall bear all costs of having the audit performed.

(3) AVAILABILITY OF AUDITOR'S REPORT.—The auditor's report shall be provided to the State commission within 6 months after the selection of the auditor, and provided to the public utility company 60 days thereafter.

(g) REQUIRED NOTICES.—

(1) AFFILIATE CONTRACTS.—A State commission may order any public utility company that is an associate company of a registered holding company and that is subject to the jurisdiction of the State commission to provide quarterly reports listing any contracts, leases, transfers, or other transactions with an associate company engaged in activities described in subsection (a)(1).

(2) ACQUISITION OF AN INTEREST IN ASSOCIATE COMPANIES.—Within 10 days after the acquisition by a registered holding company of an interest in an associate company that will engage in activities described in subsection (a)(1), any public utility company that is an associate company of such company shall notify each State commission having jurisdiction over the retail rates of such public utility company of such acquisition. In the notice an officer on behalf of the public utility company shall attest that, based on then current information, such acquisition and related financing will not materially impair the ability of such public utility company to meet its public service responsibility, including its ability to raise necessary capital.

(h) DEFINITIONS.—Any term used in this section that is defined in the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.) has the same meaning as it has in that Act. The terms ''telecommunications service'' and ''information service'' shall have the same meanings as those terms have in the Communications Act of 1934.

(i) IMPLEMENTATION.—Not later than 1 year after the date of enactment of this Act, the Federal Communications Commission shall promulgate such regulations as may be necessary to implement this section.

(j) EFFECTIVE DATE.—This section takes effect on the date of enactment of this Act.

SEC. 206. BROADCAST REFORM.

(a) SPECTRUM REFORM.—

(1) ADVANCED TELEVISION SPECTRUM SERVICES.—If the Commission by rule permits licensees to provide advanced television services, then—

(A) it shall adopt regulations that allow such licensees to make use of the advanced television spectrum for the transmission of ancillary or supplementary services if the licensees provide without charge to the public at least one advanced television program service as prescribed by the Commission that is intended for and available to the general public on the advanced television spectrum; and

(B) it shall apply similar rules to use of existing television spectrum.

(2) COMMISSION TO COLLECT FEES.—To the extent that a television broadcast licensee provides ancillary or supplementary services using existing or advanced television spectrum—

(A) for which payment of a subscription fee is required in order to receive such services, or

(B) for which the licensee directly or indirectly receives compensation from a third party in return for transmitting material furnished by such third party, other than payments to broadcast stations by third parties for transmission of program material or commercial advertising,

the Commission may collect from each such licensee an annual fee to the extent the existing or advanced television spectrum is used for such ancillary or supplementary services. In determining the amount of such fees, the Commission shall take into account the portion of the licensee's total existing or advanced television spectrum which is used for such services and the amount of time such services are provided. The amount of such fees to be collected for any such service shall not, in any event, exceed an amount equivalent on an annualized basis to the amount paid by providers of a competing service on spectrum subject to auction under section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)).

(3) PUBLIC INTEREST REQUIREMENT.—Nothing in this section shall be construed as relieving a television broadcasting station from its obligation to serve the public interest, convenience, and necessity. In the Commission's review of any application for renewal of a broadcast license for a television station that provides ancillary or supplementary services, the television licensee shall establish that all of its program services on the existing or advanced television spectrum are in the public interest. Any violation of the Commission rules applicable to ancillary or supplementary services shall reflect upon the licensee's qualifications for renewal of its license.

(4) DEFINITIONS.—As used in this subsection—

(A) The term ''advanced television services'' means television services provided using digital or other advanced technology to enhance audio quality and video resolution.

(B) The term ''existing'' means spectrum generally in use for television broadcast purposes on the date of enactment of this Act.

(b) OWNERSHIP REFORM.—

(1) IN GENERAL.—The Commission shall modify its rules for multiple ownership set forth in 47 CFR 73.3555 by—

(A) eliminating the restrictions on the number of television stations owned under subdivisions (e)(1) (ii) and (iii); and

(B) changing the percentage set forth in subdivision (e)(2)(ii) from 25 percent to 35 percent.

(2) RADIO OWNERSHIP.—The Commission shall modify its rules set forth in 47 CFR 73.3555 by eliminating any provisions limiting the number of AM or FM broadcast stations which may be owned or controlled by one entity either nationally or in a particular market. The Commission may refuse to approve the transfer or issuance of an AM or FM broadcast license to a particular entity if it finds that the entity would thereby obtain an undue concentration of control or

would thereby harm competition. Nothing in this section shall require or prevent the Commission from modifying its rules contained in 47 CFR 73.3555(c) governing the ownership of both a radio and television broadcast stations in the same market.

(3) LOCAL MARKETING AGREEMENT.—Nothing in this Act shall be construed to prohibit the continuation or renewal of any television local marketing agreement that is in effect on the date of enactment of this Act and that is in compliance with the Commission's regulations.

(4) STATUTORY RESTRICTIONS.—Section 613 (47 U.S.C. 533) is amended by striking subsection (a) and inserting the following:

''(a) The Commission shall review its ownership rules biennially as part of its regulatory reform review under section 259.''.

(5) CONFORMING CHANGES.—The Commission shall amend its rules to make any changes necessary to reflect the effect of this section on its rules.

(6) EFFECTIVE DATE.—The Commission shall make the modifications required by paragraphs (1) and (2) effective on the date of enactment of this Act.

(c) TERM OF LICENSES.—Section 307(c) (47 U.S.C. 307(c)) is amended by striking the first four sentences and inserting the following:

''No license shall be granted for a term longer than 10 years. Upon application, a renewal of such license may be granted from time to time for a term of not to exceed 10 years, if the Commission finds that the public interest, convenience, and necessity would be served thereby.''.

(d) BROADCAST LICENSE RENEWAL PROCEDURES.—

(1) Section 309 (47 U.S.C. 309) is amended by adding at the end thereof the following:

''(k)(1)(A) Notwithstanding subsections (c) and (d), if the licensee of a broadcast station submits an application to the Commission for renewal of such license, the Commission shall grant the application if it finds, after notice and opportunity for comment, with respect to that station during the preceding term of its license, that—

''(i) the station has served the public interest, convenience, and necessity;

''(ii) there have been no serious violations by the licensee of this Act or the rules and regulations of the Commission; and

''(iii) there have been no other violations by the licensee of this Act or the rules and regulations of the Commission which, taken together, would constitute a pattern of abuse.

''(B) If any licensee of a broadcast station fails to meet the requirements of this subsection, the Commission may deny the application for renewal in accordance with paragraph (2), or grant such application on appropriate terms and conditions, including renewal for a term less than the maximum otherwise permitted.

''(2) If the Commission determines, after notice and opportunity for a hearing, that a licensee has failed to meet the requirements specified in paragraph (1)(A) and that no mitigating factors justify the imposition of lesser sanctions, the Commission shall—

''(A) issue an order denying the renewal application filed by such licensee under section 308; and

''(B) only thereafter accept and consider such applications for a construction permit as may be filed under section 308 specifying the channel or broadcasting facilities of the former licensee.

''(3) In making the determinations specified in paragraphs (1) or (2)(A), the Commission shall not consider whether the public interest, convenience, and necessity might be served by the grant of a license to a person other than the renewal applicant.''.

(2) Section 309(d) (47 U.S.C. 309(d)) is amended by inserting ''(or subsection (k) in the case of renewal of any broadcast station license)'' after ''with subsection (a)'' each place it appears.

(3) The amendments made by this subsection apply to applications filed after May 31, 1995.

(4) This section shall operate only if the Commission shall amend its ''Application for renewal of License for AM, FM, TV, Translator or LPTV Station'' (FCC Form 303–S) to require that, for commercial TV applicants only, the applicant attach as an exhibit to the application a summary of written comments and suggestions received from the public and maintained by the licensee in accordance with section 73.1202 of title 47, Code of Federal Regulations, that comment on the applicant's programming, if any, characterized by the commentor as constituting violent programming.

Subtitle B—Termination of Modification of Final Judgment

SEC. 221. REMOVAL OF LONG DISTANCE RESTRICTIONS.

(a) IN GENERAL.—Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 254 the following new section:

''SEC. 255. INTEREXCHANGE TELECOMMUNICATIONS SERVICES.

''(a) IN GENERAL.—Notwithstanding any restriction or obligation imposed before the date of enactment of the Telecommunications Act of 1995 under section II(D) of the Modification of Final Judgment, a Bell operating company, or any subsidiary or affiliate of a Bell operating company, that meets the requirements of this section may provide—

''(1) interLATA telecommunications services originating in any region in which it is the dominant provider of wireline telephone exchange service or exchange access service after the Commission determines that it has fully implemented the competitive checklist found in subsection (b)(2) in the area in which it seeks to provide interLATA telecommunications services, in accordance with the provisions of subsection (c);

''(2) interLATA telecommunications services originating in any area where that company is not the dominant provider of wireline telephone exchange service or exchange access service in accordance with the provisions of subsection (d); and

''(3) interLATA services that are incidental services in accordance with the provisions of subsection (e).

''(b) SPECIFIC INTERLATA INTERCONNECTION REQUIREMENTS.—

''(1) IN GENERAL.—A Bell operating company may provide interLATA services in accordance with this section only if that company has reached an interconnection agreement under section 251 and that agreement provides, at a minimum, for interconnection that meets the competitive checklist requirements of paragraph (2).

''(2) COMPETITIVE CHECKLIST.—Interconnection provided by a Bell operating company to other telecommunications carriers under section 251 shall include:

''(A) Nondiscriminatory access on an unbundled basis to the network functions and services of the Bell operating company's telecommunications network that is at least equal in type, quality, and price to the access the Bell operating company affords to itself or any other entity.

''(B) The capability to exchange telecommunications between customers of the Bell operating company and the telecommunications carrier seeking interconnection.

''(C) Nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by the Bell operating company at just and reasonable rates where it has the legal authority to permit such access.

''(D) Local loop transmission from the central office to the customer's premises, unbundled from local switching or other services.

''(E) Local transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services.

''(F) Local switching unbundled from transport, local loop transmission, or other services.

''(G) Nondiscriminatory access to—

''(i) 911 and E911 services;

''(ii) directory assistance services to allow the other carrier's customers to obtain telephone numbers; and

''(iii) operator call completion services.

''(H) White pages directory listings for customers of the other carrier's telephone exchange service.

''(I) Until the date by which neutral telephone number administration guidelines, plan, or rules are established, nondiscriminatory access to telephone numbers for assignment to the other carrier's telephone exchange service customers. After that date, compliance with such guidelines, plan, or rules.

''(J) Nondiscriminatory access to databases and associated signaling, including signaling links, signaling service control points, and signaling service transfer points, necessary for call routing and completion.

''(K) Until the date by which the Commission determines that final telecommunications number portability is technically feasible and must be made available, interim telecommunications number portability through remote call forwarding, direct inward dialing trunks, or other comparable arrangements, with as little impairment of functioning, quality, reliability, and convenience as possible. After that date, full compliance with final telecommunications number portability.

''(L) Nondiscriminatory access to whatever services or information may be necessary to allow the requesting carrier to implement local dialing parity in a manner that permits consumers to be able to dial the same number of digits when using any telecommunications carrier providing telephone exchange service or exchange access service.

''(M) Reciprocal compensation arrangements on a nondiscriminatory basis for the origination and termination of telecommunications.

''(N) Telecommunications services and network functions provided on an unbundled basis without any conditions or restrictions on the resale or sharing of those services or functions, including both origination and termination of telecommunications services, other than reasonable conditions required by the Commission or a State. For purposes of this subparagraph, it is not an unreasonable condition for the Commission or a State to limit the resale—

''(i) of services included in the definition of universal service to a telecommunications carrier who intends to resell that service to a category of customers different from the category of customers being offered that universal service by such carrier if the Commission or State orders a carrier to provide the same service to different categories of customers at different prices necessary to promote universal service; or

''(ii) of subsidized universal service in a manner that allows companies to charge another carrier rates which reflect the actual cost of providing those services to that carrier, exclusive of any universal service support received for providing such services in accordance with section 214(d)(5).

''(3) JOINT MARKETING OF LOCAL AND LONG DISTANCE SERVICES.—Until a Bell operating

company is authorized to provide interLATA services in a telephone exchange area where that company is the dominant provider of wireline telephone exchange service or exchange access service, or until 36 months have passed since the enactment of the Telecommunications Act of 1995, whichever is earlier, a telecommunications carrier that serves greater than 5 percent of the Nation's presubscribed access lines may not jointly market in such telephone exchange area telephone exchange service purchased from such company with interLATA services offered by that telecommunications carrier.

''(4) COMMISSION MAY NOT EXPAND COMPETITIVE CHECKLIST.—The Commission may not, by rule or otherwise, limit or extend the terms used in the competitive checklist.

''(c) IN-REGION SERVICES.—

''(1) APPLICATION.—Upon the enactment of the Telecommunications Act of 1995, a Bell operating company or its affiliate may apply to the Commission for authorization notwithstanding the Modification of Final Judgment to provide interLATA telecommunications service originating in any area where such Bell operating company is the dominant provider of wireline telephone exchange service or exchange access service. The application shall describe with particularity the nature and scope of the activity and of each product market or service market, and each geographic market for which authorization is sought.

''(2) DETERMINATION BY COMMISSION.—

''(A) DETERMINATION.—Not later than 90 days after receiving an application under paragraph (1), the Commission shall issue a written determination, on the record after a hearing and opportunity for comment, granting or denying the application in whole or in part. Before making any determination under this subparagraph, the Commission shall consult with the Attorney General regarding the application. In consulting with the Commission under this subparagraph, the Attorney General may apply any appropriate standard.

''(B) APPROVAL.—The Commission may only approve the authorization requested in an application submitted under paragraph (1) if it finds that—

''(i) the petitioning Bell operating company has fully implemented the competitive checklist found in subsection (b)(2); and

''(ii) the requested authority will be carried out in accordance with the requirements of section 252,

and if the Commission determines that the requested authorization is consistent with the public interest, convenience, and necessity. If the Commission does not approve an application under this subparagraph, it shall state the basis for its denial of the application.

''(3) PUBLICATION.—Not later than 10 days after issuing a determination under paragraph (2), the Commission shall publish in the Federal Register a brief description of the determination.

''(4) JUDICIAL REVIEW.—

''(A) COMMENCEMENT OF ACTION.—Not later than 45 days after a determination by the Commission is published under paragraph (3), the Bell operating company or its subsidiary or affiliate that applied to the Commission under paragraph (1), or any person who would be threatened with loss or damage as a result of the determination regarding such company's engaging in the activity described in its application, may commence an action in any United States Court of Appeals against the Commission for judicial review of the determination regarding the application.

''(B) JUDGMENT.—

''(i) The Court shall enter a judgment after reviewing the determination in accordance with section 706 of title 5 of the United State Code.

''(ii) A judgment—

''(I) affirming any part of the determination that approves granting all or part of the requested authorization, or

''(II) reversing any part of the determination that denies all or part of the requested authorization,

shall describe with particularity the nature and scope of the activity, and of each product market or service market, and each geographic market, to which the affirmance or reversal applies.

