United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 105th CONGRESS, FIRST SESSION

Vol. 143 WASHINGTON, FRIDAY, SEPTEMBER 26, 1997 No. 131

Senate

The Senate met at 9 a.m., 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, Lord of law and order, we thank You for peace officers who serve in the sheriff and police forces in cities and counties across our land. They serve in harm's way, facing constant danger, so that we may live with security and safety. We thank You for the Capitol Police as well as the security officers and Secret Service who serve with excellence.

Today, we are shocked and grieved by the violent killing of Sheriff's Corporal Walter Hathcock and State Highway Patrol Trooper Lloyd Lowry of Cumberland County, NC. We ask You to comfort and strengthen the families of these men, particularly their children.

Dear God, curb the growth of violence and crime in our Nation. We turn to You for Your help.

Today, here in the Senate, we ask for Your presence and power. Fill this Chamber with Your grace and glory and the Senators with Your wisdom and understanding through our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. ALLARD. Mr. President, this morning the Senate will be in a period of morning business until 10 a.m. with Senator DASCHLE or his designee in control of the time until 9:30 a.m. and Senator COVERDELL or his designee in control of the time from 9:30 a.m. to 10 a.m.

As earlier ordered, following morning business, the Senate will begin consideration of Senate bill 25 regarding campaign finance reform.

The majority leader announced last evening that there will be no rollcall votes during Friday's session of the Senate. In addition, it was announced there will be no rollcall votes during Monday's session of the Senate. Therefore, the next rollcall vote will be the cloture vote on the Coats amendment No. 1249 to the D.C. appropriations bill, occurring Tuesday, September 30, at 11 a.m.

Members can anticipate debate on campaign finance reform through today's and Monday's sessions of the Senate. I thank Members for their attention.

I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business.

Mr. THURMOND. I ask unanimous consent I be allowed to speak in morning business for up to 10 minutes.

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

Mr. THURMOND. Mr. President, I thank the Chair.

(The remarks of Mr. THURMOND pertaining to the introduction of Senate Resolution 128 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Thank you, Mr. President.

ANTHONY JORDAN, NATIONAL COMMANDER OF THE AMERICAN LEGION

Ms. COLLINS. Mr. President, I rise today with a tremendous sense of pride and great pleasure to inform my colleagues that a citizen of the great State of Maine has been elected national commander of the American Legion.

As many in this Chamber are aware, the American Legion recently held its 79th national convention in Orlando, FL. At the conclusion of that convention, a Maine legionnaire, Anthony Jordan, of Augusta, was elected national commander.

To be selected by your peers to such a prestigious post is a significant accomplishment. For his home State, for his family, for his American Legion post in Wiscasset, ME, and for the thousands of Maine veterans it is a singular honor.

Mr. President, the American Legion chose wisely when it selected Mr. Jordan to lead this organization for the next year. Let me just tell you a bit about Mr. Jordan's background.

Tony Jordan served in the U.S. Army from 1963 to 1965. He joined the American Legion, our Nation's largest veterans organization, in 1971. Mr. Jordan demonstrated an unusual level of personal commitment and leadership in making his commitment to the work of the American Legion, both at the State and the national level.

For example, he served as post commander in Wiscasset and as vice commander of the American Legion Department of Maine. He also served as chairman of the Legion's national membership and post activities committee. He chaired the Foreign Relations Council and the National Security Commission.

In addition, Mr. Jordan also contributed to the Legion as a member of the National Legislative Commission and as liaison to the National Finance Commission.

Finance, foreign relations, national security—that is an impressive and diverse range of committee appointments that make him well qualified to head the American Legion. But the Legion also knew that, when it asked Tony Jordan to take charge, this was an important time for the American Legion and for America's veterans.

Tony Jordan has expressed strong personal sentiments in favor of the constitutional amendment to protect the American flag. Our flag is the symbol for everything for which our Nation stands. Mr. Jordan is standing with those who believe in the integrity of the flag and what it represents—freedom and justice, ideals for which our Nation's veterans risk and, in some cases, gave their lives.

Mr. Jordan is also outspoken in his support of a GI bill of health, the American Legion's response to the challenges being faced by the Department of Veterans Affairs and veterans across this country as they seek to fulfill the promise we made to ensure that our veterans have access to quality health care.

These are only a few examples, Mr. President, of what Mr. Jordan has done on behalf of his country and its largest veterans organization. I know my colleagues will agree that the American Legion chose wisely and well when it elected Anthony Jordan of Augusta, ME, as its national commander. I wish him well in the challenging year ahead.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The assistant legislative clerk proceeded to call.

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

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

CAMPAIGN FINANCE REFORM

Mr. SPECTER. Mr. President, I have sought recognition this morning to compliment our distinguished majority leader, Senator LOTT, for scheduling floor debate on campaign finance reform. I think that this is a very important matter to be debated by the U.S. Senate and, hopefully, to be voted on as to amendments and, ultimately, final passage.

I have long believed that campaign finance reform is indispensable in order to take out the tremendous amount of money that is present in Federal elections. For more than a decade, I have worked on the issue to have a constitutional amendment to overrule Buckley versus Valeo with Senator HOLLINGS under the Hollings-Specter amendment. I believe that there is a very important distinction between amending the first amendment and overruling a specific Supreme Court decision, many of which are split decisions.

There are many besides those on the Court who have an understanding of the Constitution. I think the Buckley decision was wrongly decided. When that decision was handed down, I happened to be in the middle of a contest for the U.S. Senate primary in Pennsylvania running against the then Congressman John Heinz. In the middle of that campaign, the Supreme Court ruled that an individual could spend as much of his or her money as he or she chose. My brother was limited to $1,000 under the law. He could have helped finance my campaign. With Buckley not being reversed, that has been a major impediment to dealing with these tremendous sums of money, plus the unlimited amount of independent expenditures. We have seen the ravages of soft money. We have seen millions of dollars contributed in Presidential elections, as in 1996, in the context where the candidates are pledged not to spend money beyond the Federal contribution. We have seen these ads which have been classified as ''issue ads,'' which are blatant ads urging the election of one candidate and the defeat of another, on both sides of the aisle.

I have introduced campaign finance reform legislation myself which would deal with the issue of soft money, prohibiting it, and which would define an advocacy ad as one which shows the likeness or name of an individual urging his or her election or his or her defeat. With respect to the independent expenditures, they are touted as independent, but in fact they are not independent expenditures.

My legislation would require that someone who makes a so-called independent expenditure make an affidavit to that effect, with strict penalties for perjury on the affidavit form showing the individual making it what the consequences are. That would then be filed with the FEC, with the requirement that the candidate on whose behalf the expenditure was made, plus the campaign manager, make a tough affidavit, so that you do not have the feeling that there is really no enforcement or enforcement so much after the fact that it is irrelevant.

In order to deal with the problem of unlimited expenditures by individuals, my bill provides for a Federal provision analogous to the Maine ''standby public financing provision,'' which provides that if candidate A spends $15 million of his or her own money, then candidate B will have that matched by the Government. I am against generalized Federal funding. However, I do believe that such a provision would be a deterrent so that there would not be the necessity, or at least a very limited amount of governmental money put in the campaigns if they knew there would be no advantage because the Government would match it for his or her opponent.

My bill further builds upon what we have seen in the Governmental Affairs hearing, to require that there be a limit and reporting on contributions to legal defense funds, which are a first cousin to campaign contributions. We saw in the testimony involving Charlie Trie, coming into the legal defense funds, pouring out hundreds of thousands of dollars. My bill further tightens the requirements as to foreign contributions which we saw on the Young development matter, where the money had a foreign origin and ended up in a political campaign committee.

I had been unwilling to cosponsor McCain-Feingold as long as it had the provision calling for lesser expenses or free television time, because I think that provision is unconstitutional, in violation of the fifth amendment as the taking of property without due process of law. I know the arguments that they are public airwaves, but once the situation has been established on a property right, I think that constitutes a taking. I discussed that matter with Senator MCCAIN some time ago, and once he says that provision is going to go, I am prepared to cosponsor McCain-Feingold. Last year, when the subject came up, I voted for cloture on McCain-Feingold. Although I didn't agree with all of its provisions, I thought the matter should come to the Senate floor and be voted upon.

Regrettably, we will probably not have campaign finance reform, or we won't have campaign finance reform until there is a demand by the American people that we do so. Only that kind of a demand will move the Congress. My own sense is that we are far short of the 60 votes for cloture for cutting off debate. But I think there may be 8, 10, 12, maybe even more, Senators who would be influenced by a very strong constituent demand. That influences us from a very realistic sense. Regrettably, our hearings this week in Governmental Affairs have not been covered because there is no scandal. The media and the public are attracted, regrettably, only to scandal. It is my hope that as we move ahead in Governmental Affairs, we will have more public attention.

Last week, when we had the testimony as to Roger Tamraz and his $300,000 contribution and the testimony about John Huang asking for money in the White House at a coffee, which the President, apparently, condoned, and the testimony about the man in the line giving the President a card suggesting millions of dollars of contributions and later being contacted by a Presidential aide, had that been on national television, I think the public might well be aroused. It is my hope that the debate here will be spirited. I think, realistically, Senate debates are unlikely to lead the American people to catch fire on this issue. But perhaps our Governmental Affairs hearings can do that, or supplement it by media attention generally.

I think it is a very useful thing to move ahead with these debates on campaign finance reform. Again, I compliment Senator LOTT for scheduling them, and I look forward to participating in those debates, aside from this brief comment in morning business.

I yield the floor.

Mr. BURNS addressed the chair.

The PRESIDING OFFICER. The Senator from Montana.

IRS OVERSIGHT HEARINGS

Mr. BURNS. Mr. President, I rise today to talk about some oversight hearings that have been going on here in the Senate. Also, I hope that the American people are seeing some things happen now that should have happened a long time ago. It wasn't very long ago that the suggestion was made to the Senate that we should go to a 2-year appropriation and a 2-year budget, because it seems like the time is eaten up here in the first part of the year to deal with budget and budget reconciliation, which is very, very important, and then the next part is taken up with the appropriations process.

I have contended all along that our role here is not only to deal with budgets and appropriations, but to also deal with legislation and reform that, in some areas, is needed to stay up with the times, and also in the area of oversight. We have absolutely taken and extended the work day, more or less, to accommodate oversight. I think what the American people are seeing now is the result of that, as there are many hearings going on not only in Energy, but Governmental Affairs and, of course, in the Finance Committee. I want to compliment the chairman of the Finance Committee for this oversight hearing on the IRS.

It is something that has been ongoing out there, I think, since probably we started this business of tax collection. Maybe there is no right way to collect taxes. I don't know that for sure. Even some activities and actions taken by the Congress have made their job a little more complicated, and maybe in some cases a little bit tough. But it does not give the IRS the right to do this job in the way that has been enlightened for us through these hearings of oversight of the IRS. It has shown a lack of compassion—exhibited by IRS employees beyond my comprehension, and I think beyond the comprehension of those in this country, and I imagine those people who have been watching those hearings. Yes. It happened to me too. Because we maybe are just talking about the tip of the iceberg.

But some abusive IRS employees have expanded their scope of enforcement activities to include business men and women who are just trying to make a living; trying to stay in compliance with all Federal, State, and local revenue collecting and regulating laws.

At the source of this evil we can level our sights in on some mismanagement by some IRS employees. IRS management needs to recognize that they have a difficult job promoting customer service as an IRS attribute. It is not an easy task considering the historic attitude toward not the IRS, but taxes. The founding of this great Nation and history tells us that it kind of started with the Boston Tea Party—a revolt against the tyrannical rule of unfair taxation.

Taxes are a necessary evil. But if kept in check, it is important at all levels of government. It is a must. Taxes have created the world's greatest highway infrastructure, contributed to the protection of our borders, and has created the most successful democratic government in history. But waste and abuse of those dollars have burdened the American taxpayer with one of the highest levels of taxation in the history of this country.

Tax collecting needs to reflect its controversial history. The IRS does not have the right to use harassment, and, yes—as has been brought out in these hearings—even extortion as a method of collecting taxes.

Major changes are overdue. The IRS needs to improve its education and services to taxpayers. Taxpayers must have, at least, a comfort level when they approach the IRS for help so that they feel with some degree of reliability that the IRS will be sensitive to their needs and to their questions.

We need to modernize the computers. Let's face it, the IRS can't do that. They spent some $5 billion to buy new computers. They don't work. They have never worked. We tried to simplify things. What do we do? We made them more complicated.

So the general public loses its confidence to go to the IRS and ask questions that they will get answers for; so that they will try to do the right thing for the right reason.

I think this is a very serious wake-up call to the IRS. Customer service will never be considered as one of their great attributes. But that is what IRS needs to pound into their employees: We work for the American public; it does not work for us. We are a service organization. We try to accommodate folks trying to get through a very difficult situation, a situation that some do not understand.

Perhaps some of that blame lies with Congress. This is not the first time Congress has held oversight hearings. The IRS has a littered history of abuse, and, yes—I hate to say—even a little corruption.

I think these hearings may pave the way for Senator DOMENICI's 2-year budget appropriations bill. I think that will lend credence to it. And Congress could spend more than 1 year on budgetary and spending matters and another year on tough-minded oversight of Government agencies, and maybe the future of such abuse can be averted. But it just does not happen in the IRS. We have other agencies in this Government that are just as abusive.

I have contacted numerous of Montana constituents hearing complaints about the IRS. And I will tell my Senators beware. With these hearings I think our casework is going to go up a little bit.

During the length of the bureaucratic process, debts grow fantastically high with interest and penalties.

But I have been contacted by a few taxpayers in Montana that have similar stories as those that we heard about this week during these Finance Committee hearings. In one of those cases a Montana constituent had a pending case with the IRS that still today is unresolved. The small business was audited in the 1980's. And every time there was an offer, or attempt to make settlement, the IRS denies the offer, and the interest and the penalties continue to compound. In the meantime, he has been forced to sell all of his assets. He has lost everything that he has worked his whole life for, and is now facing retirement with only his residence and darned little capital. Even if the IRS could accept his recent offer he would be left with a mortgage that he will not be able to pay off in his lifetime.

So as a result of these hearings we can certainly expect to hear from more constituents who realize that they are not the problem; that this problem goes way beyond them as individuals, and the problem goes way beyond them as a nation.

Prior to the August recess Congress passed the Tax Relief Act of 1997. The 105th Congress has the opportunity not only to reduce the tax burden on the American public but also simplify a system that is badly in need of reform. A far less complicated tax system may help to clear up some of the IRS abuses. But simplifying the tax system, one can only think, would simplify our revenue collection system.

I realize that tax collection is a thankless job. There are employees of the IRS that try to do a good job. I happen to know a few of those. They do a good job, and they do it with pride. I commend them for not letting the arrogance, uncaring attitude that we have seen emerge out of the hearings earlier this week pollute their work ethic. I want to compliment those folks who do a good job.

Tax collectors have a long history of public persecution. Today my colleagues and I stand here not to tar and feather the tax collector, but to put an end to the abusive culture that has crept into the agency—this business of a situation arising and becoming a personal thing. So when they personalize things then it becomes ''me against you, and I have the power of the U.S. Government to destroy you.'' When they personalize things, that is when they get out of hand.

I ask the American public, if we, who are elected, when we debate personalize everything, nobody would speak to anybody around here. Nobody. We have to bring that back into our service organizations. Basically the IRS is a service organization. They must accommodate. They must feel some compassion. And they must try to help people out of this almost bottomless abyss of trying to do the right thing for the right reason. We cannot let this abusive culture spread like a bacteria through an agency and let it live. We just cannot do that.

Again, I say to my colleagues, rethink your position on a 2-year budget and 2-year appropriations because with all the hearings, as controversial as they may be in an open and free Government, oversight is still the best way to put problems on the table and deal with them. It is the only way in a free self-government that people can deal with them.

I thank our secretary of the conference for setting this time aside to bring this about. And to thank the chairman of the Finance Committee for this oversight because I think he has done a great service for the American people.

I yield the floor.

Mr. COVERDELL. Madam President, I thank the Senator from Montana for his statement here this morning. I think he is right on target.

I yield at this time up to 5 minutes to the Senator from Alaska.

The PRESIDING OFFICER [Mrs. HUTCHISON]. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Madam President, let me wish the Presiding Officer a good morning. Let me thank my colleague from Georgia for his leadership in this area, and my good friend from Montana for the points he made so succinctly.

Good morning, Madam President. I have an obligation and an opportunity as a member of the Finance Committee to address this problem. As a member of the committee of jurisdiction, I had the privilege of participating in an extraordinary set of hearings that were chaired by Senator BILL ROTH, chairman of the Finance Committee. These hearings really illuminated for the first time the internal workings of an agency of the Government that really generates fear, anger, frustrations and oftentimes public outrage, and that is the Internal Revenue Service.

No matter how scrupulous and honest the citizen is in filling out his or her tax return, when that taxpayer opens the mailbox and receives an envelope from the IRS, a shiver of fear shudders through that citizen. And after this week's hearings, it is clear to all of us why the public holds this view of the IRS.

A witness—some of those witnesses were hooded, I might add—testified that her 17-year ordeal—let me say that it wasn't just an ordeal, it was more of a nightmare—involved improper liens and unwarranted demands from the IRS for more than $10,000 simply because there was a mixup in the taxpayer's employment identification number—17 years, and still the matter is not resolved.

Another witness testified about her 14-year ongoing dispute with the IRS involving a joint return she had filed with her former husband. Although this matter could have been easily resolved, the IRS demands caused her to lose her apartment and ultimately forced her second husband to file for divorce to avoid improper IRS liens.

Neither of these cases have been finally resolved even though it is clear that at every stage the IRS simply acted improperly.

A former IRS employee told the committee of a common IRS tactic of assessing a tax twice for the same 1040 tax form.

A current IRS employee, an employee who did not want his identity known for fear of IRS retaliation, told the committee of situations where revenue officers with management approval used enforcement to punish taxpayers instead of trying to collect the appropriate amount of money for the Government.

Another anonymous current IRS employee told the committee that IRS officials browsed tax data on potential witnesses in Government tax cases, and on jurors sitting on these Government tax cases.

Madam President, this is a portrait of an agency of Government which appears to be out of control.

Is there political influence in the IRS? The answer is clearly yes. One witness testified that she had been advised by her senior official to be somewhat lenient on union returns or returns from union officials. This, obviously, smacks of political influence in the IRS.

Earlier in the week it was reported that 800 Alaskans from my State received notices from the IRS that their permanent fund dividends—this is a payment that comes from the yield of oil revenues distributed to our citizens by our State government—were being seized; 800 seized with a tax lien.

The reason for the seizures? The IRS claimed these Alaskans owed back taxes. In one case the notice claimed a deficiency of 4 cents. In another, 7 cents. That's right, Madam President, notices to 800 Alaskans based on alleged underpayments of 4 to 7 cents. An IRS spokesman apologized and, you guessed it, Madam President, blamed the computer. But who programmed the computer? Who checked the program? Is the programmer still working for the IRS? Who approved sending out 800 notices to Alaskans?

From what I know about the IRS, no human being approved that mailing or the millions of other mailings that go out from the IRS. It appears to me that the managers of the IRS have set up a system that minimizes human oversight so that whatever and whenever there is a foulup, no employee, no manager can be held accountable. It is easier to blame an impersonal machine for a problem than hold an individual accountable.

Madam President, I believe a culture that affixes blame on machines and not human beings reflects on an institution that has for far too long not been held to account for its activities. What we learned from the General Accounting Office is that the system the IRS has in place is designed to ensure that there is no way for IRS personnel to be held accountable for their erroneous actions.

I can assure the American taxpayer that I will be working closely with my colleagues on Finance Committee to change the culture of the IRS and demand a system be put into place that makes the individuals who work for the IRS accountable to the American people.

Madam President, I yield the floor.

Mr. COVERDELL. Madam President, I thank the Senator from Alaska and his colleagues on the Finance Committee for the great work they have done under the chairmanship of Senator ROTH.

I now yield up to 5 minutes to the distinguished Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. I thank the Chair.

Where has our country gone when people appearing before a Senate committee have to have their voices disguised and have to be behind partitions?

I commend the Senate Finance Committee for holding the hearings examining the Internal Revenue Service. These hearings have given the American people an insight into one of the most powerful and secretive of Federal agencies. I applaud Chairman ROTH and members of the Finance Committee for their diligence in examining this agency.

For any who might have missed the hearings, on my web site, which is www.senate.gov/ ~enzi/, you can get the full text of the comments made before the committee. There is also an opportunity there to do an easy e-mail to comment on what has gone on in those hearings. It is important for this body to follow up on those hearings with a complete reexamination of the Nation's tax policy and the IRS. If we are ever to be successful in establishing a just tax code, we in Congress must first come to a consensus about our underlying tax policy.

In the past 3 days, we have heard stories from taxpayers who have been mistreated by an inefficient and confrontational Internal Revenue Service. Taxpayers testified that they were forced into personal and financial ruin by an all-too-often faceless agency with little accountability to either the American taxpayers or to Congress.

We have heard about the enormous power of the IRS, which includes the power to take a taxpayer's home on nothing more than the signature of the district director. There is no court hearing. There is no notice. There is no opportunity to litigate the merits of the Service's claim. The IRS has the power to close down a person's business and take away his livelihood by merely filing a few papers in Federal court. The judge signs a seizure order without ever giving the taxpayer notice or an opportunity to contest the legality of the assessment or the amount of the tax owed or the problem with the computer system.

Madam President, this is precisely the kind of abuse by our Government

our Founding Fathers were attempting to avoid when they included the fourth and fifth amendments in the Bill of Rights. These actions amount to administrative tyranny.

As I have traveled around the State of Wyoming, I have heard a great deal of concern about the present state of the IRS. Our Tax Code is so frustratingly complex that even the professional tax preparers are pleading for simplicity. These folks know that the present Tax Code exposes them to a great deal of liability due to the likelihood of conflicting interpretations of the code and its myriad of accompanying regulations.

As an accountant myself, I am sympathetic to the concerns of those who claim that even the experts cannot agree on many of the provisions of the current system. It is unfair to expect Americans to operate under a tax system with such a mind-numbing complexity and inherent contradictions.

Under the current regime, it is perhaps the moderate-income taxpayer and the small businessman who suffer the most. That is not how audits are supposed to work. One of the most surprising facts which came out of the testimony this week is the significant increase in audits of lower income people and very small businesses over the past several years. This increase is not because the IRS believes these people have large amounts of unreported income. Rather, it is because the Service believes these people are the least likely to fight them after an audit since they can least afford professional tax preparers and expensive legal counsel.

Just this week, I heard from some small business owners in Wyoming who have been battling the IRS for 5 years over $200,000 in taxes they are convinced they do not owe. After a 3-year onsite audit, the IRS determined that they only owed $30,000, including the fines and penalties. Even though they disputed this amount, they figured they had no choice but to pay it since they could not afford to take the case to court. Moreover, the agency threatened that if they didn't agree to pay the bill, IRS would reopen the investigation and insinuated that this might result in even more money owed. That is blackmail. This treatment of our citizens is unjust. An agency which turns to coercion and intimidation to settle unreasonable disputes is in desperate need of reform.

Madam President, while I realize that many of the IRS agents are hardworking, dedicated public servants, I am convinced the problems we have heard about this week are more than isolated occurrences. Instead, they represent a systematic disease which cannot be cured by tinkering with the current Tax Code or modifying a few Internal Revenue Service procedures. I believe these hearings will force us to reexamine the specifics of our current code and our underlying policy as well.

I have made the examination of our tax policy one of my top priorities for my service in the Senate. I will work with my colleagues toward developing a policy that reflects the legitimate priorities and goals of raising revenue for a Government which should in its every facet serve the people from whom it derives its power, not control the people from whom it derives its power.

I thank the Chair and yield the floor.

Mr. COVERDELL. I thank the Senator from Wyoming and yield up to 5 minutes to the distinguished Senator from Colorado.

Mr. ALLARD. I thank the Senator from Georgia for yielding.

Madam President, I rise this morning to talk with my colleagues about the Internal Revenue Service. This week my colleagues on the Finance Committee have been holding hearings to examine the inner workings of the Internal Revenue Service. I appreciate their effort to more closely examine this institution. Not only do I appreciate it, but there are many Americans who appreciate this effort.

For too long the Internal Revenue Service has not been accountable as an institution. Our Nation was built on a system of checks and balances. However, the Internal Revenue Service seems to have escaped this protection for Americans. For too long the Internal Revenue Service has used secrecy, intimidation and fear to do battle against those whom it has been called upon to serve, and that is the American taxpayers.

I found it especially interesting that during those hearings those who know the Internal Revenue Service best—that is its own employees—were the most afraid. Those who know what the Internal Revenue Service does were the ones who wanted to protect their identities.

Although there are many dedicated employees at the Internal Revenue Service who perform their jobs honestly and responsibly, there are some who do not. Those few have forgotten the mission statement of the Internal Revenue Service, which calls on them to perform in a manner warranting the highest degree of public confidence in their integrity, efficiency, and fairness. I remind them of this pledge and call on them to uphold it.

Unfortunately, the abuse of taxpayers is not limited to the testimony we have heard this week. I have held more than 63 town meetings throughout the State of Colorado, and obviously taxes were a big issue. But it was not unusual for me to hear from many people about the difficulties they have had with the Internal Revenue Service. Time and again I have heard stories about how the Internal Revenue Service plays a waiting game, knowing that they have the time, the money, and manpower to outlast a small taxpayer.

One of my constituents was awarded $325,000 in damages by a Federal court because Internal Revenue Service agents had wrongfully publicized information about her, after agreeing earlier that they would not make that information public. After auditing this taxpayer's business, the Internal Revenue Service seized the business and demanded $325,000 in back taxes. After requesting a reaudit, it was found that she did not owe anywhere close to $325,000. In fact, all she owed was $3,400. And certainly there was no real intent to avoid the law.

The real problem here, however, was that the agents involved in the case wrongfully disclosed information about the taxpayer after agreeing to not disclose that information. When awarding damages in the case, the judge harshly criticized the Internal Revenue Service saying:

> The conduct of our Nation's affairs always demands that public servants discharge their duties under the Constitution and laws of this Republic with fairness and a proper spirit of subservience to the people whom they are sworn to serve. Respect for the law can only be fostered if citizens believe that those responsible for implementing and enforcing the law are themselves acting in conformity with the law.

Once again, though, the Internal Revenue Service is dragging its feet, refusing to pay the money.

Other constituents have described situations where they received notices from the Internal Revenue Service for very minor mistakes and then are assessed penalties and interest that far exceed the amount of tax owed. It is a frightening experience to get a notice from the Internal Revenue Service, particularly when it is so difficult to communicate back to them and actually get some real answers concerning a case.

I am reminded of a case that came up in interacting with the constituents that I represent in the State of Colorado. Someone came up to me and said, ''We sent a certified letter to the Internal Revenue Service with the check.'' They signed for the envelope and yet the check apparently had been lost by the Internal Revenue Service. This constituent was fined $200 by the Internal Revenue Service. She felt paying the fine was cheaper than getting professional help to fight the case. Constituents tell me of years of meetings, negotiations, and delay by the Internal Revenue Service.

Madam President, I request 30 seconds just to summarize my remarks, if I may.

Mr. COVERDELL. If the Senator will yield for just a moment, Madam President, time allotted for this discussion was to end at 10. I have conferred with Senator MCCAIN, and I believe he is agreeable to allowing it to run until 10:05 to allow Senator BOND to make his remarks. So I yield 30 seconds to the Senator from Colorado.

Mr. ALLARD. I thank the Senator.

The PRESIDING OFFICER. Is there objection to the request to extend time 5 minutes? The Chair hears none, and it is so ordered. The Senator from Colorado.

Mr. ALLARD. I thank the Chair.

Constituents tell me of years of meetings, negotiations and delays by

the Internal Revenue Service in order to wear them down, even in cases where the law is unclear and subject to different interpretations. This abuse of taxpayers must stop. The Internal Revenue Service must recommit itself to serving the taxpayers. It must stop making criminals out of those whom it is charged with helping.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Madam President, I thank the Senator from Colorado and now yield up to 5 minutes to the distinguished Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Madam President, I thank my colleague from Georgia and I thank the Chair.

I rise today to address an issue of profound importance, as my colleagues have been addressing, and that is the urgent need for a complete overhaul of the tax system in this country.

Over this past week, we have all watched as the Senate Finance Committee has held important hearings on the administration of our current tax system. The testimony has demonstrated many things quite clearly, among them the fear of many taxpayers. But it has also been quite plain that for many taxpayers the root of their difficulties starts with the enormous complexity of the tax laws as they currently stand. Clearly, there is an urgent need to scrap the current tax law and start with a new system so that taxpayers can understand and follow the law in the first place.

As chairman of the Senate Committee on Small Business, I have heard in hearings from entrepreneurs all across the country that their biggest obstacle to staying in business is complying with the tax laws. The tax bill that we passed last summer did much to ease the tax burden for many small businesses. But at the same time it did nothing to reduce the complexity of the law which small enterprises must navigate in order to enjoy the lower tax bills. As a result, instead of leveling the playing field for small businesses we have made it more lopsided. Unlike their larger competitors, small businesses can rarely afford a staff of full-time professional employees to maintain the tax records and fill out the dozens of forms required each year. To put these duties in context, it has been estimated that Americans spend more than 5 billion hours each year complying with the tax laws. That is a staggering amount of time spent on completely unproductive activities.

One of the figures that we have heard in the Small Business Committee is that the average small business spends 5 percent of its revenues on figuring out how to comply with the tax laws. That is not paying the taxes, that is figuring out how much tax they owe and how to comply with the tax laws. Would it not be better for small businesses to spend that time making products, providing services, providing jobs—activities that they set out to do in the first place?

For the vast majorities of small enterprises there is only one person who handles all the tax matters and that is the small businessowner. That is the one person who has to deal with nearly 10,000 pages of tax laws, 20 volumes of tax regulations, and thousands and thousands of pages of instructions and other guidance, issued by the IRS. Sadly, much of that burden is more than most small businessowners can do on their own. Instead, they are forced to spend vast amounts of their limited capital to hire accountants to keep the records and prepare the tax returns.

For the small business that runs into difficulties on its taxes, the situation becomes even worse. The businessowner must spend additional funds on accountants and lawyers to handle the issue. Resolving these cases can take years, and cost tens of thousands of dollars in professional fees. Not infrequently, the end result is a tax bill that is inflated by the large amounts of interest and penalties.

Once again, we must keep in mind that every hour the small businessowner spends trying to resolve tax problems is taken away from the actual productive business of running his or her own company.

Madam President, the Small Business Committee will hold a hearing next month to elicit the views of small business on what the optimal tax system would look like, if we started from scratch. I look forward to constructive suggestions from the small business community. I expect they will say the system should be fair, simple, and easy for the average person to understand. It should apply a low rate to all Americans. It should eliminate taxes for individuals and families who can least afford to pay. It should not penalize marriage or families. It should protect the rights of taxpayers and reduce taxpayer abuse. It should minimize recordkeeping and reporting requirements. It should eliminate the bias against jobs, and investment. It should protect Social Security and Medicare and help ensure all Americans have access to health insurance.

The case cannot be clearer that we need a dramatic change in our tax laws, and we need it soon.

For the information of my colleagues, the full text of my remarks will be on the web site of the Small Business Committee at www.senate.gov/~sbc.

Mr. President, the case cannot be clearer that we need a dramatic change in our tax laws and we need it soon. Too much time, money, and effort are now wasted by individuals and businesses in this country that could be spent to improve our economy, our society, and the environment. I ask my colleagues to join me in raising the alarm and committing ourselves to do more than just talk about the problem. It's time to act—it's time for a new, fair, and simple tax system for all Americans.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Madam President, I thank each of the Senators who this morning commented on the extensive hearings under Chairman ROTH. They were very revealing. I believe there can be no doubt but that major reforms must be brought to the Nation in short order. Each of these Senators made a substantial contribution to further elaborating and making clear the urging of the Congress for this agency to reform itself. Remember that it works for the people, not the other way around.

I yield the floor. It is exactly 5 minutes after 10. I know the Senate is prepared to move to campaign reform.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

BIPARTISAN CAMPAIGN REFORM ACT OF 1997

The PRESIDING OFFICER (Ms. COLLINS). Under the previous order, the Senate will now proceed to the consideration of S. 25, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 25) to reform the financing of Federal elections.

The Senate proceeded to consider the bill.

Mr. WELLSTONE. Madam President, may I make a unanimous-consent request for 10 seconds?

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. I ask unanimous consent that Michael Smith, who is an intern in my office, be granted the privilege of the floor during debate today.

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

The majority leader is recognized.

Mr. LOTT. Madam President, today the Senate begins to formally debate what is probably the most discussed and least understood issue before the Nation, campaign finance reform. I have made clear, for the last several months, actually, that the Senate would, in due time, after finishing its work on the budget and the 13 appropriations bills, move to this matter. I indicated all along that I knew this issue would come up, that it should come up, and it should be debated. And, therefore, I have kept that commitment and we will begin our debate. We will have a full debate, and we will have some votes. Maybe not the votes that everybody would like to have, but critical, key votes on assessing where the Senate is.

Are we near a consensus yet? Are we prepared to stop trying to claim an advantage here or an advantage there and see if we can come together in a consensus in this area? I have my doubts that we have reached that point yet. But we begin the debate, I hope, in a respectful and thoughtful way. I trust no Member of this body doubted my intention to do what from the very beginning I said we would do, in terms of calling this legislation up.

We are taking up this issue now under a unanimous-consent agreement identical to the one I propounded a few days go and to which the minority leader did not at that time agree. So at the outset of this debate, I want to make this clear. President Clinton's standing on this subject of campaign finance reform is a case study of the problem, not an exemplar of the solution. Indeed, it would take the Senate, and the House too, staying in marathon session all the way through Christmas, just to trace the appalling campaign finance practices that were so large a part of President Clinton's reelection effort.

Just today I understand from WTOP radio news this morning, the President is in Houston after last night calling, trying to get Senators ginned up to come in here and speak on this subject. But what is he going to be doing in Houston? I have his whole schedule, off the wire service, as well as the remarks made this morning on WTOP. I will put it in the RECORD.

I ask unanimous consent to have it printed in the RECORD at this point.

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

Friday, Sept. 26
White House
President Clinton:
In Little Rock and Houston. All times local.
11 a.m. Departs private residence, Little Rock.
11:15 a.m. Arrives at Adams Field.
11:30 a.m. Air Force I departs en route Houston.
12:40 p.m. Air Force I arrives at George Bush Intercontinental Airport, Houston.
12:50 p.m. Departs airport en route San Jacinto Community College.
1:20 p.m. Arrives at San Jacinto Community College.
1:30 p.m. Addresses the college community.
2:40 p.m. Departs college en route downtime location.
3 p.m. Arrives at downtown location.
7:15 p.m. Addresses DNC dinner. Private residence.
8:10 p.m. Departs residence en route airport.
8:30 p.m. Arrives at airport.
8:45 p.m. Air Force I departs en route Little Rock.
9:50 p.m. Air Force I arrives in Little Rock.
10 p.m. Departs airport en route private residence.
10:15 p.m. Arrives at private residence for overnight.

WTOP RADIO REPORT SEPTEMBER 26, 1997, 9:30 EST

Mark Knoller, CBS News Reporter traveling with the President in Little Rock, Arkansas, filed the following story for CBS World News which aired on CBS radio affiliate stations including WTOP radio on Washington at 9:30 a.m. Eastern Time on Friday, September 26, 1997:

''It took the White House by surprise when Senate Majority Leader Trent Lott announced that the Senate would begin debate today on campaign finance reform. The White House thought it would have several more weeks to plot strategy for passing one version or another of the McCain/Feingold bill.

''So, as Mr. Clinton finished a five-hour round of golf last evening, he quickly placed calls to a handful of Senators to talk strategy for today's debate.

''The President has loudly proclaimed campaign finance reform as one of his top legislative priorities for the fall. And this week, he threatened to call Congress back into session if it adjourned without taking up the issue.

''With his own political fund raising practices the subject of a Justice Department review and the possibility that it could lead to the appointment of an independent counsel, there is a political component to the President being seen as Cheerleader-in-Chief for campaign finance reform.

''But as it turns out, the Senate debate begins on a day that will find the President on a day trip to Houston. His schedule there includes a fund raising dinner for the Democratic National Committee which expects to raise $600,000, some of it from contributions the President wants to outlaw.

''In Houston, the President will also talk about new data showing that his college tuition tax credit plan will help increasing numbers of people attend at least two years of college. With the President in Little Rock, I'm Mark Knoller, CBS News.''

Mr. LOTT. Among other things he will be doing in Houston today is attending a fundraiser tonight, where it is estimated they will raise $600,000, some of which if not much of which is exactly the kind of money that he has said, ''Oh, we ought to stop.'' What is he saying here, ''Oh, please stop me before I do it again?''

So, I think we need to start off making it clear what is going on here. A lot of what is going on is an effort to change the subject. ''Oh, gee whiz, the Governmental Affairs Committee has come up with some things that are a real problem. Gee, why won't the Attorney General appoint independent counsel? We have to have another subject on the griddle here.'' But that's OK. That's fine. Finally we will, maybe, shed a little light on what is going on here.

It seems that much of what will need to be done with regard to violation of the laws—before you start changing laws to try to see if you can fix problems, wouldn't it help if the laws already on the books were obeyed and enforced? Wouldn't it be better if we found out how people violated the laws last year? Who did it? What do we need to tighten it up with regard to illegal foreign contributions, direct and indirect?

But it seems that much of the task of what really went on will be left to others, unless the Attorney General can discover still more ingenious reasons for delaying what increasingly seems inevitable, the appointment of independent counsel.

For us here, we will do what we are going to do anyway, before Mr. Clinton's unnecessary and irrelevant letter. We will at least have the opportunity to lay before the American people the pros and cons of various proposals for campaign finance reform.

In the process, I think it will become clear that in campaign law, as tax law, there is no bad idea that cannot be made presentable by taking on the label of ''reform.'' This is our chance to see more closely some of the ideas that have been presented and whether or not they will really work—or not; whether they will be fair; and whether they will encourage discourse and expression of views and opportunities for candidates to go directly to the people instead of being filtered by the news media.

Let me offer this comparison. On the issue of campaign reform we have been like a customer in a used-car lot. The salesmen have been talking about this little beauty's wire wheels and leather upholstery, and it has all sounded pretty good. But now we get to look under the hood and find out why this deal looks too good to be true and, in fact, probably is.

Before we launch into the details, though, I want to pay tribute to those of our colleagues who have worked on this issue at great length and in good faith. Some of them I agree with and with others I disagree. And, hopefully, we will disagree without being disagreeable. But all those who have pursued this issue out of personal conviction, rather than political expediency, merit our commendation. My disagreements on this matter with Senator MCCAIN and Senator FEINGOLD are well known—and may well become more emphatic in the course of this debate. But I recognize the sincerity of their views and I thank them for their cooperation that has enabled us to take up other legislation without being intercepted or interrupted or heckled. They have been responsible. They deserve the right to talk about their bill and we deserve the right to point out where the problems are. And I think we have set up a way to consider this legislation in an orderly manner.

Senator MITCH MCCONNELL more than anyone else has argued against their position. Entirely apart from the part that I agree with him, he stands today as an example of political courage, someone who is willing to challenge the prevailing wisdom because it is incorrect and because it would violate or restrict the fundamental rights of Americans.

Legislation is never considered in a vacuum and this legislation is no exception to that rule. The Senate will be debating campaign finance reform against a background of lurid exposes about the campaign of 1996. All summer long the Nation has heard news about people ignoring the law, fleeing the country to avoid the law, explaining away the law, refusing to testify about their actions and the law. From

all that, some may conclude that we need more laws. Others may wonder why we don't enforce the laws we already have concerning campaign finance, and let the personal chips fall where they may.

The fact is, this country already has so many campaign laws and campaign regulations that to avoid breaking the law most congressional campaigns have to hire a battery of legal experts just to avoid fines and censure by the Federal Election Commission. No longer do you sit down, like I did in 1972, and fill out my campaign finance reports, you know, in longhand, and try to make sure it adds up, send it in and struggled to get it in on time. Nah. Now you have to have legal advice, you have to have a CPA, you have to have somebody familiar with the FEC laws. It becomes one of the burdens of elections. Why don't we, instead, go with freedom, open it up, have full disclosure and let everybody participate to the maximum they wish.

But, no, no, no, no; we keep tightening down, tightening down, tightening down. Do you know what really is involved here? There are a lot of people who don't want the people involved. They want the news media to dictate, through their editorial columns and their editorials in their news articles, who will be elected.

Boy, I know how that works. I have had to deal with that in my State. If I hadn't been able to get the money to get my message across, how could a conservative Republican be elected in the State of Mississippi, where the courthouses were all owned and operated by Democrats almost entirely, so I had the so-called court house gang fighting me and the biggest newspaper in the State bashing me regularly in its editorials and in its news stories in the form of editorials. You know, I took basic 101 journalism in high school and I know the difference between a news story and an editorial. But my friends in the print media quite often get that a little confused. As well as the largest television station in the State, which regularly took my head off any way they could.

So, how did I win? Because I had the opportunity to take my case to the people, raise the money to get my message across over the head of the opposition, and the people gave me the opportunity to serve in this body.

The fact is, today's political campaigns are forced to operate within a web of campaign law first devised almost a quarter century ago. No matter how unworkable some of them are, how out of date some of them are, instead of pulling back and clearing away, the temptation is always to add on.

That is what happened with the IRS. Can you believe it? The U.S. Senate Finance Committee, with jurisdiction over the Internal Revenue Service, this week had its first ever oversight hearing on the violations, abuses, intimidations, and threats from the IRS. We are partly to blame. We have been hearing about these problems for years. What did we do about it? More laws. We kept adding on. We kept putting on more pressures. Unfortunately, too often we added more taxes.

The same is true here. The temptation is to restrict and limit free speech. Add on another restriction, one on top of another, with regard to campaign spending or the ability to raise money. Add on another reporting requirement. Add on another financial incentive, often from the taxpayer's purse, for campaigns to behave or advertise in a certain way.

Remember now some of the things that have been advocated along the way, I believe, in the campaign finance reform bill proposed originally by Senators MCCAIN and FEINGOLD—a form of public financing of campaigns. People don't support that. Great; we are going to have the U.S. Treasury dollars go to candidates with a system of incentives and punishments and voluntary do this, don't do that; oh, by the way we will give you free broadcasting. The American people know there ain't nothing free. Somebody is going to pay. But that is kind of what the push has been.

I hope the debate we are starting today will break us out of that regulatory rut. We now have a chance to go back to square one and to reconsider the fundamental principles of what all along has been taken for granted.

For example, with today's computer technology—so rapid and so revealing beyond the imagination of the lawmakers of 1974 when the present law was enacted—perhaps the public good would best be served, not by restricting donations to campaigns, but by promoting them, with full disclosure—full, total, and immediate disclosure.

I wonder what would happen if every donation to a Federal campaign had to be logged onto the Internet as it was received by the campaign. Anyone interested in the integrity of that campaign, the identity of its donors, the possibility of undue influence or corruption, would be able to track the campaign's revenues dollar by dollar as they come in. Maybe we could agree on that.

Then let interested Americans donate as they will, for this one overriding reason: Because spending money to advance your own political views is as much a part of the right of free speech as running a free press.

I think the whole problem can be summed up in this one example. Suppose a distinguished surgeon feels strongly about a particular issue, whether it is Government control of health care or environmental policy or our entanglement in Bosnia. Her work is her life. She is saving lives every day. She has no time to devote to politics. Instead, she donates to candidates who agree with her views.

But her college-age son, on the other hand, has plenty of time, and he disagrees with his doctor-mother on just about everything, which wouldn't be unusual for a young college student to disagree with his or her parents. So he cuts back on his classes and volunteers 40 hours a week for the candidates who oppose her candidates. In the process, he saves those candidates a considerable amount of money doing for free what they otherwise would have to pay for.

Now, which of those two is a good citizen: The wealthy physician who writes checks to campaigns, or the pugnacious young man who gives them his time and labor?

My answer is both of them. Our campaign laws ought to encourage both their public spirit and their political involvement.

But our laws don't do that. They don't advert at all to the student volunteer or, for that matter, to the Hollywood personality whose donated performance brings in, say, $1 million for a Presidential campaign. For some reason, campaign contribution limits seem to stop right outside the gated driveways of some of the richest and most influential personages of the land.

But those laws do apply to the doctor and to everyone else who sits down to write a check, to put their money where their views are. I have made no secret of the fact that we need more such people, not fewer, and that our present campaign laws should be reformed so that they don't discourage citizen involvement of any sort.

That is especially important with regard to issue advocacy by the whole range of public policy organizations, left or right, liberal to conservative. The inclination by Government to regulate speech—or expenditures that are the equivalent of speech—is hard to contain.

It starts with the understandable wish to discourage slander and libel in campaigns. It proceeds to various schemes to review and control the content of campaign ads, and it ends up in attempts to restrict the essential right of private citizens to expose the records of candidates and reveal where they stand on crucial issues of the day.

Do I like this? When I am the brunt of some of that, no, I don't like it, and we can probably get bipartisan agreement that some of the negative aspects of it are not good. We don't like it. But how do we tell a private citizen that he or she can't pick a billboard and say, Congressman X or Senator X voted wrong on an issue? I think we need to think long and hard about that.

I hasten to add that, in its current form, the legislation before us does not do all of those things. I have been speaking more generally about various proposals that have won considerable credence in the media which, come to think of it, is the very last place those proposals should be tolerated. After all, once we lower the bar between Government and free expression of political ideas, we imperil that expression for everyone.

I am not suggesting that every aspect of campaign financing is so clear

or so simple that all well-meaning persons will inevitably come to the same conclusion about it. They won't. But there is one campaign finance issue about which that is the case, about which all persons of good will should, indeed, reach the same conclusion.

That is the principle that no person should be compelled to financially support a political campaign, especially a campaign with which he or she does not agree. Surely we can agree on that.

Our instinctive reaction is to say, ''Oh, that's out of the question; you can't be compelled to contribute to a candidate or campaign you don't agree with or against your will; it couldn't happen in America.''

Well, it does. It happens all the time, and it is happening now. I am referring to the great scandal in American politics, what is to my mind the worst campaign abuse of them all: The forceful collection and expenditure of business fees or union dues for political purposes. This is not something that is aimed at businesses or at unions because I am unduly critical of them. We want more business. We want jobs. We want them to be involved in the political process. I am the son of a shipyard worker, a pipefitter, who was a union steward for a while.

I think we should encourage union members to be involved and active in politics. My own father was and so were my grandfathers on both sides of the family. So I have made the point over the years to go into plants and mills and stand at the gates and go into union halls—yes, union halls. I have had some interesting times there, because I quite often ask union members, ''Do you agree with these things?'' and run down the list. They don't agree with them; they agree with me. It is the union ratings of who is voting right or wrong. The local union members in my hometown more often agree with me than they do with the union bosses in Washington.

Sometimes, by the way, I think businesses do this, too, that somehow you have to contribute fees, or some process is used to get your money and put it in campaigns. The individual should have the final say and total control over how that happens. They should either have to write out the check for a specific purpose or give specific approval before those dues or those fees could be used.

I have heard complaints from union members about how disgruntled they are about the way their dues are mishandled by the national union officers. I have heard their anger and frustration knowing their unions are financially supporting a candidate whom they oppose. When they ask me why this is permitted, how am I supposed to answer? ''Well, the law just allows that.''

The courts are saying that shouldn't happen, but, buddy, you are going to hear a lot of screaming and hollering on the floor of this body about, ''Oh, we can't have that opportunity for members or employees of a business or a union to direct where their contributions go, where their dues go.'' I think that is going to be pretty hard to defend for the average blue collar working man and woman wherever they are.

Should I tell them those who wrote our earlier campaign laws deliberately slanted those laws to hurt certain interests and advance others? Should I tell them that much of what passes for campaign finance reform today would only worsen those deliberate inequities?

As far as I am concerned, righting that wrong is the price of admission to campaign finance reform. If a Senator is willing to free employees and union members from that compulsory contribution of their hard-earned wages to political campaigns, then I can accept that Senator as a legitimate participant in the campaign reform debate, whether or not I agree with his or her views on the rest of the subjects. At least we know they want fairness, an opportunity for people to have some say where their dues, their fees, will go.

But anyone who is not willing to take that essential first step to protect the earnings and consciences of employees and union members against the political diversion of their fees or expenses or union dues, that person, in my mind, has no standing in the debate we are beginning today.

Madam President, I never deceive myself into thinking the American people follow every word that is spoken on the floor of the Senate. I hope not. They usually are too busy making America better by pursuing their own individual dreams. But this debate, I think, will catch and hold their attention for a while, and I think they are going to be interested in what they hear.

They may not have been able to read both sides in some of the news media, but hopefully they are about to hear it from me and from others and from the media that will tell both sides of the story and tell what the options are. At the end of what I think we are going to see this debate deliver will be a sea change in opinion as the public rethinks the role of candidates, of donors, of volunteers, of issue advocacy groups, and of Congress itself, whose track record on legislating on this issue has not been stellar.

In the past, the Supreme Court has had to overturn patently unconstitutional campaign reform legislation. Let us do nothing now to force a repetition of that rebuke. As a Member of the House and Senate over the years, I have heard, ''We can't worry about that; we don't know what they will do. Let's just do what we want to do and then we will see.'' I don't think that is very responsible. You can always argue what is constitutional and not constitutional, but free speech is pretty easy to discern, and it ought to be hard to limit.

In the very recent past, there were 38 Members of the Senate who were willing, on the record, to amend the Constitution to give a Federal agency, the Federal Election Commission, the power to limit the first amendment rights of individual Americans. That, I trust, is an idea whose time has come and gone and will never come again.

In closing, Madam President, I would like to recall a line from what was probably the first drama written and performed in America. It was called ''The Candidate, or the Humours of a Virginia Election.'' In it, a seasoned older candidate advises a younger one that when he makes promises he knows he cannot deliver, he should say, ''upon my honor,'' otherwise they won't believe you.

Well, thus far, in the national debate about campaign finance reform, much has been said ''upon my honor.'' Now comes the real test of ideas, so the American people can decide for themselves whom to believe and whom to trust about this matter that goes to the heart of their personal rights and their political liberty.

I yield the floor, Madam President.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. DASCHLE. Madam President, this Congress has spent many, many months and millions and millions of dollars to investigate perceived abuses in the 1996 election. There have been cries of outrage and shock. The American people are deeply cynical about whether Congress will ever pass campaign finance reform because they believe politicians' self-interests will, once again, override public good. If after all the hearings, all the press releases, all the statements, we do absolutely nothing, that cynicism is justified.

The American people are not dumb. They know the system is broken. They know we now have an opportunity to fix it, but they do not think we will. But we can use this opportunity, the next several days, to prove them too pessimistic. We need a sincere bipartisan effort to clean up our own house.

So, Madam President, this is a defining moment. People who think they can kill this effort with political gamesmanship—without anyone noticing—are wrong. If we squander this opportunity, it will not go unnoticed.

Today, we begin one of the most important debates that we will have in this Congress. We have sought this opportunity for almost a year. I appreciate the majority leader has now agreed to this debate. I hope his colleagues will not act to block meaningful reform now that we have the opportunity to deal with it. This is not only an easier way to resolve this issue, it is by far a better way. The American people have a right to hear full and open debate. And we have an opportunity and a responsibility to conduct it.

I appreciate, too, President Clinton's determination to see that we have a good debate and his willingness to take the extraordinary step—and I hope

that it will not be necessary—of calling a special session of Congress to make sure that there is sufficient time for a thorough debate.

It has been a generation since the last campaign finance reform laws were signed. Today, those laws are practically useless. Some have been circumvented by new loopholes. Senator LOTT has noted all of the attention to abuse and the fact that we have so many laws on the books today.

The fact is that many of those laws are unenforceable because they have been poorly drafted, because they intentionally, in many cases, created loopholes, because they are ambiguous, because we do not have the teeth in the Federal Election Commission system to deal with it.

Just today in the Wall Street Journal there is an article that the former chairman of the Republican National Committee, Haley Barbour, is now being investigated by a grand jury for fundraising infractions he may or may not have committed as chairman over the last couple of years.

So, Madam President, this is not a Republican problem or a Democratic problem. This is an American problem, an American problem evidenced by grand jury investigations, by special counsel investigations, by congressional investigations. The investigations go on and on. And if we do not deal with it, the cynicism will rise, the participation in democracy will fall, and we will all be the victims.

So, Madam President, we have an opportunity today to build on the history.

In 1971 and in 1974, Democratic Congresses enacted major reforms that we thought would address many of these problems. We limited the amount of money in politics and required candidates to disclose where they got their money. But, unfortunately, many of those reforms, as we all well know, were thrown out by the controversial decision of the Supreme Court in 1976, Buckley versus Valeo.

For the last 21 years, since that decision, Democrats have tried to overcome obstacles put in place by that ruling. We have tried to find ways to address the complexities, the problems, the shortcomings of that decision.

It was 10 years ago, at the opening of the 100th Congress, that then-majority leader ROBERT C. BYRD introduced a bill to limit spending and reduce special interest influence. We had to fight through eight cloture votes, eight filibusters, in order to get the opportunity to finally vote on the issue. Democratic sponsors modified the bill to meet Republican objections. But in the end, Republicans continued to oppose the bill, and ultimately it died.

It was 8 years ago in the Democratic-led 101st Congress, both the House and the Senate passed campaign finance reform bills. President Bush threatened to veto the bill because it contained voluntary spending limits, effectively killing the bill.

Six years ago, in the 102d Congress, also a Democratic-led Congress, again the House and Senate passed campaign finance reform bills. And at that time the President—President Bush —vetoed the bill, with the backing of nearly every congressional Republican.

In the 103d Congress, we passed campaign finance reform with 95 percent of the Democrats in the Senate and 91 percent of the Democrats in the House voting for reform; 95 percent in the Senate, 91 percent in the House, voting for the reform. Yet, Republicans filibustered the move to take the bill to conference.

Senator MCCONNELL has boasted of that filibuster that ''My party did the slaying then.''

The 104th Congress, supposedly the ''reform Congress,'' also presented opportunities for campaign reform. It appeared reform might actually happen when President Clinton and Speaker GINGRICH shook hands in Vermont and pledged to create a commission on campaign financing. But the commission never materialized.

Then, Senators MCCAIN and FEINGOLD introduced their bipartisan reform plan. Again, reform seemed within reach. And 46 of 47 Senate Democrats voted for McCain-Feingold. Republicans in the Senate filibustered the measure. Meanwhile, Republicans in the House introduced a bill that would have allowed a family of four to contribute $12.4 million in Federal elections—125 times more than the current allowed amount. We did not get anywhere in that Congress either.

That brings us to this Congress, the 105th. In his State of the Union Address in January, President Clinton made it very clear the importance that he put on the priority that Democrats have reiterated throughout this year, that we pass campaign finance reform. He called upon us to do it by July 4.

During the balanced budget negotiations in February, the President and Democrats in Congress asked our Republican colleagues to make campaign finance reform one of the top priority issues on which a bipartisan task force could be established. They refused to do so.

In the House, Republicans have voted five times in this Congress against bringing campaign finance reform to the floor. Here in the Senate, we actually have had one vote on campaign finance reform. That was a vote this past March to kill a constitutional amendment that would have allowed reasonable limits on campaign spending.

The problem is very simple, Madam President. The problem is the amount of money, the decades of delay. In the two decades since Buckley versus Valeo, since the Congress passed the only real campaign reform laws on the books today, the amount of money in politics has skyrocketed. It is no accident, no coincidence, that voter turnout and public confidence in this institution has plummeted. Even Nero would have put down his fiddle before now. But we just keep on playing, while spending on political campaigns spins out of control.

That is the fundamental problem. We all know that. We hear talk in this debate about hard money and soft money, this money and that money. That isn't the core problem. The core problem is that there is too much money, period. Too much money.

Total congressional campaign spending has exploded in the last 20 years. We spent $115 million on Federal campaigns in the 1975–76 election cycle. Ten years later, in the 1985–86, we spent $450 million. In the last cycle, 1995–96, Madam President, we spent $765 million on Federal campaigns.

Each election cycle shatters another spending record; 1996 was no exception. Spending in Federal campaigns increased 73 percent over the previous Presidential cycle; 73 percent in four years. To put that in perspective, during the same period, wages rose 13 percent, college tuition rose 17 percent, but Federal campaign spending rose 73 percent.

The average cost of winning a Senate seat in 1996 was $4.5 million. To raise that much money, a Senator has to raise $14,000 a week, every week, for 6 years.

I am currently—I am sure the majority leader is, too—seeking candidates to run for the U.S. Senate. I wish I could give you some indication of how difficult it is to tell a candidate, ''I want you to run. I want you to seek one of the highest offices in the land. But to do that, you're going to have to somehow raise $4.5 million between now and next November. I know you don't have those kinds of personal resources. And I don't know how you'll raise the money. But never mind, you can do it. And I promise that you will never be indebted to any contributor. I promise that, regardless of how much you spend, you'll never have one of those contributors come back and ask you for something.''

Madam President, the system is broken. That experience is repeated over and over and over again. How many more times will we have to tell someone who may consider running for the U.S. Senate, ''You can't afford it. This is now a club for millionaires. You either have lots of money, or you're indebted to somebody for the rest of your life.'' But that is the choice. That should not be the American way. That should not be allowed to happen to the political system we have believed for all these years.

The average cost of winning a House seat in 1996 was $660,000. To raise that much money, Members in the House had to raise $6,000 a week, every week, for 2 years. It is demeaning. It is distracting. It takes us away from what we should be doing.

It used to be you worked the fundraisers around the Senate schedule. Now we work the Senate schedule around the fundraisers.

What I am describing now, Madam President, is a problem. We have not even reached the crisis stage yet. But we projected, given current rates of political inflation, what the typical Senate race will cost in our lifetime, 28 years from now, the year 2025. In the year 2025, if nothing changes, a typical Senate race will cost $145 million per candidate—per candidate. Are you going to tell your son or your daughter you want them to get into political life? Are you going to tell your son or your daughter that somehow in their lifetime, if they want to seek higher office, that they have to spend $145 million of their own money, or raise that much from other people? I do not even think JAY ROCKEFELLER could afford that.

The effect of the money, Madam President, is quite clear. Beyond the sheer amount of money is the effect the money has. At the very least, in the eyes of most Americans, the current system makes Congress appear to be for sale to the highest bidder.

A recent Harris Poll shows that 85 percent of the people in this country already think that special interests have more influence than the voters. Eighty-five percent think if you are going to come up against a special interest, Congress is going to listen to the special interest first.

Three-quarters of Congress think that we are largely owned by special interests today. Democracy cannot survive long in such a deeply cynical atmosphere, Madam President. We cannot survive that. It is no secret why voters are not going to the polls anymore. They do not think it makes any difference. ''What difference does it make as long as the special interests have the power, between the elections, to decide what we do?''

So, Madam President, if we do nothing at all, problems are going to worsen.

The recent explosion in the so-called ''independent expenditure ads'' is just another illustration, another example of what we are facing. It is a particularly virulent form of political advertising. In my view, independent expenditures are the ''crack cocaine'' of negative ads. They are potent, they are deadly, and they are going to kill the system.

They are not tied publicly to any candidate—no reporting, no accountability. We do not even know who is running the ads half the time.

In the last election cycle, Republicans spent $10 million on independent expenditures; Democrats spent $1.5 million. But those figures are nothing compared to what we are going to see in this cycle.

Independent expenditure ads push candidates to the margins. Candidates become bit players in their own races. The debate is defined by whoever has the most money. That is ultimately who dominates the media. We used to interrupt programs for ads. These days, we interrupt the political ads for programs.

The solution? Well, we have been grappling with that question for a long time. There are those who look at all of this and contend that nothing is wrong, that this is America, this is free speech. What is wrong with the system? You ought to be able to go out and raise $145 million if you want to be a U.S. Senator.

The majority leader just said last March, ''The system is not broken.'' Madam President, the majority leader, for whom I have great respect, in my view is wrong. We believe the system is badly broken, and so do the American people. Ninety-two percent think we spend too much money on politics today. Almost 9 in 10, 89 percent want fundamental change in our system.

I have great respect for the sponsors of the legislation. Senators MCCAIN and FEINGOLD have spent a tremendous amount of their time, at the expense of other issues, to fashion a bipartisan piece of legislation that will allow us to move ahead—not solve all the problems—but move the ball ahead.

It is not a perfect solution. It doesn't include the most critical component of reform, in my view, which is overall spending limits. But it gets us off dead center. If it doesn't address central problems, it does address several of the major problems we have in our system today. It bans soft money and regulates independent expenditures. It provides better disclosure, so people have a good idea of who is giving how much to what candidate and why. It limits the ability of the super-rich to buy political office.

Forty-six of forty-seven Senate Democrats already voted for the McCain-Feingold bill last year.

Now, earlier this month, all 45 Democrats in the Senate signed a letter reiterating their support for the legislation. Even after the bill was changed, Democrats would say we still support the McCain-Feingold bill unanimously. Every single man and woman in the U.S. Senate Democratic caucus would walk to the floor this afternoon and vote for it.

We are pleased that four brave Republicans have said they, too, will now support this effort. We only need one more Republican vote. I believe in the end we will have that vote and more.

The McCain-Feingold bill is the least we should do. Democrats will offer amendments to strengthen it. If we were in the majority, we would fight to cap spending. The Buckley versus Valeo decision was only 5–4, and 126 legal scholars have said spending limits are constitutional. But we don't want the perfect to be the enemy of the good. We hope those who disagree with us will resist the temptation to kill this chance with poison pills.

Our goal should be reform, not revenge. If one side or the other tries to use this debate to settle political scores or punish enemies, we will fail. We are confronted with a systemic problem and we need a systemic solution.

Madam President, as I said at the beginning, we spent a lot of time and a lot of money investigating abuses in past election cycles. We have all put out our press releases, expressed our indignation, our shock, and now the American people are waiting. They wonder whether politicians' self-interests will once again override the public good. They wonder if after all the hearings, all the press releases, if after all that we do nothing, what then? They know the system is broken. They know this is going to be our only chance perhaps this Congress to fix it. I hope we can demonstrate that their pessimism, their cynicism, in this case, is not warranted.

I hope we can rise up to what we did last July when Republicans and Democrats, against the odds, decided to come together and balance the budget in the next 6 years and put this economy on track well into the next century. We did it then. We did it with the Chemical Weapons Treaty last spring, and now we can do it again. With the leaders we have from Arizona and Wisconsin, with Democrats and Republicans working together, we can make it happen. This is our chance.

I yield the floor.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, the Senate now begins a debate that will determine whether or not we will take an action that most Americans are convinced we are utterly incapable of doing—reforming the way we are elected to office. Most Americans believe that Members of Congress have no greater priority than our own reelection. Most Americans believe that every one of us—whether we publicly advocate or publicly oppose campaign finance reform—is working either openly or deceitfully to prevent even the slightest repair to a campaign finance system that they firmly believe is corrupt. Most Americans believe that all of us conspire to hold on to every single political advantage we have, lest we jeopardize our incumbency by a single lost vote. Most Americans believe we will let this Nation pay any price, bear any burden to ensure the success of our personal ambitions—no matter how dear the cost might be to the national interest.

Mr. President, now is the moment when we can begin to persuade the people that they are wrong. Now is the moment when we can show the American people that we take courage from our convictions and not our campaign treasuries. Now is the moment when we can begin to prove that we are—in word and deed—the people's representatives; that we are accountable to all the people who pay our salaries, and not just to those Americans who finance our campaigns. Mr. President, now is the moment when we should take a risk for our country.

I am a conservative, and I believe it is a very healthy thing for Americans

to be skeptical about the purposes and practices of public officials and refrain from expecting too much from their Government. Self-reliance is the ethic that made America great, not consigning personal responsibilities to the State.

I would like to think that we conservatives could practice the self-reliance which we so devoutly believe to be a noble public virtue, and rely on our ideals and our integrity to enlist a majority of Americans to our cause, rather than subordinate those ideals to the imperatives of fundraising. I would like to think the justice of our cause, the good sense of our ideas will appeal to a majority of Americans without the need to fund that appeal with obscene amounts of money.

I am a conservative, and I believe in small government. But I do not believe that small government conservatives are chasing an idealized form of anarchy. Government is intended to support our constitutional purposes to ''establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare and secure the blessings of liberty to ourselves and our posterity.'' When the people come to believe that government is so dysfunctional, so corrupt that it no longer serves these ends, basic civil consensus will suffer grave harm and our culture will be fragmented beyond recognition.

I am a conservative, and I believe that a conservative's primary purpose in public life is to give Americans a Government that is less removed in style and substance from the people, and to help restore the public's faith in an America that is greater than the sum of its special interests. That, I contend, is also the purpose of meaningful campaign finance reform.

Mr. President, opponents of campaign finance reform will argue that there is no public hue and cry for reform, despite the fact that more and more public polls show that the people support reform by ever-widening margins. A recent poll commissioned by my own party revealed that the public now considers campaign finance reform to be among the most important issues facing the country.

But no matter, opponents will note that they have stood for reelection and won with their opposition to reform on full public display. Thus, they will argue, the people don't really care about reform. But that is because the people don't believe that either the incumbent opposing reform, or the challenger advocating it, will honestly work to repair this system once he or she has been elected under the rules that govern it. They distrust both of us. They believe that this system is so thoroughly riddled with financial temptations that it corrupts us all.

The opponents will argue the people are content. I will argue that the people are alienated, and that this explains why fewer and fewer of them even bother to vote.

This problem should motivate all public officials to repair both the appearance and the reality of government corruption. Whether great numbers of elected officials are, in fact, bribed by campaign contributors to cast votes contrary to the national interest is not the single standard for determining the need for reform. Although, it would be hard to find much legislation enacted by any Congress that did not contain one or more obscure provision that served no legitimate national or even local interest, but which was intended only as a reward for a generous campaign supporter.

Mr. President, I do not concede that all politicians are corrupt. I entered politics with some of the same expectations that I had when I was commissioned an ensign in the United States Navy. First among them was my belief that serving my country was an honor, indeed, the most honorable life an American could lead.

I believe that still. Regrettably, many Americans do not.

I am honored to serve in the company of many good men and women whose public and private virtue deserves to be above reproach. But we are reproached, Mr. President, because the system in which we are elected to this great institution is so awash in money that is taken so disproportionately from special interests that the people cannot help but suspect that our service is tainted by it.

If most Americans feel they have sufficient cause to doubt our integrity, then we must seek all reasonable means to persuade them otherwise. Reform of our campaign finance laws is indispensable to that end.

As long as the wealthiest of Americans or the richest organized interests can make six figure contributions to political parties and gain the special access to power such generosity confers on the donor, most Americans will dismiss even the most virtuous politician's claim of fairness and patriotism.

And who can blame them when they are overwhelmed by appearance that political representation in America is measured on a sliding scale. The more you give, the more effectively you can petition your government. If a Native American tribe wants to recover their ancestral lands—pay up, the Government will hear you. If you want to build a pipeline across Central Asia—pay up, the President will discuss it with you. If you want to peddle your invention to the Government—pay up, you get an audience with Government purchasing agents. But if all you pay is your taxes, and you want your elected representatives to help you seek redress for some wrong, send us a letter. We'll send you one back.

Mr. President, this a dark view of our profession, and I do not believe it fairly represents us. I believe such instances of influence peddling are, thankfully, an exception to the honest government that most public officials work hard to provide this Nation. But we cannot blame the people for thinking otherwise when they are treated to the spectacle of influence and access peddling which assaulted them in the last election; when they are told repeatedly that campaign contributions are the only means through which they can petition their Government; the politicians are selling subway tokens to the government gravy train.

Mr. President, the opponents of reform will tell you that there isn't too much money in politics. They will argue there's not enough. They will observe that more money is spent to advertise toothpaste and yogurt than is spent on our elections.

I don't care, Mr. President. We should not concern ourselves with the costs of toothpaste and yogurt marketing. We aren't selling those commodities to the people. We are offering our integrity and our principles, and the means we use to market them should not cause the consumer to doubt the value of the product.

Mr. President, Senator FEINGOLD, Senator THOMPSON, Senator COLLINS, and the other sponsors of this legislation have but one purpose—to enact fair, bipartisan campaign reform that seeks no special advantage for one party or another, but only seeks to find common ground upon which we can all begin to restore the people's faith in the integrity of their Government.

Each of us may have differences as to what constitutes the best reform, but we have subordinated those differences to the common good, in the hope that we might enact those basic reforms which all Members of both parties could agree on.

It is not perfect reform. There is no perfect reform. We have tried to exclude any provision which would be viewed as placing one party or another at a disadvantage. Our purpose is to pass the best, most balanced, most important reforms we can. All we ask of our colleagues is that they approach this debate with the same purpose in mind.

Mr. President, on Monday, we will offer a substitute amendment to S. 25, which represents a substantial change to the original McCain-Feingold Campaign Finance Reform Act, but at the same time, maintains the core—the heart—of the original bill.

I strongly believe in all the provisions of the original bill. In fact, as the debate proceeds, we intend to offer a series of amendments that would restore the component parts of our original bill. We intend to proceed to those amendments in good time.

For now, I would like to outline for my colleagues the contents of our substitute.

Before I do, I want to stress the purposes upon which this legislation is premised:

First, for reform to become law, it must be bipartisan. This is a bipartisan bill. It is a bill that affects both parties fairly and equally.

Second, genuine reform must lessen the amount of money in politics.

Spending on campaigns in current, inflation-adjusted dollars has risen dramatically. In constant dollars, the amount spent on House and Senate races in 1976 was $318 million. By 1986, the total had risen to $645 million, and in 1996, to $765 million. If you include the Presidential campaigns, over a billion dollars was spent in the last election. And as the need for money escalates, the influence of those who give it rises exponentially.

Third, reform must level the playing field between challengers and incumbents. Our bill achieves this goal by recognizing the fact that incumbents almost always raise more money than challengers, and as a general rule, the candidate with the most money wins.

TITLE I

Title I of the modified bill seeks to reduce the influence of special interest money in campaigns by banning the use of soft money in federal races. Soft money would be allowed for State parties in accordance with State law.

In the first half of 1997 alone, a record $34 million of soft money flowed to political coffers. That staggering amount represents a 250 percent increase in soft money contributions over the same period in 1993.

We do differentiate between State and Federal activities. Soft money contributed to State parties could be used for any and all state candidate activities. Soft money given to the State could be used for any State electioneering activity.

If a State allows soft money to be used in a gubernatorial race, a State senate race, or the local sheriff's race, it would still be allowed under this bill. However, if a state party uses soft money to indirectly influence a Federal race, such activity would be banned 120 days prior to the general election. Voter registration and general campaign advertising would be allowed except in the last 120 days prior to the election.

To compensate for the loss of soft money, our legislation doubles the limit that individuals can give to State parties in hard money. The aggregate contribution limit in hard money that individuals could donate would rise to $30,000.

Our soft money ban would serve two purposes. First, it would reduce the amount of money in campaigns. Second, it would cause candidates to spend more time campaigning for small dollar donations from people back home.

TITLE II

Title II of the modified McCain-Feingold seeks to limit the role of independent expenditures in political campaigns. The bill does not ban, curb, or control real, independent, non-coordinated expenditures in any manner. Any genuinely independent expenditure made to advocate any cause which does not expressly advocate the election or the defeat of a candidate is fully allowed.

The bill does responsibly expand the definition of express advocacy, which the courts have ruled Congress may do. In fact, the current standards for express advocacy were derived from the Buckley versus Valeo case. As we all know, that Supreme Court case stated that campaign spending cannot be mandatorily capped. This bill is fully consistent with the Buckley decision, and I would ask unanimous consent that a letter signed by 126 constitutional scholars which testifies to the constitutionality of McCain-Feingold be printed in the RECORD at this time.

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

BRENNAN CENTER FOR JUSTICE,
New York, NY, September 22, 1997.

Senator JOHN MCCAIN,
Senator RUSSELL FEINGOLD,
U.S. Senate, Washington, DC.

DEAR SENATORS MCCAIN AND FEINGOLD: We are academics who have studied and written about the First Amendment to the United States Constitution. We submit this letter to respond to a series of recent public challenges to two components of S. 25, the McCain-Feingold bill. Critics have argued that it is unconstitutional to close the so-called ''soft money loophole'' by placing restrictions on the source and amount of campaign contributions to political parties. Critics have also argued that it is unconstitutional to offer candidates benefits, such as reduced broadcasting rates, in return for their commitment to cap campaign spending. We are deeply committed to the principles underlying the First Amendment and believe strongly in preserving free speech and association in our society, especially in the realm of politics. We are not all of the same mind on how best to address the problems of money and politics; indeed, we do not all agree on the constitutionality of various provisions of the McCain-Feingold bill itself. Nor are we endorsing every aspect of the bill's soft money and voluntary spending limits provisions. We all agree, however, that the current debate on the merits of campaign finance reform is being sidetracked by the argument that the Constitution stands in the way of a ban on unlimited contributions to political parties and a voluntary spending limits scheme based on offering inducements such as reduced media time.

I. LIMITS ON ENORMOUS CAMPAIGN CONTRIBUTIONS TO POLITICAL PARTIES FROM CORPORATIONS, LABOR UNIONS, AND WEALTHY CONTRIBUTORS ARE CONSTITUTIONAL

To prevent corruption and the appearance of corruption, federal law imposes limits on the source and amount of money that can be given to candidates and political parties ''in connection with'' federal elections. The money raised under these strictures is commonly referred to as ''hard money.'' Since 1907, federal law has prohibited corporations from making hard money contributions to candidates or political parties. See 2 U.S.C. §441b(a) (current codification). In 1947, that ban was extended to prohibit union contributions as well. Id. Individuals, too, are subject to restrictions in their giving of money to influence federal elections. The Federal Election Campaign Act (''FECA'') limits an individual's contributions to (1) $1,000 per election to a federal candidate; (2) $20,000 per year to national political party committees; and (3) $5,000 per year to any other political committee, such as a PAC or a state political party committee. 2 U.S.C. §441a(a)(1). Individuals are also subject to a $25,000 annual limit on the total of all such contributions. Id. §441a(a)(3).

The soft money loophole was created not by Congress, but by a Federal Election Commission (''FEC'') ruling in 1978 that opened a seemingly modest door to allow non-regulated contributions to political parties, so long as the money was used for grassroots campaign activity, such as registering voters and get-out-the-vote efforts. These unregulated contributions are known as ''soft money'' to distinguish them from the hard money raised under FECA's strict limits. In the years since the FEC's ruling, this modest opening has turned into an enormous loophole that threatens the integrity of the regulatory system. In the last presidential elections, soft money contributions soared to the unprecedented figure of $263 million. It was not merely the total amount of soft money contributions that was unprecedented, but the size of the contributions as well, with donors being asked to give amounts $100,000, $250,000 or more to gain preferred access to federal officials. Moreover, the soft money raised is, for the most part, not being spent to bolster party grassroots organizing. Rather, the funds are often solicited by federal candidates and used for media advertising clearly intended to influence federal elections. In sum, soft money has become an end run around the campaign contribution limits, creating a corrupt system in which monied interests appear to buy access to, and inappropriate influence with, elected officials.

The McCain-Feingold bill would ban soft money contributions to national political parties, by requiring that all contributions to national parties be subject to FECA's hard money restrictions. The bill also would bar federal officeholders and candidates for such offices from soliciting, receiving, or spending soft money and would prohibit state and local political parties from spending soft money during a federal election year for any activity that might affect a federal election (with exceptions for specified activities that are less likely to impact on federal elections).

We believe that such restrictions are constitutional. The soft money loophole has raised the specter of corruption stemming from large contributions (and those from prohibited sources) that led Congress to enact the federal contribution limits in the first place. In Buckley v. Valeo, the Supreme Court held that the government has a compelling interest in combating the appearance and reality of corruption, an interest that justifies restricting large campaign contributions in federal elections. 424 U.S. 1, 23–29 (1976). Significantly, the Court upheld the $25,000 annual limit on an individual's total contributions in connection with federal elections. Id. at 26–29, 38. In later cases, the Court rejected the argument that corporations have a right to use their general treasury funds to influence elections. See, e.g., Austin v. Michigan Chamber of Commerce, 494 U.S. 652 (1990). Under Buckley and its progeny, Congress clearly possesses power to close the soft money loophole by restricting the source and size of contributions to political parties, just as it does for contributions to candidates, for use in connection with federal elections.

Moreover, Congress has the power to regulate the source of the money used for expenditures by state and local parties during federal election years when such expenditures are used to influence federal elections. The power of Congress to regulate federal elections to prevent fraud and corruption includes the power to regulate conduct which, although directed at state or local elections, also has an impact on federal races. During a federal election year, a state or local political party's voter registration or get-out-the-vote drive will have an effect on federal elections. Accordingly, Congress may require

that during a federal election year state and local parties' expenditures for such activities be made from funds raised in compliance with FECA so as not to undermine the limits therein.

Any suggestion that the recent Supreme Court decision in Colorado Republican Federal Campaign Committee v. FEC, 116 S. Ct. 2309 (1996), casts doubt on the constitutionality of a soft money ban is flatly wrong. Colorado Republican did not address the constitutionality of banning soft money contributions, but rather the expenditures by political parties of hard money, that is, money raised in accordance with FECA's limits. Indeed, the Court noted that it ''could understand how Congress, were it to conclude that the potential for evasion of the individual contribution limits was a serious matter, might decide to change the statute's limitations on contributions to political parties.'' Id. at 2316.

In fact, the most relevant Supreme Court decision is not Colorado Republican, but Austin v. Michigan Chamber of Commerce, in which the Supreme Court held that corporations can be walled off from the electoral process by forbidding both contributions and independent expenditures from general corporate treasuries. 494 U.S. at 657–61. Surely, the law cannot be that Congress has the power to prevent corporations from giving money directly to a candidate, or from expending money on behalf of a candidate, but lacks the power to prevent them from pouring unlimited funds into a candidate's political party in order to buy preferred access to him after the election.

Accordingly, closing the loophole for soft money contributions is in line with the longstanding and constitutional ban on corporate and union contributions in federal elections and with limits on the size of individuals' contributions to amounts that are not corrupting.

II. EFFORTS TO PERSUADE CANDIDATES TO LIMIT CAMPAIGN SPENDING VOLUNTARILY BY PROVIDING THEM WITH INDUCEMENTS LIKE FREE TELEVISION TIME ARE CONSTITUTIONAL

The McCain-Feingold bill would also invite candidates to limit campaign spending in return for free broadcast time and reduced broadcast and mailing rates. In Buckley, the Court explicitly declared that ''Congress . . . may condition acceptance of public funds on an agreement by the candidate to abide by specified expenditure limitations.'' 424 U.S. at 56 n.65. The Court explained: ''Just as a candidate may voluntarily limit the size of the contributions he chooses to accept, he may decide to forgo private fundraising and accept public funding.'' Id.

That was exactly the Buckley Court's approach when it upheld the constitutionality of the campaign subsidies to Presidential candidates in return for a promise to limit campaign spending. At the time, the subsidy to Presidential nominees was $20 million, in return for which Presidential candidates agreed to cap expenditures at that amount and raise no private funds at all. The subsidy is now worth over $60 million and no Presidential nominee of a major party has ever turned down the subsidy.

In effect, the critics argue that virtually any inducement offered to a candidate to persuade her to limit campaign spending is unconstitutional as a form of indirect ''coercion.'' But the Buckley Court clearly distinguished between inducements designed to elicit a voluntary decision to limit spending and coercive mandates that impose involuntary spending ceilings. If giving a Presidential candidate a $60 million subsidy is a constitutional inducement, surely providing free television time and reduced postal rates falls into the same category of acceptable inducement. The lesson from Buckley is that merely because a deal is too good to pass up does not render it unconstitutionally ''coercive.''

Respectfully submitted,

RONALD DWORKIN,
Professor of Jurisprudence and Fellow of University College at Oxford University; Frank H. Sommer Professor of Law, New York University School of Law.

BURT NEUBORNE,
John Norton Pomeroy Professor of Law, Legal Director, Brennan Center for Justice, New York University School of Law.

Mr. MCCAIN. Our bill establishes a so-called bright line test 60 days out from an election. Any independent expenditure that falls within that 60-day window could not use a candidate's name or likeness. Ads could run which advocate any number of causes. Pro-life ads, pro-choice ads, anti-labor ads, pro-wilderness ads, pro-Republican Party ads, pro-Democrat Party ads—all could be aired in the last 60 days. However, ads mentioning the candidates could not.

If soft money is banned to political parties, money will inevitably flow to independent campaign organizations. These groups run ads that even the candidates who benefit from them often disapprove of. Further, these ads are almost always negative attacks on a candidate and do little to further healthy political debate. As we all know, they are usually intended to defeat a candidate, and are often, in reality, coordinated with the campaign of that candidate's opponent. They are not genuinely independent, nor are they strictly concerned with issue advocacy.

Our bill explicitly protects voter guides. I believe this is a very important point. Some groups have unfairly criticized our original bill when they argued that it prohibited the publication and distribution of voter guides and voting records. While I view those arguments as misinformation, the sponsors have, nevertheless, worked to make our legislation even more explicit in its protection of such activities.

Let me stress—so no one can have any grounds to assume otherwise—this legislation completely protects voter guides. I will read the provision addressing this matter in the hope that it will allay any and all concerns about voter guides.

(C) VOTING RECORD AND VOTER GUIDE EXEMPTION.—The term express advocacy shall not include a printed communication which is limited solely to presenting information in an educational manner about the voting record or positions on campaign issues of two or more candidates and which:

(i) is not made in coordination with a candidate, or political party or agency thereof;

(ii) in the case of a voter guide based on a questionnaire, all candidates for a particular seat or office have been provided with an equal opportunity to respond;

(iii) gives no candidate any greater prominence than any other candidate; and

(iv) does not contain a phrase such as ''vote for,'' ''re-elect,'' ''support,'' ''cast your ballot for,'' (name of candidate) for Congress,'' ''(name of candidate) in 1997,'' ''vote against,'' ''defeat,'' or ''reject'' or a campaign slogan or words which in context can have no reasonable meaning other than to urge the election or defeat of one or more candidates.'

Mr. President, I hope this clear and concise language dispels any rumors that this modified legislation will adversely affect voter guides.

TITLE III

Title III of the modified McCain-Feingold bill mandates greater disclosure. Our bill mandates that all FEC filings documenting campaign receipts and expenditures be made electronically, and that they then be made accessible to the public on the Internet not later than 24 hours after the information is received by the Federal Election Commission.

Additionally, current law allows for campaigns to make a best effort to obtain the name, address, and occupation information of the donors of contributions above $200. Our bill would eliminate that waiver. If a campaign cannot obtain the address and occupation of a donor, then the donation cannot and should not be accepted.

The bill also mandates random audits of campaigns. Such audits would only occur after an affirmative vote of at least four of the six members of the FEC. This will prevent the use of audits as a purely partisan attack.

The bill also mandates that campaigns seek to receive name, address, and employer information for contributions over $50. Such information will enable the public to have a better knowledge of all who give to political campaigns.

TITLE IV

Title IV of the modified bill seeks to encourage individuals to limit the amount of personal money they spend on their own campaigns. If an individual voluntarily elects to limit the amount of money he or she spends in his or her own race to $50,000, then the national parties are able to use funds known as coordinated expenditures to aid such candidates. If candidates refuse to limit their own personal spending, then the parties are prohibited from contributing coordinated funds to the candidate.

This provision serves to limit the advantages that wealthy candidates enjoy, and strengthen the party system by encouraging candidates to work more closely with the parties.

TITLE V

Last, the bill codifies the Beck decision. The Beck decision states that a nonunion employee working in a closed shop union workplace, and who is required to contribute funds to the union, can request and be assured that

his or her money will not be used for political purposes.

I personally support much stronger language. I believe that no individual—a union member or not—should be required to contribute to political activities. However, I recognize that stronger language would invite a filibuster of this bill and would doom its final passage. As a result, I will fight to preserve the delicately balanced language of the bill, and will oppose amendments offered on both sides of the aisle that would result in killing campaign finance reform.

Mr. President, what I have outlined is a basic summary of our modifications to the original bill. I have heard many colleagues say that they could not support S. 25, the original McCain-Feingold bill for a wide variety of reasons. Some opposed spending limits. Others opposed free or reduced rate broadcast time. Others could not live with postal subsidies to candidates. Others complained that nothing was being done about labor.

I hope that all my colleagues who raised such concerns will take a new and openminded look at this bill. Gone are spending limits. Gone is free broadcast time. Gone are reduced rate TV time and postal subsidies. And we have sought to address the problem of undue influence being exercised by labor unions. All the excuses of the past are gone.

Mr. President, on Monday I will review the provisions of the substitute again and will lay the modified bill before the Senate. I look forward to discussing the specifics of the measure at that time.

Mr. President, the sponsors of this legislation claim no exclusive right to campaign finance reform. We offer good, fair, necessary reform, but certainly not a perfect remedy. We welcome good faith amendments intended to improve the legislation.

But I beg my colleagues not to propose amendments designed to kill this bill by provoking a filibuster from one party or the other. The sponsors of this legislation intend to have votes on all relevant issues involved in campaign finance reform, and we will use every resource we have under Senate rules to ensure that we do.

If we cannot agree on every aspect of reform; if we have differences about what constitutes genuine and necessary reform, and we hold those differences honestly—so be it. Let us try to come to terms with those differences fairly. Let us find common ground and work together to adopt those basic reforms we can all agree on. That is what the sponsors of this legislation have attempted to do, and we welcome anyone's help to improve upon our proposal as long as that help is sincere and intended to reach the common goal of genuine campaign finance reform.

Mr. President, when I was a young man, a long time ago, I would respond aggressively and often irresponsibly to anyone who questioned my honor. I am not a young man now, and while I have been known to occasionally forget the discretion which is expected of a person of my years and station, I lack both the will and the ability to address attacks upon my honor in the manner I once addressed them. I now prefer to clear up peacefully the misunderstandings that may cause someone to question my honor. That is the task which I believe the sponsors of McCain-Feingold have undertaken.

I remember how zealously a boy would attend the needs of his self-respect. But as I grew older, and as the challenges to my self-respect grew more varied, I was surprised to discover that while my sense of honor had matured, its defense mattered even more to me than it did when I believed that honor was such a vulnerable thing that any empty challenge threatened it.

Now, I find myself faced with a popular challenge to the honor of a profession of which I am a willing and proud member. It is imperative that we do all we can to address the causes of the people's distrust.

Meaningful campaign finance reform will not cure public cynicism about modern politics. Nor will it completely free politics from influence peddling. But, coupled with other reforms, it may prevent cynicism from becoming utter alienation, as Americans begin to see that their elected representatives value their reputations more than their incumbency. I hope it would even encourage more Americans to seek public office, not for the honorifics bestowed on election winners, but for the honor of serving a great nation.

Mr. President, we must not fear to take risks for our country. We must not value the privileges of power so highly that we use our power unfairly, and subordinate the country's interests to our own comfort. We may think that we trade on America's good name to stay in office and shine the luster of our professional reputations, but the public's growing disdain for us is a stain upon our honor. And that is an injury which none of us should suffer quietly.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I want to begin by once again expressing my admiration and gratitude to the senior Senator from Arizona for his extraordinary leadership on the issue of campaign finance reform. This effort has already been a long and difficult one, but it is all about his courage and his exceptional commitment to the good of this country. He is in a more difficult situation than I am in as a member of the majority party. But the fact is he is one of the greatest Republicans of our time. And they are lucky to have him.

Mr. President, I also want to thank Senator LOTT, the majority leader, for helping us get this bill up to the floor. And I also appreciate the fact that he took some time this morning to say a little bit about how he got here; about what it was like for him to try to be elected to the U.S. Senate.

I think those kinds of stories and accounts are going to be very important as this debate proceeds because we need to tell the American people just what is involved in running for the Congress these days. We need to tell them the truth about how many people are truly invited to participate in a process that is so awash in money that almost every American must feel like they are not invited to participate.

I also want to, of course, especially thank my leader, Senator DASCHLE, not only for his powerful statement on behalf of our bill but also for his leadership in working diligently to make sure that all 45 members of the Senate Democratic caucus are in support of the McCain-Feingold bill; a bill that has been initiated by a member of the other party. That is a great tribute to him and to the cause of bipartisanship in favor of campaign finance reform.

I also want to do something that may not be terribly popular out here as the debate goes on. I want to thank the President of the United States, because the fact is he has been diligent, consistent, and persistent in support of this particular piece of legislation. He has offered his personal help. He has offered the help of his staff. Before it is finished, before we claim our final victory on this issue, I am going to certainly repeat the fact that President Clinton has been fighting for reform.

Mr. President, it was just over 2 years ago that the Senator from Arizona and the Senator from Tennessee, Senator THOMPSON, and I began this long, sometimes tortuous, journey on the path to campaign finance reform. In fact, it was September 1995 when we first introduced our bipartisan reform proposal, a proposal that is centered on the premise that it is imperative that we reduce the role and influence of money on our electoral system.

For 2 years, though, Mr. President, the Senator from Arizona and I have been stymied by opponents of reform who desperately cling to the absurd notion that the more money you pour into the political system that our democracy somehow gets better. Sometimes the comparison is made that we spend as much money on elections as we spend on potato chips. I don't know what this has to do with the question of political reform but it is an argument we are treated to anyway. Of course, no one outside the Washington Beltway believes in that argument. No one outside of this town thinks we need more money spent on the political process. In fact, if you talk to any average American they will tell you they are just horrified by the amount of money that is spent on our electoral system. But they are tired of excessive spending. They are tired of the onslaught of negative attack ads all throughout a campaign season. And, yet, they are even more tired—they are

sick and tired—of the ongoing revelations of abuse and wrongdoing related to elected officials and campaign fundraising.

Nonetheless, our opponents, such as our colleague and our friend, the junior colleague from Kentucky, continue to argue that more campaign spending somehow strengthens democracy and expands citizen participation. Of course, I disagree with him on this point. And so do the facts.

The facts say this: The 1996 election speaks for itself. In 1996, candidates and parties spent in excess of $2 billion. That was an all-time record amount of campaign spending.

In a year where we spent more money on Federal elections than in any other year in our history, let's ask the question: Was democracy strengthened? Did we expand citizen participation? We all know the answer. Mr. President, we did not. Almost a year after the fact we are still feeling the fallout from the 1996 elections. After months of hearings by the Governmental Affairs Committee, led by the Senator from Tennessee, it is clear that we had widespread abuse and wrongdoing on both sides of the aisle. We have had congressional investigations, a Justice Department investigation, an FBI investigation, and even a CIA investigation, all relating to the way we elected our representatives.

That doesn't sound like the strengthening of democracy to me.

As for participation, we had the lowest voter turnout in 72 years—a clear sign that the electorate was not exactly energized by all this campaign spending. We know the truth. They were turned off.

Perhaps most disheartening, our campaign finance system just lacks any sense of fairness anymore.

In 1996, incumbents outspent challengers by ratios of 2 to 1 and 3 to 1, and to no surprise. The reelection rate for Members of the House and Senate remained well above the 90 percent level.

As the Senator from Arizona has said, the time for reform is right now.

Over the course of the last several months, the Senator from Arizona and I have had two clear consistent messages. The first was that our preference was to work with the majority leader in scheduling debate on bipartisan reform legislation. Thankfully for the kind of cooperation that serves this body very well, we have achieved that.

Of course, the majority leader has already begun the debate. He says we should not shift the subject. He wants to focus instead on the White House. But I think what we ought to focus on is the whole system. We ought to focus on the question of whether this system has anything to do with the principle that everybody's vote should cost the same.

We are already hearing talk about filibusters—about ways to make sure the legislation does not pass.

But I do want to say that I am very impressed with the way in which this bill came to the floor, and I am grateful.

Our first choice always was the cooperative approach.

Mr. President, our second message was one that the Senator from Arizona just made very plain once again. That is our willingness and continued willingness to make the changes that need to be made to do the right thing.

We demonstrated this willingness to compromise when we worked with the junior Senator from Maine who suggested a number of changes to our bill that I think actually strengthen the bill. I think there may be amendments out on the floor by either party that can make the bill stronger, and a better reform bill.

That is the spirit in which Senator MCCAIN and I come to the floor. We know that this bill isn't perfect. It is not the ideal Feingold bill. It is not the ideal McCain bill. That is how we got together—by compromises and trying to come up with a reasonable passage.

Prior to the August recess, the Senator from Arizona and I stood here on the Senate floor with some of our colleagues and expressed the hope that this debate would occur. We also said that if we were unsuccessful with that effort we would bring the legislation to the floor in September.

Mr. President, for opponents of campaign finance reform, for those Washington interest groups—whom I like to refer to as ''the Washington gatekeepers''—who joined with the Senator from Kentucky in opposing any changes to our current system, it is September. It is a Friday in September. And we hope for all of those who have declared this bill dead over and over again that today will be remembered for them as ''Black Friday.''

For the rest of the country, for the 90 percent of the Americans who believe we should be spending less on our elections, for the underfunded challengers who are consistently blown out of the water by well-entrenched incumbents, and for those who believe that the first amendment is a right belonging to all Americans, not just a commodity for the wealthy few, I hope this Friday will be remembered as the day we took the first step in providing with this reform proposal the first real opportunity to fundamentally change the nature of our political system.

The base package of reforms the Senator from Arizona and I have pieced together represents a solid first step on the path to more comprehensive reform.

As he has already highlighted, the package will ban so-called soft money. That means that the Washington soft money machine that has fostered the multihundred-thousand dollar contribution from corporations and labor unions and wealthy individuals will be shut down forever. The American people won't have to hear about outrageous levels of contributions that they couldn't even dream of giving even once in their lives.

The base proposal also modifies the current statutory definition of ''express advocacy.'' It does not affect issue advocacy. It redefines in an appropriate manner ''express advocacy'' to provide a clear distinction between expenditures for communications used to advocate candidates and, on the other hand, those used to advocate issues. And that is all it does.

It does not do, as the majority leader has suggested, ban billboards. Of course, it doesn't. It doesn't touch voter guides. We explicitly provide that voter guides are permitted. And it doesn't ban one single television or radio ad, ever. It simply does not do that. And we will repeat that statement as often as it needs to be repeated.

Candidate-related expenditures will be subject to current Federal election laws and disclosure requirements. Of course they will. But that is all.

No form of expression will be prohibited.

That statement is simply inaccurate.

The proposal will require greater disclosure of campaign contributions and expenditures, and provide the Federal Election Commission with the tools to better enforce our campaign finance laws.

It includes a strict codification of what is known as the Supreme Court's Beck decision, thus requiring labor unions to notify nonunion members that they are entitled to request a reduction of the portion of their agency fees used for political purposes. Of course, I find it laughable that anyone could believe that the central problem in the campaign finance system is an issue of union dues. That is laughable on its face.

What about corporations? What about all of the other special interest groups? Does anyone really believe that labor is the only problem? Nonetheless, we try to reasonably and appropriately address this issue rather than ignoring it.

Finally, the base package includes a provision that for the first time encourages candidates to abide by some kind of a voluntary fundraising restriction. That is a significant step.

As my colleagues know, the Supreme Court ruled in the decision in Buckley versus Valeo that it is fully consistent with the first amendment to offer candidates incentives to encourage them to voluntarily limit their campaign spending.

In fact, the Buckley Court specifically upheld the Presidential system that we have today which offers public financing in exchange for candidates agreeing to voluntary spending limits.

The Senator from Arizona and I have added a provision to this base package that tracks that concept.

Under current law, Mr. President, political parties are permitted to make expenditures in coordination with the Senate candidate up to a certain limit. That limit is based on the size of each State.

In California, for example, the parties are each permitted to spend about $2.8 million in coordination with the candidate.

Our proposal provides that candidates who decide to pour a great deal of their own personal funds into a campaign would simply no longer be entitled to those party expenditures on their behalf.

Specifically, if a candidate agrees to limit their personal spending to less than $50,000 per election, they will continue to receive help from their party committees. If they don't, they just won't receive that money.

It is a basic concept. If you want to pour millions and millions of dollars of your personal money into a campaign to try to buy a Senate seat, you should be able to do so.

We don't disagree with Buckley versus Valeo on that point. We don't disagree. We just do not think you should get some kind of a benefit, some kind of a privilege after you have done so.

It is very important to recognize that distinction.

That is what Buckley said, and that is what this proposal reflects. We should not reward such candidates. We should not give them the equal benefit with their opponent who is not a millionaire and who should be able to receive that.

So, Mr. President, that is the outline of our base package. It is modest reform. It is a strong step in the right direction, and it provides us with the vehicle to move campaign finance reform forward.

But there is another piece to our effort. The base package makes several important reforms.

But the one thing it does not do enough of is doing something about the position of incumbents and challengers in financing their campaigns. We know what the problems are. Incumbents consistently blow away challengers who lack the resources to run their campaign.

The flow of campaign cash through the corridors of Congress undermines public confidence and trust in this institution. Officeholders spend more time panhandling for campaign contributions sometimes than they do on the Nation's legislative business.

That is why the Senator from Arizona and I are announcing our intention to offer a McCain-Feingold amendment to our own vehicle. Why? Because we want some accountability on this issue. We want to see that the Members of the U.S. Senate are prepared to stand up in the public spotlight and tell the American people whether they are willing or unwilling to change a system that is so clearly rigged in their own favor.

Mr. President, that road is going to be a true test of reform. That will be one of the votes that tells us how serious the U.S. Senate is with fundamentally changing a political system that has spiraled out of control, and has led to so many charges of abuse and undue influence; and, yes, Mr. President, corruption.

Our amendment will again build on what the Supreme Court said was permissible in the Buckley decision. The amendment offers an incentive to candidates to encourage them voluntarily to limit their fundraising. The incentive in this case is a half-priced discount on television time. And that, of course, would have more to do with reducing the cost of campaigns than anything else.

Candidates who wish to receive the discounted television time would have to agree to three simple rules. First, they would have to agree to raise a majority of their campaign funds from people who live in their own State. That seems reasonable. Second, they must agree to raise no more than 25 percent of their total campaign contributions from political action committees. Finally, they have to agree again to spend no more than $50,000 of their own personal money on a campaign.

By doing so, Mr. President, we would provide candidates, for the first time ever, with the opportunity to run a competitive campaign without having to raise and spend millions of dollars. It tries to level the playing field. It is fair to both parties, and that provision, that amendment that we will offer, is clearly constitutional.

There will be a vote on that amendment, and we will find out if Senators favor or support changing the rules that have so clearly fallen apart in recent years. I look forward to that debate. I look forward to the other amendments that will be offered that could well improve this bill even more.

So before concluding, I do want to again thank my colleague from Arizona, but I want to make two points, two points that I think will be something of a road map to what will happen in the next few days.

First, there is going to be, if you have a scorecard, two different groups out on the floor. One group of Senators is going to try to force a filibuster. They are going to offer amendments and use procedural tactics in any way they can to force either the Democrats or the Republicans to filibuster. The majority leader already said today, with great pride, that he would get the other side to filibuster. He has already announced that that is his goal. But there is another group of Senators, Mr. President. That is the bipartisan group. That is not the filibustering group. That is the group of Senators from both parties who are working together to avoid a filibuster and reform our system. Keep your scorecard. There are two very clear groups—the filibusterers and the bipartisan Senators. That is where we are in the difference on this issue.

The second final point I want to make, Mr. President, is that not only are there two groups of Senators on this issue—and we will find out exactly who they are—there are also two different visions of our democracy represented in the Senate. One vision is the vision of a representative democracy. The other vision is what I like to call a vision, an acceptance of something that is more akin to a corporate democracy. We have become a corporate democracy.

What do I mean by that? When I was 13 years old, I received a gift of a share of stock. One of our relatives wanted to teach me how the stock market worked and how our economy worked. I think it was maybe a $13 stock in the Parker Pen Co., one of our great prides in Wisconsin and in my hometown of Janesville. My father told me that in addition to owning a share of that stock, I would have a vote at the stockholders' meeting. And being already interested in politics, I thought: Great. When is the election? When is the stockholders' meeting? I want to go vote. And he laughed. He said, ''Well, I better tell you something. The number of votes you get depends on how many shares you have. You don't have the same vote and the same power as everyone else because it is a corporation. It is based on how much money you are able to put into the corporation, and so you could go to the shareholders' meeting but your vote wouldn't count very much.''

Mr. President, sadly, that reminds me more of America today than ever before. This is not a democracy anymore of one person-one vote. If we keep this system of $300,000, $400,000 contributions and access to politicians based on contributions, we will have sealed this as a corporate democracy, not a representative democracy.

That is the question before us. Will we abandon all the other Americans who simply cannot afford the cash to play the game? We have to reject the corporate democracy, Mr. President. We have to return to a representative democracy. That is what this country is all about. That is what this institution is all about. Fortunately, in the coming days, we will find out who is on which side.

Mr. President, I yield the floor.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I listened with interest to the opening statements made on this issue. I appreciate the sincerity of those who have made them. I wish to make this first personal point before I make some additional points. The Senator from Arizona said that there is only one purpose here, and that purpose is to enact fair and effective campaign finance reform. I wish to make it very clear that I accept that purpose on behalf of the Senator from Arizona, the Senator from Wisconsin, the Senator from Tennessee, or anyone else involved in this matter. I do not challenge for one moment their sincerity. Certainly we cannot challenge their earnestness. Certainly we cannot challenge their motives. I want it clearly understood that

I have that kind of feeling about what they are doing.

I want it equally understood that I think they are fundamentally wrong and that, in their effort to get to what they consider to be a sincere and proper goal, they could do irreparable damage to our Nation and to the fundamental freedoms about which I care just as passionately as they do. I hope they will grant to me the same sense of honor and integrity that I am more than willing to grant to them, and that we will not get into the name-calling business of saying, if you oppose McCain-Feingold, you are somehow opposed to anything that is true and beautiful and worthwhile.

I believe McCain-Feingold cuts at some of the most fundamental freedoms we have in this country, and I am going to outline that. I want everybody to understand that I am not acting because I believe something sinister or improper is going on here.

As to the second point, before I go into some of the specifics I want to talk about, I would say to Senator FEINGOLD, I think you ought to meet Senator MCCAIN. From the notes I have made in this morning's debate, Senator FEINGOLD said, if I quote him correctly, ''No form of expression will be prohibited,'' just after Senator MCCAIN said, ''No ad mentioning the name of a candidate will be allowed in the last 60 days of the campaign.''

I do not find those two statements coinciding with each other. Indeed, the Senator from Arizona, in his summary of the things that would be allowed and would not be allowed, gave us a whole list of that which would be allowed to take place and that which would be prevented. To me, we are debating ways in which Government power will be marshaled to control legitimate speech, and we are saying, with all of the intensity of middle-aged theologians debating how many angels can dance on the head of a pin, that this will be allowed and that will not; this is permissive but that is not; 60 days is legitimate but 61 is not, back and forth, in and out on all of these particulars. We are going to marshal the full power of the Federal Government of the United States of America and focus that power like a laser beam on this particular ad, this particular contribution, this particular activity, all in the name of campaign finance reform.

Mr. President, to me marshaling Government power to regulate what can and cannot be said in another context is called censorship. And marshaling the power of the Federal Government to censor political speech is not an activity in which I would lightly engage.

The statement was made by the minority leader that Buckley versus Valeo was a close call; it was only 5 to 4. On the issue of whether or not spending money in campaigns represented protected speech under the first amendment, Buckley versus Valeo was 9 to nothing. And in every subsequent decision from that time forward, the Court has reemphasized that. Let us understand that. We are talking about the most fundamental political right that we have in this country, the right of free debate and speech in a political campaign. I want to lay that down as the fundamental predicate, when we get into the details of this, when we argue with the Senator from Arizona about what is and what is not wise and proper, we are talking about tinkering with the fundamental right of Americans to engage in robust political activity. We should tread on this ground very, very carefully. I think that is why the Supreme Court slapped down the first attempt to tread on this ground by such an overwhelming margin.

Now, some specifics. The Senator from Arizona laid down the three principles that we are going to see preserved in the substitute bill to McCain-Feingold, S. 25. I am delighted there will be a substitute bill to S. 25.

I have gone through S. 25 reading it personally. If ever there were a maze of regulations subject to misinterpretation and reinterpretation by bureaucrats enforcing them, this is the maze.

This morning on this floor we had a series of speeches regarding the IRS and how the Tax Code is used and abused with ordinary citizens. I wonder what the IRS or regulators like those who work for the IRS would do with the provisions of S. 25? Saying, well, you could have run that ad, but you can't run this ad; you could have had this guide, but you can't do that guide; this was OK last Tuesday, but it is not OK on Thursday.

Now, the fundamental assumption here underlying what we are hearing is that money is the only factor in determining the outcome of an election, and that if we can only level the playing field, which we hear over and over again, in terms of money, then we will have fair elections.

Well, when we raise the issue of people who defeat incumbents without having as much money as incumbents have, we are told always, well, that is the exception that proves the rule. That is an aberration. That is not the way things normally happen; incumbents normally win. Yes, incumbents do normally win. And they normally win for a whole series of reasons, not necessarily connected with money.

I am interested that Senator FEINGOLD is raising this issue when he is one of the challengers who defeated an incumbent in order to get here. And, while I will not pretend to be an expert on his campaign, it's my understanding that he spent less than his incumbent opponent in order to do it, thus demonstrating that maybe the ability to communicate better than your opponent has something to do with who wins. Maybe the ability to write a smarter ad than your opponent does may have something to do with who wins. Maybe even having a more powerful message than your opponent has something to do with who wins. Or maybe which State you live in, whether it be predominantly Republican or Democrat, in terms of the leanings of the voters in the first place, has something to do with who wins. It is not necessarily money as the only ingredient in what happens.

All of us here, because we live in the beltway circumstance, saw the ad campaign that went on in the senatorial race in Virginia in 1996. You couldn't avoid it if you lived anywhere in the Washington area for any period of time. Mark Warner spent something like $25 million trying to defeat Senator JOHN WARNER. He didn't succeed. He outspent him overwhelmingly. What advantages did JOHN WARNER have to fight off that kind of money barrage as an incumbent? There are those here who will say his only advantage was, as an incumbent, he could raise more money. Clearly he could not raise more money. There is not enough money in the world to warrant raising more money than Mark Warner spent in that race.

I know my opponent in the primary race in Utah outspent me 3 to 1. He spent $6.2 million in a primary in Utah. When I say there isn't enough money—to spend more money, he was buying ads on Saturday morning cartoons. He had run out of places to spend it.

Yes, there are finite limits. I think Mark Warner reached those finite limits in Virginia. Why didn't he defeat JOHN WARNER if he had that kind of money advantage? JOHN WARNER had 18 years of service in the U.S. Senate, which means 18 years of answering phone calls, sending letters, attending bar mitzvahs, going to Rotary Clubs. JOHN WARNER was known as the most popular politician of either party in the State of Virginia. That is a fairly significant advantage for an incumbent to have, regardless of money.

JOHN WARNER has spent 18 years with name recognition against somebody of whom no one had ever heard. Yes, money buys name recognition. An incumbent doesn't have to spend any money to buy name recognition. That is a significant advantage.

JOHN WARNER had a staff. I can give that example. I didn't run against an incumbent Senator but I ran against an incumbent Congressman who had a congressional staff. When the Congressman wanted to come to Washington to attend a fundraiser with a PAC group, who paid for it? The taxpayer, because it was a trip back and forth from his congressional district to the Capitol. When I came to Washington challenging him, trying to hold a fundraiser among the PAC's, who paid for it? My campaign paid for it. I had to raise that money. It put us on a level playing field. Both have the same amount of money, I don't get to come to the fundraiser but my opponent does because he's an incumbent.

When my opponent put out a press release accusing me of committing a

crime, which he did—actually, that was one of the good things about my campaign. Everybody thought he had lost his mind, and I got some extra votes as a result of it. Nonetheless, when my opponent put out the press release accusing me of a crime, who prepared it? His press secretary. Who paid the salary of the press secretary? The taxpayers. He was an incumbent. He is entitled to a staff.

When my press people went to the press conference to say, ''No, BOB BENNETT did not commit that crime,'' who paid their salary? My campaign did. So let's put him on a level playing field. He gets his staff paid for as an incumbent by the taxpayers. I, as a challenger, don't get my staff paid for. I have to raise the money.

Incumbents have all kinds of advantages that have nothing to do with money. They also, sometimes, have some disadvantages that have nothing to do with money. We have the example—perhaps an extreme one but let's use an extreme one to make a point—back in the 1994 election, Mike Synar, the Congressman from Oklahoma, lost his primary. He spent $325,000. His opponent spent less than $10,000. His opponent's campaign consisted entirely of distributing his business card, sticking it under windshields in parking lots, and written on the back of the business card was the phrase, ''Not the incumbent.'' And he beat the incumbent. The incumbent in that circumstance had a $325,000 to, let's say, $10,000 money advantage; he had the disadvantage of a voting record that members of his particular congressional district didn't like.

We cannot let ourselves get into this notion that money is the only factor and then write laws based on that assumption because, if we do, we will do violence to the Constitution and freedom of speech.

Now, let me go down the three points that the Senator from Arizona made, as the core points of McCain-Feingold and the proposed change that we will have. First, he said it must be bipartisan. I will grant him that. McCain-Feingold will damage both parties equally, damage the process for everybody. It doesn't play favorites. It will be equally bad.

Second, he says we must lessen the amount of money overall in campaigns. If he had listened to the expert testimony that we have had in the Governmental Affairs Committee this last week, he would find that even people who support McCain-Feingold, who come out of the academic community and commented on this, told us you cannot control the amount of money in political campaigns. The Senator from Kentucky has said, ''Controlling political money is like putting a rock on Jello. You put it on one place and it squeezes out another.'' And these experts said the same thing. They said political money has been in the process ever since George Washington was President and will always be in the process, and we have had a continuing process of simply trying to control it. But you are not going to eliminate it. It is always going to be with you.

Mr. KERRY. Will my friend yield for a question?

Mr. BENNETT. I will be happy to yield.

Mr. KERRY. As I listened to my colleague suggest that you cannot control money, I can't help but think back to——

Mr. BENNETT. May I correct that? I said you cannot control the total amount of money. You can control where it flows.

Mr. KERRY. That is fair, Mr. President. Let me nevertheless ask the same question I was going to ask, because I think it is relevant. Last year in Massachusetts, Governor Weld and I agreed on a fixed amount of money that we would spend in our race. We agreed on a fixed amount of money for our media, and a fixed amount of money for the campaign on the ground, so to speak. We agreed, both of us, to have no money from the national political parties and no money from independent expenditures. We set up a mechanism whereby we were able to control not having those independent expenditures come in. In the end, we had a campaign that had no national money, no independent expenditures, and we spent the fixed amount of money that we said we would.

So I ask my colleague, how it is he can say that you can't control it when in fact there is evidence of it having been controlled in that race, as well as in Governor races and other races in the rest of the country where they have accepted limits?

Mr. BENNETT. I thank my friend from Massachusetts for an example that I think makes my point. You made the decision, your opponent made the decision, and you are in control in this circumstance of the amount of money that is spent. What McCain-Feingold does is take that decision out of your hands and put it in the hands of the bureaucracy.

When I say you can't control the amount of money, I should be more specific. You can't control it by Government fiat. You certainly can control it in terms of what happens in your own campaign, just as I made the decision in my campaign that there would be no negative ads. I refused to run any ads attacking my opponent. But I would oppose any Government rule that would say to me I could not make a different decision if I wanted to. And I would oppose any Government regulation that would say that you and Governor Weld could not have made that decision on the basis that you wanted to, instead of there being more particulars that would be imposed upon you by Federal law that would say, ''Well, you have come fairly close but we are going to put this regulation and that regulation on top of the decision that the two of you jointly made.''

I applaud you for what you did. I think every campaign would be better off if the candidates could sit down in advance and make that kind of a deal. But I want every deal to be a separate deal, made by separate candidates, rather than dictated from this Chamber.

Mr. KERRY. Will my friend yield for a further question?

Mr. BENNETT. I will be happy to yield for a question.

Mr. KERRY. I would ask him that, now having at least established one can arrive at a control, the issue is whether or not the Government might play a role in that? I ask the Senator if he is aware that, in a number of States and in a number of cities, they have in fact passed legislation where there is an accepted regime of control for how much is spent in a campaign, or for the mechanism for raising it? The city of New York, State of Maine, a number of other States have accepted this.

So, really, the question is not whether or not you can do it, I would submit to my friend, it is whether or not one is willing to do it, whether you have the desire of doing it. That is really the bottom-line question, I would suggest.

Mr. BENNETT. May I respond to my friend, and then I see the Senator from Kentucky wants to get into this.