''(5) REQUIREMENTS RELATING TO SEPARATE AFFILIATE; SAFEGUARDS; AND INTRALATA TOLL DIALING PARITY.—

''(A) SEPARATE AFFILIATE; SAFEGUARDS.—Other than interLATA services authorized by an order entered by the United States District Court for the District of Columbia pursuant to the Modification of Final Judgment before the date of enactment of the Telecommunications Act of 1995, a Bell operating company, or any affiliate of such a company, providing interLATA services authorized under this subsection may provide such interLATA services in that market only in accordance with the requirements of section 252.

''(B) INTRALATA TOLL DIALING PARITY.—

''(i) A Bell operating company granted authority to provide interLATA services under this subsection shall provide intraLATA toll dialing parity throughout that market coincident with its exercise of that authority. If the Commission finds that such a Bell operating company has provided interLATA service authorized under this clause before its implementation of intraLATA toll dialing parity throughout that market, or fails to maintain intraLATA toll dialing parity throughout that market, the Commission, except in cases of inadvertent interruptions or other events beyond the control of the Bell operating company, shall suspend the authority to provide interLATA service for that market until the Commission determines that intraLATA toll dialing parity is implemented or reinstated.

''(ii) Except for single-LATA States and States which have issued an order by June 1, 1995 requiring a Bell operating company to implement toll dialing parity, a State may not require a Bell operating company to implement toll dialing parity in an intraLATA area before a Bell operating company has been granted authority under this subsection to provide interLATA services in that area or before three years after the date of enactment of the Telecommunications Act of 1995, whichever is earlier. Nothing in this clause precludes a State from issuing an order requiring toll dialing parity in an intraLATA area prior to either such date so long as such order does not take effect until after the earlier of either such dates.

''(iii) In any State in which intraLATA toll dialing parity has been implemented prior to the earlier date specified in clause (ii), no telecommunications carrier that serves greater than five percent of the Nation's presubscribed access lines may jointly market interLATA telecommunications services and intraLATA toll telecommunications services in a telephone exchange area in such State until a Bell operating company is authorized under this subsection to provide interLATA services in such telephone exchange area or until three years after the date of enactment of the Telecommunications Act of 1995, whichever is earlier.

''(d) OUT-OF-REGION SERVICES.—Effective on the date of enactment of the Telecommunications Act of 1995, a Bell operating company or its affiliate may provide interLATA telecommunications services originating in any area where such company is not the dominant provider of wireline telephone exchange service or exchange access service.

''(e) INCIDENTAL SERVICES.—

''(1) IN GENERAL.—Effective on the date of enactment of the Telecommunications Act of 1995, a Bell operating company or its affiliate may provide interLATA services that are incidental to—

''(A)(i) providing audio programming, video programming, or other programming services to subscribers of such company,

''(ii) providing the capability for interaction by such subscribers to select or respond to such audio programming, video programming, or other programming services, to order, or control transmission of the programming, polling or balloting, and ordering other goods or services,

''(iii) providing to distributors audio programming or video programming that such company owns, controls, or is licensed by the copyright owner of such programming, or by an assignee of such owner, to distribute, or

''(iv) providing alarm monitoring services,

''(B) providing—

''(i) a telecommunications service, using the transmission facilities of a cable system that is an affiliate of such company, between LATAs within a cable system franchise area in which such company is not, on the date of enactment of the Telecommunications Act of 1995, a provider of wireline telephone exchange service, or

''(ii) two-way interactive video services or Internet services over dedicated facilities to or for elementary and secondary schools as defined in section 264(d),

''(C) providing a service that permits a customer that is located in one LATA to retrieve stored information from, or file information for storage in, information storage facilities of such company that are located in another LATA area, so long as the customer acts affirmatively to initiate the storage or retrieval of information, except that—

''(i) such service shall not cover any service that establishes a direct connection between end users or any real-time voice and data transmission,

''(ii) such service shall not include voice, data, or facsimile distribution services in which the Bell operating company or affiliate forwards customer-supplied information to customer- or carrier-selected recipients,

''(iii) such service shall not include any service in which the Bell operating company or affiliate searches for and connects with the intended recipient of information, or any service in which the Bell operating company or affiliate automatically forwards stored voicemail or other information to the intended recipient, and

''(iv) customers of such service shall not be billed a separate charge for the interLATA telecommunications furnished in conjunction with the provision of such service,

''(D) providing signaling information used in connection with the provision of telephone exchange service or exchange access service to another local exchange carrier; or

''(E) providing network control signaling information to, and receiving such signaling information from, interexchange carriers at any location within the area in which such company provides telephone exchange service or exchange access service.

''(2) LIMITATIONS.—The provisions of paragraph (1) are intended to be narrowly construed. The transmission facilities used by a Bell operating company or affiliate thereof to provide interLATA telecommunications under paragraph (1)(C) and subsection (f) shall be leased by that company from unaffiliated entities on terms and conditions (including price) no more favorable than those

available to the competitors of that company until that Bell operating company receives authority to provide interLATA services under subsection (c). The interLATA services provided under paragraph (1)(A) are limited to those interLATA transmissions incidental to the provision by a Bell operating company or its affiliate of video, audio, and other programming services that the company or its affiliate is engaged in providing to the public. A Bell operating company may not provide telecommunications services not described in paragraph (1) without receiving the approvals required by subsection (c). The provision of services authorized under this subsection by a Bell operating company or its affiliate shall not adversely affect telephone exchange ratepayers or competition in any telecommunications market.

''(f) COMMERCIAL MOBILE SERVICE.—A Bell operating company may provide interLATA commercial mobile service except where such service is a replacement for land line telephone exchange service for a substantial portion of the land line telephone exchange service in a State in accordance with section 322(c) and with the regulations prescribed by the Commission.

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

''(1) AUDIO PROGRAMMING SERVICES.—The term 'audio programming services' means programming provided by, or generally considered to be comparable to programming provided by, a radio broadcast station.

''(2) VIDEO PROGRAMMING SERVICES; OTHER PROGRAMMING SERVICES.—The terms 'video programming service' and 'other programming services' have the same meanings as such terms have under section 602 of this Act.

''(h) CERTAIN SERVICE APPLICATIONS TREATED AS IN-REGION SERVICE APPLICATIONS.—For purposes of this section, a Bell operating company application to provide 800 service, private line service, or their equivalents that—

''(1) terminate in an area where the Bell operating company is the dominant provider of wireline telephone exchange service or exchange access service, and

''(2) allow the called party to determine the interLATA carrier,

shall be considered an in-region service subject to the requirements of subsection (c) and not of subsection (d).''.

(b) LONG DISTANCE ACCESS FOR COMMERCIAL MOBILE SERVICES.—

(1) IN GENERAL.—Notwithstanding any restriction or obligation imposed pursuant to the Modification of final Judgment or other consent decree or proposed consent decree prior to the date of enactment of this Act, a person engaged in the provision of commercial mobile services (as defined in section 332(d)(1) of the Communications Act of 1934), insofar as such person is so engaged, shall not be required by court order or otherwise to provide equal access to interexchange telecommunications carriers, except as provided by this section. Such a person shall ensure that its subscribers can obtain unblocked access to the provider of interexchange services of the subscriber's choice through the use of an interexchange carrier identification code assigned to such provider, except that the requirements for unblocking shall not apply to mobile satellite services unless the Commission finds it to be in the public interest.

(2) EQUAL ACCESS REQUIREMENT CONDITIONS.—The Commission may only require a person engaged in the provision of commercial mobile services to provide equal access to interexchange carriers if—

(A) such person, insofar as such person is so engaged, is subject to the interconnection obligations of section 251(a) of the Communications Act of 1934, and

(B) the Commission finds that such requirement is in the public interest.

SEC. 222. REMOVAL OF MANUFACTURING RESTRICTIONS.

(a) IN GENERAL.—Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 255 the following new section:

''SEC. 256. REGULATION OF MANUFACTURING BY BELL OPERATING COMPANIES.

''(a) AUTHORIZATION.—

''(1) IN GENERAL.—Notwithstanding any restriction or obligation imposed before the date of enactment of the Telecommunications Act of 1995 pursuant to the Modification of Final Judgment on the lines of business in which a Bell operating company may engage, if the Commission authorizes a Bell operating company to provide interLATA services under section 255, then that company may be authorized by the Commission to manufacture and provide telecommunications equipment, and to manufacture customer premises equipment, at any time after that determination is made, subject to the requirements of this section and the regulations prescribed, except that neither a Bell operating company nor any of its affiliates may engage in such manufacturing in conjunction with a Bell operating company not so affiliated or any of its affiliates.

''(2) CERTAIN RESEARCH AND DESIGN ARRANGEMENTS; ROYALTY AGREEMENTS.—Upon adoption of rules by the Commission under section 252, a Bell operating company may—

''(A) engage in research and design activities related to manufacturing, and

''(B) enter into royalty agreements with manufacturers of telecommunications equipment.

''(b) SEPARATE AFFILIATE; SAFEGUARDS.—Any manufacturing or provision of equipment authorized under subsection (a) shall be conducted in accordance with the requirements of section 252.

''(c) PROTECTION OF SMALL TELEPHONE COMPANY INTERESTS.—

''(1) EQUIPMENT TO BE MADE AVAILABLE TO OTHERS.—A manufacturing affiliate of a Bell operating company shall make available, without discrimination or self-preference as to price, delivery, terms, or conditions, to all local exchange carriers, for use with the public telecommunications network, any telecommunications equipment, including software integral to such telecommunications equipment, including upgrades, manufactured by such affiliate if each such purchasing carrier—

''(A) does not manufacture telecommunications equipment or have an affiliate which manufactures telecommunications equipment; or

''(B) agrees to make available, to the Bell operating company that is the parent of the manufacturing affiliate or any of the local exchange carrier affiliates of such Bell company, any telecommunications equipment, including software integral to such telecommunications equipment, including upgrades, manufactured for use with the public telecommunications network by such purchasing carrier or by any entity or organization with which such purchasing carrier is affiliated.

''(2) NON-DISCRIMINATION STANDARDS.—

''(A) A Bell operating company and any entity acting on its behalf shall make procurement decisions and award all supply contracts for equipment, services, and software on the basis of open, competitive bidding, and an objective assessment of price, quality, delivery, and other commercial factors.

''(B) A Bell operating company and any entity it owns or otherwise controls, or which is acting on its behalf or on behalf of its affiliate, shall permit any person to participate fully on a non-discriminatory basis in the process of establishing standards and certifying equipment used in or interconnected to the public telecommunications network.

''(C) A Bell operating company shall, consistent with the antitrust laws, engage in joint network planning and design with local exchange carriers operating in the same area of interest. No participant in such planning shall be allowed to delay the introduction of new technology or the deployment of facilities to provide telecommunications services, and agreement with such other carriers shall not be required as a prerequisite for such introduction or deployment. A Bell operating company shall provide, to other local exchange carriers operating in the same area of interest, timely information on the planned deployment of telecommunications equipment, including software integral to such telecommunications equipment and upgrades of that software.

''(D) A manufacturing affiliate of a Bell operating company may not restrict sales to any local exchange carrier of telecommunications equipment, including software integral to the operation of such equipment and related upgrades.

''(E) A Bell operating company and any entity it owns or otherwise controls shall protect the proprietary information submitted with contract bids and in the standards and certification processes from release not specifically authorized by the owner of such information.

''(d) COLLABORATION WITH OTHER MANUFACTURERS.—A Bell operating company and its affiliates may engage in close collaboration with any manufacturer of customer premises equipment or telecommunications equipment not affiliated with a Bell operating company during the design and development of hardware, software, or combinations thereof relating to such equipment.

''(e) INFORMATION ON PROTOCOLS AND TECHNICAL REQUIREMENTS.—The Commission shall prescribe regulations to require that each Bell operating company shall maintain and file with the Commission full and complete information with respect to the protocols and technical requirements for connection with and use of its telephone exchange service facilities. Such regulations shall require each such Bell company to report promptly to the Commission any material changes or planned changes to such protocols and requirements, and the schedule for implementation of such changes or planned changes.

''(f) ADDITIONAL RULES AND REGULATIONS.—The Commission may prescribe such additional rules and regulations as the Commission determines are necessary to carry out the provisions of this section, and otherwise to prevent discrimination and cross-subsidization in a Bell operating company's dealings with its affiliate and with third parties.

''(g) ADMINISTRATION AND ENFORCEMENT.—

''(1) COMMISSION AUTHORITY.—For the purposes of administering and enforcing the provisions of this section and the regulations prescribed under this section, the Commission shall have the same authority, power, and functions with respect to any Bell operating company as the Commission has in administering and enforcing the provisions of this title with respect to any common carrier subject to this Act.

''(2) CIVIL ACTIONS BY INJURED PARTIES.—Any party injured by an act or omission of a Bell operating company or its manufacturing affiliate which violates the requirements of paragraph (1) or (2) of subsection (c), or the Commission's regulations implementing such paragraphs, may initiate an action in a

district court of the United States to recover the full amount of damages sustained in consequence of any such violation and obtain such orders from the court as are necessary to terminate existing violations and to prevent future violations; or such party may seek relief from the Commission pursuant to sections 206 through 209.

''(h) APPLICATION TO BELL COMMUNICATIONS RESEARCH.—Nothing in this section—

''(1) provides any authority for Bell Communications Research, or any successor entity, to manufacture or provide telecommunications equipment or to manufacture customer premises equipment; or

''(2) prohibits Bell Communications Research, or any successor entity, from engaging in any activity in which it is lawfully engaged on the date of enactment of the Telecommunications Act of 1995, including providing a centralized organization for the provision of engineering, administrative, and other services (including serving as a single point of contact for coordination of the Bell operating companies to meet national security and emergency preparedness requirements).

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

''(1) The term 'customer premises equipment' means equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications.

''(2) The term 'manufacturing' has the same meaning as such term has in the Modification of Final Judgment.

''(3) The term 'telecommunications equipment' means equipment, other than customer premises equipment, used by a carrier to provide telecommunications services.''.

(b) EFFECT ON PRE-EXISTING MANUFACTURING AUTHORITY.—Nothing in this section, or in section 256 of the Communications Act of 1934 as added by this section, prohibits any Bell operating company from engaging, directly or through any affiliate, in any manufacturing activity in which any Bell operating company or affiliate was authorized to engage on the date of enactment of this Act.

SEC. 223. EXISTING ACTIVITIES.

Nothing in this Act, or any amendment made by this Act, prohibits a Bell operating company from engaging, at any time after the date of enactment of this Act, in any activity authorized by an order entered by the United States District Court for the District of Columbia pursuant to section VII or VIII(C) of the Modification of Final Judgment, if such order was entered on or before the date of enactment of this Act.

SEC. 224. ENFORCEMENT.

(a) IN GENERAL.—Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 256 the following:

''SEC. 257. ENFORCEMENT.

''(a) IN GENERAL.—In addition to any penalty, fine, or other enforcement remedy under this Act, the failure by a telecommunications carrier to implement the requirements of section 251 or 255, including a failure to comply with the terms of an interconnection agreement approved under section 251, is punishable by a civil penalty of not to exceed $1,000,000 per offense. Each day of a continuing offense shall be treated as a separate violation for purposes of levying any penalty under this subsection.

''(b) NONCOMPLIANCE WITH INTERCONNECTION OR SEPARATE SUBSIDIARY REQUIREMENTS.—

''(1) A Bell operating company that repeatedly, knowingly, and without reasonable cause fails to implement an interconnection agreement approved under section 251, to comply with the requirements of such agreement after implementing them, or to comply with the separate affiliate requirements of this part may be fined up to $500,000,000 by a district court of the United States of competent jurisdiction.

''(2) A Bell operating company that repeatedly, knowingly, and without reasonable cause fails to meet its obligations under section 255 for the provision of interLATA service may have its authority to provide any service suspended if its right to provide that service is conditioned upon its meeting those obligations.

''(c) ENFORCEMENT BY PRIVATE RIGHT OF ACTION.—

''(1) DAMAGES.—Any person who is injured in its business or property by reason of a violation of section 251 or 255 may bring a civil action in any district court of the United States in the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy.

''(2) INTEREST.—The court may award under this section, pursuant to a motion by such person promptly made, simple interest on actual damages for the period beginning on the date of service of such person's pleading setting forth a claim under this title and ending on the date of judgment, or for any shorter period therein, if the court finds that the award of such interest for such period is just in the circumstances.

''(d) PAYMENT OF CIVIL PENALTIES, DAMAGES, OR INTEREST.—No civil penalties, damages, or interest assessed against any local exchange carrier as a result of a violation referred to in this section will be charged directly or indirectly to that company's rate payers.''.

(b) CERTAIN BROADCASTS.—Section 1307(a)(2) of title 18, United States Code, is amended—

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

(2) by striking the period at the end of subparagraph (B) and inserting a semicolon and ''or''; and

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

''(C) conducted by a commercial organization and is contained in a publication published in a State in which such activities or the publication of such activities are authorized or not otherwise prohibited, or broadcast by a radio or television station licensed in a State in which such activities or the broadcast of such activities are authorized or not otherwise prohibited.''.

SEC. 225. ALARM MONITORING SERVICES.

Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 257 the following new section:

''SEC. 258. REGULATION OF ENTRY INTO ALARM MONITORING SERVICES.

''(a) IN GENERAL.—Except as provided in this section, a Bell operating company, or any affiliate of that company, may not provide alarm monitoring services for the protection of life, safety, or property. A Bell operating company may transport alarm monitoring service signals on a common carrier basis only.

''(b) AUTHORITY TO PROVIDE ALARM MONITORING SERVICES.—Beginning 4 years after the date of enactment of the Telecommunications Act of 1995, a Bell operating company may provide alarm monitoring services for the protection of life, safety, or property if it has been authorized to provide interLATA services under section 255 unless the Commission finds that the provision of alarm monitoring services by such company is not in the public interest. The Commission may not find that provision of alarm monitoring services by a Bell operating company is in the public interest until it finds that it has the capability effectively to enforce any requirements, limitations, or conditions that may be placed upon a Bell operating company in the provision of alarm monitoring services, including the regulations prescribed under subsection (c).

''(c) REGULATIONS REQUIRED.—

''(1) Not later than 1 year after the date of enactment of the Telecommunications Act of 1995, the Commission shall prescribe regulations—

''(A) to establish such requirements, limitations, or conditions as are—

''(i) necessary and appropriate in the public interest with respect to the provision of alarm monitoring services by Bell operating companies and their affiliates, and

''(ii) effective at such time as a Bell operating company or any of its subsidiaries or affiliates is authorized to provide alarm monitoring services; and

''(B) to establish procedures for the receipt and review of complaints concerning violations by such companies of such regulations, or of any other provision of this Act or the regulations thereunder, that result in material financial harm to a provider of alarm monitoring services.

''(2) A Bell operating company, its affiliates, and any local exchange carrier are prohibited from recording or using in any fashion the occurrence or contents of calls received by providers of alarm monitoring services for the purposes of marketing such services on behalf of the Bell operating company, any of its affiliates, the local exchange carrier, or any other entity. Any regulations necessary to enforce this paragraph shall be issued initially within 6 months after the date of enactment of the Telecommunications Act of 1995.

''(d) EXPEDITED CONSIDERATION OF COMPLAINTS.—The procedures established under subsection (c) shall ensure that the Commission will make a final determination with respect to any complaint described in such subsection within 120 days after receipt of the complaint. If the complaint contains an appropriate showing that the alleged violation occurred, as determined by the Commission in accordance with such regulations, the Commission shall, within 60 days after receipt of the complaint, issue a cease and desist order to prevent the Bell operating company and its subsidiaries and affiliates from continuing to engage in such violation pending such final determination.

''(e) REMEDIES.—The Commission may use any remedy available under title V of this Act to terminate and to impose sanctions on violations described in subsection (c). Such remedies may include, if the Commission determines that such violation was willful or repeated, ordering the Bell operating company or its affiliate to cease offering alarm monitoring services.

''(f) SAVINGS PROVISION.—Subsections (a) and (b) do not prohibit or limit the provision of alarm monitoring services by a Bell operating company or an affiliate that was engaged in providing those services as of June 1, 1995, to the extent that such company—

''(1) continues to provide those services through the affiliate through which it was providing them on that date; and

''(2) does not acquire, directly or indirectly, an equity interest in another entity engaged in providing alarm monitoring services.

''(g) ALARM MONITORING SERVICES DEFINED.—As used in this section, the term 'alarm monitoring services' means services that detect threats to life, safety, or property by burglary, fire, vandalism, bodily injury, or other emergency through the use of devices that transmit signals to a central point in a customer's residence, place of business, or other fixed premises which—

''(1) retransmits such signals to a remote monitoring center by means of telecommunications facilities of the Bell operating company and any subsidiary or affiliate; and

''(2) serves to alert persons at the monitoring center of the need to inform customers, other persons, or police, fire, rescue, or other security or public safety personnel of the threat at such premises.

Such term does not include medical monitoring devices attached to individuals for the automatic surveillance of ongoing medical conditions.''.

SEC. 226. NONAPPLICABILITY OF MODIFICATION OF FINAL JUDGMENT.

Notwithstanding any other provision of law or of any judicial order, no person shall be subject to the provisions of the Modification of Final Judgment solely by reason of having acquired commercial mobile service or private mobile service assets or operations previously owned by a Bell operating company or an affiliate of a Bell operating company.

TITLE III—AN END TO REGULATION

SEC. 301. TRANSITION TO COMPETITIVE PRICING.

(a) PRICING FLEXIBILITY.—

(1) IN GENERAL.—The Commission and the States shall provide to telecommunications carriers price flexibility in the rates charged consumers for the provision of telecommunications services within one year after the date of enactment of this Act. The Commission or a State may establish the rate consumers may be charged for services included in the definition of universal service, as well as the contribution, if any, that all carriers must contribute for the preservation and advancement of universal service. Pricing flexibility implemented pursuant to this section for the purpose of allowing a regulated telecommunications provider to respond to competition by repricing services subject to competition shall not have the effect of using noncompetitive services to subsidize competitive services.

(2) CONSUMER PROTECTION.—The Commission and the States shall ensure that rates for telephone service remain just, reasonable, and affordable as competition develops for telephone exchange service and telephone exchange access service. Until sufficient competition exists in a market, the Commission or a State may establish the rate that a carrier may charge for any such service if such rate is necessary for the protection of consumers. Any such rate shall cease to be regulated whenever the Commission or a State determines that it is no longer necessary for the protection of consumers. The Commission shall establish cost allocation guidelines for facilities owned by an essential telecommunications carrier that are used for the provision of both services included in the definition of universal service and video programming sold by such carrier directly to subscribers, if such allocation is necessary for the protection of consumers.

(3) RATE-OF-RETURN REGULATION ELIMINATED.—

(A) In instituting the price flexibility required under paragraph (1) the Commission and the States shall establish alternative forms of regulation for Tier 1 telecommunications carriers that do not include regulation of the rate of return earned by such carrier as part of a plan that provides for any or all of the following—

(i) the advancement of competition in the provision of telecommunications services;

(ii) improvements in productivity;

(iii) improvements in service quality;

(iv) measures to ensure customers of noncompetitive services do not bear the risks associated with the provision of competitive services;

(v) enhanced telecommunications services for educational institutions; or

(vi) any other measures Commission or a State, as appropriate, determines to be in the public interest.

(B) The Commission or a State, as appropriate, may apply such alternative forms of regulation to any other telecommunications carrier that is subject to rate of return regulation under this Act.

(C) Any such alternative form of regulation—

(i) shall be consistent with the objectives of preserving and advancing universal service, guaranteeing high quality service, ensuring just, reasonable, and affordable rates, and encouraging economic efficiency; and

(ii) shall meet such other criteria as the Commission or a State, as appropriate, finds to be consistent with the public interest, convenience, and necessity.

(D) Nothing in this section shall prohibit the Commission, for interstate services, and the States, for intrastate services, from considering the profitability of telecommunications carriers when using alternative forms of regulation other than rate of return regulation (including price regulation and incentive regulation) to ensure that regulated rates are just and reasonable.

(b) TRANSITION PLAN REQUIRED.—If the Commission or a State adopts rules for the distribution of support payments under section 253 of the Communications Act of 1934, as amended by this Act, such rules shall include a transition plan to allow essential telecommunications carriers to provide for an orderly transition from the universal service support mechanisms in existence upon the date of enactment of this Act and the support mechanisms established by the Commission and the States under this Act or the Communications Act of 1934 as amended by this Act. Any such transition plan shall—

(1) provide a phase-in of the price flexibility requirements under subsection (a) for an essential telecommunications carrier that is also a rural telephone company; and

(2) require the United States Government and the States, where permitted by law, to modify any regulatory requirements (including conditions for the repayment of loans and the depreciation of assets) applicable to carriers designated as essential telecommunications carriers in order to more accurately reflect the conditions that would be imposed in a competitive market for similar assets or services.

(c) DUTY TO PROVIDE SUBSCRIBER LIST INFORMATION.—

(1) IN GENERAL.—A carrier that provides local exchange telephone service shall provide subscriber list information gathered in its capacity as a provider of such service on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions, to any person requesting such information for the purpose of publishing directories in any format.

(2) SUBSCRIBER LIST INFORMATION DEFINED.—As used in this subsection, the term ''subscriber list information'' means any information—

(A) identifying the listed names of subscribers of a carrier and such subscribers' listed telephone numbers, addresses, or primary advertising classifications, as such classifications are assigned at the time of the establishment of service, or any combination of such names, numbers, addresses, or classifications; and

(B) that the carrier or an affiliate has published, caused to be published, or accepted for publication in a directory in any format.

(d) CONFIDENTIALITY.—A telecommunications carrier has a duty to protect the confidentiality of proprietary information of, and relating to, other common carriers and customers, including common carriers reselling the telecommunications services provided by a telecommunications carrier. A telecommunications carrier that receives such information from another carrier for purposes of provisioning, billing, or facilitating the resale of its service shall use such information only for such purpose, and shall not use such information for its own marketing efforts. Nothing in this subsection prohibits a carrier from using customer information obtained from its customers, either directly or indirectly through its agents—

(1) to provide, market, or bill for its services; or

(2) to perform credit evaluations on existing or potential customers.

(e) REGULATORY RELIEF.—

(1) STREAMLINED PROCEDURES FOR CHANGES IN CHARGES, CLASSIFICATIONS, REGULATIONS, OR PRACTICES.—

(A) Section 204(a) (47 U.S.C. 204(a)) is amended—

(i) by striking ''12 months'' the first place it appears in paragraph (2)(A) and inserting ''5 months'';

(ii) by striking ''effective,'' and all that follows in paragraph (2)(A) and inserting ''effective.''; and

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

''(3) A local exchange carrier may file with the Commission a new or revised charge, classification, regulation, or practice on a streamlined basis. Any such charge, classification, regulation, or practice shall be deemed lawful and shall be effective 7 days (in the case of a reduction in rates) or 15 days (in the case of an increase in rates) after the date on which it is filed with the Commission unless the Commission takes action under paragraph (1) before the end of that 7-day or 15-day period, as is appropriate.''.

(B) Section 208(b) (47 U.S.C. 208(b)) is amended—

(i) by striking ''12 months'' the first place it appears in paragraph (1) and inserting ''5 months''; and

(ii) by striking ''filed,'' and all that follows in paragraph (1) and inserting ''filed.''.

(2) EXTENSIONS OF LINES UNDER SECTION 214; ARMIS REPORTS.—Notwithstanding section 305, the Commission shall permit any local exchange carrier—

(A) to be exempt from the requirements of section 214 of the Communications Act of 1934 for the extension of any line; and

(B) to file cost allocation manuals and ARMIS reports annually, to the extent such carrier is required to file such manuals or reports.

(3) FOREBEARANCE AUTHORITY NOT LIMITED.—Nothing in this subsection shall be construed to limit the authority of the Commission or a State to waive, modify, or forebear from applying any of the requirements to which reference is made in paragraph (1) under any other provision of this Act or other law.

SEC. 302. BIENNIAL REVIEW OF REGULATIONS; ELIMINATION OF UNNECESSARY REGULATIONS AND FUNCTIONS.

(a) BIENNIAL REVIEW.—Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 258 the following new section:

''SEC. 259. REGULATORY REFORM.

''(a) BIENNIAL REVIEW OF REGULATIONS.—In every odd-numbered year (beginning with 1997), the Commission, with respect to its regulations under this Act, and a Federal-State Joint Board established under section 410, for State regulations—

''(1) shall review all regulations issued under this Act, or under State law, in effect

at the time of the review that apply to operations or activities of providers of any telecommunications services; and

''(2) shall determine whether any such regulation is no longer necessary in the public interest as the result of meaningful economic competition between the providers of such service.

''(b) EFFECT OF DETERMINATION.—The Commission shall repeal any regulation it determines to be no longer necessary in the public interest. The Joint Board shall notify the Governor of any State of any State regulation it determines to be no longer necessary in the public interest.

''(c) CLASSIFICATION OF CARRIERS.—In classifying carriers according to 47 CFR 32.11 and in establishing reporting requirements pursuant to 47 CFR part 43 and 47 CFR 64.903, the Commission shall adjust the revenue requirements to account for inflation as of the release date of the Commission's Report and Order in CC Docket No. 91–141, and annually thereafter. This subsection shall take effect on the date of enactment of the Telecommunications Act of 1995.''.

(b) ELIMINATION OF UNNECESSARY COMMISSION REGULATIONS AND FUNCTIONS.—

(1) REPEAL SETTING OF DEPRECIATION RATES.—The first sentence of section 220(b) (47 U.S.C. 220(b)) is amended by striking ''shall prescribe for such carriers'' and inserting ''may prescribe, for such carriers as it determines to be appropriate,''.

(2) USE OF INDEPENDENT AUDITORS.—Section 220(c) (47 U.S.C. 220(c)) is amended by adding at the end thereof the following: ''The Commission may obtain the services of any person licensed to provide public accounting services under the law of any State to assist with, or conduct, audits under this section. While so employed or engaged in conducting an audit for the Commission under this section, any such person shall have the powers granted the Commission under this subsection and shall be subject to subsection (f) in the same manner as if that person were an employee of the Commission.''.

(3) SIMPLIFICATION OF FEDERAL-STATE COORDINATION PROCESS.—The Commission shall simplify and expedite the Federal-State coordination process under section 410 of the Communications Act of 1934.

(4) PRIVATIZATION OF SHIP RADIO INSPECTIONS.—Section 385 (47 U.S.C. 385) is amended by adding at the end thereof the following: ''In accordance with such other provisions of law as apply to Government contracts, the Commission may enter into contracts with any person for the purpose of carrying out such inspections and certifying compliance with those requirements, and may, as part of any such contract, allow any such person to accept reimbursement from the license holder for travel and expense costs of any employee conducting an inspection or certification.''.