In the first place, I think we ought to wait for some experience from these cities and States as to what happens before we rush to Federal legislation on the basis of the bills that they have passed. I think it is salutary that the States are being used as a lab, to see what works and what does not. I don't know that there has been any constitutional challenge to any one of these statutes yet. I would expect there would be. And I would like to have the reasoning of the courts before us before I rush to Federal legislation. Then, as I said, I would like to have some on-the-ground experience to see how it really works.

If I may give a separate kind of example, in the State of Utah we allow corporate contributions for statewide races—Governor, attorney general, Lieutenant Governor, what have you. There has not been a hint of scandal. There is no outcry to stop that. And we have had a series of outstanding Governors, both Democrats as well as Republicans, every one of whom has been a man of highest rectitude.

So, if you are going to look for a local example of something that works, you could say, based on my State's experience, that we ought to open the whole thing up and let corporate contributions come in as well as individual contributions. The one thing that we do have in Utah that has made it work is full and complete disclosure so that everybody knows that, if the Utah Power and Light Company has given to X campaign, that is on the public record. And when the Governor goes to deal with utility regulation, everybody knows how much the power company gave him.

Mr. MCCONNELL. If the Senator will yield just for an observation?

Mr. BENNETT. I will be happy to.

Mr. MCCONNELL. The Senator from Massachusetts was talking about State and local referenda. There have been some. Most of them have either been struck down by the courts, as in the case of Missouri, Minnesota, Oregon, and Cincinnati. The balance are in litigation, such as the new State law in Maine which virtually no one believes will be upheld by the Federal courts.

The Senator is correct, there has been some experimentation at the State and local level. Virtually all of them have been struck down or are on the way to being struck down.

Mr. BENNETT. I thank my friend from Kentucky for that additional information. Let me go back to the three points made by the Senator from Arizona: Must be bipartisan—I agree, this is bipartisan. Two, must lessen the amount of money overall in politics—if the experts that have testified before our committee are correct, and I believe they are, in a free society that is simply an impossible goal. You can disclose it, and I think we should; you should shine as much light, sunshine, exposure as you can, and I think we should. You should do things about getting people better informed of what is going on, and I think we should.

I am perfectly willing to talk about amending the current laws to go in that direction. But you should not kid yourself that in a free society, somehow Government can control the total amount of money people want to spend in political advocacy.

So we come to the third principle, laid down by the Senator from Arizona, that there must be a meaningful campaign finance reform, which is we must level the playing field between challenger and incumbent. We must help the challenger.

I have already made the point, and will make it again, that the best way you can help the challenger in the field of money is to allow the challenger to raise more money than the incumbent. If you level the playing field and say to the challenger—my own example again repeated—you cannot raise any more money than the incumbent, but the incumbent starts out with all of the name recognition, all of the years of going to Rotary Clubs and bar mitzvahs, all of the staff paid for by the taxpayer available to him, all of the record of answering letters and doing favors and congressional constituent service, and you can't spend any more to try to overcome that advantage in the name of campaign finance reform, you have decapitated the challenger and guaranteed that the incumbent is going to get reelected in virtually every circumstance.

Mr. MCCONNELL. Will the Senator yield?

Mr. BENNETT. I yield for another comment.

Mr. MCCONNELL. As an observation on what the Senator said about leveling the playing field, that was raised in the Buckley case, and the Supreme Court said it was constitutionally impermissible for the Government to try to level the playing field. In fact, the Court said:

> The concept that Government may restrict the speech of some elements of our society in order to enhance the relative voice of others is wholly foreign to the first amendment.

So my friend from Utah is correct, even if it were possible somehow for the Government to figure out how to micromanage and level the playing field, it is truly constitutionally impermissible for the Government to try to do that.

Mr. BENNETT. I thank my friend from Kentucky for that additional information about this particular issue.

Mr. President, I want to end as I began by expressing my deep concern over this whole attempt to tiptoe into the area of free expression in a free society regarding political activity and political speech. I know it is frustrating to see large amounts of money come into a campaign. I have heard my friend from Pennsylvania, Senator SPECTER, tell of his personal experience when Buckley versus Valeo was handed down, where he was in a Senate race with the man who became Senator Heinz. The story ends well because Senator SPECTER became Senator SPECTER as well, but not in that race.

He, Senator SPECTER, was running the campaign. There were spending limits. Buckley versus Valeo struck those limits down in terms of an individual American being allowed to spend whatever amount of money he wanted to spend in expressing his own point of view. As Senator SPECTER said, ''Senator Heinz had virtually unlimited resources and I did not. And Senator Heinz put those resources into the race and I was prohibited.''

''Now,'' says Senator SPECTER, ''my brother had enough money to fund my campaign, but my brother was forbidden to put that money into the campaign and, therefore, I was at an unfair disadvantage to John Heinz.''

My solution to that would be let his brother put the money in the campaign. If we are going to level the playing field, and Heinz has *x* amount of money that he can put in and Senator SPECTER has a brother who has *x* amount of money he can put in, in the spirit of the decision just described by the Senator from Kentucky, I would have no problem with saying, OK, let Senator SPECTER's brother put it in, let's level the playing field by letting both sides spend.

Now, if Senator SPECTER's brother put it in, it darn well better be disclosed where he got the money, where it came from and let people ask the question: What did ARLEN SPECTER's brother expect to get in return if ARLEN SPECTER took enough money from him to match John Heinz?

Or to put it in a more contemporary circumstance, we see in the Presidential situation where we have these kinds of limits, in this last election, Jack Kemp wanted to run for President. Those of us who know Jack and can read his body language could tell he was anxious to run for President. He looked at the fundraising problem that he faced under the present limitations, and he said, ''I can't physically do it. I have to go out and raise this much money at $1,000 apiece. I can't physically stand the wear and tear.''

Sitting at Jack Kemp's elbow, figuratively, was somebody who believed in everything Jack Kemp believed in. His name is Steve Forbes. Steve Forbes could have funded a Kemp campaign for President without noticing it. But under the circumstances in which we currently are operating, Steve Forbes is forbidden to do that. So, ultimately, what did he do? He ran for President himself. At some point in this debate, I will have some comments about that, too, and what happened with that injection of money coming from Steve Forbes.

But wouldn't it be a better kind of system if Steve Forbes could say, ''Jack, you're better known than I am, you have more experience in this arena than I do, you probably have a better chance of making it, you represent the same ideas I feel strongly about, here's a check for $15 million; go to it, Jack.''

The first question that Jack would have been asked is, ''What did you promise Steve Forbes in order to get $15 million?'' And that might be a very embarrassing question for Jack to answer. Indeed, Jack might say, ''Steve, I'm not going to take your money because I don't want to have to answer that question.'' But that is the kind of openness and honesty that I think would make the system a whole lot better than what we are talking about here.

Mr. MCCONNELL. Mr. President, if the Senator will yield before he leaves, I would like to ask him a question.

Mr. BENNETT. I will yield for a question.

Mr. MCCONNELL. I was listening with great interest to my friend from Utah in describing the Government controls over political speech that are a part of or actually at the heart of McCain-Feingold. I know, for example, that there is this distinction which the Senator from Utah referred to in terms of what is commonly referred to as issue advocacy. Do things on the 61st day before the election, but if it is the 60th day or closer, you can't do other things.

I am sure my friend from Utah knows this, but an agency of the Federal Government would be put in charge of making these decisions, would it not?

Mr. BENNETT. An agency of the Federal Government would decide what was permissible and what was not on the 60th day.

Mr. MCCONNELL. So an outside group seeking to criticize a Member of Congress—they didn't like how he or she voted on day 58 before an election—

would then be prohibited by the Federal Government from expressing criticism of this incumbent during that period, would it not?

Mr. BENNETT. That is correct.

Mr. MCCONNELL. And is it reasonable to assume, I ask my friend from Utah, if that would be an enormous advantage to incumbents?

Mr. BENNETT. Well, the assumption is that it would be an advantage to incumbents because it would give them freedom from criticism by an outside group in that period. My sense of smell tells me the outside group would, even under McCain-Feingold, probably find some way to try to get around that.

For example, as I understand the Senator from Arizona, he said there can be no criticism by name of a candidate, so perhaps the outside group would say, ''The Congressman from the Third Congressional District of Utah is terrible, but we didn't name him.''

Mr. MCCONNELL. But this agency would have to decide whether that was specific enough.

Mr. BENNETT. The agency would have to decide, and once the agency decided, yes, it is all right to attack the Congressman but not to attack him by name, or, no, you can't say the Congressman from the third district, but you can say some Congressman, or whatever, you would, again, have Government dictating that which was permissible speech in terms of the content of the ad.

Mr. MCCONNELL. I say to my friend from Utah, looking at the McCain-Feingold bill, section 303, it gives the FEC the authority to seek an injunction. So the FEC could choose to go to court and shut this group up, could it not, under this authority?

Mr. BENNETT. It could.

Mr. MCCONNELL. So you can imagine a group of aggrieved citizens who have been dramatically and adversely affected by a vote of an incumbent Member of Congress on the 57th day before an election essentially shut up because of the proximity to the election, quieted by the heavy hand of the Federal Government, unable to criticize an official action of a Member of Congress during that time period. Is the Senator from Kentucky right in assuming that would be the likelihood of this?

Mr. BENNETT. I believe the Senator is partly right. I think either that would be the likelihood, that a group would be deprived of its right to exercise free speech in that area, or another equally likely outcome, in my view, is that the outcry from the group over the injunction would be sufficiently significant in the press that it would override any discussion of substantive issues from that point forward and the last 60 days of the campaign would be spent bickering over whether or not the group really should or should not have had that right. Either way, it distorts the political dialog in a way I find corrosive and damaging to the intent of the Constitution.

Mr. KERRY. Will my colleague yield?

Mr. BENNETT. Let me yield to the Senator from Massachusetts, and then I will come back to the Senator from Kentucky.

Mr. KERRY. Mr. President, I thank the Senator from Utah for his effort to have a good discussion, and I think that is a very important part of what we are trying to achieve here. I, obviously, want the Senator from Kentucky to be a part of that.

The allegation has been made by the Senator from Kentucky that somehow someone is being shut up or shut out of the system. Wouldn't it be true, notwithstanding the effort to seek an injunction as to expenditure for ads under the aegis of this entity, that they would, nevertheless, be free to participate, like every other citizen, by raising so-called hard money, money for the campaign for the candidate, by participating in the campaign itself, by holding fora, by holding any kind of participatory effort that they want, which, in effect, is only limiting the clutter and the impartiality of the last 60 days of a race because of the undue influence of money.

My question is, wouldn't America be better off to have a participatory process where people are encouraged to come out of their offices and into the meeting halls and candidates are encouraged to go into the living rooms rather than simply rely on money to distort the process?

Mr. BENNETT. I respond to my friend from Massachusetts by saying that, of course, the country would be better off if all of those things happened. There is no reason whatsoever to believe that the prohibitions of one kind of expression that are outlined in McCain-Feingold would automatically produce all of the other more beneficial kinds of expression that the Senator from Massachusetts has described.

There is no credible cause-and-effect relationship between the two. We are back to the fundamental point that I am trying to make in this entire presentation, which is, we are talking about ways in which the Government will regulate speech. And that, in any other context, is called censorship. And I am opposed to it.

Now, I must go back to the Senator from Kentucky.

Mr. MCCONNELL. I say to my friend from Utah, this is an interesting hypothetical to discuss, but there is virtually no chance the courts would allow the kinds of restrictions on issue advocacy in the McCain-Feingold bill. The Supreme Court addresses issue advocacy; that is, the way others are able to criticize our records.

What the Senator from Massachusetts is saying, I think, is that he would like that criticism to be less effective. In other words, do not use something really effective like television, just go out and go door to door. There isn't any chance the Supreme Court is going to say, ''Deny to an aggrieved group the opportunity to use the most effective way to criticize our records,'' which we all know requires: (a) The expenditure of money, and (b) the use of television. That is the easiest way for that criticism to have an impact.

The good news is—the good news is—there is virtually no chance that any court in America would uphold the kinds of restrictions on issue advocacy by groups that are contained not only in the original McCain-Feingold bill but in the substitute that in all likelihood will be offered Monday. That is the good news.

I thank my friend from Utah.

Mr. BENNETT. Does the Senator from Massachusetts ask me to yield further for an additional comment? If he does, I will be happy to do so.

Mr. KERRY. Mr. President, I ask the Senator simply to acknowledge what I think he would acknowledge is the state of the law, which is that there is a distinction that the Court has drawn between issue advocacy of the kind the Senator from Kentucky was referring to—which I would not seek to restrict; I understand the first amendment—and express advocacy of a candidate.

There is a clear distinction the Court has drawn between a legitimate effort to talk about an issue in the abstract and an effort to help a candidate get elected. I think that most Americans would feel, in fact, in answer to the Senator saying, ''Well, there's nothing in here that connects the amount of money to the effort to get people, you know, into the living rooms and out of their offices,'' I suggest respectfully to my colleague, there is, because the more the money, the more there is this effort to simply have these distorted 30-second advertisements, the less people feel connected or need to connect to the politician or the process and the more they are in fact alienated from it.

In the experience of Massachusetts, where we set a limit on what we would do, I in fact felt an enormously greater incentive to go out and organize at the grassroots level because I knew it was that much more important.

So would my friend from Utah acknowledge that in fact there is a distinction between express advocacy and issue advocacy and there is in fact a connection in the way that we can begin to bring people back into the process by getting rid of the cynicism that they have and the sense of being absolutely separated from all of this money?

Mr. BENNETT. I can respond to the two questions by my friend from Massachusetts.

Yes; there is clearly. The answer to his first one, an attempt to define the difference between issue advocacy and express advocacy in terms of a candidate, how that would play out under McCain-Feingold in terms of the 60-day rule is still very troubling to me and, in my view, does indeed cross over the line and become censorship.

Now, as to his second question, this is a matter of political experience. Obviously, every Member of this Chamber

has his or her own political experience to draw back on. I will only comment in terms of my own, that I am known in Utah as a politician who believes perhaps more strongly than any other in the importance of grassroots organization.

I am currently spending all the money that I am currently raising in building such an organization. Some of the people who work for the Senator from Kentucky under the other hat he wears as chairman of the Republican Senatorial Campaign Committee are a little disturbed that I do not have more money left in the coffers from the amount I have raised, and where has its gone?

It is going right now into building a precinct-by-precinct, voting-district-by-voting-district campaign organization so that if I have no money for television, I have at least one person for every 10 or 20 households who will go out and knock on doors on my behalf. I am building that organization right now. I believe in that fundamentally.

However, my personal experience says that I cannot energize these folks without some ads on television. I can give them all the letters, I can give them all the phone calls, I can tell them all how wonderful they are, but until they see something on the screen, they are not convinced I am a serious candidate.

Mr. KERRY. Will the Senator yield further?

Mr. BENNETT. If I may finish.

At the same time, my experience in the last campaign is that when there were ads attacking me, I found that the general public did not pay any attention to them and did not care. But my own troops all panicked until I was able to get back on television and answer those ads. And they heaved a gigantic sigh of relief.

By the same token, I am told by my opponent's people—Utah is a small enough State that virtually all the politicians talk to each other, particularly when the campaign is over—that it was one of my ads puncturing my opponent's attack on me that took all the starch out of their door-to-door grassroots organization.

The former chairman of the Democratic State committee said, ''I was shaving in the morning, feeling good about the campaign. We were closing the gap on you. Our attacks were taking hold. I had the radio on and heard your voice come on on the radio. At the end of 60 seconds, I said, 'It's all over. He has just punctured our balloon. There's no way we can get anybody going again.' ''

So, these things play hand in hand. Everyone has his or her own experience in it. We come back to the basic posture that I took. We, as candidates, should be in charge of our campaigns. We, as candidates, should make the decision as to what is said, when it is said, how it is said. We should make the decision whether we use grassroots or television or radio or billboards or handbills or newspapers.

Those around us who want to get into it should be free to make their own decisions in that regard. The heavy hand of the Federal Government should not be in that circumstance saying, ''This group can; that group cannot. And 61 days is OK; 60 days is not. The public is not smart enough to sort through all of this and make their own decisions. We must regulate how the money is raised. We must regulate how it is spent.''

I am perfectly content to have the Federal Government regulate from whom it is raised. I think the ban we have had on corporate contributions since Mark Hannah's days is legitimate. In terms of direct contributions to candidates, I think that is a legitimate restriction which we have had in this country for longer than I am old. I have no problem with that.

I am perfectly willing to have the Federal Government involved in requiring full disclosure so that everybody knows if I take money from FRED THOMPSON, I am going to have to answer for that, that everybody knows what I am doing. I have no problem with that.

But I have serious, serious fundamental problems, in terms of my devotion to the Constitution, people who know me know on the floor how strongly I feel about this—I think we are treading on very, very sacred ground when we say the Federal Government is going to start to make these kinds of decisions for candidates and groups and ordinary Americans, and it is going to do it in a way that carries the full punitive power of the Federal Government behind it.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. I want to commend the distinguished Senator from Utah for his very enlightening presentation. Since I have not yet spoken on issue advocacy, I want to pick up for a few moments what we were discussing at the end of the colloquy with the Senator from Massachusetts. On the question of issue advocacy, the Court has not been vague on this at all. This is not a gray area.

The Court has been quite precise in the area of issue advocacy. Issue advocacy is criticism of us. Groups are entitled to do it at any time they want to and as loud as they want to. We never like it. We can stipulate that we never like it. Now, the biggest group in America in the field of issue advocacy on television is the AFL–CIO, and it is mostly targeted to Members of my party. We can stipulate that we do not like it worth a darn. But no effort to try to restrict that through legislation in the Congress is going to change it.

It is not a gray area. The Nation's experts on the first amendment, I think we would all agree, is the American Civil Liberties Union. In a letter to me earlier this year, they said this about the provisions in McCain-Feingold dealing with issue advocacy. This is the exact quote, Mr. President:

> Worst of all is S. 25's blunderbuss assault on issue-oriented speech. The weapon is an unconstitutional expansion of the definition of ''expressed advocacy'' in order to sweep classic issue speech within the zone of regulation as independent expenditures.

So let me just make it simple. There isn't any chance, Mr. President—no chance—that through legislation, we can shut up all of these groups who seek to criticize us. We can stipulate that we do not like it, but they are going to keep on doing it. No amount of standing up here on the floor of the Senate and arguing that somehow we are going to be able to purify the process and get rid of all these critics is going to get the job done.

In this whole field, Mr. President, at the end of the day we get back to the Constitution. You begin and you end this debate with the First Amendment to the U.S. Constitution, as the Senator from Utah has pointed out. This is core political speech, according to the U.S. Supreme Court. That is not MITCH MCCONNELL's interpretation. That is not BOB BENNETT's interpretation. This is the law of the land. As the Senator from Utah said, when you start moving around in this field, you better tread lightly. The courts were not only good in the Buckley case, they have been good since. The whole trend has been to more broaden the area of permissible political discourse in this country.

The Court has said it is impermissible for us to decide how much political speech is enough—impermissible. In spite of that, the reformers persist in promoting the notion that it is somehow desirable for the Federal Government to determine how much political discourse we are going to have in our campaigns in this country.

You hear them say time and time again—we heard it this morning, and we will hear it next week—''We're spending too much in American politics.''

Remember what the Supreme Court says that means: that they are saying, ''We're speaking too much. We're speaking too much.'' How much is too much?

Last year, there was a lot of political speaking because there was a war on out there for the future of the country. We had a change in 1994, and a Republican Congress came in for the first time in 40 years. The status quo forces didn't like it, and they fought back in 1996. A good deal was said. That is speech. A lot of it cost money, and spending did go up.

When all was said and done, I say to my friend Utah, we spent per eligible voter last year $3.89, about the price of a McDonald's value meal. Looking at it another way, of all the commercials that were shown on television last year, 1 percent of them were political commercials. And they say we are speaking too much. They think it is a good idea to shut all these people up, shut down those outside groups that are criticizing us, put a cap on how much a campaign can say.

Who gets the power then? Conspicuously exempted—and I am not arguing we ought to take away the exemption—but conspicuously exempted from the Federal Election Campaign Act is the press.

I have looked and I have searched to see whether there is any provision in here, and I say to my friend from Utah, that the press cannot criticize us in the last 60 days of an election. I have been looking feverishly to see if I can find if there is any prohibition on the press endorsing candidates in the last 60 days of the election. Maybe I just have not read this carefully enough, but I cannot seem to find it.

So what we are talking about here is a transfer of power away from groups that want to comment about our record and talk about us, frequently in an unfavorable way. The original version of McCain-Feingold wanted to shut up the campaigns themselves so they could not talk too much. And I hear from Senator McCain, he is going to offer an amendment to try to bring that back.

We shut down the campaigns and we shut down the issue groups. Who gets to talk? Who gets to talk about Government interference in the last 60 days of the election? Why, the press gets to talk. We know darn good and well that all of this issue advocacy restriction in here is flatout unconstitutional and is not a question in anybody's mind that knows anything about the Supreme Court.

OK, so issue advocacy survives in the courts. Even if we passed it here, somehow that spending limits on campaigns survives, so you are going down the home stretch, you are in the last few days, and the campaign runs out of money and you can't say anything. But the labor unions are there with issue advocacy, they have raised their money by checking off union dues, taking it in many instances from people involuntarily. They are hammering away at you, the liberal press is running exposes on the front page and endorsing your opponent on the editorial page—welcome to the brave new world of campaign finance reform where the groups are shut up, the candidates are shut up, and the press is running the game.

Now, the good news is the Court will not allow this to happen. But what is sad is that anybody would even be proposing this. What is disturbing is that anybody would even be suggesting that it would be a good idea to have less political discourse in this country.

There is a lot of discussion going on all the time about public affairs in this country. The press is talking about it every day. Most objective studies would indicate that 85 to 90 percent of the people in that line of the work are on the left. Hollywood is making statements all the time about what kind of society we have. Many of us feel about 100 percent of them are on the left. So you have the press on the left, you have Hollywood on the left, and the candidates and the groups with the Government clamping down on what they can say in the heat of a campaign. It sounds like something straight out of Orwell's ''1984.'' Yet there is serious discussion here on the floor of the U.S. Senate that this somehow would be an improvement in the American political system.

Write it down—we are not speaking too much in the American political process. We are not going to pass this unconstitutional piece of legislation. If we were foolish enough to do it, the courts would strike it down. The argument we hear is the people are crying out for us to do this, that they are just desperate for us to pass this kind of legislation. Let me say in a survey taken just a few months ago by a reputable polling firm which I was just looking at this week, they asked 1,017 registered voters open-ended what they thought the most important problem in America was, and not a single one of them mentioned campaign finance reform. Then the pollsters thought maybe it will be different if they put it on the list, so they put it on a list of 10 topics. It came in dead last of the 10.

We will hear time and time again, as I have today, and we will hear it more next week, that everyone is clamoring for us to pass this big Government solution to this nonexistent problem of too much political discussion in this country. Eighty-seven percent of the people, by the way, would be less likely to vote for a Member who supports unconstitutional reform.

Now the proponents of this legislation this week sent out a press release saying they had found 126 people who said this bill was constitutional. My reaction to that is that I could probably find 126 people who say the Earth is flat. But the people who handle this litigation, America's experts on the first amendment—the American Civil Liberties Union, and clear and unambiguous decisions by the U.S. Supreme Court—make it abundantly clear that this is unconstitutional.

Now, the people of the United States did not send us up here to pass blatantly unconstitutional legislation. Sure, you can craft a question that will get the answer you want. Spending limits on the surface sounds like a good idea. If you ask people if they are in favor of spending limits they will say yes. On the other hand, if you rephrase the question and say do you think there ought to be a limit on how many people can participate in your campaign, 99 percent of them will say no. The same issue expressed a different way.

So the people are not clamoring for us to shut down political discussion in this country. They are not clamoring for us to push people out of the process. They are not asking us to make it impossible for them to criticize our records in proximity to an election. Sure, if you ask them about the influence of special interests they will say that is a terrible thing. Do you know the definition of a special interest, Mr. President? Special interest is a group that is against what I am trying to do. But of course the organization I belong to—whether it is the VFW, the Farm Bureau, the National Rifle Association or the Electrical Workers Union—we are not a special interest. We are a bunch of Americans trying to do the right thing for our country. The term special interest is meaningless. It is a pejorative term applied to any group opposed to what we want done.

As a practical matter, the founders of this country knew that there would be a seething cauldron of special interests. They expected us to organize. They expected us to contribute to campaigns. They expected us to be criticized if we came here to serve in the Senate or in the House. We were not to be above criticism. They envisioned lobbyists. That is another part of the First Amendment. It gives people the right to petition the Government. A lobbyist, of course, is a person working for a group trying to do something I'm against. But the person we have hired to represent our group in Washington is doing the right thing.

Mr. President, this is going to be a good debate. There may be an effort in this bill to shut off campaigns, to quiet the voices of independent groups who want to criticize us, but there is going to be plenty of discussion on this issue here in the Senate. I hope, Mr. President, that many people will take an opportunity to listen in because when they hear the words ''campaign finance reform,'' they don't understand that generally means somebody is trying to put the Government in charge of their ability to participate in the American political process.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, proponents of campaign finance reform say it is an assault on the Constitution. I say that McCain-Feingold is an assault on an incumbent's protected system that is rapidly losing faith with the American people. These claims about government takeover, and government regulation, and big government, of course, resonate with me as well as they do many other people, because I'm against that. I'm against the more intrusive government and I'm against more and more regulation, and I'm against government doing things that it should not be doing, especially the Federal Government.

However, I think we have too quickly divided up into liberal and conservative counts and Democrat and Republican counts on this issue. As I read my history, Senator Barry Goldwater, the father of modern conservatism, in many people's view, was one of the most avid proponents of campaign finance reform a few years ago.

So let's go back to the basics. People who are basically conservative think that the Government ought to do the things the Government ought to do and

not things that it shouldn't. What should the Government be doing? Mr. President, if the way we elect our Federal officials and the motivations that they come to Washington with is not relevant and is not something that we ought to be concerned with, then what is? That is the basis of Government. Government does a lot of things it should not be doing, but how we elect our Federal officials, who are the arbiters of everything else in society anymore, seemingly, is certainly the subject of our attention.

As I listen to this debate today, it is almost like under the current system we don't have regulation and that we are trying to impose regulation on an otherwise pristine system. We have the most heavily regulated system in the area of campaign finance reform than almost any other area in the country. Under the current system, you have a Federal Election Commission with detailed rules, timeframes, limit frames and so forth. You have $1,000 limitation; you have $5,000 limitation for PACs; you have $20,000 limitation as far as committees are concerned; an overall $25,000 limitation as to how much you can contribute in 1 year. You have soft money rules, you have hard money rules, you have percentages of soft money you can do certain ads with—there has to be a certain percentage of soft and hard money. You have transfers of money going back and forth between State and national parties, all under a detailed set of rules that nobody understands. To run in a political campaign any more nowadays you have to have a team of lawyers and a team of accountants and a team of people keeping up with all the regulation.

That is our current system. My friend from Utah talks about our friend Jack Kemp and Mr. Forbes and how it would be much better if we had a different kind of system in our Presidential primaries. That is our current system he is complaining about. I think he makes some good points there. I think we ought to look at limitation amounts there. I think they are somewhat ridiculous and too low. All of that is our current system.

So, what we are doing here, it looks to me like in McCain-Feingold is basically two things: One is a ban on soft money; secondly, it is saying about independent expenditures, that if you have candidate expenditures, you call them that and treat them that way.

Under the current law, express advocacy is regulated now. It is regulated now. This idea that we are going to cut off somebody from saying something or that we are going to shut people up and close people off is simply not true. That makes interesting rhetoric but it is not in this bill, it is not in this legislation.

What it basically says is two things. In 1974 we passed a law and we went along for almost two decades, electing Presidents under that law. Not a breath of scandal as far as campaign finance reform under that law and under the rules that we set forth then, for soft money problems in that entire period of time.

Mr. MCCONNELL. Will the Senator yield?

Mr. THOMPSON. I yield.

Mr. MCCONNELL. Did I hear the Senator say since the passage of the Presidential system it has been scandal free?

Mr. THOMPSON. Up until——

Mr. MCCONNELL. Until 1976, the year in which the explosion of soft party money occurred, was right in the Presidential election cycle.

Mr. THOMPSON. No, the soft money problem really rose its head in about 1988, but it really didn't become a major problem until this last election.

Mr. MCCONNELL. But the Senator is referring only to years in which there are Presidential elections, which are the years of the system he is applauding, where you have voluntary spending limits that the Court upheld; has the Federal system been effective, I ask my friend from Tennessee?

Mr. THOMPSON. For about two decades we did not have a soft money problem because people abided under the rules laid down in 1974.

What has happened since that time is that soft money has come into the system and now we have about $262 million in soft money in the system that we didn't have back in 1974 when we laid down the rules at that time.

Mr. MCCONNELL. Let me make sure I understand what the Senator is saying. The soft money problem has arisen in the Presidential years, for the most part. Is it not reasonable to assume that the reason the candidates having been spending the limit of the taxpayer funds, turning to soft money, it is a way to get around the spending limit, is that not correct?

Mr. THOMPSON. Yes, yes, that is absolutely true.

That, therein, lies the problem. We had a system for about two decades whereby people made a deal with the Government to run for President, and that is we will take millions of dollars in public money and we don't raise any private money.

The Supreme Court held that up, it worked fine, no scandal, no constitutional problem, until we decided that there was not enough money in the system and that there were ways that we could get more money for our Presidential campaigns. We have just seen the results of that. The soft money situation started. We figured out a way that money could be given to the parties for the benefit of the Presidential candidates, and you could just add that, to the public financing that we already had. And so in this last campaign we had about $262 million in soft money, in addition, which was about 10 times what it had been a decade before. And that is the situation that we have now.

So some people are saying, look, let's basically go back to what we thought we were doing in 1974. A lot of people disagree with that, certainly. A lot of people don't think we ought to do that. A lot of people don't like things that smack of public financing at all. A lot of people don't realize that we have public financing for Presidential campaigns in this country, as anathema as that phrase is. But now, after a situation that worked pretty good for a while, nobody was saying there wasn't enough money in our Presidential campaigns. I don't think anybody was saying we didn't have enough commercials during the Presidential years. It worked pretty good. But now we have this additional influx. We had a system that some people opposed and that some people thought was good. It was our system. To say that it was totally laissez faire, free market, unregulated is simply unfair. We had a system. Now we have seen a gaming of the system, whereby millions of dollars in addition though that is put on the plate.

Now, at a minimum, if that is what we ought to want to do, we ought to revisit this as Congress. This is not something Congress came up with. Congress didn't say soft money was a good idea. Congress didn't say the current system we have is what we want. It was done little by little, by the FEC, by a court decision here, and by the FEC; advisory opinions. And then one party would see an opportunity for soft money and the other party, instead of blowing the whistle, would jump on the bandwagon, too. So we now have tremendous sums of money poured into our Presidential campaigns that we did not envision in 1974.

Now, again, if we think that is a great idea, let's come back as a Congress and put our stamp of approval on that. But just under the idea of congressional prerogatives alone, under the idea that we should not let some commission downtown set such important rules for us, where we have legislated something quite different, under those ideas, we ought to revisit it. That is another good reason why we are having this debate.

On the other hand, some of us don't think that is such a good idea, that we should not only revisit it, but we should do something about it. I think that, basically, what we are doing in the soft money debate here is going back originally to where we were when we last legislated in this area. When we passed the current law in 1974, we did not say it was OK for major corporations and major labor unions to give hundreds of thousands of dollars for the benefit of Presidential candidates in addition to what was publicly financed. We have gotten totally away from what we said we wanted.

Mr. SPECTER. Would my distinguished colleague yield for a question?

Mr. THOMPSON. Certainly.

Mr. SPECTER. On the issue of soft money and where it has gone, there is

a very strong point that if the definition of issue advocacy, issue commercials, contrasted with advocacy commercials, if that distinction was sharpened up—my colleague and I discussed this at some length with Attorney General Reno when she appeared before the regular judiciary oversight hearing back on April 30 and the questions were propounded to her about these commercials on both sides, Republican and Democrat—Republican commercials extolling the virtues of Senator Dole, and Democrat commercials extolling the virtues of President Clinton, and knocking each other in reverse. Those were somehow viewed as being issue commercials as opposed to advocacy commercials.

The question I take up with my colleague at this point, which is a corollary to the soft money, is whether the soft money would really have so much effect, and whether we couldn't contain it by congressional enactment on the question of constitutionality. I would be interested in the answer to two questions of the Senator, the distinguished lawyer Senator THOMPSON. If we said that—short of saying vote for President Clinton or vote against Senator Dole, instead if the likeness appears and the language is very strong urging the election of one and the defeat of another, I ask if that would satisfy constitutional muster, in the Senator's opinion, and what effect that would have on limiting the utility of all this soft money that we found in the 1996 Presidential election?

Mr. THOMPSON. As the Senator knows, much of the soft money went for those kinds of ads. I would not be supporting a provision that I did not think would pass constitutional muster. What this bill does is basically what the Senator says. It says that you look to the circumstances. If something is called an issue ad, but it is really an ad for a particular candidate, it is called such. If it walks, quacks, and acts like a duck, we are going to call it a duck. You can still say whatever you want to say. Nobody is shutting anybody off. There are no free speech implications here. But if you are really going to do a candidate ad—and in some cases, we have candidates going around coordinating with independent groups, and the groups run an attack ad on their opponent, the candidate dictates where and when that ad is going to be, and all the details and the composition of it, and it is called an independent expenditure.

What this would do would be to say we have a regulatory system. Whether anybody likes it or not, we already have a regulatory system. If it is an express ad for a particular candidate, it is already regulated. What this legislation would do is say you would look at the factors, look at the given situation. If it is an express ad, if it is really for a candidate, we are just going to call it that, and it is going to be regulated under the same system express ads are regulated under now.

Mr. SPECTER. If the Senator will yield further, on the issue of so-called independent expenditures, they appear in many cases—if not most—not to be independent at all, and that there is, in fact, coordination. Some people on the independent expenditure group are members of the candidate's staff collaterally, and there is good reason to flout the law because the remedies taken by the Federal Election Commission are often very late and very ineffectual. One piece of legislation that is pending would sharpen the requirements as to independent expenditures, calling for a tough affidavit with strong penalties, in addition to the regular perjury penalties, for the person who makes the so-called independent expenditure. And then finally, the FEC would require a corollary affidavit by the candidate on whose behalf the expenditure was made and the campaign committee to try to do something with teeth in it to stop the so-called independent expenditures, which are in fact coordinated. Would my colleague think that would be of some help to stop that pernicious practice?

Mr. THOMPSON. Well, I think that is a direction that we are trying to head in. I am not for trying to sit down and detail what somebody can say or not say. That is clearly unconstitutional. You can't do that. The Buckley case made a distinction between contributions and expenditures. Basically, it said you can't regulate expenditures. Independent groups ought to be able to do whatever they want to do whenever they want to do it. But we decided a long time ago that, as far as campaign finance was concerned, we were electing the judges of our society in a way—you know, when we go to elect judges in our system, they are supposed to be independent. The litigants on either side can do things and get paid large sums of money, and so forth, but what you can do with regard to a judge is highly, highly narrow, in our system, and is regulated.

In a sense, we are the same way. I mean, we get elected by people—one vote, one person; it is an equal deal. No matter how poor or rich you are, or your status in society, your vote counts as much as anybody else's. We are elected. I represent all of the people of the State of Tennessee, no matter how many votes I get. The President represents all of the people of the country. We come up here and we are supposed to represent everybody. We are supposed to pass legislation evenhanded. We have different views on different things. We have support here and opposition there. But we are supposed to try to give it our best objective shot as to representing all of the people.

Given that situation in a democracy, we decided a long time ago that we were going to place some rules on it, because it didn't look good and it didn't make us feel good and didn't give us confidence in our system if we saw hundreds of thousands of dollars going into the pockets of people from interests who we were regulating or who we were passing laws on, when the people maybe on the other side of the issue didn't have the money to do that. Are you going to be able to take money out of campaigns? Of course not. But we decided once upon a time that a person ought to have a limit of $1,000—I personally think that is too low—and $5,000 for a PAC, and $25,000 overall.

We have a regulated system now because we know in our democratic society there needs to be some kind of control on the amount of money that goes into the pockets of politicians. It is pretty simple and basic. The Supreme Court or nobody else has ever said otherwise. The Supreme Court, in Buckley, has recognized that we do and we can regulate on the contribution side of things—on the contribution side—how much money we can get. There is no question in my mind that we can regulate the soft money that is now coming into our system. This is not a constitutional argument. What we have now is a system that protects incumbents. It is a system that is becoming more and more isolated, more and more specialized, making it so that only a professional politician who has been out there raising money all his life, or some wealthy individual, is going to be able to be a part of the system anymore.

My friend from Utah, a few minutes ago, made a very effective case that not only do incumbents have tremendous fundraising advantages, but they have other advantages. I agree with that. But that just makes the fundraising advantages that much more. The money goes to the incumbents. Maybe I just haven't been at it long enough. I have never run for office before this one. I had never run before about 3 years ago. I have run as a challenger against a person who was a congressional incumbent, and then I have run as an incumbent. I don't think we ought to get too bogged down with our own personal war stories, but I have seen it from both sides. I have had the disadvantages and the advantages of both sides of it. But all I know is that all the PAC money goes to incumbents. It doesn't matter what anybody believes anymore; it is their likelihood of getting reelected. Incumbents get reelected 90 to 95 percent of the time. The more upset the American people get with us, the more heavily incumbents become entrenched. I wonder why that is.

Well, I think that part of it is what we are dealing with here today. For those who want to make this out as some kind of new regulatory, big Government scheme that we are imposing on an otherwise pristine system that we have here now, we heard some testimony the other day in the Governmental Affairs Committee, and I had heard things like it before. This was from a businessman, a gentleman representing a bunch of businesses in this country. He said, ''We are tired of this

system, tired of this soft money, tired of being hit up. We are tired of the extortion overtones of what is happening.'' What we have now is a system, and what we had in this country in this last Presidential race was people sitting in the White House—and it could have come from a Senate office or congressional office, or anyplace of power—making calls to individuals saying, ''I think it would be a good idea if you would send us $50,000 or $100,000.'' And they feel that it probably would be a pretty good idea, from their standpoint, to maybe go ahead and send it on.

Now, for those who are concerned about the coercive nature of big Government, chew that one over for a little while. That is what we have now. We have gotten to the point now that, since the soft money situation is totally unlimited, any politician can call up, and as long as they go through the guise of running it through one of the parties, which, in turn, will inure to their benefit, they can ask anybody for any amount of money.

So I think the American people look at that, and they don't think the system is on the level.

It all gets back to pretty basic stuff for me. I think the American people look at a system where we spend so much time with our hand out for so much money from so many people who do so much business with the Federal Government who we are basically regulating and legislating on, and they look at that system and the amounts of money that are involved nowadays, and they don't have much confidence in it.

We will continue to see those lists in the newspapers of the hundreds of thousands and millions of dollars of contributions and the pieces of legislation put up against those contributions, the implication being that there indeed is a quid pro quo. People look at that, and there is a very little wonder that we are now having less than half our people voting. My understanding is we only have 6 percent of the American people making political contributions.

So during the last few months we have had hearings that I think have been very enlightening. I want to talk about that a little bit later in a little bit more detail in terms of some of the things that have come out that in large part have to do with the actions of individuals and the ability that we gave them to pursue unlimited amounts of soft money.

I think that the first thing we have to do, of course, is have accountability for those who have violated the law, for those who engage in improper activity, as part of what we have to be about.

I think the public record is developed now so that without question there needs to be an independent counsel to look at this entire mess—not who made a phone call from what room and just focus on that—this entire mess that we have seen over the last several months. We need someone independently to take a look at that.

But, my friends, if we think that accountability is going to solve our problem as far as the system we have in this country, we are making a terrible mistake because whoever is in power, if they have the right to pressure people for unlimited amounts of money, our system is constantly going to be and will remain a scandal waiting to happen. I hope that we will have learned that from this last one.

I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, first of all, I thank the Senator from Tennessee for his comments and his leadership on a lot of these issues with respect to this legislation, and this issue in general.

I associate myself with the comments that he has made about the impact that our current system is having on the politics of our country. That is what this debate is about. In my judgment, this is the most important debate which we will have in the Senate this year—perhaps the most important debate and opportunity that we have had to address the concerns of the American people, and with respect to this system, in many years.

I heard the Senator from Kentucky, for whom I have great respect for his capacity of advocacy and depth of his commitment to this issue. No one should doubt that he is passionately committed to the interpretation he has both of the Constitution and the issues at stake.

But, as the Senator from Tennessee has just pointed out, while it sounds good to suggest to people that somehow regulating campaign finance is going to shut down debate, the fact is the Supreme Court has already approved of that kind of regulation. What we see today is an abuse of what the Supreme Court intended to take place. The Supreme Court drew a distinction between express advocacy and issue advocacy, and properly so.

I am confident that the Senator from Tennessee and I would agree that both of us want a healthy and robust debate in this country and no limitation on the first amendment right to discuss an issue. But there is a distinction between an issue and what some of the money under the guise of issue expenditure is seeking to do. What it is clearly seeking to do as an abuse of what the Supreme Court established is not to simply talk about the issue but rather to affect the election and impact express advocacy.

The Supreme Court has made it very clear that express advocacy is something that seeks to defeat or help a candidate. Issue advocacy can discuss Social Security, it can discuss welfare reform, and it can discuss any of the issues that we vote on and argue about in the Senate without talking about a candidate—without attacking the candidate's record—which properly ought to be left to the campaign, in the judgment of the Supreme Court.

We will argue, I think, considerably over this in the next days. I am prepared as we go further in this debate to discuss at considerable length what the Supreme Court has actually said and not said and how, in fact, there is nothing in McCain-Feingold that is impermissible constitutionally.

What I think we need to focus on as we go forward here is the overall disarray of the system that the Senator from Tennessee has referred to and that all of us need to address as we think about how we are going to bring people back into a good-faith relationship with their Government. There isn't anybody in politics today—neither an observer nor a critic nor a pundit nor a participant—who could properly say that the American people believe this system is on the level or believe that somehow this whole process is responsive to their real needs.

The poll data show that 92 percent of Americans believe that money is what gets something done in Washington; 88 percent of the people believe that if you give money, you will get something back in return; 49 percent of Americans believe that the special interests, the lobbyists, et cetera, basically run the Government.

I don't know how you can be in public life and not be concerned about that kind of impact on the body politic of our Nation.

If that many people believe that their representatives are affected by money, we ought to be concerned about it. If that many people in America believe that the way you get something done is by contributing money, we ought to be concerned about it.

All you have to do is listen to a fairly candid statement by one person before the committee the other day who, in giving something like $400,000 or $300,000, said that it was clearly given directly to affect that person's access and that person's ability to be able to get something done.

Mr. President, this isn't the first time that we have heard this discussion here—not by any means. We have had a century of different efforts to try to plug what most people have accepted at one point or another as a series of loopholes and try to do justice to the relationship that we want to have with the voter.

Mr. President, four decades ago, another Senator from Massachusetts, Senator John F. Kennedy, warned of the rising costs of political elections and the dangers they posed to the American political process. He said that there was the danger of political contestants ''becoming deeply obligated to the big financial contributors from the worlds of business, labor, and other major lobbies,'' and that there was the danger of equal access to the political system being shattered.

That is what former President Kennedy said before he became President. The fact is that today equal access has been shattered. It has been shattered.

The truth is today that all of us understand the impact of money on American politics, on the capacity to be elected, and on people's perceptions of our politics.

Back in 1959 when John Kennedy said a solution must be found to the soaring costs of political contests, the total amount of money spent back then on all congressional races, both the House and the Senate total, was $6.3 million—on all the House and Senate races, just about 1960.

The median cost of a single candidate race for the U.S. Senate today is $2.6 million.

In the Presidential contest prior to Senator Kennedy's remarks back in 1959, the two Presidential candidates spent a total of $12.9 million. In the last Presidential election they spent more than $150 million just in the money that is allowed to go directly into their campaigns, and over $600 million, maybe $700 million, if you count all the soft money that flowed as an excuse to do away with the other limits that have been put in place.

Mr. President, it is very, very clear that the American people have reached a point where they understand that the rising costs of campaigning is nothing less than outrageous. Last year the House and Senate candidates spent more than $756 million—a 76 percent increase just since 1990.

There is nothing in our economy, nothing in the increases in the costs of campaigning, that justifies a 76 percent increase, except the Armageddon of the new arms race we have for money in campaigns.

The more money you get, the more you can blast your opponent, the more you can put out whatever your message is, the more you can distort the electoral process.

Last year more than $4 billion was spent on all elections, and 20 years ago it was less than $600 million.

The American people, as Senator THOMPSON just pointed out, business people and others, are tired of having politicians call them and say, ''Well, we need $20,000, we need $50,000, we need $75,000.''

I think it is clear that the damage that such amounts of political money have done to the increase of our public cynicism is inescapable. These amounts heighten the perception that Federal lawmakers respond to the special interests and not to the public interests; that Federal lawmakers favor those who are greedy over the needy; the Federal lawmakers are, in reality, increasingly becoming Federal lawbreakers.

We know that power has its own corrupting capacities. History has proven that many times over. Now we are seeing that money and power are becoming one and the same, and both together are having an increased corruptive and corrosive process on our system. Even if it were only the perception that that were happening, that perception is something that we ought to be sensitive to and willing to respond to.

It seems to me that the headlines of the last months, while they have been singularly directed at our party—my party—I don't think anybody here in a candid discussion of this issue could not in fairness agree that they have embroiled both parties —all politicians; the entire system.

Only a few months ago we were seeing memos circulated where leadership members of the Republican Party were chastising openly those people who give money, suggesting that they were going to get hurt in the legislative process if they continued to give to Democrats. Senator THOMPSON just talked about the sort of extortion air that hangs over this city and our system as a consequence of those kinds of threats. All of us are harmed by that.

All of us ought to be reaching for a means of being able to get rid of the capacity of any member of the electorate to make those kinds of determinations.

In the latter part of the 19th century, the chieftains of industry in this country found that the use of wealth served them well, and they used it brazenly by purchasing Senate seats from the State legislatures in Colorado, West Virginia, Illinois and Pennsylvania. The 17th amendment to our Constitution put an end to that practice, but Congress still had to use taxpayer money in order to investigate and determine the results of congressional elections in Michigan, Pennsylvania, Virginia, Illinois, and other States as a consequence of that.

Abuse of campaign funds has obviously contributed to the worst scandals that we have known in this country—the Teapot Dome scandal and the Watergate scandal. And today now we are living through another investigation of the impact that money has on the political process.

Mr. President, it just really is time for us to find a commonality of ground where we can come to some kind of compromise and agreement that the current system cannot continue to work. It seems to me clear that ''the power of the Government to protect the integrity of the elections of its officials is inherent.'' It is something that we ought to adhere to.

That is not my comment. That was something Theodore Roosevelt said in his fourth annual message to the Congress. He said then, ''There is no enemy of free Government more dangerous and none so insidious as the corruption of the electorate.''

That is what Senator Kennedy was speaking to 40 years ago when he talked about how ''adequate Government regulation of the elective process [is] the most vital function of self-government.''

Mr. President this actually goes back to the very Founding Fathers' efforts with respect to the kind of Government they tried to put up. In the Federalist Papers, James Madison pointed out, ''The aim of every political Constitution is * * * to obtain for rulers men who possess the most wisdom to discern, and the most virtue to pursue the common good of the society.'' And the second aim he said was ''to take the most effectual precautions for keeping them virtuous while they continue to hold the public trust.''

''Keeping them virtuous while they hold the public trust.''

I do not think they could have conceivably imagined the degree to which our capacity to go to voters and ask for their vote has become tied to our ability to be able to raise large sums of money.

Mr. President, when I came to the Congress in 1985, and when I ran in 1984, I made a decision then to try to run for office without taking the larger sums of money. I did not suggest then at any time, and in debates since then on campaign finance reform I have made it very clear, that if regulation of some level of political action money were part of the reform system I would take it. I don't think there is an inherent problem with political action committee money. But I do think that what people object to is the perception that the large amounts of money are what somehow distort the system. And so I have run now for the Senate three times without taking PAC money. I may be the only Member of the Senate who has been three times elected since PAC money was allowed and not taken it. I am proud of that, but I have to say that I do not know if I can continue to do that with the current rate of escalation in the cost of campaigns.

Last time I ran for office in 1996, I had the most expensive Senate race in the United States of America—$12 million. I raised more money without PAC money than any other person running for the Senate—$10 million, but obviously simple math shows that that left me a gap of $2 million. And so now in my first year of my third term in the Senate I continue to spend time raising money for the race that took place a year ago. I continue to have to try to put away a debt assumed in order to run for office. I do not think people should have to assume debt to run for office, but countless Senators have done that, countless candidates are forced into doing it.

If I believe strongly in the ideas and policies I do believe in, if I want them to be heard, if I want to be able to fight for them, the way the American system is now set up, I have to do that. You have to go out and look for the money. Clearly, as we have learned, this institution is increasingly an institution which is represented by people who either have their own money or have enormous access to great sums of money. And the truth is that challenger after challenger after challenger falls short for lack of capacity to stand on the same ground as the incumbent.

Now, are there examples like the Senator from Utah gave where, indeed, a challenger may be well-heeled and an incumbent does not spend as much? You bet there is. I spent less than each

of my opponents when I was an incumbent because I was not able to raise as much as they were because they had their own money and they would write their own check. I believe that our system is out of kilter because of that inequity as well as the result of the amount of money that people have to go out and raise in the system. It seems to me we have an opportunity here to be able to address all of those concerns.

I know that my colleagues on the other side of the aisle have a particular concern about the capacity of some of our supporters to be able to use their structure to unfairly imbalance the playing field—specifically, obviously, the labor movement and some other entities. I would want to say that I think that is a fair concern. If we are going to approach this fairly, then we have to find some measure of defining what that fairness is and of understanding that a fair playing field is not a fair playing field that gives our side an advantage over theirs or vice versa.

But something is very clearly wrong or defined in this debate when 45 Democrats have already signed up saying we are prepared to vote for this reform and only four Republicans have joined that effort. We are now at the magic number of 49—49 Senators prepared to vote for campaign finance reform. And since the only votes left to get are votes that must come from the Republican Party, it is fair for America to ask the Republicans to step up to fair reform. It is fair for the Republican Party to be asked now to become part of this effort to reestablish a connection between the American voter and those of us elected to represent them.

Hopefully in the course of this debate we can find that common ground. But let us not hide behind phony arguments about the Constitution, what it does or does not say about free speech. Let us acknowledge that the Supreme Court has already defined the difference between express and issue advocacy. Let us be honest about the fact that the Supreme Court has already said we are permitted to regulate campaigns; that we are permitted to regulate contributions. None of those things does violence to the Constitution. And let us also be fair in not having some artificial debate about the new protections for labor.

No one in this country is suddenly going to believe that the Republican Party is adopting the labor movement and is going to protect every member of the unions and they are going to be the ones to come to the floor and protect them by offering some measure that somehow gives them new freedom. We are prepared to codify Beck, and we are prepared to codify the notion that people ought to be given the right to choose, but what we believe they will offer is something that seeks to go much farther than that and becomes nothing less than an effort to kill campaign finance reform.

So my hope is that this opportunity will be an opportunity that the American people will ultimately be proud of and they will make a judgment that we came together in a legitimate, bona fide effort to find common ground.

McCain-Feingold-Thompson and others, myself included, is not a bill that many people on this side feel goes far enough. There are many of us who have already compromised significantly in coming to the place of McCain-Feingold, which may be at the very edge of what may be permissible to get some kind of compromise. The truth is that many of us on this side of the aisle think anything that leaves you going out raising money leaves you exposed to the question: Well, who did you get it from? Why did they give it to you? What did you do after they gave it to you?

That is the central question that is being asked in the hearings that we are going through right now. The fact is that is the only way you will ever get away from that question: Why did that person give you the money? And particularly if it is large amounts of money. You will continue to have the corrosive connection that makes people so apprehensive about the current system. And ultimately I personally believe America will come to a conclusion that the way you eliminate the corrosiveness is to get the special interest money out of politics, allow people time to debate, allow them time to take the issues, organize, have adequate money to run a campaign, but do not make them go out with their hands out always asking for money.

That is not what we do here. We do something less than that. But the truth is that even if we were to pass McCain-Feingold as it is currently, people are going to have to go out and raise pretty large sums of money still and they are still going to be left with people asking: What did they give you? What did you do with the money? What did you do for them? I think we are better off if the question doesn't have to be asked and we do not have the suspicion hanging over our heads.

In addition to that, it seems clear to me that McCain-Feingold seeks also to have increased enforcement. We have no enforcement today. People wonder why the current system is out of control. It is out of control because it is set up in a way that perpetuates a lack of control. You have an FEC that can never make a decision; they are unwilling to make a decision. It is divided up evenly between Republican and Democrat representation so there is an even number of votes, nobody can break a tie, and nobody wants to come in. If we can't have regulation of laws we put in place, of course, we are going to have violations.

So all we are seeking to do in this legislation is put a little teeth into the concept of enforcement. The other thing we try to do is have some kind of limitation on the capacity of wealthy candidates to be able to simply walk in unfairly and pour enormous sums of money into the campaign. We do it in a way that is totally constitutional because they are still allowed to go out and do it if they want, do it under another structure, but it seems to me that all we do is have an incentive for them not to do it because obviously under the Constitution we cannot limit their right to spend their own money.

I cannot imagine that most people believe this institution ought to be an institution exclusive to those who have enormous amounts of wealth. And there is a disproportionate representation already with respect to that relative to most of the country. And that is not, I am confident, what the Founding Fathers envisioned. The McCain-Feingold base package that has already been scaled back from the original McCain-Feingold is really already a significant compromise by many people in the effort to achieve reform, and over the course of the next week or so we will have an opportunity to test the constitutional issues, an opportunity to test whether or not anybody is left out.

I might just comment about that. I heard my colleague from Kentucky talk about how people would be diminished in their ability to participate. Well, once again, I point to the experience of what happened in Massachusetts. We had a very robust debate in Massachusetts, Mr. President. Many people might say we had too many debates. We had nine 1-hour televised debates—nine of them. I think five or more were statewide televised, others were on C–SPAN, a couple of them were local. But together with the coverage of the free media, the press, which I think did a good job of trying to bend over backward to present both points of view, both sides, a side-by-side presentation of issues, there was no lack of dialog and no lack of debate. But what we did was keep the craziness out; we kept the cacophony out; we kept out of this wild extraordinary race for the extra dollar the group that distorts. We had a campaign where people could hear the issues. We had a campaign where people could listen to the candidates. We had a campaign where there was a premium for people on the ground to be involved organizing, street for street, community for community.

That is what American politics is supposed to be. And I proudly say that the campaign we conducted in the State of Massachusetts for the Senate in 1996 has been written up by most critics across the country as one of the best Senate campaigns in years. I know that for myself I never ran one so-called hard negative advertisement. Every one of our advertisements was comparative, so to speak. And if I had my choice, we would have spent half what we spent on paid advertising. But I was unable to secure an agreement from the Governor that we would spend less than the amount he chose to spend.

I spent twice what I have ever spent in any Senate campaign on media. My

belief is that ultimately it was not money that made the difference. It was the debate and the public dialog and the capacity of our fellow citizens to learn and understand where we stood on the issues, what we believed, what we had done or had not done and what we wanted to achieve on their behalf.

And so I believe there is a better standard, and I believe there is something that we can do that can be regulated here, that puts both candidates on an even keel but does not commit our entire system to a perpetual money chase and to the perpetual and increasingly corrosive perception that this system is up for grabs for the money which hurts every single one of us.

It is my hope, in the course of the next days, as we debate this, that we will have an opportunity to really vote on substantive amendments, and that we can find the common ground for compromise.

I have just a couple of quick comments. I know the Senator from Missouri wants to speak.

I understand some of the fears that colleagues have on the other side. As I said earlier, I think, in my judgment, if we look at this fairly we ought to be able to find ways to address some of those fears. But in the end, notwithstanding some of the constitutional arguments made and notwithstanding some of the opposition that is grounded in sort of how the politics are played, it seems to me there are some people who just don't want to give up the money, who like the money, who recognize the advantage they have because of the money and who are willing to place the entire relationship of our Government and our citizens in jeopardy as a consequence of the advantage that money gives them.