(5) MODIFICATION OF CONSTRUCTION PERMIT REQUIREMENT.—Section 319(d) (47 U.S.C. 319(d)) is amended by striking the third sentence and inserting the following: ''The Commission may waive the requirement for a construction permit with respect to a broadcasting station in circumstances in which it deems prior approval to be unnecessary. In those circumstances, a broadcaster shall file any related license application within 10 days after completing construction.''.

(6) LIMITATION ON SILENT STATION AUTHORIZATIONS.—Section 312 (47 U.S.C. 312) is amended by adding at the end the following:

''(g) If a broadcasting station fails to transmit broadcast signals for any consecutive 12-month period, then the station license granted for the operation of that broadcast station expires at the end of that period, notwithstanding any provision, term, or condition of the license to the contrary.''.

(7) EXPEDITING INSTRUCTIONAL TELEVISION FIXED SERVICE PROCESSING.—The Commission shall delegate, under section 5(c) of the Communications Act of 1934, the conduct of routine instructional television fixed service cases to its staff for consideration and final action.

(8) DELEGATION OF EQUIPMENT TESTING AND CERTIFICATION TO PRIVATE LABORATORIES.—Section 302 (47 U.S.C. 302) is amended by adding at the end the following:

''(e) The Commission may—

''(1) authorize the use of private organizations for testing and certifying the compliance of devices or home electronic equipment and systems with regulations promulgated under this section;

''(2) accept as prima facie evidence of such compliance the certification by any such organization; and

''(3) establish such qualifications and standards as it deems appropriate for such private organizations, testing, and certification.''.

(9) MAKING LICENSE MODIFICATION UNIFORM.—Section 303(f) (47 U.S.C. 303(f)) is amended by striking ''unless, after a public hearing,'' and inserting ''unless''.

(10) PERMIT OPERATION OF DOMESTIC SHIP AND AIRCRAFT RADIOS WITHOUT LICENSE.—Section 307(e) (47 U.S.C. 307(e)) is amended by—

(A) striking ''service and the citizens band radio service'' in paragraph (1) and inserting ''service, citizens band radio service, domestic ship radio service, domestic aircraft radio service, and personal radio service''; and

(B) striking ''service' and 'citizens band radio service' '' in paragraph (3) and inserting ''service', 'citizens band radio service', 'domestic ship radio service', 'domestic aircraft radio service', and 'personal radio service' ''.

(11) EXPEDITED LICENSING FOR FIXED MICROWAVE SERVICE.—Section 309(b)(2) (47 U.S.C. 309(b)(2)) is amended by striking subparagraph (A) and redesignating subparagraphs (B) through (G) as (A) through (F), respectively.

(12) ELIMINATE FCC JURISDICTION OVER GOVERNMENT-OWNED SHIP RADIO STATIONS.—

(A) Section 305 (47 U.S.C. 305) is amended by striking subsection (b) and redesignating subsections (c) and (d) as (b) and (c), respectively.

(B) Section 382(2) (47 U.S.C. 382(2)) is amended by striking ''except a vessel of the United States Maritime Administration, the Inland and Coastwise Waterways Service, or the Panama Canal Company,''.

(13) MODIFICATION OF AMATEUR RADIO EXAMINATION PROCEDURES.—

(A) Section 4(f)(H)(N) (47 U.S.C. 4(f)(4)(B)) is amended by striking ''transmissions, or in the preparation or distribution of any publication used in preparation for obtaining amateur station operator licenses,'' and inserting ''transmission''.

(B) The Commission shall modify its rules governing the amateur radio examination process by eliminating burdensome record maintenance and annual financial certification requirements.

(14) STREAMLINE NON-BROADCAST RADIO LICENSE RENEWALS.—The Commission shall modify its rules under section 309 of the Communications Act of 1934 (47 U.S.C. 309) relating to renewal of nonbroadcast radio licenses so as to streamline or eliminate comparative renewal hearings where such hearings are unnecessary or unduly burdensome.

SEC. 303. REGULATORY FORBEARANCE.

Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 259 the following new section:

''SEC. 260. COMPETITION IN PROVISION OF TELECOMMUNICATIONS SERVICE.

''(a) REGULATORY FLEXIBILITY.—Notwithstanding section 332(c)(1)(A) of this Act, the Commission shall forbear from applying any regulation or any provision of this Act to a telecommunications carrier or service, or class of carriers or services, in any or some of its or their geographic markets if the Commission determines that—

''(1) enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that carrier or service are just and reasonable and are not unjustly or unreasonably discriminatory;

''(2) enforcement of such regulation or provision is not necessary for the protection of consumers or the preservation and advancement of universal service; and

''(3) forbearance from applying such regulation or provision is consistent with the public interest.

''(b) COMPETITIVE EFFECT TO BE WEIGHED.—In making the determination under subsection (a)(3), the Commission shall consider whether forbearance from enforcing the regulation or provision will promote competitive market conditions, including the extent to which such forbearance will enhance competition among providers of telecommunications services. If the Commission determines that such forbearance will promote competition among providers of telecommunications services, that determination may be the basis for a Commission finding that forbearance is in the public interest.

''(c) END OF REGULATION PROCESS.—Any telecommunications carrier, or class of telecommunications carriers, may submit a petition to the Commission requesting that the Commission exercise the authority granted under this section with respect to that carrier or those carriers, or any service offered by that carrier or carriers. Any such petition shall be deemed granted if the Commission does not deny the petition for failure to meet the requirements for forebearance under subsection (a) within 90 days after the Commission receives it, unless the 90-day period is extended by the Commission. The Commission may extend the initial 90-day period by an additional 60 days if the Commission finds that an extension is necessary to meet the requirements of subsection (a). The Commission may grant or deny a petition in whole or in part and shall explain its decision in writing.

''(d) LIMITATION.—Except as provided in section 251(i)(3), the Commission may not waive the unbundling requirements of section 251(b) or 255(b)(2) under subsection (a) until it determines that those requirements have been fully implemented.''.

SEC. 304. ADVANCED TELECOMMUNICATIONS INCENTIVES.

(a) IN GENERAL.—The Commission and each State commission with regulatory jurisdiction over telecommunications services shall encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans (including, in particular, elementary and secondary schools and classrooms) by utilizing, in a manner consistent with the public interest, convenience, and necessity, price cap regulation, regulatory forbearance, or other regulating methods that remove barriers to infrastructure investment.

(b) INQUIRY.—The Commission shall, within 2 years after the date of enactment of this Act, and regularly thereafter, initiate a notice of inquiry concerning the availability of advanced telecommunications capability to all Americans (including, in particular, elementary and secondary schools and classrooms) and shall complete the inquiry within 180 days after its initiation. In the inquiry, the Commission shall determine whether advanced telecommunications capability is

being deployed to all Americans in a reasonable and timely fashion. If the Commission's determination is negative, it shall take immediate action under this section, and it may preempt State commissions that fail to act to ensure such availability.

(c) DEFINITIONS.—For purposes of this section—

(1) COMMUNICATIONS ACT TERMS.—Any term used in this section which is defined in the Communications Act of 1934 shall have the same meaning as it has in that Act.

(2) ADVANCED TELECOMMUNICATIONS CAPABILITY.—The term ''advanced telecommunications capability'' means high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications.

(3) ELEMENTARY AND SECONDARY SCHOOLS.—The term ''elementary and secondary schools'' means elementary schools and secondary schools, as defined in paragraphs (14) and (25), respectively, of section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

SEC. 305. REGULATORY PARITY.

Within 3 years after the date of enactment of this Act, and periodically thereafter, the Commission shall—

(1) issue such modifications or terminations of the regulations applicable to persons offering telecommunications or information services under title II, III, or VI of the Communications Act of 1934 as are necessary to implement the changes in such Act made by this Act;

(2) in the regulations that apply to integrated telecommunications service providers, take into account the unique and disparate histories associated with the development and relative market power of such providers, making such modifications and adjustments as are necessary in the regulation of such providers as are appropriate to enhance competition between such providers in light of that history; and

(3) provide for periodic reconsideration of any modifications or terminations made to such regulations, with the goal of applying the same set of regulatory requirements to all integrated telecommunications service providers, regardless of which particular telecommunications or information service may have been each provider's original line of business.

SEC. 306. AUTOMATED SHIP DISTRESS AND SAFETY SYSTEMS.

Notwithstanding any provision of the Communications Act of 1934 or any other provision of law or regulation, a ship documented under the laws of the United States operating in accordance with the Global Maritime Distress and Safety System provisions of the Safety of Life at Sea Convention shall not be required to be equipped with a radio telegraphy station operated by one or more radio officers or operators. This section shall take effect for each vessel upon a determination by the United States Coast Guard that such vessel has the equipment required to implement the Global Maritime Distress and Safety System installed and operating in good working condition.

SEC. 307. TELECOMMUNICATIONS NUMBERING ADMINISTRATION.

Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 260 the following new section:

''SEC. 261. TELECOMMUNICATIONS NUMBERING ADMINISTRATION.

''(a) INTERIM NUMBER PORTABILITY.—In connection with any interconnection agreement reached under section 251 of this Act, a local exchange carrier shall make available interim telecommunications number portability, upon request, beginning on the date of enactment of the Telecommunications Act of 1995.

''(b) FINAL NUMBER PORTABILITY.—In connection with any interconnection agreement reached under section 251 of this Act, a local exchange carrier shall make available final telecommunications number portability, upon request, when the Commission determines that final telecommunications number portability is technically feasible.

''(c) NEUTRAL ADMINISTRATION OF NUMBERING PLANS.—

''(1) NATIONWIDE NEUTRAL NUMBER SYSTEM COMPLIANCE.— A telecommunications carrier providing telephone exchange service shall comply with the guidelines, plan, or rules established by an impartial entity designated or created by the Commission for the administration of a nationwide neutral number system.

''(2) OVERLAY OF AREA CODES NOT PERMITTED.—All telecommunications carriers providing telephone exchange service in the same telephone service area shall be permitted to use the same numbering plan area code under such guideline, plan, or rules.

''(d) COSTS.—The cost of establishing neutral number administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission.''.

SEC. 308. ACCESS BY PERSONS WITH DISABILITIES.

(a) IN GENERAL.—Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 261 the following new section:

''SEC. 262. ACCESS BY PERSONS WITH DISABILITIES.

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

''(1) DISABILITY.—The term 'disability' has the meaning given to it by section 3(2)(A) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2)(A)).

''(2) READILY ACHIEVABLE.—The term 'readily achievable' has the meaning given to it by section 301(9) of that Act (42 U.S.C. 12181(9)).

''(b) MANUFACTURING.—A manufacturer of telecommunications equipment and customer premises equipment shall ensure that the equipment is designed, developed, and fabricated to be accessible to and usable by individuals with disabilities, if readily achievable.

''(c) TELECOMMUNICATIONS SERVICES.—A provider of telecommunications service shall ensure that the service is accessible to and usable by individuals with disabilities, if readily achievable.

''(d) COMPATIBILITY.—Whenever the requirements of subsections (b) and (c) are not readily achievable, such a manufacturer or provider shall ensure that the equipment or service is compatible with existing peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access, if readily achievable.

''(e) GUIDELINES.—Within 18 months after the date of enactment of the Telecommunications Act of 1995, the Architectural and Transportation Barriers Compliance Board shall develop guidelines for accessibility of telecommunications equipment and customer premises equipment in conjunction with the Commission, the National Telecommunications and Information Administration and the National Institute of Standards and Technology. The Board shall review and update the guidelines periodically.

''(f) CLOSED CAPTIONING.—

''(1) IN GENERAL.—The Commission shall ensure that—

''(A) video programming is accessible through closed captions, if readily achievable, except as provided in paragraph (2); and

''(B) video programming providers or owners maximize the accessibility of video programming previously published or exhibited through the provision of closed captions, if readily achievable, except as provided in paragraph (2).

''(2) EXEMPTIONS.—Notwithstanding paragraph (1)—

''(A) the Commission may exempt programs, classes of programs, locally produced programs, providers, classes of providers, or services for which the Commission has determined that the provision of closed captioning would not be readily achievable to the provider or owner of such programming;

''(B) a provider of video programming or the owner of any program carried by the provider shall not be obligated to supply closed captions if such action would be inconsistent with a binding contract in effect on the date of enactment of the Telecommunications Act of 1995 for the remaining term of that contract (determined without regard to any extension of such term), except that nothing in this subparagraph relieves a video programming provider of its obligation to provide services otherwise required by Federal law; and

''(C) a provider of video programming or a program owner may petition the Commission for an exemption from the requirements of this section, and the Commission may grant such a petition upon a showing that the requirements contained in this section would not be readily achievable.

''(g) REGULATIONS.—The Commission shall, not later than 24 months after the date of enactment of the Telecommunications Act of 1995, prescribe regulations to implement this section. The regulations shall be consistent with the guidelines developed by the Architectural and Transportation Barriers Compliance Board in accordance with subsection (e).

''(h) ENFORCEMENT.—The Commission shall enforce this section. The Commission shall resolve, by final order, a complaint alleging a violation of this section within 180 days after the date on which the complaint is filed with the Commission.''.

(b) VIDEO DESCRIPTION.—Within 18 months after the date of enactment of this Act, the Commission shall commence a study of the feasibility of requiring the use of video descriptions on video programming in order to ensure the accessibility of video programming to individuals with visual impairments. For purposes of this subsection, the term ''video description'' means the insertion of audio narrative descriptions of a television program's key visual elements into natural pauses between the program's dialogue.

SEC. 309. RURAL MARKETS.

Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 262 the following new section:

''SEC. 263. RURAL MARKETS.

''(a) STATE AUTHORITY IN RURAL MARKETS.—Except as provided in section 251(i)(3), a State may not waive or modify any requirements of section 251, but may adopt statutes or regulations that are no more restrictive than—

''(1) to require an enforceable commitment by each competing provider of telecommunications service to offer universal service comparable to that offered by the rural telephone company currently providing service in that service area, and to make such service available within 24 months of the approval date to all consumers throughout that service area on a common carrier basis, either using the applicant's facilities or

through its own facilities and resale of services using another carrier's facilities (including the facilities of the rural telephone company), and subject to the same terms, conditions, and rate structure requirements as those applicable to the rural telephone company currently providing universal service;

''(2) to require that the State must approve an application by a competing telecommunications carrier to provide services in a market served by a rural telephone company and that approval be based on sufficient written public findings and conclusions to demonstrate that such approval is in the public interest and that there will not be a significant adverse impact on users of telecommunications services or on the provision of universal service;

''(3) to encourage the development and deployment of advanced telecommunications and information infrastructure and services in rural areas; or

''(4) to protect the public safety and welfare, ensure the continued quality of telecommunications and information services, or safeguard the rights of consumers.

''(b) PREEMPTION.—Upon a proper showing, the Commission may preempt any State statute or regulation that the Commission finds to be inconsistent with the Commission's regulations implementing this section, or an arbitrary or unreasonably discriminatory application of such statute or regulation. The Commission shall act upon any bona fide petition filed under this subsection within 180 days of receiving such petition. Pending such action, the Commission may, in the public interest, suspend or modify application of any statute or regulation to which the petition applies.''.

SEC. 310. TELECOMMUNICATIONS SERVICES FOR HEALTH CARE PROVIDERS FOR RURAL AREAS, EDUCATIONAL PROVIDERS, AND LIBRARIES.

Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 263 the following:

''SEC. 264. TELECOMMUNICATIONS SERVICES FOR CERTAIN PROVIDERS.

''(a) IN GENERAL.—

''(1) HEALTH CARE PROVIDERS FOR RURAL AREAS.—A telecommunications carrier shall, upon receiving a bona fide request, provide telecommunications services which are necessary for the provision of health care services, including instruction relating to such services, at rates that are reasonably comparable to rates charged for similar services in urban areas to any public or nonprofit health care provider that serves persons who reside in rural areas. A telecommunications carrier providing service pursuant to this paragraph shall be entitled to have an amount equal to the difference, if any, between the price for services provided to health care providers for rural areas and the price for similar services provided to other customers in comparable urban areas treated as a service obligation as a part of its obligation to participate in the mechanisms to preserve and advance universal service under section 253(c).

''(2) EDUCATIONAL PROVIDERS AND LIBRARIES.—All telecommunications carriers serving a geographic area shall, upon a bona fide request, provide to elementary schools, secondary schools, and libraries universal services (as defined in section 253) that permit such schools and libraries to provide or receive telecommunications services for educational purposes at rates less than the amounts charged for similar services to other parties. The discount shall be an amount that the Commission and the States determine is appropriate and necessary to ensure affordable access to and use of such telecommunications by such entities. A telecommunications carrier providing service pursuant to this paragraph shall be entitled to have an amount equal to the amount of the discount treated as a service obligation as part of its obligation to participate in the mechanisms to preserve and advance universal service under section 253(c).

''(b) UNIVERSAL SERVICE MECHANISMS.—The Commission shall include consideration of the universal service provided to public institutional telecommunications users in any universal service mechanism it may establish under section 253.

''(c) ADVANCED SERVICES.—The Commission shall establish rules—

''(1) to enhance, to the extent technically feasible and economically reasonable, the availability of advanced telecommunications and information services to all public and nonprofit elementary and secondary school classrooms, health care providers, and libraries;

''(2) to ensure that appropriate functional requirements or performance standards, or both, including interconnection standards, are established for telecommunications carriers that connect such public institutional telecommunications users with the public switched network;

''(3) to define the circumstances under which a telecommunications carrier may be required to connect its network to such public institutional telecommunications users; and

''(4) to address other matters as the Commission may determine.

''(d) DEFINITIONS.—

''(1) ELEMENTARY AND SECONDARY SCHOOLS.—The term 'elementary and secondary schools' means elementary schools and secondary schools, as defined in paragraphs (14) and (25), respectively, of section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

''(2) UNIVERSAL SERVICE.—The Commission may in the public interest provide a separate definition of universal service under section 253(b) for application only to public institutional telecommunications users.

''(3) HEALTH CARE PROVIDER.—The term 'health care provider' means—

''(A) Post-secondary educational institutions, teaching hospitals, and medical schools.

''(B) Community health centers or health centers providing health care to migrants.

''(C) Local health departments or agencies.

''(D) Community mental health centers.

''(E) Not-for-profit hospitals.

''(F) Rural health clinics.

''(G) Consortia of health care providers consisting of one or more entities described in subparagraphs (A) through (F).

''(4) PUBLIC INSTITUTIONAL TELECOMMUNICATIONS USER.—The term 'public institutional telecommunications user' means an elementary or secondary school, a library, or a health care provider as those terms are defined in this subsection.

''(e) TERMS AND CONDITIONS.—Telecommunications services and network capacity provided under this section may not be sold, resold, or otherwise transferred in consideration for money or any other thing of value.

''(f) ELIGIBILITY OF COMMUNITY USERS.—No entity listed in this section shall be entitled for preferential rates or treatment as required by this section, if such entity operates as a for-profit business, is a school as defined in section 264(d)(1) with an endowment of more than $50,000,000, or is a library not eligible for participation in State-based plans for Library Services and Construction Act Title III funds.''.

SEC. 311. PROVISION OF PAYPHONE SERVICE AND TELEMESSAGING SERVICE.

Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by adding after section 264 the following new section:

''SEC. 265. PROVISION OF PAYPHONE SERVICE AND TELEMESSAGING SERVICE.

''(a) NONDISCRIMINATION SAFEGUARDS.—Any Bell operating company that provides payphone service or telemessaging service—

''(1) shall not subsidize its payphone service or telemessaging service directly or indirectly with revenue from its telephone exchange service or its exchange access service; and

''(2) shall not prefer or discriminate in favor of its payphone service or telemessaging service.

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

''(1) The term 'payphone service' means the provision of telecommunications service through public or semi-public pay telephones, and includes the provision of service to inmates in correctional institutions.

''(2) The term 'telemessaging service' means voice mail and voice storage and retrieval services, any live operator services used to record, transcribe, or relay messages (other than telecommunications relay services), and any ancillary services offered in combination with these services.

''(c) REGULATIONS.—Not later than 18 months after the date of enactment of the Telecommunications Act of 1995, the Commission shall complete a rulemaking proceeding to prescribe regulations to carry out this section. In that rulemaking proceeding, the Commission shall determine whether, in order to enforce the requirements of this section, it is appropriate to require the Bell operating companies to provide payphone service or telemessaging service through a separate subsidiary that meets the requirements of section 252.''.

SEC. 312. DIRECT BROADCAST SATELLITE.

(a) DBS SIGNAL SECURITY.—Section 705(e)(4) (47 U.S.C. 605(e)(4)) is amended by inserting ''satellite delivered video or audio programming intended for direct receipt by subscribers in their residences or in their commercial or business premises,'' after ''programming,''.

(b) FCC JURISDICTION OVER DIRECT-TO-HOME SATELLITE SERVICES.—Section 303 (47 U.S.C. 303) is amended by adding at the end thereof the following new subsection:

''(v) Have exclusive jurisdiction to regulate the provision of direct-to-home satellite services. For purposes of this subsection, the term 'direct-to-home satellite services' means the distribution or broadcasting of programming or services by satellite directly to the subscriber's premises without the use of ground receiving or distribution equipment, except at the subscriber's premises, or used in the initial uplink process to the direct-to-home satellite.''.

TITLE IV—OBSCENE, HARRASSING, AND WRONGFUL UTILIZATION OF TELECOMMUNICATIONS FACILITIES

SEC. 401. SHORT TITLE.

This title may be cited as the ''Communications Decency Act of 1995''.

SEC. 402. OBSCENE OR HARASSING USE OF TELECOMMUNICATIONS FACILITIES UNDER THE COMMUNICATIONS ACT OF 1934.

(a) OFFENSES.—Section 223 (47 U.S.C. 223) is amended—

''(1) by striking subsection (a) and inserting in lieu thereof:

''(a) Whoever—

''(1) in the District of Columbia or in interstate or foreign communications—

''(A) by means of telecommunications device knowingly—

''(i) makes, creates, or solicits, and

''(ii) initiates the transmission of,

any comment, request, suggestion, proposal, image, or other communication which is obscene, lewd, lascivious, filthy, or indecent, with intent to annoy, abuse, threaten, or harass another person;

''(B) makes a telephone call or utilizes a telecommunications device, whether or not conversation or communication ensues, without disclosing his identity and with intent to annoy, abuse, threaten, or harass any person at the called number or who receives the communications;

''(C) makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number; or

''(D) makes repeated telephone calls or repeatedly initiates communication with a telecommunications device, during which conversation or communication ensues, solely to harass any person at the called number or who receives the communication;

''(2) knowingly permits any telecommunications facility under his control to be used for any activity prohibited by paragraph (1) with the intent that it be used for such activity,

shall be fined not more than $100,000 or imprisoned not more than two years, or both.''; and

(2) by adding at the end the following new subsections:

''(d) Whoever—

''(1) knowingly within the United States or in foreign communications with the United States by means of telecommunications device makes or makes available any obscene communication in any form including any comment, request, suggestion, proposal, or image regardless of whether the maker of such communication placed the call or initiated the communications; or

''(2) knowingly permits any telecommunications facility under such person's control to be used for an activity prohibited by subsection (d)(1) with the intent that it be used for such activity;

shall be fined not more than $100,000 or imprisoned not more than two years, or both.

''(e) Whoever—

''(1) knowingly within the United States or in foreign communications with the United States by means of telecommunications device makes or makes available any indecent communication in any form including any comment, request, suggestion, proposal, image, to any person under 18 years of age regardless of whether the maker of such communication placed the call or initiated the communication; or

''(2) knowingly permits any telecommunications facility under such person's control to be used for an activity prohibited by paragraph (1) with the intent that it be used for such activity,

shall be fined not more than $100,000 or imprisoned not more than two years, or both.

''(f) Defenses to the subsections (a), (d), and (e), restrictions on access, judicial remedies respecting restrictions for persons providing information services and access to information services—

''(1) No person shall be held to have violated subsections (a), (d), or (e) solely for providing access or connection to or from a facility, system, or network over which that person has no control, including related capabilities which are incidental to providing access or connection. This subsection shall not be applicable to a person who is owned or controlled by, or a conspirator with, an entity actively involved in the creation, editing or knowing distribution of communications which violate this section.

''(2) No employer shall be held liable under this section for the actions of an employee or agent unless the employee's or agent's conduct is within the scope of his employment or agency and the employer has knowledge of, authorizes, or ratifies the employee's or agent's conduct.

''(3) It is a defense to prosecution under subsection (a), (d)(2), or (e) that a person has taken reasonable, effective and appropriate actions in good faith to restrict or prevent the transmission of, or access to a communication specified in such subsections, or complied with procedures as the Commission may prescribe in furtherance of this section. Until such regulations become effective, it is a defense to prosecution that the person has complied with the procedures prescribed by regulation pursuant to subsection (b)(3). Nothing in this subsection shall be construed to treat enhanced information services as common carriage.

''(4) No cause of action may be brought in any court or administrative agency against any person on account of any activity which is not in violation of any law punishable by criminal or civil penalty, which activity the person has taken in good faith to implement a defense authorized under this section or otherwise to restrict or prevent the transmission of, or access to, a communication specified in this section.

''(g) No State or local government may impose any liability for commercial activities or actions by commercial entities in connection with an activity or action which constitutes a violation described in subsection (a)(2), (d)(2), or (e)(2) that is inconsistent with the treatment of those activities or actions under this section: *Provided, however,* That nothing herein shall preclude any State or local government from enacting and enforcing complementary oversight, liability, and regulatory systems, procedures, and requirements, so long as such systems, procedures, and requirements govern only intrastate services and do not result in the imposition of inconsistent rights, duties or obligations on the provision of interstate services. Nothing in this subsection shall preclude any State or local government from governing conduct not covered by this section.

''(h) Nothing in subsection (a), (d), (e), or (f) or in the defenses to prosecution under (a), (d), or (e) shall be construed to affect or limit the application or enforcement of any other Federal law.

''(i) The use of the term 'telecommunications device' in this section shall not impose new obligations on (one-way) broadcast radio or (one-way) broadcast television operators licensed by the Commission or (one-way) cable service registered with the Federal Communications Commission and covered by obscenity and indecency provisions elsewhere in this Act.

''(j) Within two years from the date of enactment and every two years thereafter, the Commission shall report on the effectiveness of this section.''.

SEC. 403. OBSCENE PROGRAMMING ON CABLE TELEVISION.

Section 639 (47 U.S.C. 559) is amended by striking ''$10,000'' and inserting ''$100,000''.

SEC. 404. BROADCASTING OBSCENE LANGUAGE ON RADIO.

Section 1464 of title 18, United States Code, is amended by striking out ''$10,000'' and inserting ''$100,000''.

SEC. 405. SEPARABILITY.

(a) If any provision of this title, including amendments to this title or the application thereof to any person or circumstance is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 406. ADDITIONAL PROHIBITION ON BILLING FOR TOLL-FREE TELEPHONE CALLS.

Section 228(c)(7) (47 U.S.C. 228(c)(7)) is amended—

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

(2) by striking the period at the end of subparagraph (D) and inserting a semicolon and ''or''; and

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

''(E) the calling party being assessed, by virtue of being asked to connect or otherwise transfer to a pay-per-call service, a charge for the call.''.

SEC. 407. SCRAMBLING OF CABLE CHANNELS FOR NONSUBSCRIBERS.

Part IV of title VI (47 U.S. C. 551 et seq.) is amended by adding at the end the following:

''SEC. 640. SCRAMBLING OF CABLE CHANNELS FOR NONSUBSCRIBERS.

''(a) REQUIREMENT.—In providing video programming unsuitable for children to any subscriber through a cable system, a cable operator shall fully scramble or otherwise fully block the video and audio portion of each channel carrying such programming upon subscriber request and without any charge so that one not a subscriber does not receive it.

''(b) DEFINITION.—As used in this section, the term 'scramble' means to rearrange the content of the signal of the programming so that the programming cannot be received by persons unauthorized to receive the programming.''.

SEC. 408. SCRAMBLING OF SEXUALLY EXPLICIT ADULT VIDEO SERVICE PROGRAMMING.

(a) REQUIREMENT.—Part IV of title VI (47 U.S.C. 551 et seq.), as amended by this Act, is further amended by adding at the end the following:

''SEC. 641. SCRAMBLING OF SEXUALLY EXPLICIT ADULT VIDEO SERVICE PROGRAMMING.

''(a) REQUIREMENT.—In providing sexually explicit adult programming or other programming that is indecent and harmful to children on any channel of its service primarily dedicated to sexually-oriented programming, a multichannel video programming distributor shall fully scramble or otherwise fully block the video and audio portion of such channel so that one not a subscriber to such channel or programming does not receive it.

''(b) IMPLEMENTATION.—Until a multichannel video programming distributor complies with the requirement set forth in subsection (a), the distributor shall limit the access of children to the programming referred to in that subsection by not providing such programming during the hours of the day (as determined by the Commission) when a significant number of children are likely to view it.

''(c) DEFINITION.—As used in this section, the term 'scramble' means to rearrange the content of the signal of the programming so that audio and video portions of the programming cannot be received by persons unauthorized to receive the programming.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 30 days after the date of the enactment of this Act.

SEC. 409. CABLE OPERATOR REFUSAL TO CARRY CERTAIN PROGRAMS.

(a) PUBLIC, EDUCATIONAL, AND GOVERNMENTAL CHANNELS.—Section 611(e) (47 U.S.C. 531(e)) is amended by inserting before the period the following: '', except a cable operator may refuse to transmit any public access program or portion of a public access program which contains obscenity, indecency, or nudity''.

(b) CABLE CHANNELS FOR COMMERCIAL USE.—Section 612(c)(2) (47 U.S.C. 532(c)(2)) is amended by striking ''an operator'' and inserting ''a cable operator may refuse to transmit any leased access program or portion of a leased access program which contains obscenity, indecency, or nudity''.

SEC. 410. RESTRICTIONS ON ACCESS BY CHILDREN TO OBSCENE AND INDECENT MATERIAL ON ELECTRONIC INFORMATION NETWORKS OPEN TO THE PUBLIC.