I hope, over the course of the next days, the American people will join this debate. Americans must make it clear that they want this change now. It is on the floor. If they are adequately forceful in letting their Senators know that this is something that does matter, I believe it can have an impact and ultimately make a difference.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I thank you for this opportunity to express myself regarding a challenge which faces the United States of America. It is the challenge of making sure that our political system operates to allow the real representatives of the people, representatives who will express the view and the will of the people, to inhabit the positions of responsibility in Government.

The American people, I think, are convinced that the current political system is flawed, and I believe they are right. But I do not believe that the answer is some sort of broad campaign finance legislation that restricts core political speech; or even that says we will penalize people who are wealthy if they want to spend their own money so only the people who are even more wealthy can pay both the penalty and finance their campaign. I believe the focus should be on enforcing existing laws, not creating new ones. This administration's concerted policy of selling access to the White House and using any and all means to raise money is reprehensible. As a matter of fact, I think it is illegal. And the answer to such law breaking is law enforcement, not law proliferation.

No doubt the administration's disregard for the law has contributed to public discontent. But at a deeper level, I believe that the sentiment that the system is broken stems from the fact that elected representatives of the people are out of touch with the people on all manner of important issues. I am reminded of Federalist Paper No. 57 in which James Madison emphasized that legislators must be given ''a habitual recollection of their dependence on the people.''

The best way to solve the problems we face, in my judgment, and to provide the much-needed ''recollection of [our] dependence on the people,'' is not through making it impossible for people to express themselves, not by limiting what people can say, not by calling our opponents special interests. It is, though, by doing something that Americans have found to be a workable solution all across this country, and they have embraced it from the very highest office in the land to the very lowest office in the land. It is the concept of term limits. Term limits will provide true reform.

I believe that incumbency is the real problem in our system. Incumbency is, and always has been, the single greatest perk in politics. It is the single greatest obstacle to true political reform. It is the way in which people obscure the view of the political universe by inhabiting the podium themselves, and the challenger does not have a chance. Committee assignments translate into campaign contributions; bills mean big bucks; and over and over again, no matter how you structure it, no matter what you say about it, the incumbent continues to win.

People who have been on this floor throughout the debate so far as it relates to the so-called campaign finance reform talked about the fact that sometimes incumbents are outspent, sometimes they are not. But if you look at the data, the data are that in 90 percent of the cases—more than 90 percent of the cases in the Congress—incumbents win.

The value of incumbency is as strong as ever and, in my judgment, after witnessing what happens when you have campaign reform, you almost inevitably elevate the value of incumbency.

One of the speakers who spoke not long ago here on the floor indicated he wanted to limit the amount of money that would be spent in a campaign. He would have done so voluntarily. Well, of course. People who have 100 percent name recognition will always want to limit the amount of money that is spent. Hershey's doesn't need to advertise that it sells chocolate. It is the new company that needs to advertise. Kleenex doesn't need to advertise that it sells tissues. It is the new one that does. And the incumbents will always want to put limits on challengers. Because whenever you limit what someone can say about you, and you are an incumbent, you have the only access to the marketplace. You have the only access to the podium. It is no revelation to find that those who inhabit public office want to keep the expenditures down. They don't want competition to be able to talk about what they have done or how they have performed, or to compete with them for a position in the marketplace. They don't want the competition to be able to walk in and say, ''We can do a better job.''

We have watched it over and over again. In the 1996 congressional elections, which were heralded as highly competitive, here is the data: 94 percent of all Members who sought reelection were returned to Washington. Incumbency remains the biggest perk of all. The best way to get reelected is to be elected and then to stay here. And if you have a chance once you are here, vote for campaign reform, which makes it harder and harder for anyone else to challenge your message or the information you send out under your frank on the letter that you don't have to pay postage on, financed by the Government.

What competition there was, in 1996, came as a result of voluntary departures, not any weakening of the power of incumbency. Term limits, in my judgment, are a tried and tested reform. I happen to be a person upon whom term limits have operated. I was the Governor of my State. It's an awful good job being Governor. If anybody ever offers you the chance to be Governor, take it. I know a number of you in the Senate have previously been Governors. They are such good jobs that people would struggle to keep those jobs.

Sometimes jobs are so good that people will do illegal things to keep them. I won't cast any specific aspersions, but we saw an awful lot of activity in the national election in 1996, where people were apparently willing to have dealings with some pretty shady characters, even folks from overseas, even overseas governments, in an effort to keep jobs.

It seems to me one of the things we ought to do is to say to people: These jobs don't belong to you. They belong to the people of this country. We ought to level the playing field, occasionally, and make it possible for people to come in. If we are really interested in offering the opportunity to new individuals and to people who have not traditionally had access to power—for example, minorities and women—we ought to have term limits. Term limits will open the door and we will find out

something important about the American people, and it is this: The American people are capable.

There is kind of a myth around here that the Senate is an exclusive club of 100 people; somehow 100 people who are exclusively endowed with the capacity to run the U.S. Senate and our country. It is the idea that we are the only smart ones who could get this job done. That is probably as close to coming to real humor as we get in this body; it is laughable. The American pool of talent is not shallow. It is deep. There are millions of people in this country—yes, there are millions who could do the kind of job that is necessary to run America. That is the virtue of a democracy. The virtue of a democracy isn't that you get a few people at top and you keep them there to impose their will on the country. The virtue of a democracy is that the will of the people is imposed on those who govern. We are not here to impose our will on them. We are here to reflect the will of the people.

I don't think making sure we can stay here forever and retire here, or be carried out feet first, is what this country is all about. Let's try what has already happened in a number of other settings politically. Mr. President, 41 Governors are subject to term limits. Why? Because the people want a fair system. They want public officials who are reminded constantly of their responsibility to the people—20 State legislatures have term limits, countless State and local officials nationwide; the President, since 1951, has been term limited. As a result, term limits are enormously popular.

People know they work. This is not a proposed sort of reform about which people know nothing. This is a proposed reform with which people are intimately familiar. They have seen it work in 40-plus States for Governor. They have seen it work in their city councils, they have seen it work in the Presidency of the United States. They think ''give someone else a chance'' is a good idea, and so do I.

In Maine, 64 percent of the public voted in favor of term limits. In my home State of Missouri, voters have supported every term limits proposal ever placed on the ballot, by majorities as high as 2 to 1. In California, 63 percent of the people voted for term limits. In Florida, term limits passed by better than a three-fourths majority. Even most incumbents do not win by these margins, and rightly so. Most incumbents don't reflect the will of the people as dramatically as term limits do. Term limits mean no more politics as usual.

What do I mean by that? It is just this simple. A think tank known as the Cato Institute issued a study that compared the voting behavior of recently elected Members, those who have just come from the people, and compared it with long-serving Members who have been ensconced as incumbents. They concluded that term limits would have made an enormous difference. Here is what it said. The study concluded that, recently elected Members exercise greater fiscal restraint—were more careful with the public's money—and were more responsive to voters. Why am I not surprised? Those findings were confirmed by a study of the National Taxpayers' Union.

Specifically, the Cato study found that based on the voting patterns of recently elected Members, a term-limited Congress would have defeated the tax increases of both President Bush and President Clinton, and would overwhelmingly have supported the balanced budget amendment to the Constitution. No wonder people want term limits as a way of restoring confidence in government, because it would do what we really need to have done, and that is that we need to make sure that the will of the people is what is reflected here.

You know, low-cost elections are not the ultimate objective. The ultimate objective is that the will of the people should be the supreme law of this land. Above all else, term limits serve the much-need function of providing legislators with this awareness that they need to have, according to Madison in the Federalist Papers, ''a recollection of their dependence on the people.''

Term limits provide a reminder that the power of legislators comes from the people, and that it is no hardship to return to live as one of the people. As a matter of fact, it would be a condition to be imposed on everyone, were we to embrace term limits.

Experience has proven that we do not need a professional legislature. It has been a professional Congress, on the other hand, that has brought us such successes as the House bank, the midnight pay raises, and the savings and loan debacle.

What is wrong with the McCain-Feingold campaign finance reform proposal? I will say this, it will make matters worse by strengthening incumbents.

The McCain-Feingold proposal, scaled down or not, is an incumbent protection proposal masquerading as reform. This should not come as a surprise to us, because it is certainly no surprise to the American people. Laws written by incumbents in Washington cannot realistically be expected to have any effect other than to entrench the incumbents in Washington.

The McCain-Feingold proposal does nothing to address the problem of incumbency. Indeed, it makes it worse. The proposal would actually strengthen incumbents by regulating the one route by which challengers can hope to offset the advantages of incumbency, and that is free and open discussion of the issues. No matter how you slice it, McCain-Feingold is a restriction on the ability of people to discuss public issues, some of which could be substantial embarrassments to incumbents.

I think it is fine to restrict the politicians, but I am not in favor of restricting the people. Perhaps that is the difference between these two proposals. McCain-Feingold would restrict the people in their ability to speak. Term limits would restrict the politicians in their ability to perpetuate themselves in office.

The trappings of office provide an incumbent with a highly visible lectern. You can get to the podium easily if you are in the Senate or the House, and you can address the voters. The incumbent's voice can be easily amplified from this position of power to drown out all others. Any proposal that limits the ability of challengers and their supporters to present a different vision—whenever you say that the guy on the outside can't speak clearly, can't speak effectively, can't speak loudly, can't compete with the guy on the inside—impoverishes the very foundation of America, which is public debate. You exacerbate the problems that exist within the system that we have, and that is that incumbents are already too strong. They should be limited.

We limit the President. We limit Governors. We limit members of the houses and senates of many States. We limit city councils. We limit terms in the PTA. We ought to limit terms in the U.S. Congress. Let's put limits on the politicians, not limits on the people. Let's limit the perpetual service of politicians, not the political activity of our citizens.

Nothing—nothing—is more threatening to an incumbent than an informed individual who votes on the basis of principle rather than on the basis of personality. What good is an incumbent's name recognition with voters who want to focus first and foremost on the issues? And what does the proposal do? This proposal would limit the ability of people to express themselves and spend money to talk about issues. Of course, if it is all just down to name recognition, I bet there are a lot of incumbents who would like a proposal that would just eliminate the ability of people to talk about issues.

Cutting back on issue advocacy limits the ability of voters to inform themselves and to discuss the issues. Here we have a proposal that is going to cut down on the ability to form groups, to feel free about being involved in those groups, cut down on the ability of people to make contributions to those groups, cut down on the ability of those groups to discuss the issues.

The McCain-Feingold proposal is not just bad policy, though; it is, in my judgment, unconstitutional. Proponents of campaign finance reform talk in terms of reforming the campaign finance system because they are afraid to say what they are really advocating. What they are really advocating is the banning of political speech. I know everybody gets tired of political speeches, and we all make our jokes about political speech, but there is nothing closer to the heart of liberty

itself, there is nothing closer to the core of what it means to be free people than to have free, uninhibited, unbridled capacity in the culture and among its citizens to speak politically. Political speech is noble. It is the opportunity to put feet to freedom, to actually make a difference.

In a world in which it costs money to reach voters, if you limit spending, you are going to limit the ability of people to speak. It is that simple. Oh, we limited spending before, and what did it do? It meant that the nonincumbent had a tough time, and it also meant that people who were very, very wealthy could find their way into the U.S. Senate and House of Representatives. I submit to you that we have our share of very, very wealthy people here. Of course, we know that there is no way ultimately to limit what a person spends out of his or her own pocket because the Constitution has been so interpreted.

So all we do when we limit everyone else is to say we want the wealthy to have more and more advantage as they singularly and uniquely can approach the podium and be heard in a society which ought to hear the voice of every man and every woman based on merit rather than based on their own personal wealth.

These proposed limits on speech are flatly unconstitutional. The Supreme Court said as much 20 years ago in Buckley versus Valeo. The text of the first amendment has not changed and cannot be changed in this Chamber.

The scaled down version of McCain-Feingold still violates the first amendment, in my judgment. The only thing truly scaled down by this new version of the legislation is the people's right to free speech. The people's right is scaled down, their right to speak freely, to express themselves, those on the outside to challenge those of us on the inside. It is compressed. I sometimes wonder why I wouldn't want to stop people from being critical of me. But you know, I think we ought to be above and beyond our own personal interests here. We ought to be talking about the public interests, not the personal or political interests of incumbents.

Specifically, the law attempts to limit the ability of groups to associate a candidate with his record on issues that matter most to the group. Now wait a second. The law attempts to limit the ability of groups to associate a candidate with his record. I can understand how there would be a lot of folks in this Chamber who would not like for groups of people to know what they have done or to be able to tie a candidate for reelection with his record.

Mr. MCCONNELL. Will the Senator yield just for a short observation on this very point?

Mr. ASHCROFT. Go ahead.

Mr. MCCONNELL. In fact, the Senator from Missouri is absolutely correct. It would give the Federal Election Commission new powers to go to court to seek an injunction on the allegation of a ''substantial likelihood that a violation is about to occur.''

In other words, the point the Senator from Missouri is making, the FEC would be going to court to get an injunction to shut people up so they couldn't criticize our records.

Mr. ASHCROFT. I thank the Senator for his comment. It is a chilling comment to think that the FEC, related to the Congress, could intervene to ask a court to stop someone from criticizing the Congress. It makes you wonder whether or not this is not a bill to transport us all to some regime in some other land. The soil of America would find such activity to be so repugnant that you would think it might cause an earthquake the dimensions of which have never before been understood.

America stands for something profoundly different. America stands for something. And it says that when you vote for something here, you should have to stand and answer to the people and you shouldn't be protected by an election committee or some campaign finance reform which would keep you from being charged with having voted as you did, which would keep the people from holding you responsible. God forbid the day in America when someone is free to vote here and not be responsible for that vote and can call upon some part of Government to protect himself or herself from having to respond to the people and explain the vote. Such an endeavor, as pointed out by the Senator from Kentucky, is flatly unconstitutional, and it is a shocking outrage to the conscience of freedom-loving Americans.

Incumbents enjoy the ability to trumpet the favorable aspects of their record through franked mail. They enjoy high name recognition. We get to stand on the floor of the Senate, and C–SPAN proclaims our message. We speak it ourselves. And so-called campaign finance reform, is to come in and deprive our competitors from the opportunity to speak their message. I can't believe that a nation based on competition would want to yield the potential for that competition.

It certainly does not cure the bill's unconstitutionality that it restricts issue advocacy only during the weeks leading up to the election. Those happen to be the weeks that are relevant. The suggestion is that, well, we are going to allow people to do issue advocacy but not right before the election, so we will only forbid it when it really counts.

The first amendment of the U.S. Constitution is not something to be taken lightly. Free speech, political speech, is not something to be taken lightly, not something to be tampered with, not something to say, ''Well, we'll allow you to have free speech so long as it doesn't matter, but when it gets to be important, when it is time for that speech, you lose it.'' Well, I see the hands of time are running out and you all are being victimized again by another so-called short Senate speech which is going rather long.

I want you to know that I do not believe this so-called campaign finance reform is real reform. I believe that this is the kind of thing that would impair our ability to have the kind of political dialog and debate that is fundamental and necessary, and I intend to propose as a substitute to this, term limits, which are a real reform. They have been tried and tested. They are no pig in a poke.

Since 1961, the Presidency of the United States has been term limited; 41 States across America have term limits for Governors, for State legislators in a number of States, city councils, as I indicated, clubs, PTAs. People know what term limits can do. They know about the need to rotate fresh ideas and people close to the constituency through public office. Term limits provide true reform; campaign finance provides the illusion of reform.

I plan to offer term limits as a substitute for the McCain-Feingold version of campaign finance reform. I want to force a vote on true political reform, not illusory reform that will be struck down by the courts.

There is just one clear answer as far I am concerned. The answer is to limit the politicians, not to limit the citizens. Limit terms, not speech. A viable and vigorous political debate in this country is essential to the survival of this democracy. We know we can do with a new set of politicians in office. As a matter of fact, in many offices across this Nation, we have seen that when we rotate people through those offices, we get better service. No wonder people endorse term limits. We should limit politicians, not speech.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. GRAMS. Thank you very much, Mr. President.

Mr. President, I would like to take a few moments and discuss some of the points raised by my colleagues today on the subject of campaign finance reform.

Proponents of campaign finance reform have expressed concern over the cost of Federal election campaigns. One Senator stated that the cost of campaigns has increased 73 percent over the last 10 to 20 years. However, the cost of most things in life have also increased. For example, the Federal Government has grown so much over the last three or four decades that it spreads out and touches nearly part of our lives. In fact, there was a study which found that the Government involves itself in about 60 percent of everything we do today.

The Federal Government's intrusion in the lives of my constituents has led many of them to either become involved in campaigns or travel to Washington to have their voices heard about the role of the Government in their lives. Congress should not suppress the

ability of Americans to have their voices heard.

If we go back to the level of Government that we had in 1930, we would not see the need for the number of people who have to travel out here day after day, year after year to get their points across, to let the Government know how certain legislation is going to affect them, good or bad.

We often hear the phrase, ''The system is broken.'' The average campaign today costs about $4.5 million on average and the cost should be debated. However, the cost of political campaigns is still less, as we heard many times, than we spend every year on advertising for potato chips, yogurt, or toothpaste.

So are the campaigns getting out of hand in the amount of money we spend? No. In fact, there are those who argue that we need to have more Americans involved in politics to have their voices heard. That is what makes a great democracy. The more involved you can get in what the Government does, the more that Government is going to respond to your needs and the needs of the country.

Mr. President, the system is broken. It is a club for millionaires or could become a club for millionaires. If we continue to impose new restrictions, that is exactly what would happen. It would only be millionaires who would be able to run for office. So, in other words, we would cut off the average American's chance of ever running or holding any public office, to come and bring concerns to the floor of the U.S. Senate, the House of Representatives, or even in the State houses.

I have also heard people say that ''Fundraisers used to be held around Senate schedules. Now it's just the opposite, that the Senate schedules are held around fundraisers.''

That isn't true in my office. We try to spend the vast majority of our time doing the work that we were sent here to do. Yes, we are going to face a campaign; yes, we are going to have to raise money, but we are sure not going to make the work that we were elected to do a lesser priority. I do not believe most of our colleagues have done that. But that is one of the charges issued today.

If we increase the limits on the ability to raise *X* amount of dollars or we are required to accept smaller contributions, we will discourage many individuals who would like to campaign and serve in Congress. These individuals will have to spend more time trying to raise money than doing the job that they were elected to do. It gets to be a money chase, as we have heard here many times today.

Each election, however, is like a basic ad campaign. Every candidate needs to communicate a message. Every candidate needs to be able to go out and talk to the voters to tell them what he supports, what his agenda will be, how he is going to vote on the important issues.

If he does not have a chance or the opportunity to communicate his view to the voters, how are they going to know what this candidate represents? How are they going to know what to expect from him, and how are they going to make a decision between candidate A and candidate B?

When you look at costs—I believe it was said earlier, too, today it is about $1.2 million to buy a 30-second ad during the Super Bowl. Now, we are not going to advertise during the Super Bowl. But if you go into an average television market across the country, an average spot for 30 seconds today is going to cost you over $3,000. Now, again, that is a lot of money, but you are going to have to run a decent campaign again to deliver your message.

We need to inform our voters. If we cannot, as candidates cannot tell our voters how we are going to vote, what our values are, what we are going to stand up for, how we are going to vote on special issues, you can bet somebody is going to tell them that. But they are not going to tell it probably the way you would like. In other words, we are going to have opponents out there. You are going to have special interest groups, independent expenditures, or, more terrifying, you are going to leave it up to the media, you are going to allow the media to frame this debate.

I do not want a newspaper or TV station, liberal or conservative, to be out there telling the voters what they think my position is or to frame my campaign in their words. As we know, I have views about how a lot of these stories and editorials are written. So if we leave it up to the editorial pages of our newspapers, or television reports and other stories, I do not think they are going to get the accurate picture of the campaigns or the candidates involved. A truly informed electrorate will result from preserving the free speech of people to become involved in these campaigns and the right of candidates to communicate their agenda.

What we are hearing today in the Senate is to put on more limits. ''The system is broken.'' We hear that again. ''The public is cynical.'' I do not think they are cynical about honest campaigns. But they are from the headlines of those who have broken campaign laws. That is what you should be cynical about.

We heard Senator KERRY here just a few minutes ago talking about his last campaign, spending in the neighborhood of about $12 million. That was a tough race. That is a lot of money. But have we heard any charges of illegalities involved in the race? No. So did the amount of money corrupt the race? Evidently not.

So it isn't the money. But it is real chutzpah—if you know what the term is; that is really ''in your face''—when we have those who are out there calling the loudest for campaign finance reform saying that it could even involve a special session of Congress. I would call that ''a good defense being a good offense.'' In other words, let us deflect the real problem of the issue today, and that is over the problems of past campaigns, those who have broken the laws but yet are calling for new laws to be implemented. In other words, the chutzpah is similar to a saying in this morning's paper, ''It's like the person who killed his parents and then argued for mercy from the courts because he was an orphan.'' ''Stop me from killing again. Do not allow me to go out and break these laws again. Let's have new laws on the books,'' just like somehow new laws are going to prevent the intent of breaking them.

There has been discussion about independent expenditures and establishing new limits. But, again, we cannot muzzle everybody. We are going to allow the unions to continue spending and collecting millions of dollars. No attempts really to rein in that abuse. So in other words, when it comes to reforms, it is OK to reform only if it limits my opponents more than it would limit me. Now, that would be good reform, but, again, in whose eyes? If we cannot do across-the-board reform, then no reform is good reform.

A good defense is a good offense, again, to divert attention from the problems at hand. A lot of people are looking at hearings going on in Congress this year, and you hear the rhetoric or the spin that this is all about campaign finance reform.

This is about those who broke existing laws, who abused the laws in the last campaign. That is what these hearings are supposed to flush out and look at, not by putting new limits on what we can say, who can say it, when we can say it. Who is going to determine that? Who is going to become a new censor?

What that would do is take away more of your rights as individuals to participate in any campaign, whether Democrat, Republican, independent, whatever it might be. New limits would only mean average Americans would have new constraints placed on how they could become involved in the political process. In this instance, groups, individuals and candidates would be muzzled in a free country.

Again, who would be out there talking? Again, ''The system is broken.'' Their answer, ''Put more controls on free speech.'' But in order to do that, it means bigger Government. ''More Government is the answer. If we can only put a few more controls, put a few more limits, spend a few more dollars somewhere else, somehow that is going to fix the system.''

The system may need some reforms. It may need some tinkering. It may need some changes. But I think overall our system is not broken. Have laws been broken? Has the system been abused? Yes, it has. That is exactly what the Thompson hearings have been trying to find out. But they have been blunted by those who have been accused and, yes, even charged with

breaking those very laws. They say, ''Well, if we did, we're sorry, but we need to push for new laws. We need new changes.''

If there are those in Congress or any place else who would sell their integrity for a $2,000 contribution rather than representing the millions of people back home—by the way, an individual contribution is somewhere around the neighborhood of $25 per contribution—if there are individuals who would do that, they would be easily found out. If they are going to vote that way or betray the trust back home, they are going to be found out. If they are found out, they should be thrown out.

But I believe nearly all, if not all, Members in this body are very honorable men and women who work very hard to try to serve their constituents back home, Republicans and Democrats, having the best interests of their constituents back home at heart. They try do that with a lot of honesty.

But what are Americans to think if they hear day after day that campaigns, that Congress, is corrupt, that it is for sale to the highest bidder? Again, if there are such individuals, they will be found out and they will be thrown out. But I believe the public concern of campaigns in a large part is not because of the system itself but because of those who have abused the system, those who have broken the laws, and they remain unpunished.

New laws, I do not believe, will cure the intent of those who want to break them. So I say, let us open the system, let us have full disclosure—Who contributed to the campaigns? How much did they contribute? —so that the public can judge who is supported by whom, which groups are involved, what are the issues at stake.

Let us not put the Federal Government in control. Isn't public involvement better than having censorship by the Federal Government? You know, most people have a real concern today about big Government. A lot of people say they do not think a bloated bureaucracy can provide the best service today. They have sent many of us here to Washington with the charge of streamlining and downsizing the Federal Government that they believe is out of hand, unwieldy, spending too much money.

Is the way to fix the campaign finance system by putting more control of the system into the hands of the Federal Government, to give them more control, more power, and, yes, even censorship on what you can say, when you can say it? Is it negative? Is it positive? Who is going to decide all of that?

I believe Americans as a whole want the ability to participate and to participate in the elections as they choose.

With that, I yield the floor.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Let me thank my colleague from Minnesota for a fine contribution to this very important debate and assure him I agree with his views virtually 100 percent. An outstanding contribution.

I yield the floor.

Mr. TORRICELLI addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from New Jersey.

Mr. TORRICELLI. Thank you, Mr. President.

Mr. President, at the outset for my participation in this debate I congratulate Senator FEINGOLD and Senator McCAIN for their months of effort in constructing a comprehensive program to deal with the problem of campaign finance and for bringing the Nation and the Senate to this moment of debate, but also Senator DASCHLE, whose tireless efforts have also brought us to this moment of judgment, and Senator LOTT for scheduling this debate.

I, also, in listening to this morning's discussion, want to compliment Senator McCONNELL. For, while I do not share his ultimate judgments on the McCain-Feingold bill, he reminds us of an important principle in the debate. And that is, there may be problems in how we finance our campaigns, the problems of money in American politics, but Senator McCONNELL reminds us there are real constitutional limitations in how we approach this issue and that ultimately the Nation does not suffer from too much political discussion or too much debate among candidates but too little. So while I differ with his ultimate judgment, I think the Senate is well served by his limitations in how we approach this question.

Mr. President, for my own part, I enter this debate with a reminder to all of my colleagues that there is nothing short of the credibility of our entire form of Government that is at issue. The world's oldest constitutional democracy, founded on the principle of majority rule, is now threatened by the fact that only a minority of Americans participate. It is therefore a question of our entire credibility of governance. The United States has experienced for more than a generation the continuing relentless decline in voter participation.

In the last elections in 1996, 49 percent of the American people participated in choosing the leadership of the Federal Government. It is, Mr. President, a serious issue. For a long time the leaders of the U.S. Government have found reasons to excuse the fact that most Americans do not participate in this form of Government, that the United States alone among the great democracies may now be governed by the judgments of a minority of our people alone.

I have heard all of these debates. First, we convinced ourselves that it was not convenient for most Americans to participate in our elections. So we enacted postcard registration to make it simpler. But still the American people did not come.

Then we convinced ourselves it was because people were not aware of the timing of elections. So through public service announcements and then the hiring of campaign workers, we filled the airwaves, we called people on the phone, we visited their homes to remind them, and still they did not come.

On more than a few occasions we appealed to people's patriotism to participate in the electoral system. And after all these efforts, most Americans are still not participating.

Perhaps, Mr. President, there is another reason, painful to admit, but unmistakable: The majority of Americans who are not participating in Federal elections did not forget to vote, it wasn't inconvenient to vote; but by their failure to participate they were expressing themselves. Not participating in an American election is a means of expression. It is a vote of no confidence, not simply in the candidates or the political parties, but in the process itself.

In truth, there are myriad reasons. The sterility of the debate, perhaps because people perceive no real choices, no relevancy of the political discussion to their own lives. Perhaps it is because the decline in the quality of journalism itself, where character assassinations become a substitute for discussion of real issues. Or perhaps most important, most insidious, it is how we are financing our campaigns. The sense of most Americans that voting is not a determinant of a decision, where money has become the principal determinant of the outcome of struggles for political power.

There is perhaps no better witness for this argument than one Roger Tamraz, who appeared before the Governmental Affairs Committee only last week. By his own words he had come to the conclusion that though an American citizen, he did not vote in Federal elections because contributing $300,000 was a better and more effective means of participating than ever casting a vote for a candidate of his choice.

Mr. President, I will admit that I rise on the floor of the Senate today as an advocate of the McCain-Feingold campaign finance bill by a circuitous route. Like many of my colleagues, I have feared campaign finance reform because of the threat of Government regulation of political speech. I have believed that free, fair and open competition among the political parties was the best means to assure that all parties were heard and that the American people ultimately ruled by majority will.

I can no longer, after the expense of the 1996 election and my own involvement in the U.S. Senate campaign in my own State of New Jersey, remain with that conclusion. The campaign reform bills of 1974 and their revision in subsequent years are no longer working. There is no governing electoral authority in the Federal statutes.

Through a series of decisions by the Federal courts, the practical expense of the political parties, the governing statutes are being evaded, violated, or are simply irrelevant. There is no governing authority in this country today for the financing of Federal campaigns. While this Congress has addressed the issue innumerable times, we have made no progress. In a decade, this Senator has voted on 113 occasions to reform campaign finance and come to no conclusions. The Senate has considered 321 pieces of financial reform legislation, heard 3,361 speeches, and filled 6,742 pages of the CONGRESSIONAL RECORD with debate. It cannot go on. We are at a genuine critical point in the political history of this country.

Some would argue that there are some modifications that can be enacted without fundamental reform, and we will meet our responsibility to improve the process, declare success and simply move on to another Federal election in 1998. I am of a decidedly different view. I believe it would be worse to deal with this problem in the margins and declare that we have done much than to deal with this properly and fail and at least be honest with the American people that the problem exists. That is the choice because many, I will predict a majority, of the U.S. Senate, will decide that we can ban the use of soft money in the political process, do nothing about independent expenditures, express advocacy, the cost of television time, overall campaign spending, and still declare success.

To me, Mr. President, that will be the worst outcome because this problem is not only serious, it is complex, and goes to every aspect of the campaign finance system.

First is the problem of controlling express advocacy groups. There is a real threat that the national political system is evolving into a debate where special interest groups will argue over the heads of the American people in multimillion-dollar campaigns in which neither candidates nor political parties are able to participate. Single-issue advocacy groups with virtually unlimited funding, distorting the issues, steering the campaigns, with candidates who are unable or without the resources to even participate. An American political system with campaigns by surrogates.

The McCain-Feingold bill, by at least attempting to limit the ability of these organizations to distort candidate's positions or enter into the debates as their surrogates, addresses this issue. But without this provision, the overall legislation would be meaningless, and indeed in my judgment, counterproductive.

There is, of course, the issue of foreign money where not only must the law be clear, but the penalties high, where people who seek to participate in our system but do not share our nationality. There is the obvious problem of soft money, unregulated, undeclared, unknown participants in the financing of Federal campaigns who opened a door which has now become a monstrous window through which millions of dollars flow, distorting the very purpose of campaign finance disclosure or control.

There is the effort at the prompt disclosure of campaign contributions so that every American makes their own judgment about who is contributing, how much, what they represent, and whether they can then identify with a candidate receiving those contributions. They are all a part of the McCain-Feingold legislation, each critical, but each an integral part that if eliminated from the legislation weakens the whole effort at reform.

But then finally there is one aspect of the McCain-Feingold bill that has not survived to this debate on the floor of the Senate, but in my judgment must be added before genuine reform has been achieved and this Senate concludes this debate. It is the issue of reducing the cost of television advertising. Behind the spiral of rising campaign costs is the issue of the cost of television advertising. There is no increased cost in American campaigning without the cost of television advertising. They are one and the same—inescapable in the conclusion. The cost of campaigns have increased 72 percent in the last 6 years alone. That is overwhelmingly driven by network television. In my own campaign for the U.S. Senate last year, 84 percent of all the money raised went to television advertising.

An amendment will be offered to this legislation, appropriately called the challengers' amendment, because largely incumbents will always raise the funds necessary to feed the television networks but challengers cannot. Unless and until we reduce the cost of television advertising, this becomes a process open to incumbents or multimillionaires only. The average American will never be able to participate in this process and will be excluded at the Senate door.

But make no mistake, the vote for campaign finance reform is not a vote for the McCain-Feingold financial legislation. It is a vote for the challengers' amendment. Consider a process where as in the State of New Jersey the average cost of a television advertisement is $50,000. Some single 30-second ads can cost $100,000. What is it that is being purchased? The television networks control this time by a public license. The air time belongs to the American people. It is granted to the television networks by license, for free. They then return to candidates for public office who seek to debate public policy issues, to communicate with the American people who own this air time and charge millions upon millions of dollars.

Now here I agree with the Senator from Kentucky. The answer is not to reduce the amount of time that candidates have on the air to discuss their issues. It is not to regulate what those candidates communicate to the American people.

The Senator from Kentucky said less than 1 percent of all the advertising last year in the most expensive political race in American history was political advertising. In the midst of deciding about the American future debating these important critical national questions, American people were still hearing more about the sneakers of choice, the best and worst toothpaste, or how it is they should feed their cats and dogs. There is not too much political discussion, but it is too expensive. It is wrong.

In a proper process, the great corporations that own the television networks as a means of political responsibility should have come forward and offered this time for candidates to debate or reduce the cost of advertising to discuss their respective issues, but they have not. They were challenged and they failed. Now it is up to the Congress.

Some would say it is unconstitutional. It is the taking of property of the television networks. But indeed we crossed that threshold a long time ago in reducing only marginally the cost of advertising for charities and political debates. The problem is we reduced it only marginally, leaving the cost far, far too high. There is no right of a corporation to own a license. It is a license for air time that belongs to the public. It is granted and it is responsible that costs should be reduced.

Sometimes it is almost unbearable as a Member of the Senate to hear the television networks with their anchors on the evening news berating the political system, challenging the candidates for public office, the President and the Members of the Senate to do something about campaign finance reform, reduce its cost, reform the process. The problem is the cost being charged by the television networks themselves. What are all these fundraisers? What is it we are doing running around the country raising money endlessly, from interests where we should never be seeking money, spending time that should be spent with citizens debating issues? It is to feed the networks that are demanding this money. When the challengers amendment we will have a chance to do something about it, to reduce the costs.

Mr. President, that comes to a final objective in McCain-Feingold and the whole system of reform. Every American knows that there is a problem of too much money. I have made clear my own belief that there is also a problem of too much cost in advertising. But there is one other element that drives this reform effort. If most of the problems of the American people were represented by those who had money, this reform legislation would be much less important because there is more than enough contact between candidates for the U.S. Senate and the House of Representatives and people who are able to donate and attend fundraisers. We see

thousands of Americans at hundreds of fundraisers. There is no lack of communication or discussion of public policy issues. The problem is that most of the American people who have the most serious problems in their own lives don't have the money to attend these events. And since they cannot attend these events, they are not being heard and their problems are not getting addressed. They are outside the process.

What is driving the need for campaign finance reform, in my judgment, is to free the candidates to once again discuss issues, to campaign on the streets of America with people who have no money but do have real concerns.

Mr. President, this is a debate that it would be difficult to overestimate in its importance. The McCain-Feingold legislation is about campaign finance reform, but it is also about something much more fundamental. We are debating the integrity of the U.S. Government, whether or not the American people, a majority of whom no longer participate in this electoral process, can once again identify with the national political debate and at some point in the future return to participating in this system of government.

I do not know how long, if we fail to reform this process, levels of participation will continue to decline while the Nation maintains political stability and a belief in this system of government. But I know it cannot go on forever. We may or may not succeed with the McCain-Feingold legislation. Perhaps some will succeed in passing a lesser measure dealing in the margins of reform and leaving the larger problem unanswered. If they do so, they do a disservice to the Senate and to the country.

Mr. President, before this debate has concluded in the coming days and weeks, I will return again. But I am grateful for this chance to share a few opening thoughts on what is a critical moment in the life of the Senate.

Mr. President, I yield the floor.

Mr. MCCONNELL. Mr. President, before the Senator from New Jersey leaves, if I might just impose upon him for a few moments. I was listening to his comments and his enthusiasm for the portions of the McCain-Feingold bill that seek to make it more difficult for citizens to engage in issue advocacy and to change the rules with regard to independent expenditures.

I make reference to a letter I received from the American Civil Liberties Union earlier this year discussing those two types of citizen expression. Quoting from the letter:

> Two basic truths have emerged with crystal clarity after 20 years of campaign finance decisions.

That is after a whole string of cases, beginning with Buckley.

> First, independent expenditures for ''express electoral advocacy'' by citizens groups about political candidates lie at the very core of the meaning and purpose of the first amendment.

> Second, issue advocacy by citizen groups lies totally outside the permissible area of Government regulation.

I say to my friend from New Jersey, on what basis does he reach the conclusion that there is any chance whatsoever that these portions of the McCain-Feingold, since there is no hint that the courts are ever going to tamper with express advocacy—there is a whole line of cases, the most recent one about 3 months ago—does my friend from New Jersey think there is going to be some revelation in the courts? Are they going to rethink 20 years of decisions in this area? Or does he think we ought to just pass, blatantly, unconstitutional legislation regardless of what the Supreme Court says?

Mr. TORRICELLI. In response to the Senator from Kentucky—though it is not the thrust of his question—I will return to the major inquiry. I will share publicly what I discussed with the Senator previously privately; that is, my concern that if he is correct that the Federal courts will not allow McCain-Feingold, as currently written, to deal with express advocacy or independent expenditures, then we face a fundamental problem in that express advocacy and independent expenditures would be unregulated while we would be reducing the ability of the political parties or candidates to express themselves. We would, therefore, be dealing with campaigns by surrogates over the heads of the political parties and the candidates.

In my judgment, that does not constitute reform, and it raises the question, as I expressed to the Senator privately, whether there should be a severability clause at all in this legislation because, in my judgment, if you cannot constitutionally deal with express advocacy and independent expenditures, I, speaking only for myself, do not believe that we can regulate the candidates in the political parties as envisioned by this legislation. That issue remains before the Federal courts.

Now, finally, dealing with the Senator's question, it is my own belief that the Constitution can be satisfied, and I hope we can gain the Federal Court's approval, by allowing express advocacy of issues by people who do not name candidates or a campaign in their express advocacy and, hopefully, channel people's interest and finances to the political parties and the candidates separately. Therefore, every citizen has two routes of involvement—the political parties and a candidate of their choice or express advocacy without advocating an individual candidate independently. But I will concede to the Senator from Kentucky, I believe it is an open constitutional question. There is an invitation here to the Federal courts. I simply hope we can get an affirmative reaction from the courts. But I do not disagree with the Senator from Kentucky; it is an open issue.

Mr. MCCONNELL. Mr. President, if I may regain my time. The Senator from Washington has been waiting to speak. Mr. President, it is not an open constitutional question; it is a closed constitutional question. There is no chance that the courts are going to allow these kinds of restrictions on independent expenditures and issue advocacy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, many of the constitutional questions that are debated here today in the context of the validity of this bill have already been debated this year in a more open and more refreshing manner. When those who propose to limit free speech on political issues had the courage to propose an amendment that would restrict the first amendment right of free speech on political issues, while they were, in my view, entirely wrong, while they proposed a disaster to the most fundamental basis of free government, they at least had the intellectual integrity and consistency to recognize that what they wanted to do was inconsistent with the first amendment as it has existed from the time of the first Congress until this day.

Now they produce a bill with two fundamental flaws. In most respects—many at least—it is clearly unconstitutional and, in every other respect, it is bad policy. I think I would like to make a few remarks about the way in which political debates are conducted in this country surrounding election campaigns. I will try to deal a little bit about the way the McCain-Feingold bill treats these various communications. And perhaps I will elicit a few additional remarks from my friend from Kentucky in doing so.

In 1974, when the present campaign finance law was passed—with the support, I may say, of just those people and organizations and newspapers that now find how great a failure that 1974 law was and, like the drunk waking up the morning after with a hangover, prescribed the hair of the dog that bit them—their focus was on candidates, on the source of money for candidates to express their ideas through the mass media. In that focus, they prohibited a wide range of sources of money and greatly limited other sources of money, so that a candidate may not take more than $1,000 per election from an individual, or more than $5,000 from a political action committee, an organization that was created, in effect, by that 1974 law. So they placed severe limits on the one kind of political debate for which each candidate is totally responsible. No candidate can avoid responsibility for what he or she says in public, in print, or on television. This forum of advocacy is now subject to severe limits as a result of the 1974 law.

Now, it is interesting to note that much of the support for the kind of bill or the kind of ideas that are reflected in McCain-Feingold, the kind of ideas

that have just been presented by the Senator from New Jersey, stem from the fact that mass campaigning costs money, the money has to be raised by individual candidates, and the candidates don't like to spend the time raising money that the 1974 law requires. So we are told that the candidates ought to be supported by a subsidy from the Federal Government or a subsidy from the private sector in the form of noncompetitive prices for television advertising.

Mr. President, I can certainly sympathize with the views of those who do not like raising money for their own candidacy. I couldn't possibly claim that I do myself. But to exactly the extent that it takes candidates too long to do so is a direct result of the reforms of 1974. And this reform in McCain-Feingold will make that situation far worse because the limitation on sources for candidates are tightened. So candidates, in order to get their own message out, will have to spend more time raising money.

As an incidental, I think it is not at all unhealthy that we who have this rather exalted status as U.S. Senators should be forced to go hat in hand to our constituents and to others interested in the political process and show a little bit of humility and ask for that support. Many of the supporters of reform feel that that is somehow demeaning, and that the Government ought to come up with the money that they use to engage in their candidacies. Personally, Mr. President, I think they might just as well advocate lifetime terms for Senators. Certainly no one would be subject to pressures from campaign contributors under those circumstances. But the very mention of that process simply shows that an attempt to avoid responsibility is an attempt to avoid responsibility, whether it is called lifetime terms and avoiding democracy entirely, or whether it simply comes in the guise of saying that the Government ought to pay for these campaigns.

In any event, Mr. President, the first defect, though perhaps not an unconstitutional defect, of this bill is that it takes the very set of rules that have created the demand for more rules for indirect spending and makes them worse. It takes the very criticism of the time candidates spend raising money and requires them to spend more time making money, and does it in the one area in which the candidate can be called to order, can be held responsible by his or her constituents: that is to say, spending directly by a candidate on his or her own campaign.

The immediate result of a restriction of this first form of free speech—that on the part of candidates—was to push those who are vitally interested in the decisions that we and other candidates across the country make with respect to public policy away from supporting candidates into supporting political parties.

Most academics over the course of the last 30 or 40 years have decried the decline of political party discipline and accountability, and have said that one of the shortcomings of American democracy is that parties don't mean very much; that they have very little political influence even over the candidates who are elected using the party name, and have called for methods of creating a greater degree of cohesion and party responsibility. Yet, when the two major political parties have discovered a method of raising money and are advocating directly or indirectly the election of candidates carrying their name, that very system is now considered by the reformers to be such a terrible tragedy as to cause the introduction of a bill that will make it practically impossible for either major political party to raise sufficient amounts of money, either to call for a certain degree of responsibility on the part of its candidates, or to get its message across to the American people.

I think I do agree, I say, Mr. President, to my friend from Kentucky, that that portion of constitutional opinion of the 126 scholars, or whatever the number was that he mentioned, with respect to limiting contributions to political parties, is probably correct. I seriously doubt a form of contribution can be prohibited. But on the basis that contributions to candidates can be limited, contributions to the parties can probably be limited. It doesn't make it a desirable course of action. It makes it a highly undesirable course of action.

Mr. MCCONNELL. Will the Senator yield at this point?

Mr. GORTON. I will.

Mr. MCCONNELL. I think the Senator from Washington is correct. There are simply no cases on the issue of whether the Congress could in effect federalize the two national parties; what McCain-Feingold seeks to do. Soft money by definition means non-Federal money. Our two great national parties get involved in Governors' races, county commissioners' races, legislators' races, and so on.

This bill seeks to basically turn them into Federal parties, and take away their ability to participate outside the Federal system.

The Senator from Washington is entirely correct. There simply aren't any cases on that point because nobody has ever thought that was a good idea before.

So I think my colleague is correct. Even if maybe some court would rule that you could do it, it is not a desirable result.

Mr. GORTON. The answer to that from my perspective, as the perspective from the Senator from Kentucky is, of course, it is not. Of course, it is highly undesirable. It will atomize the political system. It will make Members far more free than they have been even in the past from any loyalty as a party, and thus reduce the ability of a Congress or of any other body to reach coherent decisions, but, more importantly than that, will reduce the ability to communicate a coherent set of political ideas to the people of the United States in connection with election campaigns. That is why it is so tremendously undesirable. Even if I am correct that it is constitutional to create such limits, they certainly violate the spirit of the first amendment which is designed to create a field in which the widest range of political ideas can be communicated in the broadest possible fashion.

However, when we get to the third way in which money can be spent to communicate political ideas, I find myself in total agreement with the Senator from Kentucky. That has to do with direct expenditures on advocating the election or the defeat of candidates by persons unconnected with political parties.

Before I get to that, we started with the fact that money that is given to and spent by candidates certainly carries with it a huge responsibility. Candidates cannot avoid responsibility for what their political ideas are that they express with their moneys they spend on their own campaigns. They get a degree of protection from their own political party when it spends money. They can say ''No, that really wasn't quite right. I didn't really believe in that attack on my opponent.'' It is hard to shed that responsibility completely because each candidate has chosen a political party, and its political party's name appears beside his or her name on the ballot. But the responsibility of a candidate is only indirect.

In other words, the party's advertisements, the party's communications bluntly can be less responsible than the candidate's own expressions. The candidate has a certain degree of invulnerability from any such irresponsibility.

But, by definition, when another group, or another wealthy individual, decides that the election, or the defeat of a candidate, is important enough to want to spend a significant amount of money on it and engages in that activity without consulting the candidate or the party, that communication beyond the slightest shadow of a doubt is protected by the first amendment—beyond the slightest shadow of a doubt.

This complex and Byzantine form of regulation in the present law, which would be made more complex and more Byzantine by the passage of McCain-Feingold, raises this question of whether or not expenditures are actually independent, and creates a bonanza for lawyers and for accusations. But it doesn't need to exist in an intelligent system. But clearly when those expenditures are independent, they can advocate the election, or the defeat of a candidate, with entire impunity. They are protected by the first amendment. They ought to be protected by the first amendment. They will continue to be protected until we repeal, or modify, that first amendment, and decide that we ought to choke off free speech on political ideas.

Well, obviously, the candidate who benefits from these independent expenditures has absolutely no responsibility for them whatsoever. However scurrilous or inaccurate they may be, they are not the candidate's fault. They are independent of the candidate. The organization of the individual who was presenting them or paying for them and does not appear on the ballot can't effectively be held responsible in a political sense for that form of communication.

So, first, in 1974 we forced expenditures from the most responsible use to a less responsible use. Now, if we pass McCain-Feingold, we force them into an entirely irresponsible channel, even when we are dealing directly with the election or the defeat of candidates. But, Mr. President, the real point is we cannot stop the money from being spent.

The decisions made by the Congress are vitally important to people's lives, and the people whose lives are affected by them are going to try to affect elections for membership in this body and in the House of Representatives. Obviously, they have to have that right in a free society.

Well, then we move on to the fourth method of communicating ideas. That goes to the benefit of this debate under the title of ''issue advocacy.'' Again, any individual, any group, has a total complete protected right to communicate ideas or views about political ideas. Again, these reforms create this totally artificial lawyer-enriching distinction between an independent expenditure on behalf of a candidate and issue advocacy, an issue different but a distinction in the real world, but one that suddenly becomes very important when you want to get Government involved in all of these ideas.

Were the advertisements by the AFL–CIO all through the last election campaign that said, ''Tell Congressman X to stop destroying Medicare'' issue advocacy? That is what the AFL–CIO claims. In fact, of course, they were designed to defeat candidate X in the next election.

Mr. President, let us be absolutely certain that the AFL–CIO and every other organization has a perfectly totally protected constitutional right to engage in that activity, and to engage in independent expenditures directly at the same time.

That is a separate question as to whether or not we ought to require a labor union, or any other voluntary organization organized primarily for one purpose, to not spend the money of its members on an entirely different political purpose without their consent. Clearly, we can require that consent in any reasonable way which we propose, but once that consent is granted, the constitutional right is absolute.

Then, fifth, Mr. President—and the Senator from Kentucky outlined this question I thought with great simplicity and clarity and elegance a couple of hours ago—fifth, of course, we have the newspapers and the television and radio stations, the forms of mass communication in this society which enter into this struggle gleefully, at great length, continuously and totally protected by the first amendment.

We on this side of the aisle can complain about the fact that most of the major metropolitan newspapers, editorial writers and their reporters are biased to the left, but none of us for a moment claim the right to control their speech or to say that they can't write editorials or that we have the right to say their news stories are biased and keep them out of the newspapers or out of television stations.

I must say, and I trust that the Senator from Kentucky will agree with me, when we use this pejorative ''special interest,'' these newspaper editorial writers do have a special interest in restricting all other forms of free speech about politics so that they can occupy the field alone or almost alone and greatly increase their influence over the actions of the voting public.

Mr. McCONNELL. If I could ask my friend from Washington, I listened carefully to his observations about independent expenditures, which are so-called hard money, federally regulated within the FEC jurisdiction, and his observations about non-Federal money, soft money, which is outside the Federal jurisdiction, both of which there are whole lines of cases—I have counted 13 here just in the few moments I was listening to Senator from Washington—making it abundantly clear there is nothing we can do here in the Congress to restrict either.

My question to my friend from Washington is, if a Member of Congress were sort of cynically approaching this issue and his real goal was to weaken, for example, the Republican National Committee, would he not be pretty safe to advocate some kind of new restrictions on independent expenditures and issue advocacy since there is literally no chance the courts would uphold it and take the gamble that a court might, never having ruled in a whole area of party soft money, weaken the parties with a ruling saying it is possible to federalize the two parties; organized labor would then, as the biggest force engaging in issue advocacy, still be totally unrestricted, as you and I think they should be. And since the Republican National Committee responds to those issue advocacy campaigns with its soft money, would not such an approach benefit substantially, it could be argued, our dear colleagues on the other side of the aisle for whom the AFL-CIO issue advocacy is almost 100 percent favorable?

Mr. GORTON. There is little question but that that would be the result. In fact with my own views on where the constitutional line is likely to be drawn, it seems to me that would be almost the inevitable result of the passage of McCain-Feingold. Its restrictions on money to political parties might well be upheld, probably would be upheld at least in part. It is possible that they would be upheld in their entirety. Their other restrictions will inevitably be found to be unconstitutional.

So we have now restricted the candidate's ability to communicate his or her ideas. We have restricted the political party's ability to reflect their ideas and the ideas of their candidates, the Democratic Party as much as the Republican Party. But because, at least as politics are constituted today, those additional interests, especially organized labor, are primarily on the Democratic side, we have enhanced their ability to communicate, or we have increased their competitive ability to communicate. Let's put it in that fashion. More of the airwaves, more of the mass media will reflect their views. For that reason, because of the general bias of most newspapers and their reporters and their editorial writers and television commentators, Republican candidates historically depend far more on their own ability to raise money and the ability of their party to raise money than have candidates on the other side.

But there is a risk. The law of unintended consequences could easily result in a few years in a reversal of that situation, and the benefits of the spending might very well end up on this side of the aisle. Certainly the unintended consequences of 1974 are exactly what we are dealing with here today.

My focus, however, is on the fact of responsibility. It is appropriate for voters to hold candidates responsible for the ideas that they communicate. It is reasonably appropriate for them to hold political parties responsible. But they cannot hold candidates responsible for a form of communication over which the candidates have absolutely no control. So negative campaigning, it seems to me, will increase rather than decrease with the passage of this bill. Irresponsible charges, unprovable charges, false charges will increase rather than decrease if we should pass this proposal.

But the fundamental point is the amount of money in the political system will not decrease at all because those who feel vitally affected by what happens in politically elected bodies will find a way to spend that money, will be protected by the Constitution in their spending of that money, and will just do it in less responsible channels than they do today.

That, it seems to me, is the policy argument against this proposal. In fact, if we want to make campaigns more candidate oriented and more issue oriented, we would at the very least raise the limitation on contributions to candidates to the level at which they were in 1974 by reflecting the ravages of inflation since then, and we would encourage contributions to political parties. What we would do—I am certain that the Senator from Kentucky agrees with me—is we would see to it the

source of those funds is reported contemporaneously and prominently. The immense amount of time and effort and money that is being spent on investigating the Democratic National Committee and the Presidential election of 1996 would, I am certain, have been absolutely unnecessary had all of these contributions and all of their sources and all of these activities been public knowledge at the time at which they were given, the time at which those actions were taken. Why? Because it would not have happened that way.

Mr. MCCONNELL. If my friend will yield, in fact the Democratic National Committee had the option to report in October, chose not to, for the very reason we all know now, that it would have been horrible publicity. So the act of rather contemporaneously disclosing, as my friend is pointing out, would have created at least a decision on their part, Are we going to take the money and take the heat or are we going to forgo the money? Disclosure would have been the best disinfectant.

Mr. GORTON. As it was they could take the money and avoid the heat.

I thank the Senator from Kentucky for his courage in this matter and the clarity with which he speaks on it. We simply cannot, consistently with the Constitution of the United States, limit political speech. We can only limit responsible political speech. We can only force money from responsible challenges into less responsible ones. We can only increase the power of the press, the very group that is most anxious to limit speech by others than its own members, and/or do what some proposed to do just a few months ago, say the first amendment doesn't work anymore and we better change it. As I said at the beginning of my remarks, that may have been, as it was, terrible policy, but it was at least intellectually honest. To present us with an unconstitutional bill is neither.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. I thank my good friend from Washington for his really quite straight observations about this debate. They are right on point. He has articulately pointed out that in a country where the Government is $1.6 trillion a year, it is not unreasonable to assume that people would want to influence in whatever way they could the decisions that are made that affect their lives so greatly. The Court has made it perfectly clear that the ability to speak and to influence the course of events in any way that is constitutionally permissible is going to be protected, and the only really honest debate, as the Senator from Washington pointed out, was from those who stood up and said we ought to amend the first amendment for the first time in 200 years to give the Government the power to control political discourse. The good news is, Mr. President, only 38 Members of the Senate voted to amend the first amendment for the first time in 200 years. The first amendment is going to be secure today and it is still going to be secure when the debate on McCain-Feingold is over.

I suggest the absence of a quorum, Mr. President,

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDING THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Mr. MCCONNELL. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of S. 1227 introduced earlier today by Senator JEFFORDS.

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

The clerk will report.

The bill clerk read as follows:

A bill (S. 1227) to amend title I of the Employee Retirement Income Security Act of 1974 to clarify treatment of investment managers under such title.

Mr. MCCONNELL. I ask unanimous consent the bill be considered read a third time and passed, the motion to reconsider be laid on the table, and any statements relating to the bill appear at this point in the RECORD.

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

The bill (S. 1227) was considered read the third time, and passed as follows:

S. 1227

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

SECTION 1. INVESTMENT MANAGERS UNDER ERISA TO INCLUDE FIDUCIARIES REGISTERED SOLELY UNDER STATE LAW ONLY IF FEDERAL REGISTRATION PROHIBITED UNDER RECENTLY ENACTED PROVISIONS.

(a) IN GENERAL.—Section 3(38)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(38)(B)) is amended—

(1) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively; and

(2) by striking ''who is'' and all that follows through clause (i) and inserting the follow: ''who (i) is registered as an investment adviser under the Investment Advisers Act of 1940; (ii) is not registered as an investment adviser under such Act by reason of paragraph (1) of section 203A(a) of such Act, is registered as an investment adviser under the laws of the State (referred to in such paragraph (1)) in which it maintains its principal office and place of business, and, at the time the fiduciary last filed the registration form most recently filed by the fiduciary with such State in order to maintain the fiduciary's registration under the laws of such State, also filed a copy of such form with the Secretary;''.

(b) AVAILABILITY OF DOCUMENTS VIA FILING DEPOSITORY.—A fiduciary shall be treated as meeting the requirements of section 3(38)(B)(ii) of the Employee Retirement Income Security Act of 1974 (as amended by subsection (a)) relating to provision to the Secretary of Labor of a copy of the form referred to therein, if a copy of such form (or substantially similar information) is available to the Secretary of Labor from a centralized electronic or other record-keeping database.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on July 8, 1997, except that the requirement of section 3(38)(B)(ii) of the Employee Retirement Income Security Act of 1974 (as amended by this Act) for filing with the Secretary of Labor of a copy of a registration form which has been filed with a State before the date of the enactment of this Act, or is to be filed with a State during the 1-year period beginning with such date, shall be treated as satisfied upon the filing of such a copy with the Secretary at any time during such 1-year period. This section shall supersede section 308(b) of the National Securities Markets Improvement Act of 1996 (and the amendment made thereby).

VISA WAIVER PILOT PROGRAM REAUTHORIZATION ACT OF 1997

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to consideration of Calendar No. 164, S. 1178.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (S. 1178) to amend the Immigration and Nationality Act to extent the visa waiver pilot program, 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.