(a) AVAILABILITY OF TAG INFORMATION.—In order—

(1) to encourage the voluntary use of tags in the names, addresses, or text of electronic files containing obscene, indecent, or mature text or graphics that are made available to the public through public information networks in order to ensure the ready identification of files containing such text or graphics;

(2) to encourage developers of computer software that provides access to or interface with a public information network to develop software that permits users of such software to block access to or interface with text or graphics identified by such tags; and

(3) to encourage the telecommunications industry and the providers and users of public information networks to take practical actions (including the establishment of a board consisting of appropriate members of such industry, providers, and users) to develop a highly effective means of preventing the access of children through public information networks to electronic files that contain such text or graphics,

the Secretary of Commerce shall take appropriate steps to make information on the tags established and utilized in voluntary compliance with this subsection available to the public through public information networks.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the tags established and utilized in voluntary compliance with this section. The report shall—

(1) describe the tags so established and utilized;

(2) assess the effectiveness of such tags in preventing the access of children to electronic files that contain obscene, indecent, or mature text or graphics through public information networks; and

(3) provide recommendations for additional means of preventing such access.

(c) DEFINITIONS.—In this section:

(1) The term ''public information network'' means the Internet, electronic bulletin boards, and other electronic information networks that are open to the public.

(2) The term ''tag'' means a part or segment of the name, address, or text of an electronic file.

TITLE V—PARENTAL CHOICE IN TELEVISION

SEC. 501. SHORT TITLE.

This title may be cited as the ''Parental Choice in Television Act of 1995''.

SEC. 502. FINDINGS.

Congress makes the following findings:

(1) On average, a child in the United States is exposed to 27 hours of television each week and some children are exposed to as much as 11 hours of television each day.

(2) The average American child watches 8,000 murders and 100,000 acts of other violence on television by the time the child completes elementary school.

(3) By the age of 18 years, the average American teenager has watched 200,000 acts of violence on television, including 40,000 murders.

(4) On several occasions since 1975, The Journal of the American Medical Association has alerted the medical community to the adverse effects of televised violence on child development, including an increase in the level of aggressive behavior and violent behavior among children who view it.

(5) The National Commission on Children recommended in 1991 that producers of television programs exercise greater restraint in the content of programming for children.

(6) A report of the Harry Frank Guggenheim Foundation, dated May 1993, indicates that there is an irrefutable connection between the amount of violence depicted in the television programs watched by children and increased aggressive behavior among children.

(7) It is a compelling National interest that parents be empowered with the technology to block the viewing by their children of television programs whose content is overly violent or objectionable for other reasons.

(8) Technology currently exists to permit the manufacture of television receivers that are capable of permitting parents to block television programs having violent or otherwise objectionable content.

SEC. 503. RATING CODE FOR VIOLENCE AND OTHER OBJECTIONABLE CONTENT ON TELEVISION.

(a) SENSE OF CONGRESS ON VOLUNTARY ESTABLISHMENT OF RATING CODE.—It is the sense of Congress—

(1) to encourage appropriate representatives of the broadcast television industry and the cable television industry to establish in a voluntary manner rules for rating the level of violence or other objectionable content in television programming, including rules for the transmission by television broadcast stations and cable systems of—

(A) signals containing ratings of the level of violence or objectionable content in such programming; and

(B) signals containing specifications for blocking such programming;

(2) to encourage such representatives to establish such rules in consultation with appropriate public interest groups and interested individuals from the private sector; and

(3) to encourage television broadcasters and cable operators to comply voluntarily with such rules upon the establishment of such rules.

(b) REQUIREMENT FOR ESTABLISHMENT OF RATING CODE.—

(1) IN GENERAL.—If the representatives of the broadcast television industry and the cable television industry do not establish the rules referred to in subsection (a)(1) by the end of the 1-year period beginning on the date of the enactment of this Act, there shall be established on the day following the end of that period a commission to be known as the Television Rating Commission (hereafter in this section referred to as the ''Television Commission''). The Television Commission shall be an independent establishment in the executive branch as defined under section 104 of title 5, United States Code.

(2) MEMBERS.—

(A) IN GENERAL.—The Television Commission shall be composed of 5 members appointed by the President, by and with the advice and consent of the Senate, of whom—

(i) three shall be individuals who are members of appropriate public interest groups or are interested individuals from the private sector; and

(ii) two shall be representatives of the broadcast television industry and the cable television industry.

(B) NOMINATION.—Individuals shall be nominated for appointment under subparagraph (A) not later than 60 days after the date of the establishment of the Television Commission.

(D) TERMS.—Each member of the Television Commission shall serve until the termination of the commission.

(E) VACANCIES.—A vacancy on the Television Commission shall be filled in the same manner as the original appointment.

(2) DUTIES OF TELEVISION COMMISSION.—The Television Commission shall establish rules for rating the level of violence or other objectionable content in television programming, including rules for the transmission by television broadcast stations and cable systems of—

(A) signals containing ratings of the level of violence or objectionable content in such programming; and

(B) signals containing specifications for blocking such programming.

(3) COMPENSATION OF MEMBERS.—

(A) CHAIRMAN.—The Chairman of the Television Commission shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5314 of title 5, United States Code, for each day (including traveltime) during which the Chairman is engaged in the performance of duties vested in the commission.

(B) OTHER MEMBERS.—Except for the Chairman who shall be paid as provided under subparagraph (A), each member of the Television Commission shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level V of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including traveltime) during which the member is engaged in the performance of duties vested in the commission.

(4) STAFF.—

(A) IN GENERAL.—The Chairman of the Television Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the commission to perform its duties. The employment of an executive director shall be subject to confirmation by the commission.

(B) COMPENSATION.—The Chairman of the Television Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(5) CONSULTANTS.—The Television Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants under section 3109 of title 5, United States Code. The commission shall give public notice of any such contract before entering into such contract.

(6) FUNDING.—There is authorized to be appropriated to the Commission such sums as are necessary to enable the Commission to carry out its duties under this Act.

SEC. 504. REQUIREMENT FOR MANUFACTURE OF TELEVISIONS THAT BLOCK PROGRAMS.

(a) REQUIREMENT.—Section 303 (47 U.S.C. 303), as amended by this Act, is further amended by adding at the end the following:

''(w) Require, in the case of apparatus designed to receive television signals that are manufactured in the United States or imported for use in the United States and that have a picture screen 13 inches or greater in size (measured diagonally), that such apparatus—

''(1) be equipped with circuitry designed to enable viewers to block the display of channels during particular time slots; and

''(2) enable viewers to block display of all programs with a common rating.''.

(b) IMPLEMENTATION.—In adopting the requirement set forth in section 303(w) of the Communications Act of 1934, as added by subsection (a), the Federal Communications Commission, in consultation with the television receiver manufacturing industry, shall determine a date for the applicability of the requirement to the apparatus covered by that section.

SEC. 505. SHIPPING OR IMPORTING OF TELEVISIONS THAT BLOCK PROGRAMS.

(a) REGULATIONS.—Section 330 (47 U.S.C. 330) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by adding after subsection (b) the following new subsection (c):

''(c)(1) Except as provided in paragraph (2), no person shall ship in interstate commerce, manufacture, assemble, or import from any foreign country into the United States any apparatus described in section 303(w) of this Act except in accordance with rules prescribed by the Commission pursuant to the authority granted by that section.

''(2) This subsection shall not apply to carriers transporting apparatus referred to in paragraph (1) without trading it.

''(3) The rules prescribed by the Commission under this subsection shall provide performance standards for blocking technology. Such rules shall require that all such apparatus be able to receive transmitted rating signals which conform to the signal and blocking specifications established by the Commission.

''(4) As new video technology is developed, the Commission shall take such action as the Commission determines appropriate to ensure that blocking service continues to be available to consumers.''.

(b) CONFORMING AMENDMENT.—Section 330(d), as redesignated by subsection (a)(1), is amended by striking ''section 303(s), and section 303(u)'' and inserting in lieu thereof ''and sections 303(s), 303(u), and 303(w)''.

TITLE VI—NATIONAL EDUCATION TECHNOLOGY FUNDING CORPORATION

SEC. 601. SHORT TITLE.

This title may be cited as the ''National Education Technology Funding Corporation Act of 1995''.

SEC. 602. FINDINGS; PURPOSE.

(a) FINDINGS.—The Congress finds as follows:

(1) CORPORATION.—There has been established in the District of Columbia a private, nonprofit corporation known as the National Education Technology Funding Corporation which is not an agency or independent establishment of the Federal Government.

(2) BOARD OF DIRECTORS.—The Corporation is governed by a Board of Directors, as prescribed in the Corporation's articles of incorporation, consisting of 15 members, of which—

(A) five members are representative of public agencies representative of schools and public libraries;

(B) five members are representative of State government, including persons knowledgeable about State finance, technology and education; and

(C) five members are representative of the private sector, with expertise in network technology, finance and management.

(3) CORPORATE PURPOSES.—The purposes of the Corporation, as set forth in its articles of incorporation, are—

(A) to leverage resources and stimulate private investment in education technology infrastructure;

(B) to designate State education technology agencies to receive loans, grants or other forms of assistance from the Corporation;

(C) to establish criteria for encouraging States to—

(i) create, maintain, utilize and upgrade interactive high capacity networks capable of providing audio, visual and data communications for elementary schools, secondary schools and public libraries;

(ii) distribute resources to assure equitable aid to all elementary schools and secondary schools in the State and achieve universal access to network technology; and

(iii) upgrade the delivery and development of learning through innovative technology-based instructional tools and applications;

(D) to provide loans, grants and other forms of assistance to State education technology agencies, with due regard for providing a fair balance among types of school districts and public libraries assisted and the disparate needs of such districts and libraries;

(E) to leverage resources to provide maximum aid to elementary schools, secondary schools and public libraries; and

(F) to encourage the development of education telecommunications and information technologies through public-private ventures, by serving as a clearinghouse for information on new education technologies, and by providing technical assistance, including assistance to States, if needed, to establish State education technology agencies.

(b) PURPOSE.—The purpose of this title is to recognize the Corporation as a nonprofit corporation operating under the laws of the District of Columbia, and to provide authority for Federal departments and agencies to provide assistance to the Corporation.

SEC. 603. DEFINITIONS.

For the purpose of this title—

(1) the term ''Corporation'' means the National Education Technology Funding Corporation described in section 602(a)(1);

(2) the terms ''elementary school'' and ''secondary school'' have the same meanings given such terms in section 14101 of the Elementary and Secondary Education Act of 1965; and

(3) the term ''public library'' has the same meaning given such term in section 3 of the Library Services and Construction Act.

SEC. 604. ASSISTANCE FOR EDUCATION TECHNOLOGY PURPOSES.

(a) RECEIPT BY CORPORATION.—Notwithstanding any other provision of law, in order to carry out the corporate purposes described in section 602(a)(3), the Corporation shall be eligible to receive discretionary grants, contracts, gifts, contributions, or technical assistance from any Federal department or agency, to the extent otherwise permitted by law.

(b) AGREEMENT.—In order to receive any assistance described in subsection (a) the Corporation shall enter into an agreement with the Federal department or agency providing such assistance, under which the Corporation agrees—

(1) to use such assistance to provide funding and technical assistance only for activities which the Board of Directors of the Corporation determines are consistent with the corporate purposes described in section 602(a)(3);

(2) to review the activities of State education technology agencies and other entities receiving assistance from the Corporation to assure that the corporate purposes described in section 602(a)(3) are carried out;

(3) that no part of the assets of the Corporation shall accrue to the benefit of any member of the Board of Directors of the Corporation, any officer or employee of the Corporation, or any other individual, except as salary or reasonable compensation for services;

(4) that the Board of Directors of the Corporation will adopt policies and procedures to prevent conflicts of interest;

(5) to maintain a Board of Directors of the Corporation consistent with section 602(a)(2);

(6) that the Corporation, and any entity receiving the assistance from the Corporation, are subject to the appropriate oversight procedures of the Congress; and

(7) to comply with—

(A) the audit requirements described in section 605; and

(B) the reporting and testimony requirements described in section 606.

(c) CONSTRUCTION.—Nothing in this title shall be construed to establish the Corporation as an agency or independent establishment of the Federal Government, or to establish the members of the Board of Directors of the Corporation, or the officers and employees of the Corporation, as officers or employees of the Federal Government.

SEC. 605. AUDITS

(a) AUDITS BY INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS.—

(1) IN GENERAL.—The Corporation's financial statements shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants who are members of a nationally recognized accounting firm and who are certified by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit shall be made available to the person or persons conducting the audits, and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(2) REPORTING REQUIREMENTS.—The report of each annual audit described in paragraph (1) shall be included in the annual report required by section 606(a).

(b) RECORDKEEPING REQUIREMENTS; AUDIT AND EXAMINATION OF BOOKS.—

(1) RECORDKEEPING REQUIREMENTS.—The Corporation shall ensure that each recipient of assistance from the Corporation keeps—

(A) separate accounts with respect to such assistance;

(B) such records as may be reasonably necessary to fully disclose—

(i) the amount and the disposition by such recipient of the proceeds of such assistance;

(ii) the total cost of the project or undertaking in connection with which such assistance is given or used; and

(iii) the amount and nature of that portion of the cost of the project or undertaking supplied by other sources; and

(C) such other records as will facilitate an effective audit.

(2) AUDIT AND EXAMINATION OF BOOKS.—The Corporation shall ensure that the Corporation, or any of the Corporation's duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of any recipient of assistance from the Corporation that are pertinent to such assistance. Representatives of the Comptroller General shall also have such access for such purpose.

SEC. 606. ANNUAL REPORT; TESTIMONY TO THE CONGRESS.

(a) ANNUAL REPORT.—Not later than April 30 of each year, the Corporation shall publish an annual report for the preceding fiscal

year and submit that report to the President and the Congress. The report shall include a comprehensive and detailed evaluation of the Corporation's operations, activities, financial condition, and accomplishments under this title and may include such recommendations as the Corporation deems appropriate.

(b) TESTIMONY BEFORE CONGRESS.—The members of the Board of Directors, and officers, of the Corporation shall be available to testify before appropriate committees of the Congress with respect to the report described in subsection (a), the report of any audit made by the Comptroller General pursuant to this title, or any other matter which any such committee may determine appropriate.

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. SPECTRUM AUCTIONS.

(a) FINDINGS.—The Congress finds that—

(1) the National Telecommunications and Information Administration of the Department of Commerce recently submitted to the Congress a report entitled ''U.S. National Spectrum Requirements'' as required by section 113 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923);

(2) based on the best available information the report concludes that an additional 179 megahertz of spectrum will be needed within the next ten years to meet the expected demand for land mobile and mobile satellite radio services such as cellular telephone service, paging services, personal communication services, and low earth orbiting satellite communications systems;

(3) a further 85 megahertz of additional spectrum, for a total of 264 megahertz, is needed if the United States is to fully implement the Intelligent Transportation System currently under development by the Department of Transportation;

(4) as required by part B of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 921 et seq.) the Federal Government will transfer 235 megahertz of spectrum from exclusive government use to non-governmental or mixed governmental and non-governmental use between 1994 and 2004;

(5) the Spectrum Reallocation Final Report submitted to Congress under section 113 of the National Telecommunications and Information Administration Organization Act by the National Telecommunications and Information Administration states that, of the 235 megahertz of spectrum identified for reallocation from governmental to non-governmental or mixed use—

(A) 50 megahertz has already been reallocated for exclusive non-governmental use,

(B) 45 megahertz will be reallocated in 1995 for both exclusive non-governmental and mixed governmental and non-governmental use,

(C) 25 megahertz will be reallocated in 1997 for exclusive non-governmental use,

(D) 70 megahertz will be reallocated in 1999 for both exclusive non-governmental and mixed governmental and non-governmental use, and

(E) the final 45 megahertz will be reallocated for mixed governmental and non-governmental use by 2004;

(6) the 165 megahertz of spectrum that are not yet reallocated, combined with 80 megahertz that the Federal Communications Commission is currently holding in reserve for emerging technologies, are less than the best estimates of projected spectrum needs in the United States;

(7) the authority of the Federal Communications Commission to assign radio spectrum frequencies using an auction process expires on September 30, 1998;

(8) a significant portion of the reallocated spectrum will not yet be assigned to non-governmental users before that authority expires;

(9) the transfer of Federal governmental users from certain valuable radio frequencies to other reserved frequencies could be expedited if Federal governmental users are permitted to accept reimbursement for relocation costs from non-governmental users; and

(10) non-governmental reimbursement of Federal governmental users relocation costs would allow the market to determine the most efficient use of the available spectrum.

(b) EXTENSION AND EXPANSION OF AUCTION AUTHORITY.—Section 309(j) (47 U.S.C. 309(j)) is amended—

(1) by striking paragraph (1) and inserting in lieu thereof the following:

''(1) GENERAL AUTHORITY.—If mutually exclusive applications or requests are accepted for any initial license or construction permit which will involve a use of the electromagnetic spectrum, then the Commission shall grant such license or permit to a qualified applicant through a system of competitive bidding that meets the requirements of this subsection. The competitive bidding authority granted by this subsection shall not apply to licenses or construction permits issued by the Commission for public safety radio services or for licenses or construction permits for new terrestrial digital television services assigned by the Commission to existing terrestrial broadcast licensees to replace their current television licenses.'';

(2) by striking paragraph (2) and renumbering paragraphs (3) through (13) as (2) through (12), respectively; and

(3) by striking ''1998'' in paragraph (10), as renumbered, and inserting in lieu thereof ''2000''.

(c) REIMBURSEMENT OF FEDERAL RELOCATION COSTS.—Section 113 of the National Telecommunications and Information Administration Act (47 U.S.C. 923) is amended by adding at the end the following new subsections:

''(f) RELOCATION OF FEDERAL GOVERNMENT STATIONS.—

''(1) IN GENERAL.—In order to expedite the efficient use of the electromagnetic spectrum and notwithstanding section 3302(b) of title 31, United States Code, any Federal entity which operates a Federal Government station may accept reimbursement from any person for the costs incurred by such Federal entity for any modification, replacement, or reissuance of equipment, facilities, operating manuals, regulations, or other expenses incurred by that entity in relocating the operations of its Federal Government station or stations from one or more radio spectrum frequencies to any other frequency or frequencies. Any such reimbursement shall be deposited in the account of such Federal entity in the Treasury of the United States. Funds deposited according to this section shall be available, without appropriation or fiscal year limitation, only for the operations of the Federal entity for which such funds were deposited under this section.

''(2) PROCESS FOR RELOCATION.—Any person seeking to relocate a Federal Government station that has been assigned a frequency within a band allocated for mixed Federal and non-Federal use may submit a petition for such relocation to NTIA. The NTIA shall limit the Federal Government station's operating license to secondary status when the following requirements are met—

''(A) the person seeking relocation of the Federal Government station has guaranteed reimbursement through money or in-kind payment of all relocation costs incurred by the Federal entity, including all engineering, equipment, site acquisition and construction, and regulatory fee costs;

''(B) the person seeking relocation completes all activities necessary for implementing the relocation, including construction of replacement facilities (if necessary and appropriate) and identifying and obtaining on the Federal entity's behalf new frequencies for use by the relocated Federal Government station (where such station is not relocating to spectrum reserved exclusively for Federal use); and

''(C) any necessary replacement facilities, equipment modifications, or other changes have been implemented and tested to ensure that the Federal Government station is able to successfully accomplish its purposes.

''(3) RIGHT TO RECLAIM.—If within one year after the relocation the Federal Government station demonstrates to the Commission that the new facilities or spectrum are not comparable to the facilities or spectrum from which the Federal Government station was relocated, the person seeking such relocation must take reasonable steps to remedy any defects or reimburse the Federal entity for the costs of returning the Federal Government station to the spectrum from which such station was relocated.

''(g) FEDERAL ACTION TO EXPEDITE SPECTRUM TRANSFER.—Any Federal Government station which operates on electromagnetic spectrum that has been identified for reallocation for mixed Federal and non-Federal use in the Spectrum Reallocation Final Report shall, to the maximum extent practicable through the use of the authority granted under subsection (f) and any other applicable provision of law, take action to relocate its spectrum use to other frequencies that are reserved for Federal use or to consolidate its spectrum use with other Federal Government stations in a manner that maximizes the spectrum available for non-Federal use. Notwithstanding the timetable contained in the Spectrum Reallocation Final Report, the President shall seek to implement the reallocation of the 1710 to 1755 megahertz frequency band by January 1, 2000. Subsection (c)(4) of this section shall not apply to the extent that a non-Federal user seeks to relocate or relocates a Federal power agency under subsection (f).

''(h) DEFINITIONS.—For purposes of this section—

''(1) FEDERAL ENTITY.—The term 'Federal entity' means any Department, agency, or other element of the Federal Government that utilizes radio frequency spectrum in the conduct of its authorized activities, including a Federal power agency.

''(2) SPECTRUM REALLOCATION FINAL REPORT.—The term 'Spectrum Reallocation Final Report' means the report submitted by the Secretary to the President and Congress in compliance with the requirements of subsection (a).''.

(d) REALLOCATION OF ADDITIONAL SPECTRUM.—The Secretary of Commerce shall, within 9 months after the date of enactment of this Act, prepare and submit to the President and the Congress a report and timetable recommending the reallocation of the two frequency bands (3625–3650 megahertz and 5850–5925 megahertz) that were discussed but not recommended for reallocation in the Spectrum Reallocation Final Report under section 113(a) of the National Telecommunications and Information Administration Organization Act. The Secretary shall consult with the Federal Communications Commission and other Federal agencies in the preparation of the report, and shall provide notice and an opportunity for public comment before submitting the report and timetable required by this section.

(e) BROADCAST AUXILIARY SPECTRUM RELOCATION.—

(1) ALLOCATION OF SPECTRUM FOR BROADCAST AUXILIARY USES.—Within one year after

the date of enactment of this Act, the Commission shall allocate the 4635–4685 megahertz band transferred to the Commission under section 113(b) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(b)) for broadcast auxiliary uses.

(2) MANDATORY RELOCATION OF BROADCAST AUXILIARY USES.—Within 7 years after the date of enactment of this Act, all licensees of broadcast auxiliary spectrum in the 2025–2075 megahertz band shall relocate into spectrum allocated by the Commission under paragraph (1). The Commission shall assign and grant licenses for use of the spectrum allocated under paragraph (1)—

(A) in a manner sufficient to permit timely completion of relocation; and

(B) without using a competitive bidding process.

(3) ASSIGNING RECOVERED SPECTRUM.—Within 5 years after the date of enactment of this Act, the Commission shall allocate the spectrum recovered in the 2025–2075 megahertz band under paragraph (2) for use by new licensees for commercial mobile services or other similar services after the relocation of broadcast auxiliary licensees, and shall assign such licenses by competitive bidding.

SEC. 702. RENEWED EFFORTS TO REGULATE VIOLENT PROGRAMMING.

(a) FINDINGS.—The Senate finds that:

(1) Violence is a pervasive and persistent feature of the entertainment industry. According to the Carnegie Council on Adolescent Development, by the age of 18, children will have been exposed to nearly 18,000 televised murders and 800 suicides.

(2) Violence on television is likely to have a serious and harmful effect on the emotional development of young children. The American Psychological Association has reported that children who watch ''a large number of aggressive programs tend to hold attitudes and values that favor the use of aggression to solve conflicts''. The National Institute of Mental Health has stated similarly that ''violence on television does lead to aggressive behavior by children and teenagers''.

(3) The Senate recognizes that television violence is not the sole cause of violence in society.

(4) There is a broad recognition in the United States Congress that the television industry has an obligation to police the content of its own broadcasts to children. That understanding was reflected in the Television Violence Act of 1990, which was specifically designed to permit industry participants to work together to create a self-monitoring system.

(5) After years of denying that television violence has any detrimental effect, the entertainment industry has begun to address the problem of television violence. In the spring of 1994, for example, the network and cable industries announced the appointment of an independent monitoring group to assess the amount of violence on television. These reports are due out in the fall of 1995 and winter of 1996, respectively.

(6) The Senate recognizes that self-regulation by the private sector is generally preferable to direct regulation by the Federal Government.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the entertainment industry should do everything possible to limit the amount of violent and aggressive entertainment programming, particularly during the hours when children are most likely to be watching.

SEC. 703. PREVENTION OF UNFAIR BILLING PRACTICES FOR INFORMATION OR SERVICES PROVIDED OVER TOLL-FREE TELEPHONE CALLS.

(a) FINDINGS.—Congress makes the following findings:

(1) Reforms required by the Telephone Disclosure and Dispute Resolution Act of 1992 have improved the reputation of the pay-per-call industry and resulted in regulations that have reduced the incidence of misleading practices that are harmful to the public interest.

(2) Among the successful reforms is a restriction on charges being assessed for calls to 800 telephone numbers or other telephone numbers advertised or widely understood to be toll free.

(3) Nevertheless, certain interstate pay-per-call businesses are taking advantage of an exception in the restriction on charging for information conveyed during a call to a ''toll-free'' number to continue to engage in misleading practices. These practices are not in compliance with the intent of Congress in passing the Telephone Disclosure and Dispute Resolution Act.

(4) It is necessary for Congress to clarify that its intent is that charges for information provided during a call to an 800 number or other number widely advertised and understood to be toll free shall not be assessed to the calling party unless the calling party agrees to be billed according to the terms of a written subscription agreement or by other appropriate means.

(b) PREVENTION OF UNFAIR BILLING PRACTICES.—

(1) IN GENERAL.—Section 228(c) (47 U.S.C. 228(c)) is amended—

(A) by striking out subparagraph (C) of paragraph (7) and inserting in lieu thereof the following:

''(C) the calling party being charged for information conveyed during the call unless—

''(i) the calling party has a written agreement (including an agreement transmitted through electronic medium) that meets the requirements of paragraph (8); or

''(ii) the calling party is charged for the information in accordance with paragraph (9); or''; and

(B) by adding at the end the following new paragraphs:

''(8) SUBSCRIPTION AGREEMENTS FOR BILLING FOR INFORMATION PROVIDED VIA TOLL-FREE CALLS.—

''(A) IN GENERAL.—For purposes of paragraph (7)(C), a written subscription does not meet the requirements of this paragraph unless the agreement specifies the material terms and conditions under which the information is offered and includes—

''(i) the rate at which charges are assessed for the information;

''(ii) the information provider's name;

''(iii) the information provider's business address;

''(iv) the information provider's regular business telephone number;

''(v) the information provider's agreement to notify the subscriber of all future changes in the rates charged for the information; and

''(vi) the subscriber's choice of payment method, which may be by direct remit, debit, prepaid account, phone bill or credit or calling card.

''(B) BILLING ARRANGEMENTS.—If a subscriber elects, pursuant to subparagraph (A)(vi), to pay by means of a phone bill—

''(i) the agreement shall clearly explain that charges for the service will appear on the subscriber's phone bill;

''(ii) the phone bill shall include, in prominent type, the following disclaimer:

'Common carriers may not disconnect local or long distance telephone service for failure to pay disputed charges for information services.'; and

''(iii) the phone bill shall clearly list the 800 number dialed.

''(C) USE OF PINS TO PREVENT UNAUTHORIZED USE.—A written agreement does not meet the requirements of this paragraph unless it requires the subscriber to use a personal identification number to obtain access to the information provided, and includes instructions on its use.

''(D) EXCEPTIONS.—Notwithstanding paragraph (7)(C), a written agreement that meets the requirements of this paragraph is not required—

''(i) for calls utilizing telecommunications devices for the deaf;

''(ii) for services provided pursuant to a tariff that has been approved or permitted to take effect by the Commission or a State commission; or

''(iii) for any purchase of goods or of services that are not information services.

''(E) TERMINATION OF SERVICE.—On receipt by a common carrier of a complaint by any person that an information provider is in violation of the provisions of this section, a carrier shall—

''(i) promptly investigate the complaint; and

''(ii) if the carrier reasonably determines that the complaint is valid, it may terminate the provision of service to an information provider unless the provider supplies evidence of a written agreement that meets the requirements of this section.

''(F) TREATMENT OF REMEDIES.—The remedies provided in this paragraph are in addition to any other remedies that are available under title V of this Act.

''(9) CHARGES IN ABSENCE OF AGREEMENT.—A calling party is charged for a call in accordance with this paragraph if the provider of the information conveyed during the call—

''(A) clearly states to the calling party the total cost per minute of the information provided during the call and for any other information or service provided by the provider to which the calling party requests connection during the call; and

''(B) receives from the calling party—

''(i) an agreement to accept the charges for any information or services provided by the provider during the call; and

''(ii) a credit, calling, or charge card number or verification of a prepaid account to which such charges are to be billed.

''(10) DEFINITION.—As used in paragraphs (8) and (9), the term 'calling card' means an identifying number or code unique to the individual, that is issued to the individual by a common carrier and enables the individual to be charged by means of a phone bill for charges incurred independent of where the call originates.''

(2) REGULATIONS.—The Federal Communications Commission shall revise its regulations to comply with the amendment made by paragraph (1) not later than 180 days after the date of the enactment of this Act.

(3) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act.

(c) CLARIFICATION OF ''PAY-PER-CALL SERVICES'' UNDER TELEPHONE DISCLOSURE AND DISPUTE RESOLUTION ACT.—Section 204(1) of the Telephone Disclosure and Dispute Resolution Act (15 U.S.C. 5714(1)) is amended to read as follows:

''(1) The term 'pay-per-call services' has the meaning provided in section 228(j)(1) of the Communications Act of 1934, except that the Commission by rule may, notwithstanding subparagraphs (B) and (C) of such section, extend such definition to other similar services providing audio information or audio entertainment if the Commission determines that such services are susceptible

to the unfair and deceptive practices that are prohibited by the rules prescribed pursuant to section 201(a).''.

SEC. 704. DISCLOSURE OF CERTAIN RECORDS FOR INVESTIGATIONS OF TELEMARKETING FRAUD.

Section 2703(c)(1)(B) of title 18, United States Code, is amended—

(1) by striking out ''or'' at the end of clause (ii);

(2) by striking out the period at the end of clause (iii) and inserting in lieu thereof ''; or''; and

(3) by adding at the end the following:

''(iv) submits a formal written request for information relevant to a legitimate law enforcement investigation of the governmental entity for the name, address, and place of business of a subscriber or customer of such provider, which subscriber or customer is engaged in telemarketing (as such term is in section 2325 of this title).''.

SEC. 705. TELECOMMUTING PUBLIC INFORMATION PROGRAM.

(a) FINDINGS.—Congress makes the following findings—

(1) Telecommuting is the practice of allowing people to work either at home or in nearby centers located closer to home during their normal working hours, substituting telecommunications services, either partially or completely, for transportation to a more traditional workplace;

(2) Telecommuting is now practiced by an estimated two to seven million Americans, including individuals with impaired mobility, who are taking advantage of computer and telecommunications advances in recent years;

(3) Telecommuting has the potential to dramatically reduce fuel consumption, mobile source air pollution, vehicle miles traveled, and time spent commuting, thus contributing to an improvement in the quality of life for millions of Americans; and

(4) It is in the public interest for the Federal Government to collect and disseminate information encouraging the increased use of telecommuting and identifying the potential benefits and costs of telecommuting.