EN BLOC AMENDMENTS NOS. 1254, 1255, 1256

Mr. MCCONNELL. There are three amendments at the desk, a Kyl-Leahy amendment No. 1254, a Hutchison amendment No. 1255, and an Abraham-Kennedy amendment No. 1256. I ask unanimous consent the amendments be considered as read and agreed to en bloc, the bill be considered read a third time and passed as amended, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed at this point in the RECORD.

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

The amendments considered and agreed to are as follows:

AMENDMENT NO. 1254

At the end of the bill insert the following section:

SEC. 3. REPORT ON AUTOMATED ENTRY-EXIT CONTROL SYSTEM.

(a) Within six months after the date of enactment of this Act, the Attorney General shall report to the Committees on the Judiciary of the Senate and the House of Representatives on her plans for and the feasibility of developing an automated entry-exit control system that would operate at the land borders of the United States and that would—

(1) collect a record of departure for every alien departing the United States and match the records of departure with the record of the alien's arrival in the United States; and

(2) enable the Attorney General to identify, through on-line searching procedures, lawfully admitted nonimmigrants who remain in the United States beyond the period authorized by the Attorney General.

(b) Such report shall assess the costs and feasibility of various means of operating such an automated entry-exit control system; shall evaluate how such a system could be implemented without increasing border traffic congestion and border crossing delays and, if any such system would increase border crossing delays, evaluate to what extent such congestion or delays would increase; and shall estimate the length of time that would be required for any such system to be developed and implemented at the land borders.

AMENDMENT NO. 1255

On page 8, after line 6, insert the following:

(C) REPORTING REQUIREMENTS FOR OTHER COUNTRIES. For every country from which nonimmigrants seek entry into the United States, the Attorney General shall make a precise numerical estimate of the figures under clauses (A)(i)(I) and (A)(i)(II) and report those figures to the Committees on the Judiciary of the Senate and the House of Representatives within 30 days after the end of the fiscal year.

AMENDMENT NO. 1256

(Purpose: To modify the authorized pilot program period, to revise authority in fiscal year 1998 to cancel the removal of certain aliens, and for other purposes)

On page 8, between lines 6 and 7, insert the following new clause:

''(iii) COMMENCEMENT OF AUTHORIZED PERIOD FOR QUALIFYING COUNTRIES.—No country qualifying under the criteria in clauses (i) and (ii) may be newly designated as a pilot program country prior to October 1, 1998.

On page 8, line 16, strike ''2002'' and insert ''2000''.

The bill (S. 1178), as amended, was considered read the third time and passed.

S. 1178

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 ''Visa Waiver Pilot Program Reauthorization Act of 1997''.

SEC. 2. AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT.

(a) DESIGNATION OF PILOT PROGRAM COUNTRIES.—Section 217(c) of the Immigration and Nationality Act (8 U.S.C. 1187(c)) is amended to read as follows:

''(c) DESIGNATION OF PILOT PROGRAM COUNTRIES.—

''(1) IN GENERAL.—The Secretary of State, in consultation with the Attorney General, may designate any country as a pilot program country if it meets the requirements of paragraph (2). In order to remain a pilot program country in any subsequent fiscal year, a country shall be redesignated as a pilot program country by the Attorney General in accordance with the requirements of paragraph (3).

''(2) QUALIFICATIONS.—The Secretary of State may not designate a country as a pilot program country unless the following requirements are met:

''(A) LOW NONIMMIGRANT VISA REFUSAL RATE FOR PREVIOUS 2-YEAR PERIOD.—The average number of refusals of nonimmigrant visitor visas for nationals of that country during the two previous full fiscal years was less than 3.0 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years.

''(B) LOW NONIMMIGRANT VISA REFUSAL RATE FOR EACH OF 2 PREVIOUS YEARS.—The average number of refusals of nonimmigrant visitor visas for nationals of that country during either of such two previous full fiscal years was less than 3.5 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during that year.

''(C) MACHINE-READABLE PASSPORT PROGRAM.—The government of the country certifies to the Secretary of State's and the Attorney General's satisfaction that it issues machine-readable and highly fraud-resistant passports to its citizens.

''(D) LAW ENFORCEMENT INTERESTS.—The Attorney General determines that the United States' law enforcement interests would not be compromised by the designation of the country.

''(E) ILLEGAL OVERSTAY AND DISQUALIFICATION.—For any country with an average nonimmigrant visa refusal rate during the previous two fiscal years of greater than 2 and less than 3 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years, and for any country with an average number of refusals during either such year of greater than 2.5 and less than 3.5 percent, the Attorney General shall certify to the Committees on the Judiciary of the Senate and the House of Representatives that the sum of—

''(I) the total of the number of nationals of that country who were excluded from admission or withdrew their application for admission at a port of entry during such previous fiscal year as a nonimmigrant visitor, and

''(II) the total number of nationals for that country who were admitted as nonimmigrant visitors during such previous fiscal year and who violated the terms of such admission,

is less than 2 percent of the total number of nationals of that country who applied for admission as nonimmigrant visitors during such previous fiscal year.

''(3) CONTINUING AND SUBSEQUENT QUALIFICATIONS.—The Attorney General, in consultation with the Secretary of State, shall assess the continuing and subsequent qualification of countries designated as pilot program countries and shall redesignate countries as pilot program countries only if the requirements specified in this subsection are met. For each fiscal year (within the pilot program period) after the initial period the following requirements shall apply:

''(A) COUNTRIES PREVIOUSLY DESIGNATED.—(i) Except as provided in subsection (g) of this section, in the case of a country which was a pilot program country in the previous fiscal year, the Attorney General may not redesignate such country as a pilot program country unless the sum of—

''(I) the total of the number of nationals of that country who were excluded from admission or withdrew their application for admission during such previous fiscal year as a nonimmigrant visitor, and

''(II) the total number of nationals of that country who were admitted as nonimmigrant visitors during such previous fiscal year and who violated the terms of such admission,

was less than 2 percent of the total number of nationals of that country who applied for admission as nonimmigrant visitors during such previous fiscal year.

''(ii) In the case of a country which was a pilot program country in the previous fiscal year, the Attorney General may not redesignate such country as a pilot program country unless the Attorney General has made a precise numerical estimate of the figures under clauses (i)(I) and (i)(II) and reports those figures to the Committees on the Judiciary of the Senate and the House of Representatives within 30 days after the end of the fiscal year. As of September 30, 1999, any such estimates shall be based on data collected from the automated entry-exit control system mandated by section 110 of Public Law 104–708.

''(iii) In the case of a country which was a pilot program country in the previous fiscal year and which was first admitted to the visa waiver pilot program prior to September 30, 1997, the Attorney General may not redesignate such country as a pilot program country unless the country certifies that it has issued or will issue as of a date certain machine-readable and highly fraud-resistant passports and unless the country subsequently complies with any such certification commitments.

''(B) NEW COUNTRIES.—In the case of a country to which the clauses of subparagraph (A) do not apply, such country may not be designated as a pilot program country unless the following requirements are met:

''(i) LOW NONIMMIGRANT VISA REFUSAL RATE IN PREVIOUS 2-YEAR PERIOD.—The average number of refusals of nonimmigrant visitor visas for nationals of that country during the two previous full fiscal years was less than 3.0 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years.

''(ii) LOW NONIMMIGRANT VISA REFUSAL RATE IN EACH OF THE 2 PREVIOUS YEARS.—The average number of refusals of nonimmigrant visitor visas for nationals of that country during either of such two previous full fiscal years was less than 3.5 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during that year.

''(iii) COMMENCEMENT OF AUTHORIZED PERIOD FOR QUALIFYING COUNTRIES.—No country qualifying under the criteria in clauses (i) and (ii) may be newly designated as a pilot program country prior to October 1, 1998.

''(C) REPORTING REQUIREMENTS FOR OTHER COUNTRIES.—For every country from which nonimmigrants seek entry into the United States, the Attorney General shall make a precise numerical estimate of the figures under subparagraph (A)(i) (I) and (II) and report those figures to the Committees on the Judiciary of the Senate and the House of Representatives within 30 days after the end of the fiscal year.

''(4) INITIAL PERIOD.—For purposes of paragraph (3), the term 'initial period' means the period beginning at the end of the 30-day period described in section 2(c)(1) of the Visa Waiver Pilot Program Reauthorization Act of 1997 and ending on the last day of the first fiscal year which begins after such 30-day period.''.

(b) AUTHORIZED PILOT PROGRAM PERIOD.—Section 217(f) of that Act is amended by striking ''September 30, 1997'' and inserting ''September 30, 2000''.

(c) DEVELOPMENT OF AUTOMATED ENTRY CONTROL SYSTEM.—(1) As of the date of enactment of this Act, no country may be newly designated as a pilot program country until the end of the 30-day period beginning on the date that the Attorney General submits to the Committees on the Judiciary of the House of Representatives and the Senate a certification that the automated entry-exit control system described in paragraph (2) is operational.

(2) The automated entry-exit control system is the system mandated by section 110 of Public Law 104–208 as applied at all ports of entry excluding the land borders.

SEC. 3. REPORT ON AUTOMATED ENTRY-EXIT CONTROL SYSTEM.

(a) Within six months after the date of enactment of this Act, the Attorney General shall report to the Committees on the Judiciary of the Senate and the House of Representatives on her plans for and the feasibility of developing an automated entry-exit

control system that would operate at the land borders of the United States and that would—

(1) collect a record of departure for every alien departing the United States and match the records of departure with the record of the alien's arrival in the United States; and

(2) enable the Attorney General to identify, through on-line searching procedures, lawfully admitted nonimmigrants who remain in the United States beyond the period authorized by the Attorney General.

(b) Such report shall assess the costs and feasibility of various means of operating such an automated entry-exit control system; shall evaluate how such a system could be implemented without increasing border traffic congestion and border crossing delays and, if any such system would increase border crossing delays, evaluate to what extent such congestion or delays would increase; and shall estimate the length of time that would be required for any such system to be developed and implemented at the land borders.

PUBLIC HOUSING REFORM AND RESPONSIBILITY ACT OF 1977

Mr. McCONNELL. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of Calendar No. 63, S. 462.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (S. 462) to reform and consolidate the public and assisted housing programs of the United States, and to redirect primary responsibility for these programs from the Federal Government to States and localities, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment to strike 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 ''Public Housing Reform and Responsibility Act of 1997''.

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

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) there exists throughout the Nation a need for decent, safe, and affordable housing;

(2) the inventory of public housing units owned and operated by public housing agencies, an asset in which the Federal Government has invested approximately $90,000,000,000, has traditionally provided rental housing that is affordable to low-income persons;

(3) despite serving this critical function, the public housing system is plagued by a series of problems, including the concentration of very poor people in very poor neighborhoods and disincentives for economic self-sufficiency;

(4) the Federal method of overseeing every aspect of public housing by detailed and complex statutes and regulations aggravates the problem and places excessive administrative burdens on public housing agencies;

(5) the interests of low-income persons, and the public interest, will best be served by a reformed public housing program that—

(A) consolidates many public housing programs into programs for the operation and capital needs of public housing;

(B) streamlines program requirements;

(C) vests in public housing agencies that perform well the maximum feasible authority, discretion, and control with appropriate accountability to both public housing residents and localities; and

(D) rewards employment and economic self-sufficiency of public housing residents; and

(6) voucher and certificate programs under section 8 of the United States Housing Act of 1937 are successful for approximately 80 percent of applicants, and a consolidation of the voucher and certificate programs into a single, market-driven program will assist in making section 8 tenant-based assistance more successful in assisting low-income families in obtaining affordable housing and will increase housing choice for low-income families.

(b) PURPOSES.—The purposes of this Act are—

(1) to consolidate the various programs and activities under the public housing programs administered by the Secretary in a manner designed to reduce Federal overregulation;

(2) to redirect the responsibility for a consolidated program to States, localities, public housing agencies, and public housing residents;

(3) to require Federal action to overcome problems of public housing agencies with severe management deficiencies; and

(4) to consolidate and streamline tenant-based assistance programs.

SEC. 3. DEFINITIONS.

In this Act:

(1) PUBLIC HOUSING AGENCY.—The term ''public housing agency'' has the same meaning as in section 3 of the United States Housing Act of 1937.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Housing and Urban Development.

SEC. 4. EFFECTIVE DATE.

Except as otherwise specifically provided in this Act or the amendments made by this Act, this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

SEC. 5. PROPOSED REGULATIONS; TECHNICAL RECOMMENDATIONS.

(a) PROPOSED REGULATIONS.—Not later than 9 months after the date of enactment of this Act, the Secretary shall submit to Congress proposed regulations that the Secretary determines are necessary to carry out the United States Housing Act of 1937, as amended by this Act.

(b) TECHNICAL RECOMMENDATIONS.—Not later than 9 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking and Financial Services of the House of Representatives, recommended technical and conforming legislative changes necessary to carry out this Act and the amendments made by this Act.

SEC. 6. ELIMINATION OF OBSOLETE DOCUMENTS.

Effective 1 year after the date of enactment of this Act, no rule, regulation, or order (including all handbooks, notices, and related requirements) pertaining to public housing or section 8 tenant-based programs issued or promulgated under the United States Housing Act of 1937 before the date of enactment of this Act may be enforced by the Secretary.

SEC. 7. ANNUAL REPORTS.

Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall submit a report to Congress on—

(1) the impact of the amendments made by this Act on—

(A) the demographics of public housing residents and families receiving tenant-based assistance under the United States Housing Act of 1937; and

(B) the economic viability of public housing agencies; and

(2) the effectiveness of the rent policies established by this Act and the amendments made by this Act on the employment status and earned income of public housing residents.

TITLE I—PUBLIC HOUSING

SEC. 101. DECLARATION OF POLICY.

Section 2 of the United States Housing Act of 1937 (42 U.S.C. 1437) is amended to read as follows:

"SEC. 2. DECLARATION OF POLICY.

''It is the policy of the United States to promote the general welfare of the Nation by employing the funds and credit of the Nation, as provided in this title—

''(1) to assist States and political subdivisions of States to remedy the unsafe housing conditions and the acute shortage of decent and safe dwellings for low-income families;

''(2) to assist States and political subdivisions of States to address the shortage of housing affordable to low-income families; and

''(3) consistent with the objectives of this title, to vest in public housing agencies that perform well, the maximum amount of responsibility and flexibility in program administration, with appropriate accountability to both public housing residents and localities.''.

SEC. 102. MEMBERSHIP ON BOARD OF DIRECTORS.

Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended—

(1) by redesignating the second section designated as section 27 (as added by section 903(b) of Public Law 104–193 (110 Stat. 2348)) as section 28; and

(2) by adding at the end the following:

"SEC. 29. MEMBERSHIP ON BOARD OF DIRECTORS.

''(a) REQUIRED MEMBERSHIP.—Except as provided in subsection (b), the membership of the board of directors of each public housing agency shall contain not less than 1 member—

''(1) who is a resident who directly receives assistance from the public housing agency; and

''(2) who may, if provided for in the public housing agency plan (as developed with appropriate notice and opportunity for comment by the resident advisory board) be elected by the residents directly receiving assistance from the public housing agency.

''(b) EXCEPTION.—Subsection (a) shall not apply to any public housing agency—

''(1) that is located in a State that requires the members of the board of directors of a public housing agency to be salaried and to serve on a full-time basis; or

''(2) with less than 300 units, if—

''(A) the public housing agency has provided reasonable notice to the resident advisory board of the opportunity of not less than 1 resident described in subsection (a) to serve on the board of directors of the public housing agency pursuant to that subsection; and

''(B) within a reasonable time after receipt by the resident advisory board of notice under subparagraph (A), the public housing agency has not been notified of the intention of any resident to participate on the board of directors.

''(c) NONDISCRIMINATION.—No person shall be prohibited from serving on the board of directors or similar governing body of a public housing agency because of the residence of that person in a public housing project.''.

SEC. 103. RENTAL PAYMENTS.

(a) IN GENERAL.—Section 3(a)(1)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(1)(A)) is amended by inserting before the semicolon the following: '' or, if the family resides in public housing, an amount established by the public housing agency, which shall not exceed 30 percent of the monthly adjusted income of the family''.

(b) AUTHORITY OF PUBLIC HOUSING AGENCIES.—Section 3(a)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(2)) is amended to read as follows:

''(2) AUTHORITY OF PUBLIC HOUSING AGENCIES.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), a public housing agency may adopt ceiling rents that reflect the reasonable market value of the housing, but that are not less than—

''(i) 75 percent of the monthly cost to operate the housing of the public housing agency; and

''(ii) the monthly cost to make a deposit to a replacement reserve (in the sole discretion of the public housing agency).

''(B) MINIMUM RENT.—Notwithstanding paragraph (1), a public housing agency may provide that each family residing in a public housing project or receiving tenant-based or project-based assistance under section 8 shall pay a minimum monthly rent in an amount not to exceed $25 per month.

''(C) POLICE OFFICERS.—

''(i) IN GENERAL.—Notwithstanding any other provision of law, a public housing agency may, in accordance with the public housing agency plan, allow a police officer who is not otherwise eligible for residence in public housing to reside in a public housing unit. The number and location of units occupied by police officers under this clause, and the terms and conditions of their tenancies, shall be determined by the public housing agency.

''(ii) DEFINITION.—In this subparagraph, the term 'police officer' means any person determined by a public housing agency to be, during the period of residence of that person in public housing, employed on a full-time basis as a duly licensed professional police officer by a Federal, State, or local government or by any agency thereof (including a public housing agency having an accredited police force).

''(D) EXCEPTION TO INCOME LIMITATIONS FOR CERTAIN PUBLIC HOUSING AGENCIES.—

''(i) DEFINITION OF OVER-INCOME FAMILY.—In this subparagraph, the term 'over-income family' means an individual or family that is not a low-income family or a very low-income family.

''(ii) AUTHORIZATION.—Notwithstanding any other provision of law, a public housing agency that manages less than 250 units may, on a month-to-month basis, lease a unit in a public housing project to an over-income family in accordance with this subparagraph, if there are no eligible families applying for residence in that public housing project for that month.

''(iii) TERMS AND CONDITIONS.—The number and location of units occupied by over-income families under this subparagraph, and the terms and conditions of those tenancies, shall be determined by the public housing agency, except that—

''(I) rent for a unit shall be in an amount that is equal to not less than the costs to operate the unit;

''(II) if an eligible family applies for residence after an over-income family moves in to the last available unit, the over-income family shall vacate the unit not later than the date on which the month term expires; and

''(III) if a unit is vacant and there is no one on the waiting list, the public housing agency may allow an over-income family to gain immediate occupancy in the unit, while simultaneously providing reasonable public notice of the availability of the unit.

''(E) ENCOURAGEMENT OF SELF-SUFFICIENCY.—Each public housing agency shall develop a rental policy that encourages and rewards employment and economic self-sufficiency.''.

(c) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall, by regulation, after notice and an opportunity for public comment, establish such requirements as may be necessary to carry out section 3(a)(2)(A) of the United States Housing Act of 1937, as amended by this section.

(2) TRANSITION RULE.—Prior to the issuance of final regulations under paragraph (1), a public housing agency may implement ceiling rents, which shall be—

(A) determined in accordance with section 3(a)(2)(A) of the United States Housing Act of 1937 (amended by subsection (b) of this section);

(B) equal to the 95th percentile of the rent paid for a unit of comparable size by residents in the same public housing project or a group of comparable projects totaling 50 units or more; or

(C) equal to not more than the fair market rent for the area in which the unit is located.

SEC. 104. DEFINITIONS.

(a) DEFINITIONS.—

(1) SINGLE PERSONS.—Section 3(b)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(3)) is amended—

(A) in subparagraph (A), by striking the third sentence; and

(B) in subparagraph (B), in the second sentence, by striking ''regulations of the Secretary'' and inserting ''public housing agency plan''.

(2) ADJUSTED INCOME.—Section 3(b)(5) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(5)) is amended to read as follows:

''(5) ADJUSTED INCOME.—The term 'adjusted income' means the income that remains after excluding—

''(A) $480 for each member of the family residing in the household (other than the head of the household or the spouse of the head of the household)—

''(i) who is under 18 years of age; or

''(ii) who is—

''(I) 18 years of age or older; and

''(II) a person with disabilities or a full-time student;

''(B) $400 for an elderly or disabled family;

''(C) the amount by which the aggregate of—

''(i) medical expenses for an elderly or disabled family; and

''(ii) reasonable attendant care and auxiliary apparatus expenses for each family member who is a person with disabilities, to the extent necessary to enable any member of the family (including a member who is a person with disabilities) to be employed;

exceeds 3 percent of the annual income of the family;

''(D) child care expenses, to the extent necessary to enable another member of the family to be employed or to further his or her education; and

''(E) any other adjustments to earned income that the public housing agency determines to be appropriate, as provided in the public housing agency plan.''.

(b) DISALLOWANCE OF EARNED INCOME FROM PUBLIC HOUSING RENT DETERMINATIONS.—

(1) IN GENERAL.—Section 3 of the United States Housing Act of 1937 (42 U.S.C. 1437a) is amended—

(A) by striking the undesignated paragraph at the end of subsection (c)(3) (as added by section 515(b) of the Cranston-Gonzalez National Affordable Housing Act); and

(B) by adding at the end the following:

''(d) DISALLOWANCE OF EARNED INCOME FROM PUBLIC HOUSING RENT DETERMINATIONS.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the rent payable under subsection (a) by a family—

''(A) that—

''(i) occupies a unit in a public housing project; or

''(ii) receives assistance under section 8; and

''(B) whose income increases as a result of employment of a member of the family who was previously unemployed for 1 or more years (including a family whose income increases as a result of the participation of a family member in any family self-sufficiency or other job training program);

may not be increased as a result of the increased income due to such employment during the 18-month period beginning on the date on which the employment is commenced.

''(2) PHASE-IN OF RATE INCREASES.—After the expiration of the 18-month period referred to in paragraph (1), rent increases due to the continued employment of the family member described in paragraph (1)(B) shall be phased in over a subsequent 3-year period.

''(3) OVERALL LIMITATION.—Rent payable under subsection (a) shall not exceed the amount determined under subsection (a).''.

(2) APPLICABILITY OF AMENDMENT.—

(A) PUBLIC HOUSING.—Notwithstanding the amendment made by paragraph (1), any resident of public housing participating in the program under the authority contained in the undesignated paragraph at the end of section 3(c)(3) of the United States Housing Act of 1937, as that section existed on the day before the date of enactment of this Act, shall be governed by that authority after that date.

(B) SECTION 8.—The amendment made by paragraph (1) shall apply to tenant-based assistance provided under section 8 of the United States Housing Act of 1937, with funds appropriated on or after October 1, 1997.

(c) DEFINITIONS OF TERMS USED IN REFERENCE TO PUBLIC HOUSING.—

(1) IN GENERAL.—Section 3(c) of the United States Housing Act of 1937 (42 U.S.C. 1437a(c)) is amended—

(A) in paragraph (1), by inserting ''and of the fees and related costs normally involved in obtaining non-Federal financing and tax credits with or without private and nonprofit partners'' after ''carrying charges''; and

(B) in paragraph (2), in the first sentence, by striking ''security personnel),'' and all that follows through the period and inserting the following: ''security personnel), service coordinators, drug elimination activities, or financing in connection with a public housing project, including projects developed with non-Federal financing and tax credits, with or without private and nonprofit partners.''.

(2) TECHNICAL CORRECTION.—Section 622(c) of the Housing and Community Development Act of 1992 (Public Law 102–550; 106 Stat. 3817) is amended by striking '' 'project.' '' and inserting ''paragraph (3)''.

(3) NEW DEFINITIONS.—Section 3(c) of the United States Housing Act of 1937 (42 U.S.C. 1437a(c)) is amended by adding at the end the following:

''(6) PUBLIC HOUSING AGENCY PLAN.—The term 'public housing agency plan' means the plan of the public housing agency prepared in accordance with section 5A.

''(7) DISABLED HOUSING.—The term 'disabled housing' means any public housing project, building, or portion of a project or building, that is designated by a public housing agency for occupancy exclusively by disabled persons or families.

''(8) ELDERLY HOUSING.—The term 'elderly housing' means any public housing project, building, or portion of a project or building, that is designated by a public housing agency exclusively for occupancy exclusively by elderly persons or families, including elderly disabled persons or families.

''(9) MIXED-FINANCE PROJECT.—The term 'mixed-finance project' means a public housing project that meets the requirements of section 30.

''(10) CAPITAL FUND.—The term 'Capital Fund' means the fund established under section 9(c).

''(11) OPERATING FUND.—The term 'Operating Fund' means the fund established under section 9(d).''.

SEC. 105. CONTRIBUTIONS FOR LOWER INCOME HOUSING PROJECTS.

(a) IN GENERAL.—Section 5 of the United States Housing Act of 1937 (42 U.S.C. 1437c) is amended by striking subsections (h) through (l).

(b) CONFORMING AMENDMENTS.—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended—

(1) in section 21(d), by striking ''section 5(h) or'';

(2) in section 25(l)(1), by striking ''and for sale under section 5(h)''; and

(3) in section 307, by striking ''section 5(h) and''.

SEC. 106. PUBLIC HOUSING AGENCY PLAN.

(a) IN GENERAL.—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by inserting after section 5 the following:

''SEC. 5A. PUBLIC HOUSING AGENCY PLANS.

''(a) 5-YEAR PLAN.—

''(1) IN GENERAL.—Subject to paragraph (2), not less than once every 5 fiscal years, each public housing agency shall submit to the Secretary a plan that includes, with respect to the 5 fiscal years immediately following the date on which the plan is submitted—

''(A) a statement of the mission of the public housing agency for serving the needs of low-income and very low-income families in the jurisdiction of the public housing agency during those fiscal years; and

''(B) a statement of the goals and objectives of the public housing agency that will enable the public housing agency to serve the needs identified pursuant to subparagraph (A) during those fiscal years.

''(2) INITIAL PLAN.—The initial 5-year plan submitted by a public housing agency under this subsection shall be submitted for the 5-year period beginning with the first fiscal year following the date of enactment of the Public Housing Reform and Responsibility Act of 1997 for which the public housing agency receives assistance under this Act.

''(b) ANNUAL PLAN.—

''(1) IN GENERAL.—Each public housing agency shall submit to the Secretary a public housing agency plan under this subsection for each fiscal year for which the public housing agency receives assistance under sections 8(o) and 9.

''(2) UPDATES.—For each fiscal year after the initial submission of a plan under this section by a public housing agency, the public housing agency may comply with requirements for submission of a plan under this subsection by submitting an update of the plan for the fiscal year.

''(c) PROCEDURES.—

''(1) IN GENERAL.—The Secretary shall establish requirements and procedures for submission and review of plans, including requirements for timing and form of submission, and for the contents of those plans.

''(2) CONTENTS.—The procedures established under paragraph (1) shall provide that a public housing agency shall—

''(A) consult with the resident advisory board established under subsection (e) in developing the plan; and

''(B) ensure that the plan under this section is consistent with the applicable comprehensive housing affordability strategy (or any consolidated plan incorporating that strategy) for the jurisdiction in which the public housing agency is located, in accordance with title I of the Cranston-Gonzalez National Affordable Housing Act and contains a certification by the appropriate State or local official that the plan meets the requirements of this paragraph and a description of the manner in which the applicable contents of the public housing agency plan are consistent with the comprehensive housing affordability strategy.

''(d) CONTENTS.—An annual public housing agency plan under this section for a public housing agency shall contain the following information relating to the upcoming fiscal year for which the assistance under this Act is to be made available:

''(1) NEEDS.—A statement of the housing needs of low-income and very low-income families residing in the jurisdiction served by the public housing agency, and of other low-income and very low-income families on the waiting list of the agency (including housing needs of elderly families and disabled families), and the means by which the public housing agency intends, to the maximum extent practicable, to address those needs.

''(2) FINANCIAL RESOURCES.—A statement of financial resources available to the agency and the planned uses of those resources.

''(3) ELIGIBILITY, SELECTION, AND ADMISSIONS POLICIES.—A statement of the policies governing eligibility, selection, admissions (including any preferences), assignment, and occupancy of families with respect to public housing dwelling units and housing assistance under section 8(o).

''(4) RENT DETERMINATION.—A statement of the policies of the public housing agency governing rents charged for public housing dwelling units and rental contributions of assisted families under section 8(o).

''(5) OPERATION AND MANAGEMENT.—A statement of the rules, standards, and policies of the public housing agency governing maintenance and management of housing owned and operated by the public housing agency, and management of the public housing agency and programs of the public housing agency.

''(6) GRIEVANCE PROCEDURE.—A statement of the grievance procedures of the public housing agency.

''(7) CAPITAL IMPROVEMENTS.—With respect to public housing developments owned or operated by the public housing agency, a plan describing the capital improvements necessary to ensure long-term physical and social viability of the developments.

''(8) DEMOLITION AND DISPOSITION.—With respect to public housing developments owned or operated by the public housing agency—

''(A) a description of any housing to be demolished or disposed of; and

''(B) a timetable for that demolition or disposition.

''(9) DESIGNATION OF HOUSING FOR ELDERLY AND DISABLED FAMILIES.—With respect to public housing developments owned or operated by the public housing agency, a description of any developments (or portions thereof) that the public housing agency has designated or will designate for occupancy by elderly and disabled families in accordance with section 7.

''(10) CONVERSION OF PUBLIC HOUSING.—With respect to public housing owned or operated by a public housing agency—

''(A) a description of any building or buildings that the public housing agency is required to convert to tenant-based assistance under section 31 or that the public housing agency voluntarily converts under section 22;

''(B) an analysis of those buildings required under that section for conversion; and

''(C) a statement of the amount of grant amounts to be used for rental assistance or other housing assistance.

''(11) HOMEOWNERSHIP ACTIVITIES.—A description of any homeownership programs of the public housing agency and the requirements for participation in and the assistance available under those programs.

''(12) ECONOMIC SELF-SUFFICIENCY AND COORDINATION WITH WELFARE AND OTHER APPROPRIATE AGENCIES.—A description of—

''(A) any programs relating to services and amenities provided or offered to assisted families;

''(B) any policies or programs of the public housing agency for the enhancement of the economic and social self-sufficiency of assisted families; and

''(C) how the public housing agency will comply with the requirements of subsections (c) and (d) of section 12.

''(13) SAFETY AND CRIME PREVENTION.—A description of policies established by the public housing agency that increase or maintain the safety of public housing residents.

''(14) CERTIFICATION.—An annual certification by the public housing agency that the public housing agency will carry out the public housing agency plan in conformity with title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 504 of the Rehabilitation Act of 1973, and title II of the Americans with Disabilities Act of 1990, and will affirmatively further the goal of fair housing.

''(15) ANNUAL AUDIT.—The results of the most recent fiscal year audit of the public housing agency.

''(e) RESIDENT ADVISORY BOARD.—

''(1) IN GENERAL.—Except as provided in paragraph (3), each public housing agency shall establish 1 or more resident advisory boards in accordance with this subsection, the membership

of which shall adequately reflect and represent the residents of the dwelling units owned, operated, or assisted by the public housing agency.

''(2) PURPOSE.—Each resident advisory board established under this subsection shall assist and make recommendations regarding the development of the public housing agency plan. The public housing agency shall consider the recommendations of the resident advisory boards in preparing the final public housing agency plan, and shall include a copy of those recommendations in the public housing agency plan submitted to the Secretary under this section.

''(3) WAIVER.—The Secretary may waive the requirements of this subsection with respect to the establishment of resident advisory boards, if the public housing agency demonstrates to the satisfaction of the Secretary that there exists a resident council or other resident organization of the public housing agency that—

''(A) adequately represents the interests of the residents of the public housing agency; and

''(B) has the ability to perform the functions described in paragraph (2).

''(f) PUBLICATION OF NOTICE.—

''(1) IN GENERAL.—Not later than 45 days before the date of a hearing conducted under paragraph (2) by the governing body of a public housing agency, the public housing agency shall publish a notice informing the public that—

''(A) the proposed public housing agency plan is available for inspection at the principal office of the public housing agency during normal business hours; and

''(B) a public hearing will be conducted to discuss the public housing agency plan and to invite public comment regarding that plan.

''(2) PUBLIC HEARING.—Each public housing agency shall, at a location that is convenient to residents, conduct a public hearing, as provided in the notice published under paragraph (1).

''(3) ADOPTION OF PLAN.—After conducting the public hearing under paragraph (2), and after considering all public comments received and, in consultation with the resident advisory board, making any appropriate changes in the public housing agency plan, the public housing agency shall—

''(A) adopt the public housing agency plan; and

''(B) submit the plan to the Secretary in accordance with this section.

''(g) AMENDMENTS AND MODIFICATIONS TO PLANS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), nothing in this section shall preclude a public housing agency, after submitting a plan to the Secretary in accordance with this section, from amending or modifying any policy, rule, regulation, or plan of the public housing agency, except that no such significant amendment or modification may be adopted or implemented—

''(A) other than at a duly called meeting of commissioners (or other comparable governing body) of the public housing agency that is open to the public; and

''(B) until notification of the amendment or modification is provided to the Secretary and approved in accordance with subsection (h)(2).

''(2) CONSISTENCY.—Each significant amendment or modification to a public housing agency plan submitted to the Secretary under this section shall—

''(A) meet the consistency requirement of subsection (c)(2);

''(B) be subject to the notice and public hearing requirements of subsection (f); and

''(C) be subject to approval by the Secretary in accordance with subsection (h)(2).

''(h) TIMING OF PLANS.—

''(1) IN GENERAL.—

''(A) INITIAL SUBMISSION.—Each public housing agency shall submit the initial plan required by this section, and any amendment or modification to the initial plan, to the Secretary at such time and in such form as the Secretary shall require.

''(B) ANNUAL SUBMISSION.—Not later than 60 days prior to the start of the fiscal year of the public housing agency, after initial submission of the plan required by this section in accordance with subparagraph (A), each public housing agency shall annually submit to the Secretary a plan update, including any amendments or modifications to the public housing agency plan.

''(2) REVIEW AND APPROVAL.—

''(A) REVIEW.—After submission of the public housing agency plan or any amendment or modification to the plan to the Secretary, to the extent that the Secretary considers such action to be necessary to make determinations under this subparagraph, the Secretary shall review the public housing agency plan (including any amendments or modifications thereto) to determine whether the contents of the plan—

''(i) set forth the information required by this section to be contained in a public housing agency plan;

''(ii) are consistent with information and data available to the Secretary; and

''(iii) are prohibited by or inconsistent with any provision of this title or other applicable law.

''(B) APPROVAL.—

''(i) IN GENERAL.—Except as provided in paragraph (3)(B), not later than 60 days after the date on which a public housing agency plan is submitted in accordance with this section (or, with respect to the initial provision of notice under this subparagraph, not later than 75 days after the date on which the initial public housing agency plan is submitted in accordance with this section), the Secretary shall provide written notice to the public housing agency if the plan has been disapproved, stating with specificity the reasons for the disapproval.

''(ii) FAILURE TO PROVIDE NOTICE OF DISAPPROVAL.—If the Secretary does not provide notice of disapproval under clause (i) before the expiration of the period described in clause (i), the public housing agency plan shall be deemed to be approved by the Secretary.

''(3) SECRETARIAL DISCRETION.—

''(A) IN GENERAL.—The Secretary may require such additional information as the Secretary determines to be appropriate for each public housing agency that is—

''(i) at risk of being designated as troubled under section 6(j); or

''(ii) designated as troubled under section 6(j).

''(B) TROUBLED AGENCIES.—The Secretary shall provide explicit written approval or disapproval, in a timely manner, for a public housing agency plan submitted by any public housing agency designated by the Secretary as a troubled public housing agency under section 6(j).

''(C) ADVISORY BOARD CONSULTATION ENFORCEMENT.—Following a written request by the resident advisory board that documents a failure on the part of the public housing agency to provide adequate notice and opportunity for comment under subsection (f), and upon a Secretarial finding of good cause within the time period provided for in paragraph (2)(B) of this subsection, the Secretary may require the public housing agency to adequately remedy that failure prior to a final approval of the public housing agency plan under this section.

''(4) STREAMLINED PLAN.—In carrying out this section, the Secretary may establish a streamlined public housing agency plan for—

''(A) public housing agencies that are determined by the Secretary to be high performing public housing agencies;

''(B) public housing agencies with less than 250 public housing units that have not been designated as troubled under section 6(j); and

''(C) public housing agencies that only administer tenant-based assistance and that do not own or operate public housing.''.

(b) IMPLEMENTATION.—

(1) INTERIM RULE.—Not later than 120 days after the date of enactment of this Act, the Secretary shall issue an interim rule to require the submission of an interim public housing agency plan by each public housing agency, as required by section 5A of the United States Housing Act of 1937 (as added by subsection (a) of this section).

(2) FINAL REGULATIONS.—Not later than 1 year after the date of enactment of this Act, in accordance with the negotiated rulemaking procedures set forth in subchapter III of chapter 5 of title 5, United States Code, the Secretary shall promulgate final regulations implementing section 5A of the United States Housing Act of 1937 (as added by subsection (a) of this section).

(c) AUDIT AND REVIEW; REPORT.—

(1) AUDIT AND REVIEW.—Not later than 1 year after the effective date of final regulations promulgated under subsection (b)(2), in order to determine the degree of compliance with public housing agency plans approved under section 5A of the United States Housing Act of 1937 (as added by subsection (a) of this section) by public housing agencies, the Comptroller General of the United States shall conduct—

(A) a review of a representative sample of the public housing agency plans approved under such section 5A before that date; and

(B) an audit and review of the public housing agencies submitting those plans.

(2) REPORT.—Not later than 2 years after the date on which public housing agency plans are initially required to be submitted under section 5A of the United States Housing Act of 1937 (as added by subsection (a) of this section) the Comptroller General of the United States shall submit to Congress a report, which shall include—

(A) a description of the results of each audit and review under paragraph (1); and

(B) any recommendations for increasing compliance by public housing agencies with their public housing agency plans approved under section 5A of the United States Housing Act of 1937 (as added by subsection (a) of this section).

SEC. 107. CONTRACT PROVISIONS AND REQUIREMENTS.

(a) CONDITIONS.—Section 6(a) of the United States Housing Act of 1937 (42 U.S.C. 1437d(a)) is amended—

(1) in the first sentence, by inserting '', in a manner consistent with the public housing agency plan'' before the period; and

(2) by striking the second sentence.

(b) REPEAL OF FEDERAL PREFERENCES; REVISION OF MAXIMUM INCOME LIMITS; CERTIFICATION OF COMPLIANCE WITH REQUIREMENTS; NOTIFICATION OF ELIGIBILITY.—Section 6(c) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)) is amended to read as follows:

''(c) [Reserved.]''.

(c) EXCESS FUNDS.—Section 6(e) of the United States Housing Act of 1937 (42 U.S.C. 1437d(e)) is amended to read as follows:

''(e) [Reserved.]''.

(d) PERFORMANCE INDICATORS FOR PUBLIC HOUSING AGENCIES.—Section 6(j) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B)—

(i) by striking ''obligated'' and inserting ''provided''; and

(ii) by striking ''unexpended'' and inserting ''unobligated by the public housing agency'';

(B) in subparagraph (D), by striking ''energy'' and inserting ''utility'';

(C) by redesignating subparagraph (H) as subparagraph (J); and

(D) by inserting after subparagraph (G) the following:

''(H) The extent to which the public housing agency—

''(i) coordinates, promotes, or provides effective programs and activities to promote the economic self-sufficiency of public housing residents; and

''(ii) provides public housing residents with opportunities for involvement in the administration of the public housing.

''(I) The extent to which the public housing agency implements—

''(i) effective screening and eviction policies; and

''(ii) other anticrime strategies;

including the extent to which the public housing agency coordinates with local government officials and residents in the development and implementation of these strategies.

''(J) The extent to which the public housing agency is providing acceptable basic housing conditions.

''(K) The extent to which the public housing agency successfully meets the goals and carries out the activities and programs of the public housing agency plan under section 5(A).''; and

(2) in paragraph (2)(A)(i), by inserting after the first sentence the following: ''The Secretary may use a simplified set of indicators for public housing agencies with less than 250 public housing units.''.

(e) DRUG-RELATED AND CRIMINAL ACTIVITY.—Section 6(k) of the United States Housing Act of 1937 (42 U.S.C. 1437d(k)) is amended, in the matter following paragraph (6)—

(1) by striking ''drug-related'' and inserting ''violent or drug-related''; and

(2) by inserting ''or any activity resulting in a felony conviction,'' after ''on or off such premises,''.

(f) LEASES.—Section 6(l) of the United States Housing Act of 1937 (42 U.S.C. 1437d(l)) is amended—

(1) in paragraph (3), by striking ''not be less than'' and all that follows through the end of paragraph (3) and inserting: ''be the period of time required under State or local law, except that the public housing agency may provide such notice within a reasonable time which does not exceed the lesser of—

''(A) the period provided under applicable State or local law; or

''(B) 30 days—

''(i) if the health or safety of other tenants, public housing agency employees, or persons residing in the immediate vicinity of the premises is threatened; or

''(ii) in the event of any drug-related or violent criminal activity or any felony conviction;'';

(2) in paragraph (6), by striking ''and'' at the end;

(3) by redesignating paragraph (7) as paragraph (8); and

(4) by inserting after paragraph (6) following:

''(7) provide that any occupancy in violation of section 7(e)(1) or the furnishing of any false or misleading information pursuant to section 7(e)(2) shall be cause for termination of tenancy; and''.

(g) PUBLIC HOUSING ASSISTANCE TO FOSTER CARE CHILDREN.—Section 6(o) of the United States Housing Act of 1937 (42 U.S.C. 1437d(o)) is amended by striking ''Subject'' and all that follows through '', in'' and inserting ''In''.

(h) PREFERENCE FOR AREAS WITH INADEQUATE SUPPLY OF VERY LOW-INCOME HOUSING.—Section 6(p) of the United States Housing Act of 1937 (42 U.S.C. 1437d(p)) is amended to read as follows:

''(p) [Reserved.]''.

(i) TRANSITION RULE RELATING TO PREFERENCES.—During the period beginning on the date of enactment of this Act and ending on the date on which the initial public housing agency plan of a public housing agency is approved under section 5A of the United States Housing Act of 1937 (as added by this Act) the public housing agency may establish local preferences for making available public housing under the United States Housing Act of 1937 and for providing tenant-based assistance under section 8 of that Act.

SEC. 108. EXPANSION OF POWERS FOR DEALING WITH PHA'S IN SUBSTANTIAL DEFAULT.

(a) IN GENERAL.—Section 6(j)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437d) is amended—

(1) in subparagraph (A)—

(A) by striking clause (i) and inserting the following:

''(i) solicit competitive proposals from other public housing agencies and private housing management agents that, in the discretion of the Secretary, may be selected by existing public housing residents through administrative procedures established by the Secretary; if appropriate, these proposals shall provide for such agents to manage all, or part, of the housing administered by the public housing agency or all or part of the other programs of the agency;'';

(B) by striking clause (iv) and inserting the following:

''(v) require the agency to make other arrangements acceptable to the Secretary and in the best interests of the public housing residents and families assisted under section 8 for managing all, or part, of the public housing administered by the agency or of the programs of the agency.''; and

(C) by inserting after clause (iii) the following:

''(iv) take possession of all or part of the public housing agency, including all or part of any project or program of the agency, including any project or program under any other provision of this title; and''; and

(2) by striking subparagraphs (B) through (D) and inserting the following:

''(B)(i) If a public housing agency is identified as troubled under this subsection, the Secretary shall notify the agency of the troubled status of the agency.

''(ii)(I) Upon the expiration of the 1-year period beginning on the later of the date on which the agency receives notice from the Secretary of the troubled status of the agency under clause (i) and the date of enactment of the Public Housing Reform and Responsibility Act of 1997, the Secretary shall—

''(aa) in the case of a troubled public housing agency with 1,250 or more units, petition for the appointment of a receiver pursuant to subparagraph (A)(ii); or

''(bb) in the case of a troubled public housing agency with fewer than 1,250 units, either petition for the appointment of a receiver pursuant to subparagraph (A)(ii), or take possession of the public housing agency (including all or part of any project or program of the agency) pursuant to subparagraph (A)(iv) and appoint, on a competitive or noncompetitive basis, an individual or entity as an administrative receiver to assume the responsibilities of the Secretary for the administration of all or part of the public housing agency (including all or part of any project or program of the agency).

''(II) During the period between the date on which a petition is filed under item (aa) and the date on which a receiver assumes responsibility for the management of the public housing agency under that item, the Secretary may take possession of the public housing agency (including all or part of any project or program of the agency) pursuant to subparagraph (A)(iv) and may appoint, on a competitive or noncompetitive basis, an individual or entity as an administrative receiver to assume the responsibilities of the Secretary for the administration of all or part of the public housing agency (including all or part of any project or program of the agency).

''(C) If a receiver is appointed pursuant to subparagraph (A)(ii), in addition to the powers accorded by the court appointing the receiver, the receiver—

''(i) may abrogate any contract to which the United States or an agency of the United States is not a party that, in the receiver's written determination (which shall include the basis for such determination), substantially impedes correction of the substantial default, but only after the receiver determines that reasonable efforts to renegotiate such contract have failed;

''(ii) may demolish and dispose of all or part of the assets of the public housing agency (including all or part of any project of the agency) in accordance with section 18, including disposition by transfer of properties to resident-supported nonprofit entities;

''(iii) if determined to be appropriate by the Secretary, may seek the establishment, as permitted by applicable State and local law, of 1 or more new public housing agencies;

''(iv) if determined to be appropriate by the Secretary, may seek consolidation of all or part of the agency (including all or part of any project or program of the agency), as permitted by applicable State and local laws, into other well-managed public housing agencies with the consent of such well-managed agencies; and

''(v) shall not be required to comply with any State or local law relating to civil service requirements, employee rights (except civil rights), procurement, or financial or administrative controls that, in the receiver's written determination (which shall include the basis for such determination), substantially impedes correction of the substantial default.

''(D)(i) If the Secretary takes possession of all or part of the public housing agency, including all or part of any project or program of the agency, pursuant to subparagraph (A)(iv), the Secretary—

''(I) may abrogate any contract to which the United States or an agency of the United States is not a party that, in the written determination of the Secretary (which shall include the basis for such determination), substantially impedes correction of the substantial default, but only after the Secretary determines that reasonable efforts to renegotiate such contract have failed;

''(II) may demolish and dispose of all or part of the assets of the public housing agency (including all or part of any project of the agency) in accordance with section 18, including disposition by transfer of properties to resident-supported nonprofit entities;

''(III) may seek the establishment, as permitted by applicable State and local law, of 1 or more new public housing agencies;

''(IV) may seek consolidation of all or part of the agency (including all or part of any project or program of the agency), as permitted by applicable State and local laws, into other well-managed public housing agencies with the consent of such well-managed agencies;

''(V) shall not be required to comply with any State or local law relating to civil service requirements, employee rights (except civil rights), procurement, or financial or administrative controls that, in the Secretary's written determination (which shall include the basis for such determination), substantially impedes correction of the substantial default; and

''(VI) shall, without any action by a district court of the United States, have such additional authority as a district court of the United States would have the authority to confer upon a receiver to achieve the purposes of the receivership.

''(ii) If the Secretary, pursuant to subparagraph (B)(ii)(II), appoints an administrative receiver to assume the responsibilities of the Secretary for the administration of all or part of the public housing agency (including all or part of any project or program of the agency), the Secretary may delegate to the administrative receiver any or all of the powers given the Secretary by this subparagraph, as the Secretary determines to be appropriate.

''(iii) Regardless of any delegation under this subparagraph, an administrative receiver may not seek the establishment of 1 or more new public housing agencies pursuant to clause (i)(III) or the consolidation of all or part of an agency into other well-managed agencies pursuant to clause (i)(IV), unless the Secretary first approves an application by the administrative receiver to authorize such action.

''(E) The Secretary may make available to receivers and other entities selected or appointed pursuant to this paragraph such assistance as the Secretary determines in the discretion of the Secretary is necessary and available to remedy

the substantial deterioration of living conditions in individual public housing developments or other related emergencies that endanger the health, safety, and welfare of public housing residents or families assisted under section 8. A decision made by the Secretary under this paragraph is not subject to review in any court of the United States, or in any court of any State, territory, or possession of the United States.

''(F) In any proceeding under subparagraph (A)(ii), upon a determination that a substantial default has occurred, and without regard to the availability of alternative remedies, the court shall appoint a receiver to conduct the affairs of all or part of the public housing agency in a manner consistent with this Act and in accordance with such further terms and conditions as the court may provide. The receiver appointed may be another public housing agency, a private management corporation, or any other person or appropriate entity. The court shall have power to grant appropriate temporary or preliminary relief pending final disposition of the petition by the Secretary.

''(G) The appointment of a receiver pursuant to this paragraph may be terminated, upon the petition of any party, when the court determines that all defaults have been cured or the public housing agency is capable again of discharging its duties.

''(H) If the Secretary (or an administrative receiver appointed by the Secretary) takes possession of a public housing agency (including all or part of any project or program of the agency), or if a receiver is appointed by a court, the Secretary or receiver shall be deemed to be acting not in the official capacity of that person or entity, but rather in the capacity of the public housing agency, and any liability incurred, regardless of whether the incident giving rise to that liability occurred while the Secretary or receiver was in possession of all or part of the public housing agency (including all or part of any project or program of the agency), shall be the liability of the public housing agency.''.

(b) APPLICABILITY.—The provisions of, and duties and authorities conferred or confirmed by, the amendments made by subsection (a) shall apply with respect to any action taken before, on, or after the effective date of this Act and shall apply to any receiver appointed for a public housing agency before the date of enactment of this Act.

(c) TECHNICAL CORRECTION REGARDING APPLICABILITY TO SECTION 8.—Section 8(h) of the United States Housing Act of 1937 is amended by inserting ''(except as provided in section 6(j)(3))'' after ''6''.

SEC. 109. PUBLIC HOUSING SITE-BASED WAITING LISTS.

Section 6 of the United States Housing Act of 1937 is amended by adding at the end the following:

''(s) SITE-BASED WAITING LISTS.—

''(1) IN GENERAL.—A public housing agency may establish, in accordance with guidelines established by the Secretary, procedures for maintaining waiting lists for admissions to public housing developments of the agency, which may include a system under which applicants may apply directly at or otherwise designate the development or developments in which they seek to reside.

''(2) CIVIL RIGHTS.—Any procedures established under paragraph (1) shall comply with title VI of the Civil Rights Act of 1964, the Fair Housing Act, and other applicable civil rights laws.

''(3) NOTICE REQUIRED.—Any system described in paragraph (1) shall provide for the full disclosure by the public housing agency to each applicant of any option available to the applicant in the selection of the development in which to reside.''.

SEC. 110. PUBLIC HOUSING CAPITAL AND OPERATING FUNDS.

(a) IN GENERAL.—Section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g) is amended to read as follows:

''SEC. 9. PUBLIC HOUSING CAPITAL AND OPERATING FUNDS.

''(a) IN GENERAL.—Except for assistance provided under section 8 of this Act or as otherwise provided in the Public Housing Reform and Responsibility Act of 1997, all programs under which assistance is provided for public housing under this Act on the day before October 1, 1998, shall be merged, as appropriate, into either—

''(1) the Capital Fund established under subsection (c); or

''(2) the Operating Fund established under subsection (d).

''(b) USE OF EXISTING FUNDS.—With the exception of funds made available pursuant to section 8 or section 20(f) and funds made available for the urban revitalization demonstration program authorized under the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Acts—

''(1) funds made available to the Secretary for public housing purposes that have not been obligated by the Secretary to a public housing agency as of October 1, 1998, shall be made available, for the period originally provided in law, for use in either the Capital Fund or the Operating Fund, as appropriate; and

''(2) funds made available to the Secretary for public housing purposes that have been obligated by the Secretary to a public housing agency but that, as of October 1, 1998, have not been obligated by the public housing agency, may be made available by that public housing agency, for the period originally provided in law, for use in either the Capital Fund or the Operating Fund, as appropriate.

''(c) CAPITAL FUND.—

''(1) IN GENERAL.—The Secretary shall establish a Capital Fund for the purpose of making assistance available to public housing agencies to carry out capital and management activities, including—

''(A) the development and modernization of public housing projects, including the redesign, reconstruction, and reconfiguration of public housing sites and buildings and the development of mixed-finance projects;

''(B) vacancy reduction;

''(C) addressing deferred maintenance needs and the replacement of dwelling equipment;

''(D) planned code compliance;

''(E) management improvements;

''(F) demolition and replacement;

''(G) resident relocation;

''(H) capital expenditures to facilitate programs to improve the empowerment and economic self-sufficiency of public housing residents and to improve resident participation;

''(I) capital expenditures to improve the security and safety of residents; and

''(J) homeownership activities.

''(2) ESTABLISHMENT OF CAPITAL FUND FORMULA.—The Secretary shall develop a formula for providing assistance under the Capital Fund, which may take into account—

''(A) the number of public housing dwelling units owned or operated by the public housing agency and the percentage of those units that are occupied by very low-income families;

''(B) if applicable, the reduction in the number of public housing units owned or operated by the public housing agency as a result of any conversion to a system of tenant-based assistance;

''(C) the costs to the public housing agency of meeting the rehabilitation and modernization needs, and meeting the reconstruction, development, replacement housing, and demolition needs of public housing dwelling units owned and operated by the public housing agency;

''(D) the degree of household poverty served by the public housing agency;

''(E) the costs to the public housing agency of providing a safe and secure environment in public housing units owned and operated by the public housing agency; and

''(F) the ability of the public housing agency to effectively administer the Capital Fund distribution of the public housing agency.

''(3) CONDITION ON USE OF THE CAPITAL FUND FOR DEVELOPMENT AND MODERNIZATION.—

''(A) DEVELOPMENT.—Any public housing developed using amounts provided under this subsection shall be operated for a 40-year period under the terms and conditions applicable to public housing during that period, beginning on the date on which the development (or stage of development) becomes available for occupancy.

''(B) MODERNIZATION.—Any public housing, or portion thereof, that is modernized using amounts provided under this subsection shall be maintained and operated for a 20-year period under the terms and conditions applicable to public housing during that period, beginning on the latest date on which modernization is completed.

''(C) APPLICABILITY OF LATEST EXPIRATION DATE.—Public housing subject to this paragraph or to any other provision of law mandating the operation of the housing as public housing or under the terms and conditions applicable to public housing for a specified length of time shall be maintained and operated as required until the latest expiration date.

''(d) OPERATING FUND.—

''(1) IN GENERAL.—The Secretary shall establish an Operating Fund for the purpose of making assistance available to public housing agencies for the operation and management of public housing, including—

''(A) procedures and systems to maintain and ensure the efficient management and operation of public housing units;

''(B) activities to ensure a program of routine preventative maintenance;

''(C) anticrime and antidrug activities, including the costs of providing adequate security for public housing residents;

''(D) activities related to the provision of services, including service coordinators for elderly persons or persons with disabilities;

''(E) activities to provide for management and participation in the management and policymaking of public housing by public housing residents;

''(F) the costs associated with the operation and management of mixed-finance projects, to the extent appropriate (including the funding of an operating reserve to ensure affordability for low-income and very low-income families in lieu of the availability of operating funds for public housing units in a mixed-finance project);

''(G) the reasonable costs of insurance;

''(H) the reasonable energy costs associated with public housing units, with an emphasis on energy conservation; and

''(I) the costs of administering a public housing work program under section 12, including the costs of any related insurance needs.

''(2) ESTABLISHMENT OF OPERATING FUND FORMULA.—The Secretary shall establish a formula for providing assistance under the Operating Fund, which may take into account—

''(A) standards for the costs of operation and reasonable projections of income, taking into account the character and location of the public housing project and characteristics of the families served, or the costs of providing comparable services as determined with criteria or a formula representing the operations of a prototype well-managed public housing project;

''(B) the number of public housing dwelling units owned and operated by the public housing agency, the percentage of those units that are occupied by very low-income families, and, if applicable, the reduction in the number of public housing units as a result of any conversion to a system of tenant-based assistance;

''(C) the degree of household poverty served by a public housing agency;

''(D) the extent to which the public housing agency provides programs and activities designed to promote the economic self-sufficiency and management skills of public housing residents;

''(E) the number of dwelling units owned and operated by the public housing agency that are

chronically vacant and the amount of assistance appropriate for those units;

''(F) the costs of the public housing agency associated with anticrime and antidrug activities, including the costs of providing adequate security for public housing residents; and

''(G) the ability of the public housing agency to effectively administer the Operating Fund distribution of the public housing agency.