(b) TELECOMMUTING RESEARCH PROGRAMS AND PUBLIC INFORMATION DISSEMINATION.—The Secretary of Transportation, in consultation with the Secretary of Labor and the Administrator of the Environmental Protection Agency, shall, within three months of the date of enactment of this Act, carry out research to identify successful telecommuting programs in the public and private sectors and provide for the dissemination to the public of information regarading—

(1) the establishment of successful telecommuting programs; and

(2) the benefits and costs of telecommuting.

(c) REPORT.—Within one year of the date of enactment of this Act, the Secretary of Transportation shall report to Congress its findings, conclusions, and recommendations regarding telecommuting developed under this section.

SEC. 706. AUTHORITY TO ACQUIRE CABLE SYSTEMS.

(a) IN GENERAL.—Notwithstanding the provisions of section 613(b)(6) of the Communications Act of 1934, as added by section 203(a) of this Act, a local exchange carrier (or any affiliate of such carrier owned by, operated by, controlled by, or under common control with such carrier) may purchase or otherwise acquire more than a 10 percent financial interest, or any management interest, or enter into a joint venture or partnership with any cable system described in subsection (b) within the local exchange carrier's telephone service area.

(b) COVERED CABLE SYSTEMS.—Subsection (a) applies to any cable system serving no more than 20,000 cable subscribers of which no more than 12,000 of those subscribers live within an urbanized area, as defined by the Bureau of the Census.

(c) DEFINITION.—For purposes of this section, the term ''local exchange carrier'' has the meaning given such term in section 3 (kk) of the Communications Act of 1934, as added by section 8(b) of this Act.

REGULATORY TRANSITION ACT OF 1995—MESSAGE FROM THE HOUSE

Mr. WARNER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on a bill (S. 219) to ensure economy and efficiency of Federal Government operations by establishing a moratorium on regulatory rulemaking actions, and for other purposes.

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

Resolved, That the bill from the Senate (S. 219) entitled ''An Act to ensure economy and efficiency of Federal Government operations by establishing a moratorium on regulatory rulemaking actions, and for other purposes'', do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Regulatory Transition Act of 1995''.

SEC. 2. FINDING.

The Congress finds that effective steps for improving the efficiency and proper management of Government operations, including enactment of a new law or laws to require (1) that the Federal rulemaking process include cost/benefit analysis, including analysis of costs resulting from the loss of property rights, and (2) for those Federal regulations that are subject to risk analysis and risk assessment that those regulations undergo standardized risk analysis and risk assessment using the best scientific and economic procedures, will be promoted if a moratorium on new rulemaking actions is imposed and an inventory of such action is conducted.

SEC. 3. MORATORIUM ON REGULATIONS.

(a) MORATORIUM.—Until the end of the moratorium period, a Federal agency may not take any regulatory rulemaking action, unless an exception is provided under section 5. Beginning 30 days after the date of the enactment of this Act, the effectiveness of any regulatory rulemaking action taken or made effective during the moratorium period but before the date of the enactment shall be suspended until the end of the moratorium period, unless an exception is provided under section 5.

(b) INVENTORY OF RULEMAKINGS.—Not later than 30 days after the date of the enactment of this Act, the President shall conduct an inventory and publish in the Federal Register a list of all regulatory rulemaking actions covered by subsection (a) taken or made effective during the moratorium period but before the date of the enactment.

SEC. 4. SPECIAL RULE ON STATUTORY, REGULATORY, AND JUDICIAL DEADLINES.

(a) IN GENERAL.—Any deadline for, relating to, or involving any action dependent upon, any regulatory rulemaking actions authorized or required to be taken before the end of the moratorium period is extended for 5 months or until the end of the moratorium period, whichever is later.

(b) DEADLINE DEFINED.—The term ''deadline'' means any date certain for fulfilling any obligation or exercising any authority established by or under any Federal statute or regulation, or by or under any court order implementing any Federal statute or regulation.

(c) IDENTIFICATION OF POSTPONED DEADLINES.—Not later than 30 days after the date of the enactment of this Act, the President shall identify and publish in the Federal Register a list of deadlines covered by subsection (a).

SEC. 5. EMERGENCY EXCEPTIONS; EXCLUSIONS.

(a) EMERGENCY EXCEPTION.—Section 3(a) or 4(a), or both, shall not apply to a regulatory rulemaking action if—

(1) the head of a Federal agency otherwise authorized to take the action submits a written request to the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget and submits a copy thereof to the appropriate committees of each House of the Congress;

(2) the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget finds in writing that a waiver for the action is (A) necessary because of an imminent threat to health or safety or other emergency, or (B) necessary for the enforcement of criminal laws; and

(3) the Federal agency head publishes the finding and waiver in the Federal Register.

(b) EXCLUSIONS.—The head of an agency shall publish in the Federal Register any action excluded because of a certification under section 6(3)(B).

(c) CIVIL RIGHTS EXCEPTION.—Section 3(a) or 4(a), or both, shall not apply to a regulatory rulemaking action to establish or enforce any statutory rights against discrimination on the basis of age, race, religion, gender, national origin, or handicapped or disability status except such rulemaking actions that establish, lead to, or otherwise rely on the use of a quota or preference based on age, race, religion, gender, national origin, or handicapped or disability status.

SEC. 6. DEFINITIONS.

For purposes of this Act:

(1) FEDERAL AGENCY.—The term ''Federal agency'' means any agency as that term is defined in section 551(1) of title 5, United States Code (relating to administrative procedure).

(2) MORATORIUM PERIOD.—The term ''moratorium period'' means the period of time—

(A) beginning November 20, 1994; and

(B) ending on the earlier of—

(i) the first date on which there have been enacted one or more laws that—

(I) require that the Federal rulemaking process include cost/benefit analysis, including analysis of costs resulting from the loss of property rights; and

(II) for those Federal regulations that are subject to risk analysis and risk assessment, require that those regulations undergo standardized risk analysis and risk assessment using the best scientific and economic procedures; or

(ii) December 31, 1995;

except that in the case of a regulatory rulemaking action with respect to determining that a species is an endangered species or a threatened species under section 4(a)(1) of the Endangered Species Act of 1973 (16 U.S.C. 1533(a)(1)) or designating critical habitat under section 4(a)(3) of that Act (16 U.S.C. 1533(a)(3)), the term means the period of time beginning on the date described in subparagraph (A) and ending on the earlier of the first date on which there has been enacted after the date of the enactment of this Act a law authorizing appropriations to carry out the Endangered Species Act of 1973, or December 31, 1996.

(3) REGULATORY RULEMAKING ACTION.—

(A) IN GENERAL.—The term ''regulatory rulemaking action'' means any rulemaking on any rule normally published in the Federal Register, including—

(i) the issuance of any substantive rule, interpretative rule, statement of agency policy, notice of inquiry, advance notice of proposed rulemaking, or notice of proposed rulemaking, and

(ii) any other action taken in the course of the process of rulemaking (except a cost benefit analysis or risk assessment, or both).

(B) EXCLUSIONS.—The term ''regulatory rulemaking action'' does not include—

(i) any agency action that the head of the agency and the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget certify in writing is limited to repealing, narrowing, or streamlining a rule, regulation, or administrative process or otherwise reducing regulatory burdens;

(ii) any agency action that the head of the agency and the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget certify in writing is limited to matters relating to military or foreign affairs functions, statutes implementing international trade agreements, including all agency actions required by the Uruguay Round Agreements Act, or agency management, personnel, or public property, loans, grants, benefits, or contracts;

(iii) any agency action that the head of the agency and the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget certify in writing is limited to a routine administrative function of the agency;

(iv) any agency action that—

(I) is taken by an agency that supervises and regulates insured depository institutions, affiliates of such institutions, credit unions, or government sponsored housing enterprises; and

(II) the head of the agency certifies would meet the standards for an exception or exclusion described in this Act; or

(v) any agency action that the head of the agency certifies is limited to interpreting, implementing, or administering the internal revenue laws of the United States.

(4) RULE.—The term ''rule'' means the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy. Such term does not include the approval or prescription, on a case-by-case or consolidated case basis, for the future of rates, wages, corporation, or financial structures or reorganizations thereof, prices, facilities, appliances, services or allowances therefor, or of valuations, costs, or accounting, or practices bearing on any of the foregoing, nor does it include any action taken in connection with the safety of aviation or any action taken in connection with the implementation of monetary policy or to ensure the safety and soundness of federally insured depository institutions, any affiliate of such an institution, credit unions, or government sponsored housing enterprises or to protect the Federal deposit insurance funds. Such term also does not include granting an application for a license, registration, or similar authority, granting or recognizing an exemption, granting a variance or petition for relief from a regulatory requirement, or other action relieving a restriction (including any agency action which establishes, modifies, or conducts a regulatory program for a recreational or subsistence activity, including but not limited to hunting, fishing, and camping, if a Federal law prohibits the recreational or subsistence activity in the absence of the agency action) or taking any action necessary to permit new or improved applications of technology or allow the manufacture, distribution, sale, or use of a substance or product.

(5) RULEMAKING.—The term ''rulemaking'' means agency process for formulating, amending, or repealing a rule.

(6) LICENSE.—The term ''license'' means the whole or part of an agency permit, certificate, approval, registration, charter, membership, statutory exemption, or other form of permission.

(7) IMMINENT THREAT TO HEALTH OR SAFETY.—The term ''imminent threat to health or safety'' means the existence of any condition, circumstance, or practice reasonably expected to cause death, serious illness, or severe injury to humans, or substantial endangerment to private property during the moratorium period.

SEC. 7. LIMITATION ON CIVIL ACTIONS.

No private right of action may be brought against any Federal agency for a violation of this Act. This prohibition shall not affect any private right of action or remedy otherwise available under any other law.

SEC. 8. RELATIONSHIP TO OTHER LAW; SEVERABILITY.

(a) APPLICABILITY.—This Act shall apply notwithstanding any other provision of law.

(b) SEVERABILITY.—If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this Act, shall not be affected thereby.

SEC. 9. REGULATIONS TO AID BUSINESS COMPETITIVENESS.

Section 3(a) or 4(a), or both, shall not apply to any of the following regulatory rulemaking actions (or any such action relating thereto):

(1) CONDITIONAL RELEASE OF TEXTILE IMPORTS.—A final rule published on December 2, 1994 (59 Fed. Reg. 61798), to provide for the conditional release by the Customs Service of textile imports suspected of being imported in violation of United States quotas.

(2) TEXTILE IMPORTS.—Any action which the head of the relevant agency and the Administrator of the Office of Information and Regulatory Affairs certify in writing is a substantive rule, interpretive rule, statement of agency policy, or notice of proposed rulemaking to interpret, implement, or administer laws pertaining to the import of textiles and apparel including section 334 of the Uruguay Round Agreements Act (P.L. 103–465), relating to textile rules of origin.

(3) CUSTOMS MODERNIZATION.—Any action which the head of the relevant agency and the Administrator of the Office of Information and Regulatory Affairs certify in writing is a substantive rule, interpretive rule, statement of agency policy, or notice of proposed rulemaking to interpret, implement, or administer laws pertaining to the customs modernization provisions contained in title VI of the North American Free Trade Agreement Implementation Act (P.L. 103–182).

(4) ACTIONS WITH RESPECT TO CHINA REGARDING INTELLECTUAL PROPERTY PROTECTION AND MARKET ACCESS.—A regulatory rulemaking action providing notice of a determination that the People's Republic of China's failure to enforce intellectual property rights and to provide market access is unreasonable and constitutes a burden or restriction on United States commerce, and a determination that trade action is appropriate and that sanctions are appropriate, taken under section 304(a)(1)(A)(ii), section 304(a)(1)(B), and section 301(b) of the Trade Act of 1974 and with respect to which a notice of determination was published on February 7, 1995 (60 Fed. Reg. 7230).

(5) TRANSFER OF SPECTRUM.—A regulatory rulemaking action by the Federal Communications Commission to transfer 50 megahertz of spectrum below 5 GHz from government use to private use, taken under the Omnibus Budget Reconciliation Act of 1993 and with respect to which notice of proposed rulemaking was published at 59 Federal Register 59393.

(6) PERSONAL COMMUNICATIONS SERVICES LICENSES.—A regulatory rulemaking action by the Federal Communications Commission to establish criteria and procedures for issuing licenses utilizing competitive bidding procedures to provide personal communications services—

(A) taken under section 309(j) of the Communications Act and with respect to which a final rule was published on December 7, 1994 (59 Fed. Reg. 63210); or

(B) taken under sections 3(n) and 332 of the Communications Act and with respect to which a final rule was published on December 2, 1994 (59 Fed. Reg. 61828).

(7) WIDE-AREA SPECIALIZED MOBILE RADIO LICENSES.—A regulatory rulemaking action by the Federal Communications Commission to provide for competitive bidding for wide-area specialized mobile radio licenses, taken under section 309(j) of the Communications Act and with respect to which a proposed rule was published on February 14, 1995 (60 Fed. Reg. 8341).

(8) IMPROVED TRADING OPPORTUNITIES FOR REGIONAL EXCHANGES.—A regulatory rulemaking action by the Securities and Exchange Commission to provide for increased competition among the stock exchanges, taken under the Unlisted Trading Privileges Act of 1994 and with respect to which proposed rulemaking was published on February 9, 1995 (60 Fed. Reg. 7718).

SEC. 10. DELAYING EFFECTIVE DATE OF RULES WITH RESPECT TO SMALL BUSINESSES.

(a) DELAY EFFECTIVENESS.—For any rule resulting from a regulatory rulemaking action that is suspended or prohibited by this Act, the effective date of the rule with respect to small businesses may not occur before six months after the end of the moratorium period.

(b) SMALL BUSINESS DEFINED.—In this section, the term ''small business'' means any business with 100 or fewer employees.

Mr. WARNER. Mr. President, I move that the Senate disagree to the House amendment, request a conference on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees.

The PRESIDING OFFICER. The motion was agreed to, and the Presiding Officer (Mr. THOMAS) appointed Mr. NICKLES, Mr. STEVENS, Mr. THOMPSON, Mr. GRASSLEY, Mr. GLENN, Mr. LEVIN, and Mr. REID conferees on the part of the Senate.

ORDERS FOR MONDAY, JUNE 19, 1995

Mr. WARNER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 12 noon on Monday, June 19, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be waived, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, there then be a period for the transaction of morning business not to extend beyond the hour of 1 p.m., with Senators permitted to speak for up to 5 minutes each; further, that at the hour of 1 o'clock the Senate resume consideration of S. 440, the National Highway System bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

PROGRAM

Mr. WARNER. Mr. President, for the information of all Senators, the cloture vote on the motion to proceed to the highway bill previously scheduled for 3 p.m. on Monday has been vitiated. Senators should also be aware that no rollcall votes will occur during Monday's

session of the Senate. However, the majority leader fully expects amendments to be offered to the bill and those votes would be postponed until Tuesday to a time to be determined by the two leaders.

ADJOURNMENT UNTIL MONDAY, JUNE 19, 1995

Mr. WARNER. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 2:09 p.m., adjourned until Monday, June 19, 1995, at 12 noon.