''(e) LIMITATIONS ON USE OF FUNDS.—

''(1) IN GENERAL.—Each public housing agency may use not more than 20 percent of the Capital Fund distribution of the public housing agency for activities that are eligible for assistance under the Operating Fund under subsection (d), if the public housing agency plan provides for such use.

''(2) NEW CONSTRUCTION.—

''(A) IN GENERAL.—A public housing agency may not use any of the Capital Fund or Operating Fund distributions of the public housing agency for the purpose of constructing any public housing unit, if such construction would result in a net increase in the number of public housing units owned or operated by the public housing agency on the date of enactment of the Public Housing Reform and Responsibility Act of 1997, including any public housing units demolished as part of any revitalization effort.

''(B) EXCEPTION.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A), a public housing agency may use the Capital Fund or Operating Fund distributions of the public housing agency for the construction and operation of housing units that are available and affordable to low-income families in excess of the limitations on new construction set forth in subparagraph (A), except that the formulas established under subsections (c)(2) and (d)(2) shall not provide additional funding for the specific purpose of allowing construction and operation of housing in excess of those limitations.

''(ii) EXCEPTION.—Notwithstanding clause (i), subject to reasonable limitations set by the Secretary, the formulae established under subsections (c)(2) and (d)(2) may provide additional funding for the operation and modernization costs (but not the initial development costs) of housing in excess of amounts otherwise permitted under this paragraph if—

''(I) those units are part of a mixed-finance project or otherwise leverage significant additional private or public investment; and

''(II) the estimated cost of the useful life of the project is less than the estimated cost of providing tenant-based assistance under section 8(o) for the same period of time.

''(f) DIRECT PROVISION OF OPERATING AND CAPITAL ASSISTANCE.—

''(1) IN GENERAL.—The Secretary shall directly provide operating and capital assistance under this section to a resident management corporation managing a public housing development pursuant to a contract under this section, but only if—

''(A) the resident management corporation petitions the Secretary for the release of the funds;

''(B) the contract provides for the resident management corporation to assume the primary management responsibilities of the public housing agency; and

''(C) the Secretary determines that the corporation has the capability to effectively discharge such responsibilities.

''(2) USE OF ASSISTANCE.—Any operating and capital assistance provided to a resident management corporation pursuant to this subsection shall be used for purposes of operating the public housing developments of the agency and performing such other eligible activities with respect to public housing as may be provided under the contract.

''(3) RESPONSIBILITY OF PUBLIC HOUSING AGENCY.—If the Secretary provides direct funding to a resident management corporation under this subsection, the public housing agency shall not be responsible for the actions of the resident management corporation.

''(g) TECHNICAL ASSISTANCE.—To the extent approved in advance in appropriations Acts, the Secretary may make grants or enter into contracts in accordance with this subsection for purposes of providing, either directly or indirectly—

''(1) technical assistance to public housing agencies, resident councils, resident organizations, and resident management corporations, including assistance relating to monitoring and inspections;

''(2) training for public housing agency employees and residents;

''(3) data collection and analysis; and

''(4) training, technical assistance, and education to assist public housing agencies that are—

''(A) at risk of being designated as troubled under section 6(j) from being so designated; and

''(B) designated as troubled under section 6(j) in achieving the removal of that designation.

''(h) EMERGENCY RESERVE.—

''(1) IN GENERAL.—

''(A) SET-ASIDE.—In each fiscal year, the Secretary shall set aside not more than 2 percent of the amount made available for use under the capital fund to carry out this section for that fiscal year for use in accordance with this subsection.

''(B) USE OF FUNDS.—Amounts set aside under this paragraph shall be available to the Secretary for use in connection with—

''(i) emergencies and other disasters;

''(ii) housing needs resulting from any settlement of litigation; and

''(iii) the Operation Safe Home program, except that amounts set aside under this clause may not exceed $10,000,000 in any fiscal year.

''(2) LIMITATION.—With respect to any fiscal year, the Secretary may carry over not more than a total of $25,000,000 in unobligated amounts set aside under this subsection for use in connection with the activities described in paragraph (1)(B) during the succeeding fiscal year.

''(3) REPORTS.—The Secretary and the Office of Inspector General shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking and Financial Services of the House of Representatives regarding the feasibility of transferring the authority to administer the program functions implemented to reduce violent crime in public housing under Operation Safe Home to the Office of Public and Indian Housing or to the Department of Justice.

''(4) PUBLICATION.—The Secretary shall publish the use of any amounts allocated under this subsection relating to emergencies (other disasters and housing needs resulting from any settlement of litigation) in the Federal Register.

''(i) PENALTY FOR SLOW EXPENDITURE OF CAPITAL FUNDS.—

''(1) IN GENERAL.—

''(A) TIME PERIOD.—Except as provided in paragraph (2), and subject to subparagraph (B) of this paragraph, a public housing agency shall obligate any assistance received under this section not later than 18 months after the date on which the funds become available to the agency for obligation.

''(B) EXTENSION OF TIME PERIOD.—The Secretary may—

''(i) extend the time period described in subparagraph (A) for a period of not more than 1 year with respect to a public housing agency, if the Secretary determines that the failure of the public housing agency to obligate assistance in a timely manner is attributable to events beyond the control of the public housing agency; and

''(ii) provide an exception to the requirements of subparagraph (A) with respect to any de minimis amounts to be obligated by a public housing agency with the funding for the subsequent fiscal year of the public housing agency, to the extent that the Secretary determines such action to be necessary to permit the public housing agency to accumulate sufficient funding—

''(I) to undertake certain activities; and

''(II) to provide replacement housing.

''(C) EFFECT OF FAILURE TO COMPLY.—

''(i) IN GENERAL.—A public housing agency shall not be awarded assistance under this section for any month during any fiscal year in which the public housing agency has funds unobligated in violation of subparagraph (A).

''(ii) EFFECT OF FAILURE TO COMPLY.—During any fiscal year described in clause (i), the Secretary shall withhold all assistance that would otherwise be provided to the public housing agency. If the public housing agency cures its default during the year, it shall be provided with the share attributable to the months remaining in the year.

''(iii) REDISTRIBUTION.—The total amount of any funds not provided public housing agencies by operation of this subparagraph shall be distributed to high-performing agencies, as determined under section 6(j).

''(2) EXCEPTION.—

''(A) IN GENERAL.—Subject to subparagraph (B), if the Secretary has consented, before the date of enactment of the Public Housing Reform and Responsibility Act of 1997, to an obligation period for any agency longer than provided under paragraph (1)(A), a public housing agency that obligates its funds before the expiration of that period shall not be considered to be in violation of paragraph (1)(A).

''(B) FISCAL YEAR 1995.—Notwithstanding subparagraph (A)—

''(i) any funds appropriated to a public housing agency for fiscal year 1995, or for any preceding fiscal year, shall be fully obligated by the public housing agency not later than September 30, 1998; and

''(ii) any funds appropriated to a public housing agency for fiscal year 1996 or 1997 shall be fully obligated by the public housing agency not later than September 30, 1999.

''(3) EXPENDITURE OF AMOUNTS.—

''(A) IN GENERAL.—A public housing agency shall spend any assistance received under this section not later than 4 years (plus the period of any extension approved by the Secretary under paragraph (1)(B)) after the date on which funds become available to the agency for obligation.

''(B) ENFORCEMENT.—The Secretary shall enforce the requirement of subparagraph (A) through default remedies up to and including withdrawal of the funding.

''(4) RIGHT OF RECAPTURE.—Any obligation entered into by a public housing agency shall be subject to the right of the Secretary to recapture the obligated amounts for violation by the public housing agency of the requirements of this subsection.''.

(b) IMPLEMENTATION; EFFECTIVE DATE; TRANSITION PERIOD.—

(1) IMPLEMENTATION.—Not later than 1 year after the date of enactment of this Act, in accordance with the negotiated rulemaking procedures set forth in subchapter III of chapter 5 of title 5, United States Code, the Secretary shall establish the formulas described in subsections (c)(3) and (d)(2) of section 9 of the United States Housing Act of 1937, as amended by this section.

(2) EFFECTIVE DATE.—The formulas established under paragraph (1) shall be effective only with respect to amounts made available under section 9 of the United States Housing Act of 1937, as amended by this section, in fiscal year 1999 or in any succeeding fiscal year.

(3) TRANSITION PERIOD.—

(A) IN GENERAL.—Subject to subparagraph (B), prior to the effective date described in paragraph (2), the Secretary shall provide that each public housing agency shall receive funding under sections 9 and 14 of the United States Housing Act of 1937, as those sections existed on the day before the date of enactment of this Act.

(B) QUALIFICATION.—If a public housing agency establishes a rental amount that is less than 30 percent of the monthly adjusted income of the family under section 3(a)(1)(A) of the United States Housing Act of 1937 (as amended

by section 103(a) of this Act), the Secretary shall not take into account any reduction of or increase in the per unit dwelling rental income of the public housing agency resulting from the use of that rental amount in calculating the contributions for the public housing agency for the operation of the public housing under section 9 of the United States Housing Act of 1937 (as in existence on the day before the date of enactment of this Act).

SEC. 111. COMMUNITY SERVICE AND SELF-SUFFICIENCY.

Section 12 of the United States Housing Act of 1937 (42 U.S.C. 1437j) is amended by adding at the end the following:

''(c) COMMUNITY SERVICE AND SELF-SUFFICIENCY REQUIREMENT.—

''(1) MINIMUM REQUIREMENT.—Notwithstanding any other provision of law, each adult member of each family assisted under this title shall—

''(A) contribute not less than 8 hours per month of community service (not to include any political activity) within the community in which that adult resides; or

''(B) participate in a self-sufficiency program (as that term is defined in subsection (d)(1)) for not less than 8 hours per month.

''(2) INCLUSION IN PLAN.—Each public housing agency shall include in the public housing agency plan a detailed description of the manner in which the public housing agency intends to implement and administer paragraph (1).

''(3) EXEMPTIONS.—The Secretary may provide an exemption from paragraph (1) for any adult who—

''(A) has attained age 62;

''(B) is a blind or disabled individual, as defined under section 1614 of the Social Security Act (42 U.S.C. 1382c) and who is unable to comply with this section, or a primary caretaker of that individual;

''(C) is engaged in a work activity (as that term is defined in subsection (d)(1)(C)); or

''(D) meets the requirements for being exempted from having to engage in a work activity under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under any other welfare program of the State in which the public housing agency is located.

''(d) SELF-SUFFICIENCY.—

''(1) DEFINITIONS.—In this section—

''(A) the term 'covered family' means a family that—

''(i) receives benefits for welfare or public assistance from a State or other public agency under a program for which the Federal, State, or local law relating to the program requires, as a condition of eligibility for assistance under the program, participation of a member of the family in a self-sufficiency program; and

''(ii) resides in a public housing dwelling unit or is provided tenant-based assistance;

''(B) the term 'self-sufficiency program' means any program designed to encourage, assist, train, or facilitate the economic independence of participants and their families or to provide work for participants, including programs for job training, employment counseling, work placement, basic skills training, education, workfare and apprenticeship; and

''(C) the term 'work activities' has the meaning given that term in section 407(d) of the Social Security Act (42 U.S.C. 607(d)) (as in effect on and after July 1, 1997).

''(2) COMPLIANCE.—

''(A) SANCTIONS.—Notwithstanding any other provision of law, if the welfare or public assistance benefits of a covered family are reduced under a Federal, State, or local law regarding such an assistance program because of any failure of any member of the family to comply with the conditions under the assistance program requiring participation in a self-sufficiency program or a work activities requirement, or because of an act of fraud by any member of the family under the law or program, the amount required to be paid by the family as a monthly contribution toward rent may not be decreased, during the period of the reduction, as a result of any decrease in the income of the family (to the extent that the decrease in income is a result of the benefits reduction).

''(B) REVIEW.—Any covered family that is affected by the operation of this paragraph shall have the right to review the determination under this paragraph through the administrative grievance procedure for the public housing agency.

''(C) NOTICE.—Subparagraph (A) shall not apply to any covered family before the public housing agency providing assistance under this Act on behalf of the family obtains written notification from the relevant welfare or public assistance agency specifying that the family's benefits have been reduced because of noncompliance with self-sufficiency program or an applicable work activities requirement and the level of such reduction.

''(D) NO APPLICATION OF REDUCTIONS BASED ON TIME LIMIT FOR ASSISTANCE.—For purposes of this paragraph, a reduction in benefits as a result of the expiration of a lifetime time limit for a family receiving welfare or public assistance benefits shall not be considered to be a failure to comply with the conditions under the assistance program requiring participation in a self-sufficiency program or a work activities requirement.

''(3) OCCUPANCY RIGHTS.—This subsection may not be construed to authorize any public housing agency to limit the duration of tenancy in a public housing dwelling unit or of tenant-based assistance.

''(4) COOPERATION AGREEMENTS FOR SELF-SUFFICIENCY ACTIVITIES.—

''(A) REQUIREMENT.—To the maximum extent practicable, a public housing agency providing public housing dwelling units or tenant-based assistance for covered families shall enter into such cooperation agreements, with State, local, and other agencies providing assistance to covered families under welfare or public assistance programs, as may be necessary, to provide for such agencies to transfer information to facilitate administration of subsection (c) or paragraph (2) of this subsection, and other information regarding rents, income, and assistance that may assist a public housing agency or welfare or public assistance agency in carrying out its functions.

''(B) CONTENTS.—A public housing agency shall seek to include in a cooperation agreement under this paragraph requirements and provisions designed to target assistance under welfare and public assistance programs to families residing in public and other assisted housing developments, which may include providing for self-sufficiency services within such housing, providing for services designed to meet the unique employment-related needs of residents of such housing, providing for placement of workfare positions on-site in such housing, and such other elements as may be appropriate.

''(C) CONFIDENTIALITY.—This paragraph may not be construed to authorize any release of information that is prohibited by, or in contravention of, any other provision of Federal, State, or local law.''.

SEC. 112. REPEAL OF ENERGY CONSERVATION; CONSORTIA AND JOINT VENTURES.

Section 13 of the United States Housing Act of 1937 (42 U.S.C. 1437k) is amended to read as follows:

''SEC. 13. CONSORTIA, JOINT VENTURES, AFFILIATES, AND SUBSIDIARIES OF PUBLIC HOUSING AGENCIES.

''(a) CONSORTIA.—

''(1) IN GENERAL.—Any 2 or more public housing agencies may participate in a consortium for the purpose of administering any or all of the housing programs of those public housing agencies in accordance with this section.

''(2) EFFECT.—With respect to any consortium described in paragraph (1)—

''(A) any assistance made available under this title to each of the public housing agencies participating in the consortium shall be paid to the consortium; and

''(B) all planning and reporting requirements imposed upon each public housing agency participating in the consortium with respect to the programs operated by the consortium shall be consolidated.

''(3) RESTRICTIONS.—

''(A) AGREEMENT.—Each consortium described in paragraph (1) shall be formed and operated in accordance with a consortium agreement, and shall be subject to the requirements of a joint public housing agency plan, which shall be submitted by the consortium in accordance with section 5A.

''(B) MINIMUM REQUIREMENTS.—The Secretary shall specify minimum requirements relating to the formation and operation of consortia and the minimum contents of consortium agreements under this paragraph.

''(b) JOINT VENTURES.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, a public housing agency, in accordance with the public housing agency plan, may—

''(A) form and operate wholly owned or controlled subsidiaries (which may be nonprofit corporations) and other affiliates, any of which may be directed, managed, or controlled by the same persons who constitute the board of commissioners or other similar governing body of the public housing agency, or who serve as employees or staff of the public housing agency; or

''(B) enter into joint ventures, partnerships, or other business arrangements with, or contract with, any person, organization, entity, or governmental unit, with respect to the administration of the programs of the public housing agency, including any program that is subject to this title.

''(2) USE OF AND TREATMENT INCOME.—Any income generated under paragraph (1)—

''(A) shall be used for low-income housing or to benefit the residents of the public housing agency; and

''(B) shall not result in any decrease in any amount provided to the public housing agency under this title.

''(3) AUDITS.—The Comptroller General of the United States, the Secretary, and the Inspector General of the Department of Housing and Urban Development may conduct an audit of any activity undertaken under paragraph (1) at any time.''.

SEC. 113. REPEAL OF MODERNIZATION FUND.

(a) IN GENERAL.—Section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437l) is repealed.

(b) CONFORMING AMENDMENTS.—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended—

(1) in section 5(c)(5), by striking ''for use under section 14 or'';

(2) in section 5(c)(7)—

(A) in subparagraph (A)—

(i) by striking clause (iii); and

(ii) by redesignating clauses (iv) through (x) as clauses (iii) through (ix), respectively; and

(B) in subparagraph (B)—

(i) by striking clause (iii); and

(ii) by redesignating clauses (iv) through (x) as clauses (iii) through (ix), respectively;

(3) in section 6(j)(1)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraphs (C) through (H) as subparagraphs (B) through (G), respectively;

(4) in section 6(j)(2)(A)—

(A) in clause (i), by striking ''The Secretary shall also designate,'' and all that follows through the period at the end; and

(B) in clause (iii), by striking ''(including designation as a troubled agency for purposes of the program under section 14)'';

(5) in section 6(j)(2)(B)—

(A) in clause (i), by striking ''and determining that an assessment under this subparagraph

will not duplicate any review conducted under section 14(p)''; and

(B) in clause (ii)—

(i) by striking ''(I) the agency's comprehensive plan prepared pursuant to section 14 adequately and appropriately addresses the rehabilitation needs of the agency's inventory, (II)'' and inserting ''(I)''; and

(ii) by striking ''(III)'' and inserting ''(II)'';

(6) in section 6(j)(3)—

(A) in clause (ii), by adding ''and'' at the end;

(B) by striking clause (iii); and

(C) by redesignating clause (iv) as clause (iii);

(7) in section 6(j)(4)—

(A) in subparagraph (D), by adding ''and'' at the end;

(B) in subparagraph (E), by striking ''; and'' at the end and inserting a period; and

(C) by striking subparagraph (F);

(8) in section 20—

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

''(c) [Reserved.]''; and

(B) by striking subsection (f) and inserting the following:

''(f) [Reserved.]'';

(9) in section 21(a)(2)—

(A) by striking subparagraph (A); and

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively;

(10) in section 21(a)(3)(A)(v), by striking ''the building or buildings meet the minimum safety and livability standards applicable under section 14, and'';

(11) in section 25(b)(1), by striking ''From amounts reserved'' and all that follows through ''the Secretary may'' and inserting the following: ''To the extent approved in appropriations Acts, the Secretary may'';

(12) in section 25(e)(2)—

(A) by striking ''The Secretary'' and inserting ''To the extent approved in appropriations Acts, the Secretary''; and

(B) by striking ''available annually from amounts under section 14'';

(13) in section 25(e), by striking paragraph (3);

(14) in section 25(f)(2)(G)(i), by striking ''including—'' and all that follows through ''an explanation'' and inserting ''including an explanation'';

(15) in section 25(i)(1), by striking the second sentence; and

(16) in section 202(b)(2)—

(A) by striking ''(b) FINANCIAL ASSISTANCE.—'' and all that follows through ''The Secretary may,'' and inserting the following:

''(b) FINANCIAL ASSISTANCE.—The Secretary may''; and

(B) by striking paragraph (2).

SEC. 114. ELIGIBILITY FOR PUBLIC AND ASSISTED HOUSING.

Section 16 of the United States Housing Act of 1937 (42 U.S.C. 1437n) is amended to read as follows:

''SEC. 16. ELIGIBILITY FOR PUBLIC AND ASSISTED HOUSING.

''(a) INCOME ELIGIBILITY FOR PUBLIC HOUSING.—

''(1) IN GENERAL.—Of the dwelling units of a public housing agency, including public housing units in a designated mixed-finance project, made available for occupancy in any fiscal year of the public housing agency—

''(A) not less than 40 percent shall be occupied by families whose incomes do not exceed 30 percent of the area median income for those families;

''(B) not less than 75 percent shall be occupied by families whose incomes do not exceed 60 percent of the area median income for those families; and

''(C) any remaining dwelling units may be made available for families whose incomes do not exceed 80 percent of the area median income for those families.

''(2) ESTABLISHMENT OF DIFFERENT STANDARDS.—Notwithstanding paragraph (1), if approved by the Secretary, a public housing agency, in accordance with the public housing agency plan, may for good cause establish and implement an occupancy standard other than the standard described in paragraph (1).

''(3) PROHIBITION OF CONCENTRATION OF LOW-INCOME FAMILIES.—A public housing agency may not, in complying with the requirements under paragraph (1), concentrate very low-income families (or other families with relatively low incomes) in public housing dwelling units in certain public housing developments or certain buildings within developments.

''(4) MIXED-INCOME HOUSING STANDARD.—Each public housing agency plan submitted by a public housing agency shall include a plan for achieving a diverse income mix among residents in each public housing project of the public housing agency and among the scattered site public housing of the public housing agency.

''(b) INCOME ELIGIBILITY FOR CERTAIN ASSISTED HOUSING.—

''(1) TENANT-BASED ASSISTANCE.—Of the dwelling units receiving tenant-based assistance under section 8 made available for occupancy in any fiscal year of the public housing agency—

''(A) not less than 50 percent shall be occupied by families whose incomes do not exceed 30 percent of the area median income for those families; and

''(B) any remaining dwelling units may be made available for families whose incomes do not exceed 80 percent of the area median income for those families.

''(2) ESTABLISHMENT OF DIFFERENT STANDARDS.—Notwithstanding paragraph (1), if approved by the Secretary, a public housing agency, in accordance with the public housing agency plan, may for good cause establish and implement an occupancy standard other than the standard described in paragraph (1).

''(3) PROJECT-BASED ASSISTANCE.—Of the total number of dwelling units in a project receiving assistance under section 8, other than assistance described in paragraph (1), that are made available for occupancy by eligible families in any year (as determined by the Secretary)—

''(A) not less than 40 percent shall be occupied by families whose incomes do not exceed 30 percent of the area median income; and

''(B) not less than 75 percent shall be occupied by families whose incomes do not exceed 60 percent of the area median income.

''(c) DEFINITION OF AREA MEDIAN INCOME.—In this section, the term 'area median income' means the median income of an area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than the percentages specified in subsections (a) and (b) if the Secretary determines that such variations are necessary because of unusually high or low family incomes.''.

SEC. 115. DEMOLITION AND DISPOSITION OF PUBLIC HOUSING.

(a) IN GENERAL.—Section 18 of the United States Housing Act of 1937 (42 U.S.C. 1437p) is amended to read as follows:

''SEC. 18. DEMOLITION AND DISPOSITION OF PUBLIC HOUSING.

''(a) APPLICATIONS FOR DEMOLITION AND DISPOSITION.—Except as provided in subsection (b), not later than 60 days after receiving an application by a public housing agency for authorization, with or without financial assistance under this title, to demolish or dispose of a public housing project or a portion of a public housing project (including any transfer to a resident-supported nonprofit entity), the Secretary shall approve the application, if the public housing agency certifies—

''(1) in the case of—

''(A) an application proposing demolition of a public housing project or a portion of a public housing project, that—

''(i) the project or portion of the public housing project is obsolete as to physical condition, location, or other factors, making it unsuitable for housing purposes; and

''(ii) no reasonable program of modifications is cost-effective to return the public housing project or portion of the project to useful life; and

''(B) an application proposing the demolition of only a portion of a public housing project, that the demolition will help to assure the viability of the remaining portion of the project;

''(2) in the case of an application proposing disposition of a public housing project or other real property subject to this title by sale or other transfer, that—

''(A) the retention of the property is not in the best interests of the residents or the public housing agency because—

''(i) conditions in the area surrounding the public housing project adversely affect the health or safety of the residents or the feasible operation of the project by the public housing agency; or

''(ii) disposition allows the acquisition, development, or rehabilitation of other properties that will be more efficiently or effectively operated as low-income housing;

''(B) the public housing agency has otherwise determined the disposition to be appropriate for reasons that are—

''(i) in the best interests of the residents and the public housing agency;

''(ii) consistent with the goals of the public housing agency and the public housing agency plan; and

''(iii) otherwise consistent with this title; or

''(C) for property other than dwelling units, the property is excess to the needs of a public housing project or the disposition is incidental to, or does not interfere with, continued operation of a public housing project;

''(3) that the public housing agency has specifically authorized the demolition or disposition in the public housing agency plan, and has certified that the actions contemplated in the public housing agency plan comply with this section;

''(4) that the public housing agency—

''(A) will provide for the payment of the actual and reasonable relocation expenses of each resident to be displaced;

''(B) will ensure that each displaced resident is offered comparable housing—

''(i) that meets housing quality standards; and

''(ii) which may include—

''(I) tenant-based assistance;

''(II) project-based assistance; or

''(III) occupancy in a unit operated or assisted by the public housing agency at a rental rate paid by the resident that is comparable to the rental rate applicable to the unit from which the resident is vacated;

''(C) will provide any necessary counseling for residents who are displaced; and

''(D) will not commence demolition or complete disposition until all residents residing in the unit are relocated;

''(5) that the net proceeds of any disposition will be used—

''(A) unless waived by the Secretary, for the retirement of outstanding obligations issued to finance the original public housing project or modernization of the project; and

''(B) to the extent that any proceeds remain after the application of proceeds in accordance with subparagraph (A), for the provision of low-income housing or to benefit the residents of the public housing agency; and

''(6) that the public housing agency has complied with subsection (c).

''(b) DISAPPROVAL OF APPLICATIONS.—The Secretary shall disapprove an application submitted under subsection (a) if the Secretary determines that—

''(1) any certification made by the public housing agency under that subsection is clearly inconsistent with information and data available to the Secretary or information or data requested by the Secretary; or

''(2) the application was not developed in consultation with—

''(A) residents who will be affected by the proposed demolition or disposition; and

''(B) each resident advisory board and resident council, if any, that will be affected by the proposed demolition or disposition.

''(c) RESIDENT OPPORTUNITY TO PURCHASE IN CASE OF PROPOSED DISPOSITION.—

''(1) IN GENERAL.—In the case of a proposed disposition of a public housing project or portion of a project, the public housing agency shall, in appropriate circumstances, as determined by the Secretary, initially offer the property to any eligible resident organization, eligible resident management corporation, or nonprofit organization acting on behalf of the residents, if that entity has expressed an interest, in writing, to the public housing agency in a timely manner, in purchasing the property for continued use as low-income housing.

''(2) TIMING.—

''(A) THIRTY-DAY NOTICE.—A resident organization, resident management corporation, or other resident-supported nonprofit entity referred to in paragraph (1) may express interest in purchasing property that is the subject of a disposition, as described in paragraph (1), during the 30-day period beginning on the date of notification of a proposed sale of the property.

''(B) SIXTY-DAY NOTICE.—If an entity expresses written interest in purchasing a property, as provided in subparagraph (A), no disposition of the property shall occur during the 60-day period beginning on the date of receipt of that written notice, during which time that entity shall be given the opportunity to obtain a firm commitment for financing the purchase of the property.

''(d) REPLACEMENT UNITS.—Notwithstanding any other provision of law, replacement housing units for public housing units demolished in accordance with this section may be built on the original public housing location or in the same neighborhood as the original public housing location if the number of those replacement units is fewer than the number of units demolished.''.

(b) HOMEOWNERSHIP REPLACEMENT PLAN.—

(1) IN GENERAL.—Section 304(g) of the United States Housing Act of 1937 (42 U.S.C. 1437aaa–3(g)), as amended by section 1002(b) of the Emergency Supplemental Appropriations for Additional Disaster Assistance, for Anti-terrorism Initiatives, for Assistance in the Recovery from the Tragedy that Occurred At Oklahoma City, and Rescissions Act, 1995 (Public Law 104–19; 109 Stat. 236), is amended to read as follows:

''(g) [Reserved.]''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective with respect to any plan for the demolition, disposition, or conversion to homeownership of public housing that is approved by the Secretary after September 30, 1995.

(c) UNIFORM RELOCATION AND REAL PROPERTY ACQUISITION ACT.—The Uniform Relocation and Real Property Acquisition Act shall not apply to activities under section 18 of the United States Housing Act of 1937, as amended by this section.

SEC. 116. REPEAL OF FAMILY INVESTMENT CENTERS; VOUCHER SYSTEM FOR PUBLIC HOUSING.

(a) IN GENERAL.—Section 22 of the United States Housing Act of 1937 (42 U.S.C. 1437t) is amended to read as follows:

''SEC. 22. VOUCHER SYSTEM FOR PUBLIC HOUSING.

''(a) IN GENERAL.—

''(1) AUTHORIZATION.—A public housing agency may convert any public housing project (or portion thereof) owned and operated by the public housing agency to a system of tenant-based assistance in accordance with this section.

''(2) REQUIREMENTS.—In converting to a tenant-based system of assistance under this section, the public housing agency shall develop a conversion assessment and plan under subsection (b) in consultation with the appropriate public officials, with significant participation by the residents of the project (or portion thereof), which assessment and plan shall—

''(A) be consistent with and part of the public housing agency plan; and

''(B) describe the conversion and future use or disposition of the public housing project, including an impact analysis on the affected community.

''(b) CONVERSION ASSESSMENT AND PLAN.—

''(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Public Housing Reform and Responsibility Act of 1997, each public housing agency shall assess the status of each public housing project owned and operated by that public housing agency, and shall submit to the Secretary an assessment that includes—

''(A) a cost analysis that demonstrates whether or not the cost (both on a net present value basis and in terms of new budget authority requirements) of providing tenant-based assistance under section 8 for the same families in substantially similar dwellings over the same period of time is less expensive than continuing public housing assistance in the public housing project proposed for conversion for the remaining useful life of the project;

''(B) an analysis of the market value of the public housing project proposed for conversion both before and after rehabilitation, and before and after conversion;

''(C) an analysis of the rental market conditions with respect to the likely success of tenant-based assistance under section 8 in that market for the specific residents of the public housing project proposed for conversion, including an assessment of the availability of decent and safe dwellings renting at or below the payment standard established for tenant-based assistance under section 8 by the public housing agency;

''(D) the impact of the conversion to a system of tenant-based assistance under this section on the neighborhood in which the public housing project is located; and

''(E) a plan that identifies actions, if any, that the public housing agency would take with regard to converting any public housing project or projects (or portions thereof) of the public housing agency to a system of tenant-based assistance.

''(2) STREAMLINED ASSESSMENT.—At the discretion of the Secretary or at the request of a public housing agency, the Secretary may waive any or all of the requirements of paragraph (1) or otherwise require a streamlined assessment with respect to any public housing project or class of public housing projects.

''(3) IMPLEMENTATION OF CONVERSION PLAN.—

''(A) IN GENERAL.—A public housing agency may implement a conversion plan only if the conversion assessment under this section demonstrates that the conversion—

''(i) will not be more expensive than continuing to operate the public housing project (or portion thereof) as public housing; and

''(ii) will principally benefit the residents of the public housing project (or portion thereof) to be converted, the public housing agency, and the community.

''(B) DISAPPROVAL.—The Secretary shall disapprove a conversion plan only if the plan is plainly inconsistent with the conversion assessment under subsection (b) or if there is reliable information and data available to the Secretary that contradicts that conversion assessment.

''(c) OTHER REQUIREMENTS.—To the extent approved by the Secretary, the funds used by the public housing agency to provide tenant-based assistance under section 8 shall be added to the annual contribution contract administered by the public housing agency.''.

(b) SAVINGS PROVISION.—The amendment made by subsection (a) does not affect any contract or other agreement entered into under section 22 of the United States Housing Act of 1937, as that section existed on the day before the date of enactment of this Act.

SEC. 117. REPEAL OF FAMILY SELF-SUFFICIENCY; HOMEOWNERSHIP OPPORTUNITIES.

(a) IN GENERAL.—Section 23 of the United States Housing Act of 1937 (42 U.S.C. 1437u) is amended to read as follows:

''SEC. 23. PUBLIC HOUSING HOMEOWNERSHIP OPPORTUNITIES.

''(a) IN GENERAL.—Notwithstanding any other provision of law, a public housing agency may, in accordance with this section—

''(1) sell any public housing unit in any public housing project of the public housing agency to—

''(A) the low-income residents of the public housing agency; or

''(B) any organization serving as a conduit for sales to those persons; and

''(2) provide assistance to public housing residents to facilitate the ability of those residents to purchase a principal residence.

''(b) RIGHT OF FIRST REFUSAL.—In making any sale under this section, the public housing agency shall initially offer the public housing unit at issue to the resident or residents occupying that unit, if any, or to an organization serving as a conduit for sales to any such resident.

''(c) SALE PRICES, TERMS, AND CONDITIONS.—Any sale under this section may involve such prices, terms, and conditions as the public housing agency may determine in accordance with procedures set forth in the public housing agency plan.

''(d) PURCHASE REQUIREMENTS.—

''(1) IN GENERAL.—Each resident that purchases a dwelling unit under subsection (a) shall, as of the date on which the purchase is made—

''(A) intend to occupy the property as a principal residence; and

''(B) submit a written certification to the public housing agency that such resident will occupy the property as a principal residence for a period of not less than 12 months beginning on that date.

''(2) RECAPTURE.—Except for good cause, as determined by a public housing agency in the public housing agency plan, if, during the 1-year period beginning on the date on which any resident acquires a public housing unit under this section, that public housing unit is resold, the public housing agency shall recapture 75 percent of the amount of any proceeds from that resale that exceed the sum of—

''(A) the original sale price for the acquisition of the property by the qualifying resident;

''(B) the costs of any improvements made to the property after the date on which the acquisition occurs; and

''(C) any closing costs incurred in connection with the acquisition.

''(e) PROTECTION OF NONPURCHASING RESIDENTS.—If a public housing resident does not exercise the right of first refusal under subsection (b) with respect to the public housing unit in which the resident resides, the public housing agency shall—

''(1) ensure that either another public housing unit or rental assistance under section 8 is made available to the resident; and

''(2) provide for the payment of the actual and reasonable relocation expenses of the resident.

''(f) NET PROCEEDS.—The net proceeds of any sales under this section remaining after payment of all costs of the sale and any unassumed, unpaid indebtedness owed in connection with the dwelling units sold under this section unless waived by the Secretary, shall be used for purposes relating to low-income housing and in accordance with the public housing agency plan.

''(g) HOMEOWNERSHIP ASSISTANCE.—From amounts distributed to a public housing agency under section 9, or from other income earned by the public housing agency, the public housing agency may provide assistance to public housing residents to facilitate the ability of those residents to purchase a principal residence, including a residence other than a residence located in a public housing project.''.

(b) CONFORMING AMENDMENTS.—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended—

(1) in section 8(y)(7)(A)—

(A) by striking '', (ii)'' and inserting '', and (ii)''; and

(B) by striking '', and (iii)'' and all that follows before the period at the end; and

(2) in section 25(l)(2)—

(A) in the first sentence, by striking '', consistent with the objectives of the program under section 23,''; and

(B) by striking the second sentence.

(c) SAVINGS PROVISION.—The amendments made by this section do not affect any contract or other agreement entered into under section 23 of the United States Housing Act of 1937, as that section existed on the day before the date of enactment of this Act.

SEC. 118. REVITALIZING SEVERELY DISTRESSED PUBLIC HOUSING.

Section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v) is amended to read as follows:

''SEC. 24. REVITALIZING SEVERELY DISTRESSED PUBLIC HOUSING.

''(a) IN GENERAL.—To the extent provided in advance in appropriations Acts, the Secretary may make grants to public housing agencies for the purposes of—

''(1) enabling the demolition of obsolete public housing projects or portions thereof;

''(2) revitalizing sites (including remaining public housing units) on which such public housing projects are located;

''(3) the provision of replacement housing, which will avoid or lessen concentrations of very low-income families; and

''(4) the provision of tenant-based assistance under section 8 for use as replacement housing.

''(b) COMPETITION.—The Secretary shall make grants under this section on the basis of a competition, which shall be based on such factors as—

''(1) the need for additional resources for addressing a severely distressed public housing project;

''(2) the need for affordable housing in the community;

''(3) the supply of other housing available and affordable to a family receiving tenant-based assistance under section 8; and

''(4) the local impact of the proposed revitalization program.

''(c) TERMS AND CONDITIONS.—The Secretary may impose such terms and conditions on recipients of grants under this section as the Secretary determines to be appropriate to carry out the purposes of this section, except that such terms and conditions shall be similar to the terms and conditions of either—

''(1) the urban revitalization demonstration program authorized under the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Acts; or

''(2) section 24 of the United States Housing Act of 1937, as such section existed before the date of enactment of the Public Housing Reform and Responsibility Act of 1997.

''(d) ALTERNATIVE MANAGEMENT.—The Secretary may require any recipient of a grant under this section to make arrangements with an entity other than the public housing agency to carry out the purposes for which the grant was awarded, if the Secretary determines that such action is necessary for the timely and effective achievement of the purposes for which the grant was awarded.

''(e) SUNSET.—No grant may be made under this section on or after October 1, 1999.''.

SEC. 119. MIXED-FINANCE AND MIXED-OWNERSHIP PROJECTS.

(a) IN GENERAL.—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following:

''SEC. 30. MIXED-FINANCE AND MIXED-OWNERSHIP PROJECTS.

''(a) IN GENERAL.—A public housing agency may own, operate, assist, or otherwise participate in 1 or more mixed-finance projects in accordance with this section.

''(b) REQUIREMENTS.—

''(1) MIXED-FINANCE PROJECT.—In this section, the term 'mixed-finance project' means a project that meets the requirements of paragraph (2) and that is occupied both by 1 or more very low-income families and by 1 or more families that are not very low-income families.

''(2) STRUCTURE OF PROJECTS.—Each mixed-finance project shall be developed—

''(A) in a manner that ensures that units are made available in the project, by master contract, individual lease, or equity interest for occupancy by eligible families identified by the public housing agency for a period of not less than 20 years;

''(B) in a manner that ensures that the number of public housing units bears approximately the same proportion to the total number of units in the mixed-finance project as the value of the total financial commitment provided by the public housing agency bears to the value of the total financial commitment in the project, or shall not be less than the number of units that could have been developed under the conventional public housing program with the assistance; and

''(C) in accordance with such other requirements as the Secretary may prescribe by regulation.

''(3) TYPES OF PROJECTS.—The term 'mixed-finance project' includes a project that is developed—

''(A) by a public housing agency or by an entity affiliated with a public housing agency;

''(B) by a partnership, a limited liability company, or other entity in which the public housing agency (or an entity affiliated with a public housing agency) is a general partner, managing member, or otherwise participates in the activities of that entity;

''(C) by any entity that grants to the public housing agency the option to purchase the public housing project during the 20-year period beginning on the date of initial occupancy of the public housing project in accordance with section 42(l)(7) of the Internal Revenue Code of 1986; or

''(D) in accordance with such other terms and conditions as the Secretary may prescribe by regulation.

''(c) TAXATION.—

''(1) IN GENERAL.—A public housing agency may elect to have all public housing units in a mixed-finance project subject to local real estate taxes, except that such units shall be eligible at the discretion of the public housing agency for the taxing requirements under section 6(d).

''(2) LOW-INCOME HOUSING TAX CREDIT.—With respect to any unit in a mixed-finance project that is assisted pursuant to the low-income housing tax credit under section 42 of the Internal Revenue Code of 1986, the rents charged to the residents may be set at levels not to exceed the amounts allowable under that section.

''(d) RESTRICTION.—No assistance provided under section 9 shall be used by a public housing agency in direct support of any unit rented to a family that is not a low-income family.

''(e) EFFECT OF CERTAIN CONTRACT TERMS.—If an entity that owns or operates a mixed-finance project under this section enters into a contract with a public housing agency, the terms of which obligate the entity to operate and maintain a specified number of units in the project as public housing units in accordance with the requirements of this Act for the period required by law, such contractual terms may provide that, if, as a result of a reduction in appropriations under section 9, or any other change in applicable law, the public housing agency is unable to fulfill its contractual obligations with respect to those public housing units, that entity may deviate, under procedures and requirements developed through regulations by the Secretary, from otherwise applicable restrictions under this Act regarding rents, income eligibility, and other areas of public housing management with respect to a portion or all of those public housing units, to the extent necessary to preserve the viability of those units while maintaining the low-income character of the units to the maximum extent practicable.''.

(b) REGULATIONS.—The Secretary shall issue such regulations as may be necessary to promote the development of mixed-finance projects, as that term is defined in section 30 of the United States Housing Act of 1937 (as added by this Act).

SEC. 120. CONVERSION OF DISTRESSED PUBLIC HOUSING TO TENANT-BASED ASSISTANCE.

(a) IN GENERAL.—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following:

''SEC. 31. CONVERSION OF DISTRESSED PUBLIC HOUSING TO TENANT-BASED ASSISTANCE.

''(a) IDENTIFICATION OF UNITS.—Each public housing agency shall identify all public housing projects of the public housing agency—

''(1) that are on the same or contiguous sites;

''(2) that the public housing agency determines to be distressed, which determination shall be made in accordance with guidelines established by the Secretary, which guidelines shall be based on the criteria established in the Final Report of the National Commission on Severely Distressed Public Housing (August 1992);

''(3) identified as distressed housing under paragraph (2) for which the public housing agency cannot assure the long-term viability as public housing through reasonable modernization expenses, density reduction, achievement of a broader range of family income, or other measures; and

''(4) for which the estimated cost, during the remaining useful life of the project, of continued operation and modernization as public housing exceeds the estimated cost, during the remaining useful life of the project, of providing tenant-based assistance under section 8 for all families in occupancy, based on appropriate indicators of cost (such as the percentage of total development costs required for modernization).

''(b) CONSULTATION.—Each public housing agency shall consult with the appropriate public housing residents and the appropriate unit of general local government in identifying any public housing projects under subsection (a).

''(c) REMOVAL OF UNITS FROM THE INVENTORIES OF PUBLIC HOUSING AGENCIES.—

''(1) IN GENERAL.—

''(A) DEVELOPMENT OF PLAN.—Each public housing agency shall develop and, to the extent provided in advance in appropriations Acts, carry out a 5-year plan in conjunction with the Secretary for the removal of public housing units identified under subsection (a) from the inventory of the public housing agency and the annual contributions contract.

''(B) APPROVAL OF PLAN.—The plan required under subparagraph (A) shall—

''(i) be included as part of the public housing agency plan;

''(ii) be certified by the relevant local official to be in accordance with the comprehensive housing affordability strategy under title I of the Housing and Community Development Act of 1992; and

''(iii) include a description of any disposition and demolition plan for the public housing units.

''(2) EXTENSIONS.—The Secretary may extend the 5-year deadline described in paragraph (1) by not more than an additional 5 years if the Secretary makes a determination that the deadline is impracticable.

''(d) CONVERSION TO TENANT-BASED ASSISTANCE.—

''(1) IN GENERAL.—To the extent approved in advance in appropriations Acts, the Secretary shall make authority available to a public housing agency to provide assistance under this Act to families residing in any public housing

project that is removed from the inventory of the public housing agency and the annual contributions contract pursuant to this section.

''(2) PLAN REQUIREMENTS.—Each plan under subsection (c) shall require the agency—

''(A) to notify each family residing in the public housing project, consistent with any guidelines issued by the Secretary governing such notifications, that—

''(i) the public housing project will be removed from the inventory of the public housing agency;

''(ii) the demolition will not commence until each resident residing in the public housing project is relocated; and

''(iii) each family displaced by such action will be offered comparable housing—

''(I) that meets housing quality standards; and

''(II) which may include—

''(aa) tenant-based assistance;

''(bb) project-based assistance; or

''(cc) occupancy in a unit operated or assisted by the public housing agency at a rental rate paid by the family that is comparable to the rental rate applicable to the unit from which the family is vacated;

''(B) to provide any necessary counseling for families displaced by such action; and

''(C) to provide any actual and reasonable relocation expenses for families displaced by such action.

''(e) REMOVAL BY SECRETARY.—The Secretary shall take appropriate actions to ensure removal of any public housing project identified under subsection (a) from the inventory of a public housing agency, if the public housing agency fails to adequately develop a plan under subsection (c) with respect to that project, or fails to adequately implement such plan in accordance with the terms of the plan.

''(f) ADMINISTRATION.—

''(1) IN GENERAL.—The Secretary may require a public housing agency to provide to the Secretary or to public housing residents such information as the Secretary considers to be necessary for the administration of this section.

''(2) APPLICABILITY OF SECTION 18.—Section 18 does not apply to the demolition of public housing projects removed from the inventory of the public housing agency under this section.''.

(b) CONFORMING AMENDMENT.—Section 202 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (42 U.S.C. 1437l note) is repealed.

SEC. 121. PUBLIC HOUSING MORTGAGES AND SECURITY INTERESTS.

Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following:

''SEC. 32. PUBLIC HOUSING MORTGAGES AND SECURITY INTERESTS.

''(a) GENERAL AUTHORIZATION.—The Secretary may, upon such terms and conditions as the Secretary may prescribe, authorize a public housing agency to mortgage or otherwise grant a security interest in any public housing project or other property of the public housing agency.

''(b) TERMS AND CONDITIONS.—

''(1) CRITERIA FOR APPROVAL.—In making any authorization under subsection (a), the Secretary may consider—

''(A) the ability of the public housing agency to use the proceeds of the mortgage or security interest for low-income housing uses;

''(B) the ability of the public housing agency to make payments on the mortgage or security interest; and

''(C) such other criteria as the Secretary may specify.

''(2) TERMS AND CONDITIONS OF MORTGAGES AND SECURITY INTERESTS OBTAINED.—Each mortgage or security interest granted under this section shall be—

''(A) for a term that—

''(i) is consistent with the terms of private loans in the market area in which the public housing project or property at issue is located; and

''(ii) does not exceed 30 years; and

''(B) subject to conditions that are consistent with the conditions to which private loans in the market area in which the subject project or other property is located are subject.

''(3) NO FEDERAL LIABILITY.—No action taken under this section shall result in any liability to the Federal Government.''.

SEC. 122. LINKING SERVICES TO PUBLIC HOUSING RESIDENTS.

Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following:

''SEC. 33. SERVICES FOR PUBLIC HOUSING RESIDENTS.

''(a) IN GENERAL.—To the extent provided in advance in appropriations Acts, the Secretary may make grants to public housing agencies on behalf of public housing residents, or directly to resident management corporations, resident councils, or resident organizations (including nonprofit entities supported by residents), for the purposes of providing a program of supportive services and resident empowerment activities to assist public housing residents in becoming economically self-sufficient.

''(b) ELIGIBLE ACTIVITIES.—Grantees under this section may use such amounts only for activities on or near the property of the public housing agency or public housing project that are designed to promote the self-sufficiency of public housing residents, including activities relating to—

''(1) physical improvements to a public housing project in order to provide space for supportive services for residents;

''(2) the provision of service coordinators;

''(3) the provision of services related to work readiness, including education, job training and counseling, job search skills, business development training and planning, tutoring, mentoring, adult literacy, computer access, personal and family counseling, health screening, work readiness health services, transportation, and child care;

''(4) economic and job development, including employer linkages and job placement, and the start-up of resident microenterprises, community credit unions, and revolving loan funds, including the licensing, bonding, and insurance needed to operate such enterprises;

''(5) resident management activities and resident participation activities; and

''(6) other activities designed to improve the economic self-sufficiency of residents.

''(c) FUNDING DISTRIBUTION.—

''(1) IN GENERAL.—Except for amounts provided under subsection (d), the Secretary may distribute amounts made available under this section on the basis of a competition or a formula, as appropriate.

''(2) FACTORS FOR DISTRIBUTION.—Factors for distribution under paragraph (1) shall include—

''(A) the demonstrated capacity of the applicant to carry out a program of supportive services or resident empowerment activities;

''(B) the ability of the applicant to leverage additional resources for the provision of services; and

''(C) the extent to which the grant will result in a high quality program of supportive services or resident empowerment activities.

''(d) FUNDING FOR RESIDENT COUNCILS.—Of amounts appropriated for activities under this section, not less than $25,000,000 shall be provided directly to resident councils, resident organizations, and resident management corporations.''.

SEC. 123. PROHIBITION ON USE OF AMOUNTS.

Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following:

''SEC. 34. PROHIBITION ON USE OF AMOUNTS.

''None of the amounts made available to the Department of Housing and Urban Development to carry out this Act, that are obligated to State or local governments, public housing agencies, housing finance agencies, or other public or quasi-public housing agencies, may be used to indemnify contractors or subcontractors of the government or agency against costs associated with judgments of infringement of intellectual property rights.''.

SEC. 124. PET OWNERSHIP.

Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following:

''SEC. 35. PET OWNERSHIP IN FEDERALLY ASSISTED RENTAL HOUSING.

''(a) OWNERSHIP CONDITIONS.—

''(1) IN GENERAL.—A resident of a dwelling unit in federally assisted rental housing may own 1 or more common household pets or have 1 or more common household pets present in the dwelling unit of such resident, subject to the reasonable requirements of the owner of the federally assisted rental housing, if the resident maintains each pet responsibly and in accordance with applicable State and local public health, animal control, and animal anti-cruelty laws and regulations.

''(2) REQUIREMENTS.—The reasonable requirements described in paragraph (1) may include requiring payment of a nominal fee, a pet deposit, or both, by residents owning or having pets present, to cover the reasonable operating costs to the project relating to the presence of pets and to establish an escrow account for additional costs not otherwise covered, respectively.

''(b) PROHIBITION AGAINST DISCRIMINATION.—No owner of federally assisted rental housing may restrict or discriminate against any person in connection with admission to, or continued occupancy of, such housing by reason of the ownership of common household pets by, or the presence of such pets in the dwelling unit of, such person.

''(c) DEFINITIONS.—In this section:

''(1) FEDERALLY ASSISTED RENTAL HOUSING.—The term 'federally assisted rental housing' means any public housing project or any rental housing receiving project-based assistance under—

''(A) the new construction and substantial rehabilitation program under section 8(b)(2) of this Act (as in effect before October 1, 1983);

''(B) the property disposition program under section 8(b);

''(C) the moderate rehabilitation program under section 8(e)(2) of this Act (as it existed prior to October 1, 1991);

''(D) section 23 of this Act (as in effect before January 1, 1975);

''(E) the rent supplement program under section 101 of the Housing and Urban Development Act of 1965;

''(F) section 8 of this Act, following conversion from assistance under section 101 of the Housing and Urban Development Act of 1965; or

''(G) loan management assistance under section 8 of this Act.

''(2) OWNER.—The term 'owner' means, with respect to federally assisted rental housing, the entity or private person, including a cooperative or public housing agency, that has the legal right to lease or sublease dwelling units in such housing (including a manager of such housing having such right).

''(d) REGULATIONS.—This section shall take effect upon the date of the effectiveness of regulations issued by the Secretary to carry out this section. Such regulations shall be issued after notice and opportunity for public comment in accordance with the procedure under section 553 of title 5, United States Code, applicable to substantive rules (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).''.

TITLE II—SECTION 8 RENTAL ASSISTANCE

SEC. 201. MERGER OF THE CERTIFICATE AND VOUCHER PROGRAMS.

(a) IN GENERAL.—Section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) is amended to read as follows:

''(o) VOUCHER PROGRAM.—

''(1) PAYMENT STANDARD.—

''(A) IN GENERAL.—The Secretary may provide assistance to public housing agencies for tenant-based assistance using a payment standard established in accordance with subparagraph (B). The payment standard shall be used to determine the monthly assistance that may be paid for any family, as provided in paragraph (2).

''(B) ESTABLISHMENT OF PAYMENT STANDARD.—Except as provided under subparagraph (D), the payment standard shall not exceed 110 percent of the fair market rental established under subsection (c) and shall be not less than 90 percent of that fair market rental.

''(C) SET-ASIDE.—The Secretary may set aside not more than 5 percent of the budget authority available under this subsection as an adjustment pool. The Secretary shall use amounts in the adjustment pool to make adjusted payments to public housing agencies under subparagraph (A), to ensure continued affordability, if the Secretary determines that additional assistance for such purpose is necessary, based on documentation submitted by a public housing agency.

''(D) APPROVAL.—The Secretary may require a public housing agency to submit the payment standard of the public housing agency to the Secretary for approval, if the payment standard is less than 90 percent of the fair market rent or exceeds 110 percent of the fair market rent.

''(E) REVIEW.—The Secretary—

''(i) shall monitor rent burdens and review any payment standard that results in a significant percentage of the families occupying units of any size paying more than 30 percent of adjusted income for rent; and

''(ii) may require a public housing agency to modify the payment standard of the public housing agency based on the results of that review.

''(2) AMOUNT OF MONTHLY ASSISTANCE PAYMENT.—

''(A) FAMILIES RECEIVING TENANT-BASED ASSISTANCE; RENT DOES NOT EXCEED PAYMENT STANDARD.—For a family receiving tenant-based assistance under this title, if the rent for that family (including the amount allowed for tenant-paid utilities) does not exceed the payment standard established under paragraph (1), the monthly assistance payment to that family shall be equal to the amount by which the rent exceeds the greatest of the following amounts, rounded to the nearest dollar:

''(i) Thirty percent of the monthly adjusted income of the family.

''(ii) Ten percent of the monthly income of the family.

''(iii) If the family is receiving payments for welfare assistance from a public agency and a part of those payments, adjusted in accordance with the actual housing costs of the family, is specifically designated by that agency to meet the housing costs of the family, the portion of those payments that is so designated.

''(B) FAMILIES RECEIVING TENANT-BASED ASSISTANCE; RENT EXCEEDS PAYMENT STANDARD.—For a family receiving tenant-based assistance under this title, if the rent for that family (including the amount allowed for tenant-paid utilities) exceeds the payment standard established under paragraph (1), the monthly assistance payment to that family shall be equal to the amount by which the applicable payment standard exceeds the greatest of the following amounts, rounded to the nearest dollar:

''(i) Thirty percent of the monthly adjusted income of the family.

''(ii) Ten percent of the monthly income of the family.

''(iii) If the family is receiving payments for welfare assistance from a public agency and a part of those payments, adjusted in accordance with the actual housing costs of the family, is specifically designated by that agency to meet the housing costs of the family, the portion of those payments that is so designated.

''(C) FAMILIES RECEIVING PROJECT-BASED ASSISTANCE.—For a family receiving project-based assistance under this title, the rent that the family is required to pay shall be determined in accordance with section 3(a)(1), and the amount of the housing assistance payment shall be determined in accordance with subsection (c)(3) of this section.

''(3) FORTY PERCENT LIMIT.—At the time a family initially receives tenant-based assistance under this title with respect to any dwelling unit, the total amount that a family may be required to pay for rent may not exceed 40 percent of the monthly adjusted income of the family.

''(4) ELIGIBLE FAMILIES.—At the time a family initially receives assistance under this subsection, a family shall qualify as—

''(A) a very low-income family;

''(B) a family previously assisted under this title;

''(C) a low-income family that meets eligibility criteria specified by the public housing agency;

''(D) a family that qualifies to receive a voucher in connection with a homeownership program approved under title IV of the Cranston-Gonzalez National Affordable Housing Act; or

''(E) a family that qualifies to receive a voucher under section 223 or 226 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990.

''(5) ANNUAL REVIEW OF FAMILY INCOME.—Each public housing agency shall, not less frequently than annually, conduct a review of the family income of each family receiving assistance under this subsection.

''(6) SELECTION OF FAMILIES.—

''(A) IN GENERAL.—Each public housing agency may establish local preferences consistent with the public housing agency plan submitted by the public housing agency under section 5A.

''(B) SELECTION OF TENANTS.—The selection of tenants shall be made by the owner of the dwelling unit, subject to the annual contributions contract between the Secretary and the public housing agency.

''(7) LEASE.—Each housing assistance payment contract entered into by the public housing agency and the owner of a dwelling unit—

''(A) shall provide that the screening and selection of families for those units shall be the function of the owner;

''(B) shall provide that the lease between the tenant and the owner shall be for a term of not less than 1 year, except that the public housing agency may approve a shorter term for an initial lease between the tenant and the dwelling unit owner if the public housing agency determines that such shorter term would improve housing opportunities for the tenant and if such shorter term is considered to be an acceptable local market practice;

''(C) shall provide that the dwelling unit owner shall offer leases to tenants assisted under this subsection that—

''(i) are in a standard form used in the locality by the dwelling unit owner; and

''(ii) contain terms and conditions that—

''(I) are consistent with State and local law; and

''(II) apply generally to tenants in the property who are not assisted under this section;

''(D) shall provide that the dwelling unit owner may not terminate the tenancy of any person assisted under this subsection during the term of a lease that meets the requirements of this section unless the owner determines, on the same basis and in the same manner as would apply to a tenant in the property who does not receive assistance under this subsection, that—

''(i) the tenant has committed a serious or repeated violation of the terms and conditions of the lease;

''(ii) the tenant has violated applicable Federal, State, or local law; or

''(iii) other good cause for termination of the tenancy exists;

''(E) shall provide that any termination of tenancy under this subsection shall be preceded by the provision of written notice by the owner to the tenant specifying the grounds for that action, and any relief shall be consistent with applicable State and local law; and

''(F) may include any addenda appropriate to set forth the provisions of this title.

''(8) INSPECTION OF UNITS BY PUBLIC HOUSING AGENCIES.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), for each dwelling unit for which a housing assistance payment contract is established under this subsection, the public housing agency shall—

''(i) inspect the unit before any assistance payment is made to determine whether the dwelling unit meets housing quality standards for decent safe housing established—

''(I) by the Secretary for purposes of this subsection; or

''(II) by local housing codes or by codes adopted by public housing agencies that—

''(aa) meet or exceed housing quality standards; and

''(bb) do not severely restrict housing choice; and

''(ii) make not less than annual inspections during the contract term.

''(B) LEASING OF UNITS OWNED BY PUBLIC HOUSING AGENCY.—If an eligible family assisted under this subsection leases a dwelling unit (other than public housing) that is owned by a public housing agency administering assistance under this subsection, the Secretary shall require the unit of general local government, or another entity approved by the Secretary, to make inspections and rent determinations as required by this paragraph.

''(9) VACATED UNITS.—If an assisted family vacates a dwelling unit for which rental assistance is provided under a housing assistance contract before the expiration of the term of the lease for the unit, rental assistance pursuant to such contract may not be provided for the unit after the month during which the unit was vacated.

''(10) RENT.—

''(A) REASONABLE MARKET RENT.—The rent for dwelling units for which a housing assistance payment contract is established under this subsection shall be reasonable in comparison with rents charged for comparable dwelling units in the private, unassisted, local market, or for comparable dwelling units that are in the assisted, local market.

''(B) NEGOTIATED RENT.—A public housing agency shall, at the request of a family receiving tenant-based assistance under this subsection, assist that family in negotiating a reasonable rent with a dwelling unit owner. A public housing agency shall review the rent for a unit under consideration by the family (and all rent increases for units under lease by the family) to determine whether the rent (or rent increase) requested by the owner is reasonable. If a public housing agency determines that the rent (or rent increase) for a dwelling unit is not reasonable, the public housing agency shall not make housing assistance payments to the owner under this subsection with respect to that unit.

''(C) UNITS EXEMPT FROM LOCAL RENT CONTROL.—If a dwelling unit for which a housing assistance payment contract is established under this subsection is exempt from local rent control provisions during the term of that contract, the rent for that unit shall be reasonable in comparison with other units in the market area that are exempt from local rent control provisions.

''(D) TIMELY PAYMENTS.—Each public housing agency shall make timely payment of any amounts due to a dwelling unit owner under this subsection. The housing assistance payment contract between the owner and the public housing agency may provide for penalties for the late payment of amounts due under the contract, which shall be imposed on the public housing agency in accordance with generally accepted practices in the local housing market.

''(E) PENALTIES.—Unless otherwise authorized by the Secretary, each public housing agency shall pay any penalties from administrative fees collected by the public housing agency, except that no penalty shall be imposed if the late payment is due to factors that the Secretary determines are beyond the control of the public housing agency.

''(11) MANUFACTURED HOUSING.—

''(A) IN GENERAL.—A public housing agency may make assistance payments in accordance with this subsection on behalf of a family that utilizes a manufactured home as a principal place of residence. Such payments may be made for the rental of the real property on which the manufactured home owned by any such family is located.

''(B) RENT CALCULATION.—

''(i) CHARGES INCLUDED.—For assistance pursuant to this paragraph, the rent for the space on which a manufactured home is located and with respect to which assistance payments are to be made shall include maintenance and management charges and tenant-paid utilities.

''(ii) PAYMENT STANDARD.—The public housing agency shall establish a payment standard for the purpose of determining the monthly assistance that may be paid for any family under this paragraph. The payment standard may not exceed an amount approved or established by the Secretary.

''(iii) MONTHLY ASSISTANCE PAYMENT.—The monthly assistance payment under this paragraph shall be determined in accordance with paragraph (2).

''(12) CONTRACT FOR ASSISTANCE PAYMENTS.—

''(A) IN GENERAL.—If the Secretary enters into an annual contributions contract under this subsection with a public housing agency pursuant to which the public housing agency will enter into a housing assistance payment contract with respect to an existing structure under this subsection—

''(i) the housing assistance payment contract may not be attached to the structure unless the owner agrees to rehabilitate or newly construct the structure other than with assistance under this Act, and otherwise complies with this section; and

''(ii) the public housing agency may approve a housing assistance payment contract for such existing structure for not more than 15 percent of the funding available for tenant-based assistance administered by the public housing agency under this section.

''(B) EXTENSION OF CONTRACT TERM.—In the case of a housing assistance payment contract that applies to a structure under this paragraph, a public housing agency may enter into a contract with the owner, contingent upon the future availability of appropriated funds for the purpose of renewing expiring contracts for assistance payments, as provided in appropriations Acts, to extend the term of the underlying housing assistance payment contract for such period as the Secretary determines to be appropriate to achieve long-term affordability of the housing. The contract shall obligate the owner to have such extensions of the underlying housing assistance payment contract accepted by the owner and the successors in interest of the owner.

''(C) RENT CALCULATION.—For project-based assistance under this paragraph, housing assistance payment contracts shall establish rents and provide for rent adjustments in accordance with subsection (c).

''(D) ADJUSTED RENTS.—With respect to rents adjusted under this paragraph—

''(i) the adjusted rent for any unit shall be reasonable in comparison with rents charged for comparable dwelling units in the private, unassisted, local market, or for comparable dwelling units that are in the assisted local market; and

''(ii) the provisions of subsection (c)(2)(C) do not apply.

''(13) INAPPLICABILITY TO TENANT-BASED ASSISTANCE.—Subsection (c) does not apply to tenant-based assistance under this subsection.

''(14) HOMEOWNERSHIP OPTION.—

''(A) IN GENERAL.—A public housing agency providing assistance under this subsection may, at the option of the agency, provide assistance for homeownership under subsection (y).

''(B) ALTERNATIVE ADMINISTRATION.—A public housing agency may contract with a nonprofit organization to administer a homeownership program under subsection (y).

''(15) RENTAL VOUCHERS FOR WITNESS RELOCATION.—Of amounts made available for assistance under this subsection in each fiscal year, the Secretary, in consultation with the Inspector General, shall make available such sums as may be necessary for the relocation of witnesses in connection with efforts to combat crime in public and assisted housing pursuant to requests from law enforcement or prosecution agencies.''.

(b) CONFORMING AMENDMENT.—Section 8(f)(6) of the United States Housing Act (42 U.S.C. 1437f(f)(6)) is amended by striking ''(d)(2)'' and inserting ''(o)(12)''.

SEC. 202. REPEAL OF FEDERAL PREFERENCES.

(a) SECTION 8 EXISTING AND MODERATE REHABILITATION.—Section 8(d)(1)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(A)) is amended to read as follows:

''(A) the selection of tenants shall be the function of the owner, subject to the annual contributions contract between the Secretary and the agency, except that with respect to the certificate and moderate rehabilitation programs only, for the purpose of selecting families to be assisted, the public housing agency may establish local preferences, consistent with the public housing agency plan submitted by the public housing agency under section 5A;''.

(b) SECTION 8 NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION.—

(1) REPEAL.—Section 545(c) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437f note) is amended to read as follows:

''(c) [Reserved.]''.

(2) PROHIBITION.—The provisions of section 8(e)(2) of the United States Housing Act of 1937, as in existence on the day before October 1, 1983, that require tenant selection preferences shall not apply with respect to—

(A) housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of the United States Housing Act of 1937, as in existence on the day before October 1, 1983; or

(B) projects financed under section 202 of the Housing Act of 1959, as in existence on the day before the date of enactment of the Cranston-Gonzalez National Affordable Housing Act.

(c) RENT SUPPLEMENTS.—Section 101(k) of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s(k)) is amended to read as follows:

''(k) [Reserved.]''.

(d) CONFORMING AMENDMENTS.—

(1) UNITED STATES HOUSING ACT OF 1937.—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended—

(A) in section 6(o), by striking ''preference rules specified in'' and inserting ''written selection criteria established pursuant to'';

(B) in section 8(d)(2)(A), by striking the last sentence; and

(C) in section 8(d)(2)(H), by striking ''Notwithstanding subsection (d)(1)(A)(i), an'' and inserting ''An''.

(2) CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT.—The Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704 et seq.) is amended—

(A) in section 455(a)(2)(D)(iii), by striking ''would qualify for a preference under'' and inserting ''meet the written selection criteria established pursuant to''; and

(B) in section 522(f)(6)(B), by striking ''any preferences for such assistance under section 8(d)(1)(A)(i)'' and inserting ''the written selection criteria established pursuant to section 8(d)(1)(A)''.

(3) LOW-INCOME HOUSING PRESERVATION AND RESIDENT HOMEOWNERSHIP ACT OF 1990.—The second sentence of section 226(b)(6)(B) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4116(b)(6)(B)) is amended by striking ''requirement for giving preferences to certain categories of eligible families under'' and inserting ''written selection criteria established pursuant to''.

(4) HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992.—Section 655 of the Housing and Community Development Act of 1992 (42 U.S.C. 13615) is amended by striking ''preferences for occupancy'' and all that follows before the period at the end and inserting ''selection criteria established by the owner to elderly families according to such written selection criteria, and to near-elderly families according to such written selection criteria, respectively''.

(5) REFERENCES IN OTHER LAW.—Any reference in any Federal law other than any provision of any law amended by paragraphs (1) through (5) of this subsection or section 201 to the preferences for assistance under section 8(d)(1)(A)(i) or 8(o)(3)(B) of the United States Housing Act of 1937, as those sections existed on the day before the effective date of this title, shall be considered to refer to the written selection criteria established pursuant to section 8(d)(1)(A) or 8(o)(6)(A), respectively, of the United States Housing Act of 1937, as amended by this subsection and section 201 of this Act.

SEC. 203. PORTABILITY.

Section 8(r) of the United States Housing Act of 1937 (42 U.S.C. 1437f(r)) is amended—

(1) in paragraph (1)—

(A) by striking ''assisted under subsection (b) or (o)'' and inserting ''receiving tenant-based assistance under subsection (o)''; and

(B) by striking ''the same State'' and all that follows before the semicolon and inserting ''any area in which a program is being administered under this section'';

(2) in paragraph (2), by striking the last sentence;

(3) in paragraph (3)—

(A) by striking ''(b) or''; and

(B) by adding at the end the following: ''The Secretary shall establish procedures for the compensation of public housing agencies that issue vouchers to families that move into or out of the jurisdiction of the public housing agency under portability procedures. The Secretary may reserve amounts available for assistance under subsection (o) to compensate those public housing agencies.''; and

(4) by adding at the end the following:

''(5) LEASE VIOLATIONS.—A family may not receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has moved out of the assisted dwelling unit of the family in violation of a lease.''.

SEC. 204. LEASING TO VOUCHER HOLDERS.

Section 8(t) of the United States Housing Act of 1937 (42 U.S.C. 1437f(t)) is amended to read as follows:

''(t) [Reserved.]''.

SEC. 205. HOMEOWNERSHIP OPTION.

Section 8(y) of the United States Housing Act of 1937 (42 U.S.C. 1437f(y)) is amended—

(1) in paragraph (1)—

(A) by striking ''A family receiving'' and all that follows through ''if the family'' and inserting the following: ''A public housing agency providing tenant-based assistance on behalf of an eligible family under this section may provide assistance for an eligible family that purchases a dwelling unit (including a unit under a lease-purchase agreement) that will be owned by 1 or more members of the family, and will be occupied by the family, if the family'';

(B) in subparagraph (A), by inserting before the semicolon '', or owns or is acquiring shares in a cooperative''; and

(C) in subparagraph (B), by striking ''(i) participates'' and all that follows through ''(ii) demonstrates'' and inserting ''demonstrates'';

(2) by striking paragraph (2) and inserting the following:

''(2) DETERMINATION OF AMOUNT OF ASSISTANCE.—

''(A) MONTHLY EXPENSES DO NOT EXCEED PAYMENT STANDARD.—If the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, do not exceed the payment standard, the monthly assistance payment shall be the amount by which the homeownership expenses exceed the highest of the following amounts, rounded to the nearest dollar:

''(i) Thirty percent of the monthly adjusted income of the family.

''(ii) Ten percent of the monthly income of the family.

''(iii) If the family is receiving payments for welfare assistance from a public agency, and a portion of those payments, adjusted in accordance with the actual housing costs of the family, is specifically designated by that agency to meet the housing costs of the family, the portion of those payments that is so designated.

''(B) MONTHLY EXPENSES EXCEED PAYMENT STANDARD.—If the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, exceed the payment standard, the monthly assistance payment shall be the amount by which the applicable payment standard exceeds the highest of the following amounts, rounded to the nearest dollar:

''(i) Thirty percent of the monthly adjusted income of the family.

''(ii) Ten percent of the monthly income of the family.

''(iii) If the family is receiving payments for welfare assistance from a public agency and a part of those payments, adjusted in accordance with the actual housing costs of the family, is specifically designated by that agency to meet the housing costs of the family, the portion of those payments that is so designated.'';

(4) by striking paragraphs (3) through (5); and

(5) by redesignating paragraphs (6) through (8) as paragraphs (3) through (5), respectively.

SEC. 206. LAW ENFORCEMENT AND SECURITY PERSONNEL IN PUBLIC HOUSING.

Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended by adding at the end the following:

''(cc) LAW ENFORCEMENT AND SECURITY PERSONNEL.—Notwithstanding any other provision of this Act, an owner may admit, and assistance may be provided to, police officers and other security personnel (who are not otherwise eligible for assistance under the Act), in the case of assistance attached to a structure. In addition, the Secretary may permit such special rent requirements to be accompanied by other terms and conditions of occupancy that the Secretary may consider appropriate and may require the owner to submit an application for special rent requirements which shall include such information as the Secretary, in the discretion of the Secretary, determines to be necessary.''.

SEC. 207. TECHNICAL AND CONFORMING AMENDMENTS.

(a) LOWER INCOME HOUSING ASSISTANCE.—Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended—

(1) in subsection (a), by striking the second and third sentences;

(2) in subsection (b)—

(A) in the subsection heading, by striking ''RENTAL CERTIFICATES AND''; and

(B) in the first undesignated paragraph—

(i) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary''; and

(ii) by striking the second sentence;

(3) in subsection (c)—

(A) in paragraph (3)—

(i) by striking ''(A)''; and

(ii) by striking subparagraph (B);

(B) in the first sentence of paragraph (4), by striking ''or by a family that qualifies to receive'' and all that follows through ''1990'';

(C) by striking paragraph (5) and redesignating paragraph (6) as paragraph (5);

(D) by striking paragraph (7) and redesignating paragraphs (8) through (10) as paragraphs (6) through (8), respectively;

(E) effective on October 1, 1997, in paragraph (7), as redesignated, by striking ''housing certificates or vouchers under subsection (b) or'' and inserting ''a voucher under subsection''; and

(F) in paragraph (8), as redesignated, by striking ''(9)'' and inserting ''(7)'';

(4) in subsection (d)—

(A) in paragraph (1)(B)(iii), by striking ''drug-related criminal activity or or near such premises'' and inserting ''violent or drug-related criminal activity on or off such premises, or any activity resulting in a felony conviction'';

(B) in paragraph (2)—

(i) in subparagraph (A), by striking the third sentence and all that follows through the end of the subparagraph; and

(ii) by striking subparagraphs (B) through (E) and redesignating subparagraphs (F) through (H) as subparagraphs (B) through (D), respectively;

(5) in subsection (f)—

(A) in paragraph (6), by striking ''(d)(2)'' and inserting ''(o)(11)''; and

(B) in paragraph (7)—

(i) by striking ''(b) or''; and

(ii) by inserting before the period the following: ''and that provides for the eligible family to select suitable housing and to move to other suitable housing'';

(6) by striking subsection (j) and inserting the following:

''(j) [Reserved.]'';

(7) by striking subsection (n) and inserting the following:

''(n) [Reserved.]'';

(8) in subsection (q)—

(A) in the first sentence of paragraph (1), by striking ''certificate and housing voucher programs under subsections (b) and (o)'' and inserting ''voucher program under this section'';

(B) in paragraph (2)(A)(i), by striking ''certificate and housing voucher programs under subsections (b) and (o)'' and inserting ''voucher program under this section''; and

(C) in paragraph (2)(B), by striking ''certificate and housing voucher programs under subsections (b) and (o)'' and inserting ''voucher program under this section'';

(9) in subsection (u)—

(A) in paragraph (2), by striking '', certificates''; and

(B) by striking ''certificates or'' each place that term appears; and

(10) in subsection (x)(2), by striking ''housing certificate assistance'' and inserting ''tenant-based assistance''.

(b) PUBLIC HOUSING HOMEOWNERSHIP AND MANAGEMENT OPPORTUNITIES.—Section 21(b)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437s(b)(3)) is amended—

(1) in the first sentence, by striking ''(at the option of the family) a certificate under section 8(b)(1) or a housing voucher under section 8(o)'' and inserting ''tenant-based assistance under section 8''; and

(2) by striking the second sentence.

(c) DOCUMENTATION OF EXCESSIVE RENT BURDENS.—Section 550(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437f note) is amended—

(1) in paragraph (1), by striking ''assisted under the certificate and voucher programs established'' and inserting ''receiving tenant-based assistance'';

(2) in the first sentence of paragraph (2)—

(A) by striking '', for each of the certificate program and the voucher program'' and inserting ''for the tenant-based assistance under section 8''; and

(B) by striking ''participating in the program'' and inserting ''receiving tenant-based assistance''; and

(3) in paragraph (3), by striking ''assistance under the certificate or voucher program'' and inserting ''tenant-based assistance under section 8 of the United States Housing Act of 1937''.

(d) GRANTS FOR COMMUNITY RESIDENCES AND SERVICES.—Section 861(b)(1)(D) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12910(b)(1)(D)) is amended by striking ''certificates or vouchers'' and inserting ''assistance''.

(e) SECTION 8 CERTIFICATES AND VOUCHERS.—Section 931 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437c note) is amended by striking ''assistance under the certificate and voucher programs under sections 8(b) and (o) of such Act'' and inserting ''tenant-based assistance under section 8 of the United States Housing Act of 1937''.

(f) ASSISTANCE FOR DISPLACED RESIDENTS.—Section 223(a) of the Housing and Community Development Act of 1987 (12 U.S.C. 4113(a)) is amended by striking ''assistance under the certificate and voucher programs under sections 8(b) and 8(o)'' and inserting ''tenant-based assistance under section 8''.

(g) RURAL HOUSING PRESERVATION GRANTS.—Section 533(a) of the Housing Act of 1949 (42 U.S.C. 1490m(a)) is amended in the second sentence by striking ''assistance payments as provided by section 8(o)'' and inserting ''tenant-based assistance as provided under section 8''.

(h) REPEAL OF MOVING TO OPPORTUNITIES FOR FAIR HOUSING DEMONSTRATION.—Section 152 of the Housing and Community Development Act of 1992 (42 U.S.C. 1437f note) is repealed.

(i) PREFERENCES FOR ELDERLY FAMILIES AND PERSONS.—Section 655 of the Housing and Community Development Act of 1992 (42 U.S.C. 13615) is amended by striking ''the first sentence of section 8(o)(3)(B)'' and inserting ''section 8(o)(6)(A)''.

(j) ASSISTANCE FOR TROUBLED MULTIFAMILY HOUSING PROJECTS.—Section 201(m)(2)(A) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–1a(m)(2)(A)) is amended by striking ''section 8(b)(1)'' and inserting ''section 8''.

(k) MANAGEMENT AND DISPOSITION OF MULTIFAMILY HOUSING PROJECTS.—Section 203(g)(2) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z–11(g)(2)) is amended by striking ''8(o)(3)(B)'' and inserting ''8(o)(6)(A)''.

SEC. 208. IMPLEMENTATION.

In accordance with the negotiated rulemaking procedures set forth in subchapter III of chapter 5 of title 5, United States Code, the Secretary shall issue such regulations as may be necessary to implement the amendments made by this title after notice and opportunity for public comment.

SEC. 209. DEFINITION.

In this title, the term ''public housing agency'' has the same meaning as section 3 of the United States Housing Act of 1937, except that such term shall also include any other nonprofit entity serving more than 1 local government jurisdiction that was administering the section 8 tenant-based assistance program pursuant to a contract with the Secretary or a public housing agency prior to the date of enactment of this Act.

SEC. 210. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this title shall become effective not later than 1 year after the date of enactment of this Act.

(b) CONVERSION ASSISTANCE.—

(1) IN GENERAL.—The Secretary may provide for the conversion of assistance under the certificate and voucher programs under subsections (b) and (o) of section 8 of the United States Housing Act of 1937, as those sections existed on the day before the effective date of the amendments made by this title, to the voucher program established by the amendments made by this title.

(2) CONTINUED APPLICABILITY.—The Secretary may apply the provisions of the United States

Housing Act of 1937, or any other provision of law amended by this title, as those provisions existed on the day before the effective date of the amendments made by this title, to assistance obligated by the Secretary before that effective date for the certificate or voucher program under section 8 of the United States Housing Act of 1937, if the Secretary determines that such action is necessary for simplification of program administration, avoidance of hardship, or other good cause.

SEC. 211. RECAPTURE AND REUSE OF ANNUAL CONTRIBUTION CONTRACT PROJECT RESERVES UNDER THE TENANT-BASED ASSISTANCE PROGRAM.

Section 8(d) of the United States Housing Act of 1937 is amended by adding at the end the following:

''(5) RECAPTURE AND REUSE OF ANNUAL CONTRIBUTION CONTRACT PROJECT RESERVES.—

''(A) RECAPTURE.—To the extent that the Secretary determines that the amount in the annual contribution contract reserve account under a contract with a public housing agency for tenant-based assistance under this section is in excess of the amount needed by the public housing agency, the Secretary shall recapture such excess amount.

''(B) REUSE.—The Secretary may hold any amounts under this paragraph in reserve until needed to amend or renew an annual contributions contract with any public housing agency.''.

TITLE III—SAFETY AND SECURITY IN PUBLIC AND ASSISTED HOUSING

SEC. 301. SCREENING OF APPLICANTS.

(a) INELIGIBILITY BECAUSE OF PAST EVICTIONS.—

(1) IN GENERAL.—Any household or member of a household evicted from federally assisted housing (as that term is defined in section 305(a)) by reason of drug-related criminal activity (as that term is defined in section 305(c)) or for other serious violations of the terms or conditions of the lease shall not be eligible for federally assisted housing—

(A) in the case of eviction by reason of drug-related criminal activity, for a period of not less than 3 years from the date of the eviction unless the evicted member of the household successfully completes a rehabilitation program; and

(B) for other evictions, for a reasonable period of time as determined by the public housing agency or owner of the federally assisted housing, as applicable.

(2) WAIVER.—The requirements of subparagraphs (A) and (B) of paragraph (1) may be waived if the circumstances leading to eviction no longer exist.

(b) INELIGIBILITY OF ILLEGAL DRUG USERS AND ALCOHOL ABUSERS.—Notwithstanding any other provision of law, a public housing agency or an owner of federally assisted housing, or both, as determined by the Secretary, shall establish standards that prohibit admission to the program or admission to federally assisted housing for any household with a member—

(1) who the public housing agency or the owner determines is engaging in the illegal use of a controlled substance; or

(2) with respect to whom the public housing agency or the owner determines that it has reasonable cause to believe that such household member's illegal use (or pattern of illegal use) of a controlled substance, or abuse (or pattern of abuse) of alcohol would interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.

(c) CONSIDERATION OF REHABILITATION.—In determining whether, pursuant to subsection (b)(2), to deny admission to the program or to federally assisted housing to any household based on a pattern of illegal use of a controlled substance or a pattern of abuse of alcohol by a household member, a public housing agency or an owner may consider whether such household member—

(1) has successfully completed a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable);

(2) has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable); or

(3) is participating in a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable).

(d) ILLEGAL USE OF CONTROLLED SUBSTANCES OR ABUSE OF ALCOHOL.—

(1) RELEASES.—

(A) IN GENERAL.—A public housing agency may require each person who applies for admission to public housing or for assistance under section 8(o) of the United States Housing Act of 1937 to sign one or more appropriate releases authorizing the public housing agency to obtain written information related solely to the applicant's current illegal use (or pattern of illegal use) of a controlled substance, or abuse (or pattern of abuse) of alcohol, in order to assist a public housing agency in determining an applicant's eligibility for such admission or assistance, including determining whether—

(i) the applicant is or is not illegally using a controlled substance; or

(ii) there is reasonable cause to believe that the applicant's illegal use (or pattern of illegal use) of a controlled substance, or abuse (or pattern of abuse) of alcohol, may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents of the project.

(B) LIMITATION.—For purposes of this paragraph, a public housing agency may only require an applicant to sign a release (or releases) if the public housing agency requires all of its applicants to sign such release or releases.

(2) PROVISION OF INFORMATION.—

(A) IN GENERAL.—Notwithstanding any other provision of law other than this subsection, upon the written request of a public housing agency that meets the requirements of subparagraph (B), a physician, drug or alcohol treatment center, medical center, medical clinic, detoxification center, hospital, drug or alcohol treatment program, the National Crime Information Center, police department, or any other law enforcement agency, shall provide to the public housing agency information described in paragraph (1) with respect to an applicant.

(B) REQUIREMENTS.—For purposes of subparagraph (A) a request by a public housing agency meets the requirements of this subparagraph if it includes a written authorization, signed by such applicant, for the release of information described in paragraph (1) to the public housing agency.

(3) FEE.—A public housing agency may be charged a reasonable fee for information provided under this subsection.

(4) RECORDS MANAGEMENT.—Each public housing agency that receives information under this subsection shall establish and implement a system of records management that ensures that any information received by the public housing agency under this subsection is—

(A) maintained confidentially;

(B) not misused or improperly disseminated; and

(C) destroyed in a timely fashion, once the purpose for which the information was requested has been accomplished.

(5) LIMITATION.—For purposes of this subsection, a public housing agency shall be prohibited from—

(A) requesting any information that does not relate solely to an applicant's current illegal use (or pattern of illegal use) of a controlled substance, or abuse (or pattern of abuse) of alcohol; or

(B) receiving the actual records from which information has been obtained related to the applicant's current illegal use (or pattern of illegal use) of a controlled substance, or abuse (or pattern of abuse) of alcohol.

(6) EFFECTIVE DATE.—This subsection shall take effect upon enactment and without the necessity of guidance from, or regulations issued by, the Secretary.

(e) AUTHORITY TO REQUIRE ACCESS TO CRIMINAL RECORDS.—A public housing agency may require, as a condition of providing admission to the public housing program or assisted housing program under the jurisdiction of the public housing agency, that each adult member of the household provide a signed, written authorization for the public housing agency to obtain records described in section 304 regarding such member of the household from the National Crime Information Center, police departments, and other law enforcement agencies.

SEC. 302. TERMINATION OF TENANCY AND ASSISTANCE.

(a) TERMINATION OF TENANCY AND ASSISTANCE FOR ILLEGAL DRUG USERS AND ALCOHOL ABUSERS.—Notwithstanding any other provision of law, a public housing agency or an owner of federally assisted housing, as applicable, shall establish standards or lease provisions for continued assistance or occupancy in federally assisted housing that allow a public housing agency or the owner, as applicable, to terminate the tenancy or assistance for any household with a member—

(1) who the public housing agency or owner determines is engaging in the illegal use of a controlled substance; or

(2) whose illegal use of a controlled substance, or whose abuse of alcohol, is determined by the public housing agency or owner to interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.

(b) TERMINATION OF ASSISTANCE FOR SERIOUS OR REPEATED LEASE VIOLATION.—Notwithstanding any other provision of law, the public housing agency must terminate tenant-based assistance for all household members if the household is evicted from assisted housing for serious or repeated violation of the lease.

SEC. 303. LEASE REQUIREMENTS.

In addition to any other applicable lease requirements, each lease for a dwelling unit in federally assisted housing shall provide that, during the term of the lease—

(1) the owner may not terminate the tenancy except for serious or repeated violation of the terms and conditions of the lease, violation of applicable Federal, State, or local law, or other good cause; and

(2) grounds for termination of tenancy shall include any activity, engaged in by the resident, any member of the resident's household, any guest, or any other person under the control of any member of the household, that—

(A) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other residents or employees of the public housing agency, owner, or other manager of the housing;

(B) threatens the health or safety of, or right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises; or

(C) is drug-related or violent criminal activity on or off the premises, or any activity resulting in a felony conviction.

SEC. 304. AVAILABILITY OF CRIMINAL RECORDS FOR PUBLIC HOUSING RESIDENT SCREENING AND EVICTION.

(a) IN GENERAL.—

(1) PROVISION OF INFORMATION.—Notwithstanding any other provision of law other than paragraphs (2) and (3), upon the request of a public housing agency, the National Crime Information Center, a police department, and any other law enforcement agency shall provide to the public housing agency information regarding the criminal conviction records of an adult applicant for, or residents of, the public housing

program or assisted housing program under the jurisdiction of the public housing agency for purposes of applicant screening, lease enforcement, and eviction, but only if the public housing agency requests such information and presents to such Center, department, or agency a written authorization, signed by such applicant, for the release of such information to such public housing agency.

(2) EXCEPTION.—A law enforcement agency described in paragraph (1) shall provide information under this paragraph relating to any criminal conviction of a juvenile only to the extent that the release of such information is authorized under the law of the applicable State, tribe, or locality.

(b) OPPORTUNITY TO DISPUTE.—Before an adverse action is taken with regard to assistance for public housing on the basis of a criminal record, the public housing agency shall provide the resident or applicant with a copy of the criminal record and an opportunity to dispute the accuracy and relevance of that record.

(c) FEE.—A public housing agency may be charged a reasonable fee for information provided under subsection (a).

(d) RECORDS MANAGEMENT.—Each public housing agency that receives criminal record information under this section shall establish and implement a system of records management that ensures that any criminal record received by the agency is—

(1) maintained confidentially;

(2) not misused or improperly disseminated; and

(3) destroyed in a timely fashion, once the purpose for which the record was requested has been accomplished.

(e) DEFINITION OF ADULT.—In this section, the term ''adult'' means a person who is 18 years of age or older, or who has been convicted of a crime as an adult under any Federal, State, or tribal law.

SEC. 305. DEFINITIONS.

In this title:

(1) FEDERALLY ASSISTED HOUSING.—The term ''federally assisted housing'' means a unit in—

(A) public housing under the United States Housing Act of 1937;

(B) housing assisted under section 8 of the United States Housing Act of 1937 including both tenant-based assistance and project-based assistance;

(C) housing that is assisted under section 202 of the Housing Act of 1959 (as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act);

(D) housing that is assisted under section 202 of the Housing Act of 1959 (as in existence immediately before the date of enactment of the Cranston-Gonzalez National Affordable Housing Act); and

(E) housing that is assisted under section 811 of the Cranston-Gonzalez National Affordable Housing Act.

(2) DRUG-RELATED CRIMINAL ACTIVITY.—The term ''drug-related criminal activity'' means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

(3) OWNER.—The term ''owner'' means, with respect to federally assisted housing, the entity or private person, including a cooperative or public housing agency, that has the legal right to lease or sublease dwelling units in such housing.

SEC. 306. CONFORMING AMENDMENTS.

Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) is amended—

(1) in subsection (l) (as amended by section 107(f) of this Act)—

(A) by striking paragraphs (4) and (5);

(B) by striking the last sentence; and

(C) by redesignating paragraphs (6) through (8) as paragraphs (4) through (6), respectively;

(2) by striking subsections (q) and (r); and

(3) by redesignating subsection (s) (as added by section 109 of this Act) as subsection (q).

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. PUBLIC HOUSING FLEXIBILITY IN THE CHAS.

Section 105(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)) is amended—

(1) by redesignating the second paragraph designated as paragraph (17) (as added by section 681(2) of the Housing and Community Development Act of 1992) as paragraph (20);

(2) by redesignating paragraph (17) (as added by section 220(b)(3) of the Housing and Community Development Act of 1992) as paragraph (19);

(3) by redesignating the second paragraph designated as paragraph (16) (as added by section 220(c)(1) of the Housing and Community Development Act of 1992) as paragraph (18);

(4) in paragraph (16)—

(A) by striking the period at the end and inserting a semicolon; and

(B) by striking ''(16)'' and inserting ''(17)'';

(5) by redesignating paragraphs (11) through (15) as paragraphs (12) through (16), respectively; and

(6) by inserting after paragraph (10) the following:

''(11) describe the manner in which the plan of the jurisdiction will help address the needs of public housing and is consistent with the local public housing agency plan under section 5A of the United States Housing Act of 1937;''.

SEC. 402. DETERMINATION OF INCOME LIMITS.

(a) IN GENERAL.—Section 3(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(2)) is amended—

(1) in the fourth sentence—

(A) by striking ''County,'' and inserting ''and Rockland Counties''; and

(B) by inserting ''each'' before ''such county''; and

(2) in the fifth sentence, by striking ''County'' each place that term appears and inserting ''and Rockland Counties''.

(b) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall issue regulations implementing the amendments made by subsection (a).

SEC. 403. DEMOLITION OF PUBLIC HOUSING.

Notwithstanding any other provision of law, beginning on the date of enactment of this Act, the public housing projects described in section 415 of the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1988 (as in existence on April 25, 1996) shall be eligible for demolition under—

(1) section 9 of the United States Housing Act of 1937, as amended by this Act; and

(2) section 14 of the United States Housing Act of 1937, as that section existed on the day before the date of enactment of this Act.

SEC. 404. TECHNICAL CORRECTION OF PUBLIC HOUSING AGENCY OPT-OUT AUTHORITY.

Section 214(h)(2)(A) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436(h)(2)(A)) is amended by striking ''this section'' and inserting ''paragraph (1) of this subsection''.

SEC. 405. REVIEW OF DRUG ELIMINATION PROGRAM CONTRACTS.

(a) REQUIREMENT.—The Secretary shall investigate all security contracts awarded by grantees under the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11901 et seq.) that are public housing agencies that own or operate more than 4,500 public housing dwelling units—

(1) to determine whether the contractors under such contracts have complied with all laws and regulations regarding prohibition of discrimination in hiring practices;

(2) to determine whether such contracts were awarded in accordance with the applicable laws and regulations regarding the award of such contracts;

(3) to determine how many such contracts were awarded under emergency contracting procedures;

(4) to evaluate the effectiveness of the contracts; and

(5) to provide a full accounting of all expenses under the contracts.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall complete the investigation required under subsection (a) and submit a report to Congress regarding the findings under the investigation. With respect to each such contract, the report shall—

(1) state whether the contract was made and is operating, or was not made or is not operating, in full compliance with applicable laws and regulations; and

(2) for each contract that the Secretary determines is in such compliance issue a personal certification of such compliance by the Secretary.

(c) ACTIONS.—For each contract that is described in the report under subsection (b) as not made or not operating in full compliance with applicable laws and regulations, the Secretary shall promptly take any actions available under law or regulation that are necessary—

(1) to bring such contract into compliance; or

(2) to terminate the contract.

(d) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

SEC. 406. SENSE OF CONGRESS.

It is the sense of Congress that, each public housing agency involved in the selection of residents under the United States Housing Act of 1937 (including section 8 of that Act) should, consistent with the public housing agency plan of the public housing agency, consider preferences for individuals who are victims of domestic violence.

SEC. 407. OTHER REPEALS.

The following provisions of law are repealed:

(1) REPORT REGARDING FAIR HOUSING OBJECTIVES.—Section 153 of the Housing and Community Development Act of 1992 (42 U.S.C. 1437f note).

(2) SPECIAL PROJECTS FOR ELDERLY OR HANDICAPPED FAMILIES.—Section 209 of the Housing and Community Development Act of 1974 (42 U.S.C. 1438).

(3) MISCELLANEOUS PROVISIONS.—Subsections (b)(1), (c), and (d) of section 326 of the Housing and Community Development Amendments of 1981 (Public Law 97–35, 95 Stat. 406; 42 U.S.C. 1437f note).

(4) PUBLIC HOUSING CHILDHOOD DEVELOPMENT.—Section 222 of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701z–6 note).

(5) INDIAN HOUSING CHILDHOOD DEVELOPMENT.—Section 518 of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 1701z–6 note).

(6) PUBLIC HOUSING ONE-STOP PERINATAL SERVICES DEMONSTRATION.—Section 521 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437t note).

(7) PUBLIC HOUSING MINCS DEMONSTRATION.—Section 522 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437f note).

(8) PUBLIC HOUSING ENERGY EFFICIENCY DEMONSTRATION.—Section 523 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437g note).

(9) PUBLIC AND ASSISTED HOUSING YOUTH SPORTS PROGRAMS.—Section 520 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11903a).

Mr. MACK. Mr. President, I am pleased to bring to the floor S. 462, the Public Housing Reform and Responsibility Act of 1997. This bill is similar to public and assisted housing reform legislation, S. 1260, that was introduced

in the 104th Congress and passed unanimously by this body.

The Public Housing Reform and Responsibility Act of 1997 addresses a public housing system fraught with counterproductive rules and regulations that make it impossible for even the best run public housing authorities [PHA's] to operate effectively and efficiently. It will help to make public housing a platform from which residents can achieve the goal of economic independence and self-sufficiency. In addition, it promotes increased residential choice and mobility by increasing opportunities for residents to use tenant-based assistance.

The following reforms contained in the Public Housing Reform and Responsibility Act represent significant improvements in current public and assisted housing policies.

First, the bill consolidates a multitude of programs into two flexible block grants to expand the eligible uses of funds and allow more creative and efficient use of resources. The bill also repeals a number of current programs that are obsolete, unused, or unfunded.

Second, it institutes permanent rent reforms such as ceiling rents, earned income adjustments, and minimum rents that provide PHA's with the tools to develop rental policies that encourage and reward work and further the goal of creating mixed-income communities. The bill also removes the floor on rents that may be charged under the Brooke amendment, while assuring that poor families will not pay more than 30 percent of their income for rent.

Third, S. 462 requires tough, swift action against PHA's with severe management deficiencies and provides HUD or court-appointed receivers with the necessary tools and powers to deal with troubled agencies and protect public housing residents.

Fourth, it requires intervention with respect to severely distressed public housing developments that trap residents in deplorable living conditions and are costly to operate or maintain. It provides residents with alternative housing using vouchers or other available housing.

Fifth, the bill permanently repeals the one-for-one replacement requirement and streamlines the demolition and disposition process to permit PHA's to demolish or sell vacant or obsolete public housing.

Sixth, it gives PHA's broad flexibility to develop or participate with other providers of affordable housing in the development of mixed-income, mixed finance developments.

Seventh, it repeals Federal preferences that have had the unintended consequence of concentrating the poorest of the poor in public housing developments and allows PHA's to operate according to locally established preferences consistent with local housing needs. The bill still maintains the requirement that most housing assistance be targeted to very low-income households.

Eighth, the Public Housing Reform and Responsibility Act calls on PHA's to increase coordination with State and local welfare agencies to ensure that welfare recipients living in public housing will have the full opportunity to move from welfare to work.

Ninth, the bill provides residents with an active voice in developing the local PHA plans that will govern the operations and management of housing and for direct participation on housing authority boards of directors. It also authorizes funds for resident organizations to develop resident management and empowerment activities.

Finally, S. 462 merges the section 8 voucher and certificate programs into a single, choice-based program designed to operate more effectively in the private marketplace. It repeals requirements that are administratively burdensome to landlords, such as ''take-one, take-all,'' endless lease and 90-day termination notice requirements. These reforms will make participation in the section 8 tenant-based program more attractive to private landlords and increase housing choices for lower income families.

The reforms contained in this legislation will significantly improve the Nation's public housing and tenant-based rental assistance program and the lives of those who reside in federally assisted housing. The funding flexibility, substantial deregulation of the day-to-day operations and policies of public authorities, encouragement of mixed-finance developments, policies to deal with distressed and troubled public housing, and rent reforms will change the face of public housing for PHA's, residents, and local communities.

Reform of the public housing system has been and remains a bipartisan effort in the Senate. I want to thank the chairman of the Banking Committee, Senator D'AMATO for his strong and steadfast support of public housing reform. Further, I appreciate the commitment of the ranking member of the Committee, Senator SARBANES, and the ranking member of the Housing Subcommittee, Senator KERRY, to the reform effort.

S. 462 represents the input of many members of this body as well as the administration. Since the unanimous approval of this legislation by the Banking Committee on May 8, we have worked to make a number of needed technical changes to the bill. In addition, the managers amendment to the bill reflects a number of policy changes that have bipartisan support.

First, the amendment revises the income targeting provisions for public and section 8 tenant-based housing contained in the committee-passed bill. Most important, the amendment would increase the percentage of section 8 tenant based assistance that would be targeted to families with very low incomes.

Second, the managers amendment modifies an amendment initially approved by the Banking Committee, which permits housing authorities to require applicants for public housing to sign a release for information concerning the applicant's illegal drug use. I appreciate the willingness of the sponsor of the amendment, Senator GRAMS, to work with Senators LEAHY, KENNEDY, KERRY, and JEFFORDS to address their concerns about the confidentiality of medical records and potential conflicts with other statutes.

As reflected in the managers amendment, the Grams amendment will not supersede the Public Health Service Act, and is not intended to abrogate or otherwise limit any provision of the Public Health Service Act, or the regulations issued pursuant to the Public Health Service Act. Any action pursuant to this provision must be taken in conformance with the Public Health Service Act.

Finally, the bill contains an amendment proposed by Senator GRAMM, along with Senator D'AMATO, to prohibit the admission of sexually violent predators into public and assisted housing and provide housing authorities access to records on past convictions. One of the important purposes of S. 462 is to incorporate measures which reduce crime and increase the safety and security of residents of public and assisted housing. This amendment is an important and useful contribution to meeting the goals of the legislation.

I urge the passage of S. 462, so that we can begin the process of reconciling our differences with the House-passed version of public housing reform.

Mr. KERRY. Mr. President, I rise in support of S. 462 and urge all my colleagues to support this public housing reform legislation.

I want to thank Senator MACK, chairman of the Housing Subcommittee and his excellent staff for their great work on this legislation. Senator MACK has proved to be a tireless partner in trying to put together a consensus piece of legislation. I also want to thank Senator SARBANES for his active participation in drafting the current compromise language.

Finally, I want to congratulate Senator D'AMATO for shepherding this important piece of housing legislation through the Senate for the second year in a row. He has taken an active interest in this and other housing legislation which helps to put our Nation's housing policy on a more sound and fiscally responsible foundation.

This is an important piece of legislation. It contains many of the key ingredients needed to bring the public housing program back to health. It includes many important management reforms requested by Secretary Cuomo that will make HUD a more efficient and responsive organization, a direction in which we can all agree the Department must move.

The bill gives local public housing authorities both new powers and new flexibility to define and meet local housing needs. At the same time, it makes the consequences for failing to

meet those needs more certain and more severe.

This bill eliminates many of the provisions of current law that numerous critics have pointed to as causes for the decline of public housing, provisions such as Federal preferences and one for one replacement. While well-meaning, these laws have had the unintended consequence of contributing to an image—and in some cases the reality—of public housing projects as islands of desperate poverty, ridden by crime and joblessness.

By repealing these laws, the Senate bill gives local housing officials much more independence. They will have to identify the housing needs in their communities and address them in a more effective way that avoids the pitfalls of the past. This is a significant new responsibility. Many housing authorities have already proven to be extremely creative and innovative. For those, this bill will prove to be a huge benefit to the residents, the PHA's, and their communities as a whole.

As part of this bargain, we now require housing authorities to devote a greater number of the rental assistance vouchers to serve extremely low income families. This is an important improvement that has been made in the legislation since the committee approved it, and I thank Chairman MACK for his cooperation in achieving this goal.

We have also expanded and improved the opportunities for residents to be informed about and participate in the public housing planning process. Residents will be able to take a more active role in the provision of services to other public housing residents. I strongly support these initiatives.

Other PHA's will have a more difficult time with the transition to greater independence. HUD will have to continue to have a significant oversight role in these areas. But as HUD's staff and authority diminish, I look to the residents of public housing to exercise their voices and participate enthusiastically and aggressively in the PHA's plans and activities, along the lines established by this bill. In the long run, it is the residents who will be the best watchdogs. We must make sure they are adequately empowered to exercise this function effectively.

In the long run, Mr. President, I hope this bill, when enacted into law, will make public housing the kind of showcase to which we can proudly point to in seeking the additional resources we need to really start addressing the affordable housing crisis affecting so many of our States, from my own State of Massachusetts, to New York, California, Utah, and elsewhere. That will be the measure of success I will use in the years to come.

Mr. D'AMATO. Mr. President, I rise today in strong support of the Public Housing Reform and Responsibility Act of 1997 (S. 462). With the passage of this important legislation, the Senate today renews its commitment to ensuring that every American family has a decent, safe and affordable home. The bill builds upon and improves those aspects of the Nation's public and assisted housing programs which are working well and takes dramatic and vital steps to eliminate areas of failure in the system.

This legislation recognizes that the vast majority of public housing is well-managed and provides over 1 million American families, elderly and disabled with decent, safe and affordable housing. However, housing and social policy concerns, as well as Federal budget constraints, dictate the need for reform. The reform measures contained in S. 462 will reduce the costs of public and assisted housing to the Federal Government by streamlining regulations, facilitating the formation of local partnerships and leveraging additional State, local, and private resources to improve the quality of the existing stock. These changes will help ensure that Federal funds can be used more efficiently in order to serve additional families through the creation of mixed income communities.

This legislation represents the culmination of over 2 years of a bipartisan, consensus-building effort to enhance and revitalize affordable housing throughout the Nation. This fruitful effort has been led by Senator CONNIE MACK, chairman of the Subcommittee on Housing and Community Opportunity, whom I salute for his determination and commitment to an informed and reasoned approach in confronting issues of enormous complexity. Senator MACK has sought input from the administration, resident groups, public housing authorities, low-income housing advocates, nonprofit organizations and state and local officials who are responsible for implementing the Federal requirements established by Congress.

Mr. President, this legislation makes several critical improvements to the Nation's public and assisted housing system. It will protect our residents by maintaining the Brooke amendment, which caps rents at 30-percent of a tenant's income, and mandating tenant participation. It will institute reasonable rent requirements to encourage welfare recipients who currently receive housing subsidies to move to work. It will expand homeownership opportunities for low and moderate income families. The bill will speed the demolition of distressed housing projects through the repeal of the one-for-one replacement requirement. Also, the section 8 tenant-based voucher and certificate programs will be combined into a single, streamlined voucher system. The needless confusion which results from the differing rules and regulations of these two separate programs will be eliminated in order to increase the participation of private landlords in a unified, simplified system

This legislation recognizes that every American deserves to live in a safe and secure community. To achieve that goal, a number of important provisions have been added to the legislation at my request. The legislation will allow HUD to waive rent and income requirements to permit police officers a lower rent as an inducement to living in public and assisted housing. Loopholes in the current law which allow drug dealers and violent criminals to escape eviction if they commit their crimes off the premises of the public housing authority will be eliminated. In addition, public housing authorities will be judged and rated based on the effectiveness of their anticrime policies, and their coordination with local law enforcement and tenant organizations in developing and implementing anticrime strategies.

I would like to highlight one important anticrime provision which has recently been added to the legislation. This provision would mandate the exclusion of child molesters and sexually violent predators from receiving Federal housing assistance. In addition, local public housing agencies would be granted access to the Federal Bureau of Investigation's [FBI] national database on sexually violent offenders. This improved records access provision is critical to ensuring that these offenders are properly screened out. I would like to thank my colleague Senator GRAMM for joining with me in ensuring that the families and children who live in public housing are protected from convicted sex offenders. Senator GRAMM's leadership as the sponsor of the Pam Lychner Sexual Offender Tracking and Identification Act of 1996 (Public Law 104–236), which established the FBI database, and his diligence in bringing this issue to the attention of the committee are to be commended

Mr. President, the reform provisions contained in this bill will greatly improve the quality of life of the families residing in public and assisted housing and will help to ensure the long-term viability of our Nation's existing stock of affordable housing. I thank my colleagues on the Senate Banking Committee for their hard work and spirit of bipartisan compromise which they have shown throughout the process. I respectfully urge this legislation's speedy passage.

Mr. SARBANES. Mr. President, I rise in support of S. 462, the Public Housing Reform and Responsibility Act of 1997.

This bill is the culmination of months of hard work and careful consideration. It represents the collective wisdom of housing authority directors, public housing residents and resident organizations, local elected officials, and experts at HUD. As a result of this open, inclusive, and bipartisan process, this bill represents widespread agreement among stakeholders.

I want to take a moment to extend my special thanks to Senator MACK for his hard work over the past 3 years to get us to this point. Senator MACK has worked tirelessly to listen to every argument, to entertain every question,

and to consider every opinion as we moved this bill from introduction through the committee and now to the floor. He has proven to be responsive to serious concerns and has shown the willingness and ability to build coalitions in the interest of getting legislation passed. I greatly appreciate his willingness to work with me and my colleagues to produce this important piece of legislation.

Likewise, I want to thank Senator KERRY, the ranking member of the Housing Subcommittee. Senator KERRY has long been one of the chief advocates for public and assisted housing in the Congress of the United States. This public housing bill, particularly in it efforts to target assistance to those most in need, reflects Senator KERRY's indelible stamp.

Finally, I greatly appreciate the skill with which Senator D'AMATO has managed this bill and other important legislation, such as the mark-to-market proposal. He has been an important partner in the success we are achieving here tonight.

Mr. President, public housing is the program everyone loves to hate. It is easy to understand why; bad high-rise public housing projects are easy targets for the press. These projects are magnets for crime and drugs. They stick out like sore thumbs and ruin whole neighborhoods.

But the fact is that most public housing is good housing. In fact, in most communities around the country, public housing cannot be distinguished from the private housing stock that surrounds it. Most people don't even know when public housing is in their neighborhoods.

Many of the provisions of S. 462 will help make the public housing program a more effective program. It will give local housing authorities greater autonomy, and greater responsibility, to meet the housing needs in their communities. It will provide for a broader, more economically diverse mix in public housing, which experts universally agree is necessary to create healthier communities. The bill includes important provisions to encourage public housing residents to go to work by delaying any rent increases that would otherwise accompany income gains.

The bill will expedite the demolition of bad public housing, which has been a point of emphasis for both Secretary Cuomo and former Secretary Cisneros. It will enable HUD to set aside bad public housing management more quickly and replace it with the type of professionals that can turn these agencies around. Many of the reforms in this bill will result in spending taxpayers dollars more efficiently and effectively, and in residents benefiting from imported conditions.

Again, I want to thank my colleagues for their cooperation, and I look forward to continuing to move forward to conference in a bipartisan spirit. I urge my colleagues to adopt this legislation.

Mr. ALLARD. Mr. President, I believe the public housing bill is sound legislation and would like to extend my appreciation to the chairman and the subcommittee staff for all of their hard work.

I would especially like to thank the chairman for working with me to include two provisions in the public housing bill. One measure would make vouchers available for Public Housing residents who are victims of crime. This provision would give them the change to live in better surroundings. Also included in the bill is a Housing Cost Commission to determine the full cost to the Federal Government of each of the housing programs administered by HUD. The data from this Commission will be available for Congress as it works to improve the efficiency and quality of federally assisted housing programs.

I appreciate being able to work together for the goal of improving our public housing system and ensuring that these programs provide necessary assistance to low income individuals while giving them an opportunity to help themselves.

Mr. GRAMS. Mr. President, today, I rise in support of S. 462, the Public Housing Reform and Responsibility Act. This bill is compassionate legislation that provides much-needed regulatory relief and commonsense reform for public housing in America. I am proud to be an original cosponsor of S. 462. It makes permanent the reform measures that have been added onto recent appropriations bills. It provides much needed additional regulatory relief and paperwork reduction to well-managed public housing agencies. It imposes tougher penalties on troubled housing authorities. And finally, it strengthens the ability of authorities to improve the safety of their tenants by enhancing their powers of screening and eviction.

S. 462 makes permanent various reform measures that have been approved in appropriations bills during the last 3 years. It permanently repeals Federal preferences that have had the unintended consequence of concentrating the poorest of the poor in public housing developments and allows housing authorities to operate according to locally established preferences consistent with local housing needs. The bill still maintains the requirement that most housing assistance be targeted to very low-income households. S. 462 also repeals the one-for-one replacement requirement and streamlines the demolition and disposition process to permit housing authorities to demolish or sell vacant or obsolete public housing.

S. 462 also provides much needed additional regulatory relief and paperwork reduction to public housing agencies. The bill significantly reduces the complexity that public housing authorities have in receiving funding. S. 462 consolidates a multitude of programs into two flexible block grants to expand the eligible uses of funds and allow a public housing agency to more efficiently and creatively use its available resources.

The bill also repeals the highly burdensome requirements of the Family Self Sufficiency Program, which was passed in 1990 as part of the National Affordable Housing Act. Congress now recognizes that, while well-intentioned, FSS was an unfunded mandate that placed enormous administrative burden on public housing agencies. I believe that public housing agencies should be permitted to direct all of their energies to provide safe and affordable housing to low-income families, senior citizens, and the disabled. Public housing agencies should not have to drain their scarce resources to do the work better suited to county social service agencies.

More importantly, however, the FSS mandate has been made unnecessary by the enactment last year of the landmark welfare reform bill. Because there will be 50 locally determined welfare reform laws, these laws are the more appropriate vehicle for moving public housing families from welfare to work.

While providing much needed regulatory relief to well-managed public housing agencies. S. 462 also imposes tough, new penalties for troubled authorities. I am very supportive of swift and strong action to correct the management deficiencies of troubled housing authorities. While less than 5 percent of the 3,400 housing authorities in this country are troubled, their poor condition and lack of safety tend to dominate the news. I believe that, working together, we must act decisively to improve their condition.

S. 462 also contains three provisions that I personally authored. The first provision relates to the Congregate Housing Services Program, which was authorized by the Housing and Community Development Amendments Act of 1978 to provide 3- to 5-year contracts to fund services for eligible residents of public housing authorities. CHSP provides for ailing seniors, who normally would be institutionalized in nursing homes to remain housed in less expensive elderly-only projects that provide them with at least one hot meal a day, a social worker to monitor their health and medication, and housekeeping services.

CHSP is good program because it provides ailing low-income seniors with the dignity of having their own apartment at a cost that has been estimated to be 66 percent lower than the costs of institutionalizing them in nursing homes.

As I strongly support CHSP, I have had language added into S. 462 to guarantee the continuation of funding for this important program.

I have included two other provisions into S. 462 that are designed to enhance tenant safety. My first provision strengthens the eviction powers of public housing authorities by permitting them to quickly terminate the leases of tenants that are found by a legal police search to have illegal drugs in their possession.

My second tenant safety provision—now commonly known as the Grams Amendment—has been the subject of high amount of controversy. As you know, current law permits public housing authorities to reject applicants who have a record of violent criminal activity, who are abusing illegal drugs, or who are abusing alcohol in a way that could adversely affect the safety and peaceful enjoyment of other tenants. Public housing authorities have responded to this legislation by checking on their applicants' criminal records, prior tenancy records and—in a few cases—information from the records of drug abuse treatment facilities. Public housing authorities that have instituted this screening have reported back to me that they have been able to significantly reduce illegal drug use and crime in their projects.

Several months ago, several of Minnesota's public housing authorities requested that I get an amendment into the public housing reform bill that would clarify their right to get information about illegal drug use from the records of drug abuse treatment facilities. Their request was prompted by a lawsuit being filed against the Minneapolis Public Housing Authority by people that are opposed to their screening for illegal drugs.

I agreed to do the amendment, because I have previously toured public housing projects throughout Minnesota and have had touching conversations with Minnesotans who were fearful about the affects of illegal drugs on their own safety and the future of their children. I am also concerned that the money that public housing authorities have been spending to defend themselves against frivolous lawsuits regarding their screening programs could be better spent on providing housing to America's most needy families.

After I added in safeguards to protect applicants' privacy and confidentiality rights, my amendment was unanimously accepted by the Democrats and the Republicans on the Senate Banking committee, and it was part of the public housing reform bill that the Committee unanimously voted to report out on May 8. At the time, no one on the committee considered my amendment to be controversial.

After we completed committee action on the bill, I heard from quite a few organizations that were concerned that the language of the legislation preempted the medical record confidentiality protections of the Public Health Service Act. Furthermore, there was concern that the type of information that the amendment would permit a public housing authority to review would conflict with the Americans With Disabilities Act, the Fair Housing Act, and the Rehabilitation Act. I took these concerns very seriously because I am a strong supporter of laws that protect medical confidentiality and protect people with disabilities from discrimination.

Over August recess, my staff had meetings with HUD, the DOJ, HHS, and Housing Subcommittee staff to address the concerns regarding the amendment. On September 11, I submitted to the committee a scaled-down version of the Amendment that does not preempt the Public Health Service Act and does not conflict with ADA, Fair Housing, or the Rehab Act. I am happy that this version of my amendment has been retained in the bill.

In conclusion, I am very pleased that the Senate will be reporting out this long overdue piece of legislation today. I commend Senator MACK for sponsoring this moderate and balanced piece of legislation and for carefully shepherding it through the Senate.

Mr. GRAMM. Mr. President, I wish to thank the distinguished chairman of the Committee on Banking, Housing, and Urban Affairs, Senator D'AMATO, as well as Senator MACK, the chairman of the Housing Opportunity Subcommittee and the ranking members for including in the manager's amendment the text of several proposals that I drafted and which I believe will strengthen the legislation.

The first of these is an amendment which will ban violent sexual predators from eligibility for, and thus admission to, public housing facilities. The second initiative allows public housing authorities access to State records concerning sex offender convictions. Both of these provisions were approved by the House in its version of the legislation.

In a letter endorsing the effort to rid our public housing of these violent predators, the National Center for Missing and Exploited Children said that ''* * * each and every American, regardless of socio-economic class, has the right to a safe and secure neighborhood.''

Mr. President, I do not believe that there is a constitutional right to have access to public housing. If there is a right involved here, it is the right of people to know that the person living next door to them and their children is not a convicted sex offender. Adoption of these amendments will insure a safer environment for the adults and children who reside in public housing.

I urge adoption of the amendments.

Mr. FAIRCLOTH. Mr. President, as many of my colleagues are aware, I introduced a bill earlier this session, along with Senator KYL and numerous other Senators, on occupancy standards. The State Housing Protection Act transfers authority to set occupancy standards from the Department of Housing and Urban Development to the States. Occupancy standards was an issue in last year's conference of the public housing bill. I rise today to urge the members of the Senate Committee on Banking, Housing, and Urban Affairs to address occupancy standards again this year when the public housing reform bill goes to conference.

The State Housing Protection Act does not address privately owned dwellings, only rental dwellings. Under the Fair Housing Act, private property owners are permitted to set occupancy standards that limit the number of persons who may rent an apartment dwelling, if the standards are reasonable. At present, there is no clear guidance in this area, and there is controversy over what is a reasonable standard.

Following passage of the Fair Housing Act in 1988, some activists brought lawsuits against housing providers, charging that two persons per bedroom standards discriminated against families. Housing providers persuasively argued to HUD that consistently applied two persons per bedroom standards do not discriminate against families. So, in order to give housing providers a safe harbor from inappropriate legal challenges, in 1991, HUD issued guidance which indicated that two persons per bedroom would be presumed to be a generally reasonable standard by HUD, and housing providers would generally not be sued by HUD for discrimination if they used that standard.

Housing providers, of course, were not precluded in the guidance from exceeding that standard. Private housing providers adjusted to that guidance and relied on it when adopting occupancy policies for their rental units. HUD's own handbooks for public and assisted housing also established that standard. HUD itself adhered more strictly to that guidance until the Clinton administration arrived.

In 1995, HUD issued and then quickly retracted a new guidance that would have required housing providers to allow as many as 8 to 10 people in a two bedroom apartment and 12 to 15 in a three bedroom apartment—if the housing providers didn't want to be sued for discrimination by HUD. HUD realized that the 1995 guidance was unworkable and put back in place the 1991 two person per bedroom guidance. However, there have been a number of court decisions overturning HUD's actions in this area. So there is still a void and no clarity as to how it is being interpreted by HUD or whether it will be changed again by HUD in line with the 1995 attempt.

Housing providers need certainty in their establishment of such fundamental business judgments as occupancy standards. Nobody likes to be sued for discrimination, but you especially don't like when you don't know the rules that are being used by the Government. Republicans and Democrats on the Senate Banking Committee have acknowledged the need for clarity and have promised to work with me in conference on this issue.

Mr. KYL. Mr. President, I rise to encourage the members of the Senate Committee on Banking, Housing, and Urban Development to address the issue of occupancy standards when the public housing reform bill goes to conference committee. Earlier this year, Senator FAIRCLOTH and I introduced the State Housing Protection Act which transfers from HUD to the States, the authority to set occupancy standards. Yet, the committee did not

address the matter when it considered its public housing reform bill.

Mr. President, Senator FAIRCLOTH and I have worked on this issue for 2 years. In the 104th Congress, Senator FAIRCLOTH and I blocked HUD from imposing national occupancy standards until it completed an official rule. Soon thereafter, we introduced a bill with Representative MCCOLLUM which prohibited HUD from setting a national occupancy standard. The House included that bill in its 1996 public housing reform bill, but it died in conference committee late last year.

In May of this year, the House passed its public housing reform bill which included a section that prohibits the Secretary of HUD from establishing a national occupancy standard. Senator FAIRCLOTH and I have tried to change the current policy on occupancy standards because we believe that HUD generally has pursued an occupancy standard policy that encourages overcrowding, thereby depreciating housing stock that is scarce to begin with. We believe that HUD is poorly serving lower-income families and defeating its own purpose. Again, I encourage the members of the conference committee to seriously consider restricting HUD's ability to set a national occupancy standard.

Mr. LUGAR. Mr. President, I would like to thank the floor managers for agreeing to include the city of Indianapolis flexible grant demonstration amendment in the manager's amendment to S. 462.

The Lugar amendment would authorize the city of Indianapolis,in coordination with its public housing authority, to receive and combine program allocations from Federal housing assistance funds so that it has the flexibility to determine the best use of these funds. This amendment has the support both of Mayor Goldsmith and of the Indianapolis Housing Authority.

My flexible grant demonstration amendment would give the city of Indianapolis, in coordination with the Indianapolis Housing Authority, the ability to receive and combine covered housing assistance to which the Indianapolis Housing Authority would otherwise be entitled. Covered housing assistance is defined as operating assistance, modernization assistance, section 8 certificate and voucher programs assistance, capital and operating funds assistance, and tenant-based rental assistance. It does not include other housing assistance programs for which the city or its public housing authority would otherwise be able to compete.

This demonstration program would last for 2 to 5 years and would serve a variety of purposes. It could be used to provide incentives for low-income working families to become economically self-sufficient, to reduce costs of housing assistance by providing funds in the most effective manner, to increase the stock of affordable low-income housing and housing choices for low-income families, to increase home ownership among low-income families and for other ways in which the city in coordination with the public housing agency could make more effective use of limited housing funds.

Under no circumstances would there be any reduction in the number of low-income families who would otherwise be served with housing assistance had these amounts not been combined. In fact, by allowing greater flexibility and cost-effectiveness in the use of these funds, my amendment will increase and enhance housing assistance to lower income families who need it.

I urge support for my amendment.

Mr. KERRY. Mr. Chairman, I have a question regarding section 107(d) of S. 462, which adds a new performance indicator for the extent to which the public housing agency is providing acceptable basic housing conditions. I do not see what could be much more fundamental to a housing authority's performance than offering its tenants decent housing conditions in which to live.

Mr. MACK. I agree.

Mr. KERRY. The committee report, on page 15, indicates that both the Secretary of Housing and Urban Development [HUD] and HUD's inspector general pointed out that under the current performance evaluation [PHMAP] system, a PHA can escape ''troubled'' designation even though a substantial portion of its units would not meet basic housing conditions. This seems totally unacceptable. Will the proposed amendment in section 107(d) of S. 462 allow HUD to give this performance indicator enough weight to solve this problem? Will that approach assure that we do not have authorities that are deemed acceptable performers even though they offer widespread substandard housing conditions?

Mr. MACK. The amendment in S. 462 would allow HUD, subject to the rulemaking process, to give this performance indicator enough weight in the PHMAP system so that it can appropriately affect the determination whether a PHA is designated ''troubled.''

Mr. SARBANES. As you know, one of the most important principles of this public housing bill is resident empowerment. To this end, the legislation mandates that resident advisory boards assist in the development of public housing agency [PHA] plans. It also requires that PHA's: first, conduct public hearings to collect input on their proposed plans; second, make a copy of their proposed plan available for public inspection at least 45 days prior to the public hearing; and third, provide notice of the date of the public hearing at least 45 days in advance of the hearing.

Given this emphasis on resident participation, I would anticipate that PHA's would make every effort to ensure that each resident is aware of his or her opportunities to provide input. I would expect PHA's to prominently display, at each of their assisted housing developments, information about the hearings, as well as information about where residents can view copies of the proposed agency plans. I would also expect that PHA's, to the maximum extent practicable, will contact resident groups directly to inform them of this information. Is this how you anticipate the process will work?

Mr. MACK. That is the type of scenario I envision. The legislation was carefully crafted so that residents will have a significant voice in the policies and programs that will affect them. I agree that the only way their interests can truly be served is to provide them with as much advance notice and information about the public hearings as possible—and to incorporate their recommendations where appropriate.

Mrs. BOXER. Mr. President, I would first like to thank the chairman of the Housing Opportunity and Community Development Subcommittee for joining me in this colloquy regarding a very serious problem for many low-income citizens living in mobile home parks. These good people, most of whom are senior citizens, are not able to use section 8 assistance because their park owners refuse to accept it.

In the vast majority of cases, mobile home tenants own their mobile home and rent the space on which the home sits. Unfortunately, many residents become unable to pay the rising space rates and require low-income housing assistance under section 8. This is especially common among elderly residents whose income drops following death of a spouse or illness.

Under the current system, because section 8 assistance payments are made to landlords, section 8 participation requires that the landlord sign a rental assistance contract with the appropriate housing authority. For various reasons, many mobile home park owners are refusing to sign these contracts. Consequently, their residents are being denied the section 8 assistance they need to meet their housing costs.

Without section 8 assistance, these very low-income, primarily elderly, residents, have few options. Some will be forced to move their homes to parks which accept section 8 assistance. However, this is an expensive and laborious process. It costs a minimum of $10,000 to relocate a mobile home, money that most low-income tenants do not have.

Some residents will not even have the option of moving their mobile homes to parks which accept section 8 payments. In areas with a shortage of spaces, tenants will have to either abandon their homes or continue to pay unaffordable space rents. Because currently high-space rents reduce the demand for mobile homes, those who must abandon their homes will likely not recoup their investment, often losing their entire lifesavings.

This is a critical problem for many in my State of California. Mobile homes are one of the few sources of affordable housing in many areas of the State, especially for senior citizens. There are

approximately 700,000 mobile home residents in California 50–60 percent of whom are seniors. Without section 8 assistance, many of these residents will lose their homes and lifetime investments.

Mr. MACK. I am aware that this problem exists, Senator, and I am very sympathetic.

Mrs. BOXER. I appreciate the chairman's response. I would like to offer a solution. The House-passed Public Housing bill, H.R. 2, contains a provision that allows section 8 payments to go directly to mobile home tenants of parks which refuse to enter into section 8 contracts. This provision, section 330, gives the money directly to the tenants thereby obviating the need for a contract between the park owner and the local housing authority. Because the House provision only applies to tenants who already live in parks that do not accept section 8, it does not force park owners to take in new tenants with section 8 assistance.

I hope, Mr. Chairman, that when we get to conference on the Public Housing bills, we can seriously consider section 330 of the House-passed bill as a possible solution to the very urgent problem facing so many mobile home tenants.

Mr. MACK. I thank the Senator from California for her concern. I share her desire to prevent displacement of these good tenants and I have every intention of working with her during conference to assure that this problem is appropriately addressed.

Mrs. BOXER. I appreciate the Chairman's willingness to help solve this serious problem and I look forward to working with him on it in conference.

Mr. WELLSTONE. The relocation provisions contained in section 115 state that residents shall be relocated to areas that are generally not less desirable than the location of the displaced person's dwelling. Is it your understanding that a comparably desirable area would be one that is not subject to unreasonable adverse environment conditions, and one which offers similar access to public utilities, facilities, services, and the displaced person's place of employment?

Mr. MACK. I agree that these should be the primary factors that a public housing authority takes into consideration when providing relocation assistance. It is our intention that the interests of residents be protected to the maximum possible extent during the demolition and relocation process.

AMENDMENT NO. 1257

(Purpose: To provide a substitute)

Mr. MCCONNELL. Senator MACK has at the desk an amendment to the committee substitute. I ask its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL], for Mr. MACK, proposes an amendment numbered 1257.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

The PRESIDING OFFICER. Without objection, the amendment was agreed to.

(The amendment (No. 1257) was agreed to.)

Mr. MCCONNELL. I ask unanimous consent the committee amendment, as amended, be considered read and agreed to, the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed at this point in the RECORD.

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

The committee amendment, as amended was agreed to.

The bill (S. 462), as amended, was read the third time, and passed.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, I ask unanimous consent the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: No. 108, No. 256, No. 257, No. 260 through 262, No. 278 and No. 290 through 303, all nominations on the Secretary's desk in the Air Force, Army, Coast Guard, Marine Corps, Navy and the Public Health Service.

I further ask unanimous consent that the nominations be confirmed, the motion to reconsider be laid on the table, any statements relating to the nominations appear at this point in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

INTER-AMERICAN FOUNDATION

Jeffrey Davidow, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be a Member of the Board of Directors of the Inter-American Foundation, for a term expiring September 20, 2002.

THE JUDICIARY

Marjorie O. Rendell, of Pennsylvania, to be U.S. Circuit Judge for the Third Circuit.

Richard A. Lazzara, of Florida, to be U.S. District Judge for the Middle District of Florida.

DEPARTMENT OF COMMERCE

Robert L. Mallett, of Texas, to be Deputy Secretary of Commerce.

W. Scott Gould, of the District of Columbia, to be Chief Financial Officer, Department of Commerce.

W. Scott Gould, of the District of Columbia, to be an Assistant Secretary of Commerce.

INTER-AMERICAN FOUNDATION

Nancy Dorn, of the District of Columbia, to be Member of the Board of Directors of the Inter-American Foundation for a term expiring June 26, 2002.

IN THE ARMY

The following U.S. Army Reserve officer for promotion in the Reserve of the Army to the grade indicated under title 10, United States Code, sections 14101, 14315 and 12203(a):

To be brigadier general

Col. James W. Comstock, 0000

The following-named officer for appointment in the Regular Army to be the grade indicated under title 10, United States Code, section 624:

To be brigadier general

Col. Antonio M. Taguba, 0000

The following-named officers for appointment in the U.S. Army to the grade indicated under title 10, United States Code, section 624:

To be major general

Brig. Gen. John G. Meyer, Jr., 0000
Brig. Gen. Robert L. Nabors, 0000

The following-named officer for appointment in the U.S. Army to the grade indicated under the provisions of title 10, United States Code, section 624:

To be major general

Maj. Gen. Robert G. Claypool, 0000

The following Army National Guard of the United States officers for appointment in the Reserve of the Army to the grade indicated under title 10, United States Code, section 12203:

To be major general

Brig. Gen. Earl L. Adams, 0000
Brig. Gen. John E. Blair, 0000
Brig. Gen. James G. Blaney, 0000
Brig. Gen. Don C. Morrow, 0000
Brig. Gen. Thomas E. Whitecotton III, 0000
Brig. Gen. Jackie D. Wood, 0000

To be brigadier general

Col. Stephen E. Arey, 0000
Col. George A. Buskirk, Jr., 0000
Col. William A. Cugno, 0000
Col. Joseph A. Goode, Jr., 0000
Col. Stanley J. Gordon, 0000
Col. Larry W. Haltom, 0000
Col. Daniel E. Long, Jr., 0000
Col. Gerald P. Minetti, 0000
Col. Ronald G. Young, 0000

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. George A. Fisher, 0000

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. William J. Bolt, 0000

The following-named officer for appointment in the U.S. Army to the grade indicated under title 10, United States Code, section 624:

To be brigadier general

Col. Henry W. Stratman, 0000

IN THE MARINE CORPS

The following-named officer for appointment in the U.S. Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Peter Pace, 0000

IN THE NAVY

The following-named officer for appointment in the U.S. Navy to the grade indicated under title 10, United States Code, section 624:

To be rear admiral

Rear Adm. (lh) Louis M. Smith, 0000

The following-named officers for appointment in the Naval Reserve to the grade indicated under title 10, United States Code, section 12203:

To be rear admiral (lower half)

Capt. Kenneth C. Belisle, 0000
Capt. John G. Cotton, 0000
Capt. Stephen S. Israel, 0000
Capt. Gerald J. Scott, Jr., 0000
Capt. Joe S. Thompson, 0000

The following-named officers for appointment in the Reserve of the Navy to the grade indicated under title 10, United States Code, section 12203:

To be rear admiral (lower half)

Capt. Howard W. Dawson, Jr., 0000
Capt. William J. Lynch, 0000
Capt. Robert R. Percy, III, 0000

The following-named officer for appointment as Deputy Judge Advocate General of the U.S. Navy in the grade indicated under title 10, United States Code, section 5149:

To be rear admiral

Capt. Donald J. Guter, 0000

The following-named officer for appointment in the U.S. Navy to the grade indicated under title 10, United States Code, section 624:

To be rear admiral (lower half)

Capt. William W. Cobb, Jr., 0000

IN THE AIR FORCE, ARMY, COAST GUARD, MARINE CORPS, NAVY, PUBLIC HEALTH SERVICE

Air Force nominations beginning Richard W. Aldrich, and ending Frank A. Yerkes, Jr, which nominations were received by the Senate and appeared in the Congressional Record of July 29, 1997.

Air Force nominations beginning Luis C. Arroyo, and ending Michael R. Emerson, which nominations were received by the Senate and appeared in the Congressional Record of July 31, 1997.

Air Force nominations beginning James M. Bartlett, and ending Ellis D. Dinsmore, which nominations were received by the Senate and appeared in the Congressional Record of July 31, 1997.

Air Force nomination of Robert J. Spermo, which was received by the Senate and appeared in the Congressional Record of September 3, 1997.

Air Force nominations beginning Carl M. Gough, and ending Samuel Strauss, which nominations were received by the Senate and appeared in the Congressional Record of September, 3, 1997.

Air Force nominations beginning Joseph Argyle, and ending Michael D. Eller, which nominations were received by the Senate and appeared in the Congressional Record of September 3, 1997.

Air Force nominations beginning Arnold K. Abangan, and ending Darren L. Zwolinski, which nominations were received by the Senate and appeared in the Congressional Record of September 3, 1997.

Army nomination of Frank G. Whitehead, which was received by the Senate and appeared in the Congressional Record of July 31, 1997.

Army nominations beginning Mary A. Allred, and ending James R. Tinkham, which nominations were received by the Senate and appeared in the Congressional Record of July 31, 1997.

Army nominations beginning Robert C. Baker, and ending James R. Wooten, which nominations were received by the Senate and appeared in the Congressional Record of July 31, 1997.

Army nominations beginning Edwin E. Ahl, and ending Mark A. Zerger, which nominations were received by the Senate and appeared in the Congressional Record of July 31, 1997.

Army nominations beginning Christian F. Achleithner, and ending Daniel A. Zeleski, which nominations were received by the Senate and appeared in the Congressional Record of July 31, 1997.

Army nomination of Shri Kant Mishra, which was received by the Senate and appeared in the Congressional Record of September 3, 1997.

Army nomination of David S. Feigin, which was received by the Senate and appeared in the Congressional Record of September 3, 1997.

Army nomination of Clyde A. Moore, which was received by the Senate and appeared in the Congressional Record of September 3, 1997.

Army nominations beginning Terry A. Wikstrom, and ending Richard C. Butler, which nominations were received by the Senate and appeared in the Congressional Record of September 3, 1997.

Army nomination of James H. Wilson, which was received by the Senate and appeared in the Congressional Record of September 3, 1997.

Army nominations beginning Ellis E. Brumraugh, Jr., and ending John C. Zimmerman, which nominations were received by the Senate and appeared in the Congressional Record of September 3, 1997.

Army nominations beginning Graten D. Beavers, and ending John E. Zupko, which nominations were received by the Senate and appeared in the Congressional Record of September 3, 1997.

Army nominations beginning James L. Atkins, and ending Scott Wilkinson, which nominations were received by the Senate and appeared in the Congressional Record of September 3, 1997.

Army nominations beginning Frank J. Abbott, and ending X0383, which nominations were received by the Senate and appeared in the Congressional Record of September 3, 1997.

Army nominations beginning Madelfia A. Abb, and ending X0663, which nominations were received by the Senate and appeared in the Congressional Record of September 3, 1997.

Army nominations of Rafael Lara, Jr., which was received by the Senate and appeared in the Congressional Record of September 15, 1997.

Army nominations beginning Morris F. Adams, Jr, and ending George W. Wilson, which nominations were received by the Senate and appeared in the Congressional Record of September 15 1997.

Army nominations beginning Cynthia A. Abbott, and ending Anthony W. Young, which nominations were received by the Senate and appeared in the Congressional Record of September 15, 1997.

Coast Guard nominations beginning Michael F. Holmes, and ending Beverly G. Kelley, which nominations were received by the Senate and appeared in the Congressional Record of September 3, 1997.

Coast Guard nominations beginning Stephen E. Flynn, and ending Vincent Wilczynski, which nominations were received by the Senate and appeared in the Congressional Record of September 15, 1997.

Coast Guard nominations beginning Frank M. Paskewich, and ending Robert M. Pyle, which nominations were received by the Senate and appeared in the Congressional Record of September 15, 1997.

Coast Guard nominations beginning Steven C. Acosta, and ending Marc A. Zlomek, which nominations were received by the Senate and appeared in the Congressional Record of September 18, 1997.

Marine Corps nomination of Franklin D. McKinney, Jr., which was received by the Senate and appeared in the Congressional Record of July 29, 1997.

Marine Corps nomination of William C. Johnson, which was received by the Senate and appeared in the Congressional Record of September 3, 1997.

Marine Corps nomination of Tony Weckerling, which was received by the Senate and appeared in the Congressional Record of September 3, 1997.

Marine Corps nomination of Jeffrey E. Lister, which was received by the Senate and appeared in the Congressional Record of September 3, 1997.

Marine Corps nomination of Harry Davis, Jr., which was received by the Senate and appeared in the Congressional Record of September 3, 1997.

Marine Corps nomination of Michael D. Dahl, which was received by the Senate and appeared in the Congressional Record of September 3, 1997.

Marine Corps nomination of James C. Clark, which was received by the Senate and appeared in the Congressional Record of September 3, 1997.

Marine Corps nomination of John C. Kotruch, which was received by the Senate and appeared in the Congressional Record of September 15, 1997.

Navy nominations beginning Lawrence E. Adler, and ending Thomas A. Zimmerman, which nominations were received by the Senate and appeared in the Congressional Record of September 3, 1997.

Navy nominations beginning David M. Belt, Jr., and ending Gene P. Theriot, which nominations were received by the Senate and appeared in the Congressional Record of September 15, 1997.

Navy nominations beginning Eugene M. Abler, and ending Eric A. Zoehrer, which nominations were received by the Senate and appeared in the Congressional Record of September 15, 1997.

Public Health Service nominations beginning Jennifer L. Betts, and ending Rebecca J. Werner, which nominations were received by the Senate and appeared in the Congressional Record of September 4, 1997.

Public Health Service nominations beginning William E. Halperin, and ending Trinh K. Nguyen, which nominations were received by the Senate and appeared in the Congressional Record of September 12, 1997.

STATEMENT ON THE NOMINATIONS OF MARJORIE O. RENDELL AND RICHARD A. LAZZARA

Mr. LEAHY. Mr. President, I am delighted to see two more hostages released by the Republican majority to serve the American people as Federal judges.

Anticipation of the President's radio address on the judicial vacancy crisis has obviously reached the Senate. I expect even those who have spent so much time this year holding up the confirmations of Federal judges were uncomfortable defending this Senate's record of having proceeded on only 9 of the 61 nominees received through August of this year. As rumors of the President's impending address have circulated around Capitol Hill, this Senate has literally doubled its confirmations from 9 to 18 in the course of 23 days. That demonstrates just how low the Senate's output has been over the first 8 months of this year. With these two confirmations, the Senate will have finally achieved the snail-like pace of confirming two judges a month while still faced with almost 100 vacancies.

Unfortunately, the Republican leadership has once again chosen to skip over the nomination of Margaret Morrow and that of Christina Snyder who have been nominated to be district court judges in the Central District of California. As I detailed again yesterday, Ms. Morrow has been the victim of a mysterious hold for months.

Marjorie Rendell has been a fine district court judge since 1994. President Clinton nominated her to a seat on the Court of Appeals for the Third Circuit on the first day of this session. At the time, I could not have imagined that it would take nine months for the Judiciary Committee to accord her a hearing and report her nomination to the Senate. Senator SPECTER and Senator BIDEN are both to be commended for pressing their efforts to have this nomination considered. Indeed, Senator SPECTER ultimately chaired her confirmation hearing.

Judge Rendell received the ABA's highest rating of well qualified for appointment to the third circuit. She has been active in the Visiting Nurse Association of Greater Philadelphia and the Philadelphia Bar Foundation and active in the community. Senator KENNEDY described her career as ''one of great distinction and insight.'' Even Senator SESSIONS concurred that Judge Rendell ''was a very impressive witness.''

The good news is that her confirmation fills a vacancy on the third circuit, the bad news is that it creates a vacancy on the district court at a time when it is taking far too long to confirm good nominees.

I congratulate Judge Rendell and her family and look forward to her service on the third circuit.

I am delighted to see the Senate moving forward with the nomination of Richard Lazzara to be a Federal judge in the Middle District of Florida. The Senate first received this nomination in early May 1996, over 16 months ago. It should not have taken us this long to get to this point.

I know that the chief judge in that district, Elizabeth Kovachevich, has been speaking out about the workload, backlogs and vacancies in her court. Judge Kovachevich has noted that serious crimes are up 28 percent in her district and civil filings are up 25 percent for the second straight year leading to a growing backlog of over 3,200 cases. Both Senator GRAHAM and Senator MACK were strong supporters of this nominee at his hearing in early September. I was struck that Senator MACK called the situation one of ''crisis proportions'' and pointed out that the district is having to take unprecedented steps to deal with a backlog growing ''at an alarming proportion.''

I have introduced legislation recommended by the Judicial Conference of the United States to add three additional judges for that district, but their needs remain unaddressed because that bill has not received the attention that it deserves.

Filling this vacancy without further delay is a start. The people of Orlando, Jacksonville, and Tampa have had to wait a long time for judge Lazzara. This nominee received the highest rating possible from the American Bar Association. He is an experienced Judge, having served as a Florida County judge, a Florida circuit judge and a Florida appellate judge over the last 10 years.

I congratulate Judge Lazzara and his family and look forward to his service on the Federal Court.

With Senate confirmation of these two judges, the Senate continues to lag well behind the pace established by Majority Leader Dole and Chairman HATCH in the 104th Congress. By this time 2 years ago, the Senate had confirmed 36 Federal judges. With today's actions, the Senate will have confirmed one-half that number, only 18 judges. We still face almost 100 vacancies and have over 50 pending nominees to consider with more arriving each week.

For purposes of perspective, let us also recall that by the end of September 1992, during the last year of President Bush's term, a Democratic majority in the Senate had confirmed 59 of the 72 nominees sent to us by a Republican President. This Senate is on pace to confirm less than one-third of a comparable number of nominations.

We still have more than 47 nominees among the 69 nominations sent to the Senate by the President pending before the Judiciary Committee who have yet to be accorded even a hearing during this Congress. Many of these nominations have been pending since the very first day of this session, having been re-nominated by the President. Several of those pending before the committee had hearings or were reported favorably last Congress but have been passed over so far this year, while the vacancies for which they were nominated over 2 years ago persist. The Committee has 10 nominees who have been pending for more than a year, including 5 who have been pending since 1995.

While I am encouraged that the Senate is today proceeding with the confirmations of Judge Rendell and Mr. Lazzara, there remains no excuse for the Committee's delay in considering the nominations of such outstanding individuals as Prof. William A. Fletcher, Judge James A. Beaty, Jr., Judge Richard A. Paez, Ms. M. Margaret McKeown, Ms. Ann L. Aiken, and Ms. Susan Oki Mollway, to name just a few of the outstanding nominees who have all been pending all year without so much as a hearing. Professor Fletcher and Ms. Mollway had both been favorably reported last year. Judge Paez and Ms. Aiken had hearings last year but have been passed over so far this year. Nor is there any explanation or excuse for the Senate not immediately proceeding to consider the other five judicial nominations pending on the Senate calendar.

Those who delay or prevent the filling of these vacancies must understand that they are delaying or preventing the administration of justice. We can pass all the crime bills we want, but you cannot try the cases and incarcerate the guilty if you do not have judges. The mounting backlogs of civil and criminal cases in the dozens of emergency districts, in particular, are growing taller by the day. National Public Radio has been running a series of reports all this week on the judicial crises and quoted the chief judge and U.S. attorney from San Diego earlier this week to the effect that criminal matters are being affected.

I have spoken about the crisis being created by the vacancies that are being perpetuated on the Federal courts around the country. At the rate that we are going, we are not keeping up with attrition. When we adjourned last Congress there were 64 vacancies on the Federal bench. After the confirmation of 18 judges in 9 months, there has been a net increase of 30 vacancies, an increase of almost 50 percent in the number of Federal judicial vacancies.

The Chief Justice of the Supreme Court has called the rising number of vacancies ''the most immediate problem we face in the federal judiciary.'' Senator HATCH has said that we can do better. I agree with them and add that we must do better. I have urged those who have been stalling the consideration of these fine women and men to reconsider their action and work with us to have the Senate fulfill its constitutional responsibility.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

MORNING BUSINESS

(During today's session of the Senate, the following morning business was transacted.)

TRIBUTE TO THE LATE GEN. ROBERT E. HUYSER

Mr. THURMOND. Mr. President, in the year that the Nation celebrates the 50th anniversary of the founding of the U.S. Air Force, we must pause today to mourn the passing of an individual who was one of the key figures in the history of that service, Gen. Robert E. ''Dutch'' Huyser.

For almost 40 years, Dutch Huyser helped to protect America through airpower. Drafted into the Army during World War II, he became a B–29 pilot and flew numerous missions in the Pacific in support of Allied efforts to defeat Imperialism. Following the war, when the Air Force was established as a separate military service, he became a bright and promising young officer who would help to shape cold war policy and become known as the father of

the program which eventually yielded the C–17 Globemaster aircraft. Before he would reach the highest echelons of the Air Force though, Dutch Huyser still had a lot of flying to do, and he found himself in the cockpits of B–29's over Korea and B–52's in Vietnam when the United States became embroiled in conflicts in those nations.

Throughout his career, Dutch Huyser established an impressive record of awards, citations, and medals that is far too extensive to cite here. Suffice it to say, he set an excellent example for devotion, patriotism, and professionalism for all Air Force officers to follow, and I am confident that he served as an important role model for many of his subordinates throughout his career.

An obvious competent and talented officer, pilot, and manager, the career of Dutch Huyser progressed quickly. Following his service in Vietnam, he specialized in airlift matters and later became the Commander of the Military Airlift Command. In that position, he was an advocate for increased lift capabilities for the Air Force, and he fought hard for the modernization and expansion of the transport fleet. As mentioned above, he is universally credited as being the father credited as being the father of the C–17 program, an aircraft that proves its capabilities and worth on a daily basis as it transports troops and equipment to spots around the world.

After three major wars, almost 10,000 flying hours, and 38-years in the Air Force, General Huyser finally hung his uniform up for the last time in 1981. Though he left the military, he continued to make many contributions to aviation and the security of the United States.

Sadly, Gen. Robert ''Dutch'' Huyser passed away earlier this week, but perhaps fitting for a man who dedicated his life to the Air Force, he was on an Air Force base when he died. I am certain that the entire Senate would join me in saluting the many contributions that General Huyser made to the Air Force and the defense of the United States, as well as extending our deepest sympathies to his wife, Wanda, and their two daughters. They can be proud of all that their husband and father did to make our Nation a safer, stronger, and better place to live.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Thursday, September 25, 1997, the Federal debt stood at $5,387,703,781,934.24. (Five trillion, three hundred eighty-seven billion, seven hundred three million, seven hundred eighty-one thousand, nine hundred thirty-four dollars and twenty-four cents)

One year ago, September 25, 1996, the Federal debt stood at $5,198,791,000,000. (Five trillion, one hundred ninety-eight billion, seven hundred ninety-one million)

Five years ago, September 25, 1992, the Federal debt stood at $4,045,041,000,000. (Four trillion, forty-five billion, forty-one million)

Ten years ago, September 25, 1987, the Federal debt stood at $2,336,074,000,000. (Two trillion, three hundred thirty-six billion, seventy-four million)

Twenty-five years ago, September 25, 1972, the Federal debt stood at $437,412,000,000 (Four hundred thirty-seven billion, four hundred twelve million) which reflects a debt increase of nearly $5 trillion—$4,950,291,781,934.24 (Four trillion, nine hundred fifty billion, two hundred ninety-one million, seven hundred eighty-one thousand, nine hundred thirty-four dollars and twenty-four cents) during the past 25 years.

NATIONAL LAWSUIT ABUSE AWARENESS WEEK

Mr. ASHCROFT. Mr. President. This week, the American Tort Reform Association is holding a series of events to mark the National Lawsuit Awareness Week. Since it was founded in 1986, ATRA has played a valuable role in the effort to restore fairness, balance, and predictability to the civil justice system.

To commerate this week, ATRA is hosting a 5k ''Tort Trot'' to benefit the Hydrocephalus Research Foundation. Patients who suffer from hydrocephalus—excess fluid on the brain—particularly have been impacted by law suit abuse. Such patients require brain shunts to drain the excess fluid from the brain. While these shunts have saved the nearly 75,000 hydrocephalus patient's lives, they are made out of silicone which is becoming scarce. The silicone supply used by implant manufacturers is threatened by deep pocket liability lawsuits. Rather than take a risk over a product which they did not design or manufacture, some suppliers are exiting the medical device market.

Congress can fix this problem. We can pass meaningful tort reform to make sure that our system no longer lines the pockets of special interests at the expense of those in need of life-saving medical devices.

Americans deserve a system of justice, not justice delayed. Those wrongfully injured should have access to a timely remedy from the responsible party. A recent study found cases take about 2½ to 3 years to be resolved, and even longer in appealed cases. In our present—overburdened—system, 50–70 cents of every jury-awarded dollar goes to lawyers and legal costs.

I want to focus my remarks on reforming the product liability system; however, I also want to mention a case which illustrates the need for overall civil justice reform. This case, coined the ''Great New Orleans Train Robbery'' by the national media, resulted in a $2.5 billion punitive damages award against a company found to be only 15 percent at fault in an accident that did not result in loss of life, serious injuries, or major property damage.

On September 9, 1987, a railroad tank car containing butadiene, a volatile compound used in making synthetic rubber, was located in a rail yard in New Orleans on tracks that belong to CSX Corp. Since the fire involved hazardous materials, the officials involved made a determination that the best approach was to let the fire burn itself out. In order to avoid any possible harm to nearby residents, an evacuation of those living near the yard was undertaken. The fire lasted 36 hours. By all accounts, fire officials, and corporate representatives undertook heroic efforts to protect life and property. As a result, and as I said earlier, no deaths or significant injuries were involved, and there was only minimal property damage.

One year later, the National Transportation Safety Board—the Federal agency charged with investigating transportation accidents—determined that CSX had not caused this accident. In fact, other than providing the track over which the tank car was operated, CSX had no connection to the car.

The very day of the fire, a group of law firms brought a class action suit against CSX and other companies alleging various kinds of physical and mental anguish. A jury has now decided that the 8,000 plaintiffs should be awarded $3.5 billion in punitive damages. Although CSX was only found to be 15 percent responsible—presumably because they owned the track—its portion of the punitive damage award is $2.5 billion.

How can it be that a Federal agency determines that a company has no responsibility for an accident, another agency declines to assess any safety violation against that company, and yet, this enormous verdict is awarded?

The case in New Orleans is but the latest example of why we need to reform the entire civil justice system. We need to place some limits on verdicts. We need to modify the laws regarding joint liability. Finally, we need to provide disincentives for lawyers to sue the deep pocket every time they can.

Before I begin talking about product liability reform, Mr. President I ask unanimous consent that articles appearing recently in the Wall Street Journal and the Washington Post relating to this almost unbelievable case, appear in the RECORD at this point.

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

[From the Wall Street Journal, Sept. 18, 1997]

LOUISIANA JACKPOT

The tort wheel of fortune turns round and round. By all accounts, the legal freak show is about to descend on the ''fen-phen'' diet-pill manufacturers. There will be ''thousands of lawsuits scattered all around the country,'' one tort lawyer roared in the Journal yesterday. But before this circus hits town, attention should be drawn to the one now playing in Louisiana.

In a case that has already been dubbed the Great New Orleans Train Robbery, 8,047 residents of the Big Easy hit the jackpot, winning $3.4 billion in punitive damages in a

state court. Forget about McDonald's hot coffee and BMW's paint job; the Louisiana train case is one of the wildest examples yet of the craziness that infects our civil-justice system.

If the accident that led to the huge award didn't get much attention at the time, that was because nothing much happened. On December 9, 1987, a tank car carrying butadiene, a petroleum byproduct, caught on fire while standing on a railway track in the Gentilly section of New Orleans. The fire burned for 36 hours and about 1,000 neighborhood residents were evacuated. No one died. No one was seriously hurt. There was no significant property damage.

Within hours the personal-injury lawyers were on the scene sniffing out clients, and the first lawsuit was filed before the fire had even stopped burning. Ultimately, the class in the suit decided last week ballooned to 8,047 people, seeking compensation for the mental anguish that the incident supposedly imposed on them.

Along the way, a much smaller group of plaintiffs ended up in federal court, which dismissed a bunch of cases and awarded several plaintiffs each about $1,000 in compensatory damages. The court ruled against punitive damages. Reading the writing on the wall, some of the original plaintiffs in the federal case apparently jumped over to the state case as soon as they realized they could shop for more money there.

There are nine defendants in the tank-car case, but the one that got socked with by far the biggest judgment—$2.5 billion in punitive damages—was CSX Transportation, a unit of CSX Corp. Never mind that CSX's only connection to the case was that it owned the track on which the tank car was resting. Never mind that an investigation by the National Transportation Safety Board concluded that CSX bore no responsibility for the accident, which was cause by a faulty gasket. And never mind that the owner and previous owner of the tank car admitted liability for the accident at the trial.

None of this reality mattered to the jury, which was looking for someone with deep pockets. Stymied because it couldn't go after the previous owner, which under state law was exempt from punitive damages, it settled on CSX.

The jury, of course, was encouraged to reach this decision by the plaintiff's lawyers, whose notion of justice has more to do with how much money they can siphon off for themselves than how much they can help their clients. The lawyer representing many of the plaintiffs was one Wendell Gauthier, the class-action king better known for masterminding the Castano tobacco suit.

He and his colleagues were in high dudgeon, carrying on about ''corporate greed,'' executives who travel in ''private Lear Jets and their limos,'' and corporations that cared more about the rich residents of the French Quarter than the lower-middle-class, mostly black residents of Gentilly. ''There is only one thing that will make a company that big respond,'' said Mr. Gauthier in asking the jury for punitive damages.

It's widely expected that Judge Wallace Edwards will overturn or drastically reduce the verdict. One school of thought opines that this means such unfair awards don't really do any damage; courts usually rein in such irrational exercises of jury power so all turns out well in the end. Or does it? Each case sends a ripple through the civil-justice system. It encourages fee-hungry plaintiff's lawyers to chase crazier and crazier cases, and it encourages companies to settle, no matter how outrageous the claim, if only to avoid having to play Russian roulette in court.

Louisiana, recognizing the need to restore sanity to its civil-justice system, last year enacted a comprehensive tort-reform law that pretty much eliminates punitive damages. This will have the welcome effect of reining in runaway juries and neutralizing Mr. Gauthier and his fellow tort tycoons. But it of course comes too late for CSX and the other defendants in the Great New Orleans Train Robbery.

[From the Washington Post, Sept. 9, 1997]

JURY AWARDS $3.4 BILLION IN 1987 RAIL BLAST

A jury awarded damages totaling $3.4 billion today to 8,000 people who said they were injured mentally and physically by a 1987 railroad tank car explosion.

Hardest hit by the award was rail firm CSX Transportation, a unit of Richmond-based CSX Corp., which was ordered to pay $2.5 billion.

The plaintiffs accused CSX Transportation and eight other defendants of negligence in the Sept. 9, 1987, incident in which a rail car carrying the petrochemical butadiene leaked and caught fire.

Residents from nearly 200 blocks in New Orleans were evacuated overnight. They said they suffered health problems and mental anguish, which the defendants disputed.

Chicago-based defendant GATX Corp., which was ordered to pay $190 million, said there were no deaths or significant injuries and no major property damage occurred.

Defense attorney Brent Barriere said: ''This should have been a case of reasonable damages for the inconvenience of residents being out of their homes for about 36 hours. But it was not reasonable. It was outrageous.''

Plaintiffs' attorney Wendell Gauthier said the companies had been ''careless and indifferent'' to the people living near the railroad. He said the accident was preceded by ongoing mishandling of dangerous materials by the defendants.

CSX Transportation President A.R. Carpenter said in a statement that the firm was ''very disappointed with this decision. . . .It is clearly not consistent with the facts.

''CSXT handled the leaking car in complete accordance with very stringent federal safety standards. The National Transportation Safety Board investigation into this accident concluded the incident was not caused by CSXT,'' he said.

Juror Kimbra Whitney told reporters she thought the defendants did not do enough to protect residents of the area. ''I felt the evidence showed they were unconcerned,'' she said.

Other defendants ordered to pay damages were Mitsui & Co., $375 million; Alabama Great Southern Railway, $175 million; and Illinois Railroad Co., $125 million.

Mr. ASHCROFT. Commonsense product liability reform is vital to the global competitiveness of American manufacturers and workers. U.S. companies face product liability insurance costs that are 20 to 50 times greater than those of our foreign competitors. Due to these high costs, American many manufacturers spend more on litigation than on research and development and the American consumer is deprived of the highest quality and most innovative product.

In addition, commonsense reform is vital to the health—in a very real sense—of millions of Americans. In 1993, Jim Vincent, the chairman and CEO of Biogen, indicated to this committee that his company decided not to pursue research into the development of an AIDS vaccine, because of the current U.S. product liability system. In addition, availability of many biomaterials such as silicone, polyester, dacron, and rubber that are used in life-saving medical implant devices is being threatened by our current product liability system.

Despite years of effort, the only Federal tort reform we have been able to accomplish has been in the areas of food donations, securities litigation, general aviation aircraft, and individual volunteer liability. The one area of reform that has been, in effect, long enough for us to measure its results is the General Aviation Revitalization Act of 1994, which was signed by President Clinton on August 17, 1994.

The aviation liability reform bill enacted a statute of repose for general aviation aircraft. In 1994, proponents of the bill said that it would produce jobs. It has. To date, over 9,000 new jobs, good jobs, have been created. Single engine aircraft are being manufactured in American again, and an endangered industry has been revitalized. President Clinton was right to support that bill. Let us bring the results of the General Aviation Revitalization Act of 1994 to the broad segments of our country and industries.

The principles which we begin this conversation should be based on making the product liability laws in this Nation fair for consumers who purchase defective products while placing the burden on those responsible for putting these products into the stream of commerce. We also should seek to ensure that those who misuse products, or use them while under the influence of drugs or alcohol, do not collect a windfall which becomes a burden for American consumers in the form of increased costs for products—useful products that are no longer available in the market, and the loss of jobs and greater opportunities.

We should not affect the ability of plaintiffs to sue manufacturers or sellers of medical implants. Rather, we should allow raw materials suppliers to be dismissed from lawsuits if the generic raw material used in the medical device met contract specifications, and if the biomaterial supplier is not classified as either a manufacturer or seller of the implant.

Strong product liability reform is good for America. It ensures that consumers, injured by a product, will be fairly compensated. It will enhance American innovation, which is the best in the world, by treating responsible entrepreneurs fairly while treating the bad actors harshly and to the full extent of the law.

As chairman of the Consumer Affairs Subcommittee I am committed and look forward to working with members of this committee, on both sides of the aisle, and with the administration toward ending the 20-year study and painstaking endeavor to provide our Nation with sound and fair Federal

product liability law. It took the European community about 6 years to accomplish this goal and create the European Product Liability Directive. Japan enacted its first product liability reform law almost 2 years ago. Our Nation, this Congress, and this administration should pull together and meet the challenge of our foreign competitors and enact fair and balanced product liability law.

EDUCATION SAVINGS ACCOUNTS

Mr. BURNS. Mr. President, I rise to add my name to the list of cosponsors of S. 1133, the Parent and Student Savings Account PLUS Act, introduced by Senator COVERDELL, and ask unanimous consent that my name be added. This bill will allow families to invest in education savings accounts, or A-Plus accounts, for their kids' K through 12 expenses.

Mr. President, the Taxpayer Relief Act of 1997 provides several education-related tax provisions for students and their families. Yet these provisions are mainly aimed at making higher education more affordable. While I am all for student loan interest deductions and tax credits for 2- and 4-year degrees, K through 12 education is not cheap either, and families could greatly benefit by saving up through A-Plus accounts. But for a last minute veto threat of the entire balanced budget act, families would have the option of savings accounts for their kids' future.

Why are education savings accounts a good idea? For the same reason tax credits for college expenses are a good idea: They help families afford a quality education for their kids. These A-Plus accounts can be used for public, private, and home schooling education expenses. Qualified expenses include tuition, fees, tutoring, special needs services, books, supplies, equipment, and transportation. This will mean a lot to hard-working families trying to make ends meet.

Opponents like to equate education savings accounts with vouchers, and they consistently use the terms interchangeably as if they are one and the same. This is a red herring. Unlike vouchers, education savings accounts would not redirect State or local funds otherwise available for public education. To the contrary, I believe public school students will greatly benefit by saving money for general school expenses. And from what I'm hearing, families across the country agree with me. Let me reiterate: We are talking here about using one's own hard-earned money for education expenses, not diverting public funds that would otherwise be spent on public schools.

Now, I do not support the use of vouchers in Montana because I believe they would disrupt public school financing and the costs to our public schools would outweigh the benefits to our students. But this is a separate issue, and one better left to the Montana Legislature.

Opponents have also claimed that education savings accounts would violate the establishment clause of the Constitution because Federal dollars would indirectly benefit religious schools. I'll simply respond by saying that under that reasoning, any federal financial aid to students attending Marquette, Georgetown, or Brigham Young would also violate the Constitution. We all know that is not the case.

Although we were blocked from including education savings accounts in the Taxpayer Relief Act, thanks to the efforts of Senator COVERDELL we will have another chance to send this bill to the President. At that time we will have the chance to show our support for America's families by making education more affordable.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

A message from the House of Representatives, delivered by one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 2266. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1998, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources:

Report to accompany the bill (S. 1015) to provide for the exchange of lands within Admiralty Island National Monument, and for other purposes (Rept. 105–90).

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. BURNS:

S. 1223. A bill to protect personal employment information reported to the National Directory of New Hires; to the Committee on Finance.

By Mr. ALLARD (for himself and Mr. WYDEN):

S. 1224. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to ensure full Federal compliance with that Act; to the Committee on Environment and Public Works.

By Mr. HUTCHINSON:

S. 1225. A bill to terminate the Internal Revenue Code of 1986; to the Committee on Finance.

By Mr. ABRAHAM (for himself, Mr. BROWNBACK, Mr. KYL, Mr. HAGEL, Mr. ALLARD, Mr. FAIRCLOTH, Mr. HUTCHINSON, Mr. NICKLES, and Mr. GRAMM):

S. 1226. A bill to dismantle the Department of Commerce; to the Committee on Governmental Affairs.

By Mr. JEFFORDS (for himself, Mr. D'AMATO, Mr. SARBANES, Mr. GRAMM, Mr. DODD, Mr. BOND, Mr. KENNEDY, and Mr. BINGAMAN):

S. 1227. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to clarify treatment of investment managers under such title; considered and passed.

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

S. 1228. A bill to provide for a 10-year circulating commemorative coin program to commemorate each of the 50 States, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CAMPBELL:

S. 1229. A bill to provide for the conduct of a clinical trial concerning digital mammography; to the Committee on Labor and Human Resources.

By Mr. CRAIG:

S. 1230. A bill to amend the Small Reclamation Projects of 1956 to provide for Federal cooperation in non-Federal reclamation projects and for participation by non-Federal agencies in Federal projects; to the Committee on Energy and Natural Resources.

By Mr. FRIST (for himself, Mr. MCCAIN, Mr. HOLLINGS, and Mr. ROCKEFELLER):

S. 1231. A bill to authorize appropriations for fiscal years 1998 and 1999 for the United States Fire Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MOYNIHAN:

S. 1232. A bill to provide for the declassification of the journal kept by Glenn T. Seaborg while serving as Chairman of the Atomic Energy Commission; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. THURMOND (for himself, Mr. HATCH, Mr. GRASSLEY, Mr. KYL, Mr. SESSIONS, and Mr. DEWINE):

S. Res. 128. A resolution expressing the sense of the Senate that sections 3345 through 3349 of title 5, United States Code (commonly referred to as the ''Vacancies Act''), relating to the appointment of certain officers to fill vacant positions in Executive agencies, apply to all Executive agencies, including the Department of Justice; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BURNS:

S. 1223. A bill to protect personal employment information reported to the National Directory of New Hires; to the Committee on Finance.

THE EMPLOYEE INFORMATION PROTECTION ACT OF 1997

Mr. BURNS. Mr. President, I rise to introduce the Employee Information Protection Act of 1997. This bill will correct a serious problem with the 1996 welfare reform law that threatens the privacy of every American.

I do not know how many of my colleagues are aware of the fact that the new welfare reform law created a national new hire directory, which requires States to collect the name, address, and Social Security number of all newly hired employees and send this information to Washington, DC. This new hire directory will be housed at the Social Security Administration, under agreement with the Office of Child Support Enforcement, and the data will be checked against a registry of child support cases to detect overdue payments.

Concerns with this new hire directory nearly killed the welfare reform bill in the Montana Legislature and in several other State legislatures, but folks inside the Beltway do not seem too concerned. But I am concerned, and I will tell you why.

I am all for tracking down deadbeat parents and recovering overdue child support. But this new directory covers every new hire in every State and does not distinguish between deadbeats and nondeadbeats. What's more, the new law puts no limits on how long employee data may remain in the national new hire directory, and the Office of Child Support Enforcement has not developed any limits. It is especially alarming to me that in addition to the Office of Child Support Enforcement and the Social Security Administration, the Treasury Department has access to the directory and the Secretary of Health and Human Services has the discretion to provide researchers access to the directory. With the revelations this week at the Finance Committee hearings of abuse of taxpayer information at the IRS, it is urgent that we take measures to protect personal information from abuse.

The Employee Information Protection Act is simple—in fact it is only one sentence long, not counting the findings. That sentence reads: ''Information entered into such database shall be deleted 6 months after the date of entry.'' That is it. This 6-month limit on retention of new hire data would give the Child Support Office sufficient time to check employee data against the child support case registry and start collection efforts on the deadbeats. At the same time, it will provide some protection for the personal information of the vast majority of Americans who do not owe child support.

I urge my colleagues to take a good look at this situation and if you have concerns as I do, join me in sponsoring the Employee Information Protection Act of 1997. I ask unanimous consent that Monday's New York Times article on the new hire directory be inserted into the RECORD.

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

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

S. 1223

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 ''Employee Information Protection Act of 1997''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2105) requires Federal and State child support enforcement agencies to implement new programs to collect overdue child support payment, thereby reducing the burden on taxpayers by lowering welfare payments.

(2) Among the new programs created under such Act and the amendments made by such Act, is the National Directory of New Hires, to be administered by the Social Security Administration, under agreement with the Office of Child Support Enforcement of the Department of Health and Human Services. Under this program, States are required to develop a reporting system whereby employers must report to their respective States the name, address, and social security number of all newly hired employees. States must forward the new hire data within 3 days of receipt to the National Directory of New Hires, where the data will be checked against the Federal Case Registry of Child Support Orders to detect overdue child support.

(3) The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 does not limit how long employee data may remain in the National Directory of New Hires, and the Office of Child Support Enforcement of the Department of Health and Human Services has not developed any such limits as of September 15, 1997. In addition to the Office of Child Support Enforcement of the Department of Health and Human Services and the Social Security Administration, the Department of the Treasury has access to the directory and the Secretary of Health and Human Services has the discretion to provide researchers access to the directory.

(4) The overwhelming majority of newly hired individuals do not have child support orders entered against them, yet their personal data can be viewed by Federal agencies without such individuals' knowledge or consent.

(5) Recent disclosures of unauthorized viewing of taxpayer information by officials of the Internal Revenue Service highlight the potential for abuse of such information and the need for safeguarding measures.

(6) Several States with new hire reporting programs have time limits on data retention ranging from 6 to 9 months.

(7) A 6-month limit on retention of new hire data in the National Directory of New Hires, from the date such data is entered, would allow sufficient time to check the data against the Federal Case Registry of Child Support Orders and to initiate action against individuals with overdue child support, and would reduce the potential for abuse and misuse of the data.

(b) PURPOSE.—The purpose of this Act is to safeguard personal information concerning employees who do not have child support orders pending against them by placing a reasonable time limit on the retention of new hire data reported to the National Directory of New Hires.

SEC. 3. LIMIT ON NEW HIRE DATA RETENTION.

(a) REQUIREMENT TO DELETE DATA AFTER 6 MONTHS.—Section 453(i)(2) of the Social Security Act (42 U.S.C. 653(i)(2)) is amended by adding at the end the following: ''Information entered into such database shall be deleted 6 months after the date of entry.''.

[(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of title III of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2198).]

[From the New York Times, Sept. 22, 1997]

U.S. INAUGURATING A VAST DATABASE OF ALL NEW HIRES

(By Robert Pear)

WASHINGTON, Sept. 20.—Enforcement of child support obligations enters a new era on Oct. 1, when the Federal Government will start operating a computerized directory showing every person newly hired by every employer in the country so Federal and state investigators can track down parents who owe money to their children.

States will be able to use the directory to locate parents and dun them, typically by securing court orders to employers to deduct child support from wages and salaries.

Keeping track of parents who move from state to state is one of the most difficult tasks in collecting child support, officials say. More than 30 percent of the 19 million child support cases involve parents who do not live in the same state as their children.

President Clinton will soon announce the National Directory of New Hires, which is required by the 1996 welfare law. But the director is not just for welfare recipients. It will record basic information, including names, addresses, Social Security numbers and wages, for everyone hired after Oct. 1 for a full- or part-time job by an employer of any size.

It will be one of the largest, most up-to-date files of personal information kept by the Government. Michael Kharfen, a spokesman for the Department of Health and Human Services, said the Government expected to receive data on 60 million newly hired employees a year. Wages must be reported every three months; the Government expects to receive 160 million wage reports each quarter.

The size and scope of the database have raised concerns about the potential for intrusions on privacy.

Federal and state officials predict that the new Federal directory, combined with similar directories in all states, will produce billions of dollars in new child support payments. States like New York, Virginia, Texas and Missouri, which have required the reporting of newly hired workers in the last few years, say the procedure has been extremely helpful in locating absent parents.

In New York, Daniel D. Hogan, a spokesman for the state's Department of Family Assistance, said that three million people had been hired in the last year and that more than 5 percent of them had been found, through matching of computer files, to owe child support.

When people change jobs, Mr. Hogan said, New York officials inform the new employers of any child support obligations so the money can immediately be withheld from wages.

''We don't give them an opportunity to become deadbeats,'' Mr. Hogan said. ''The biggest problem facing us in child support enforcement is people who move out of state. The best part of the Federal reform is that it will allow us to break down barriers state to state.''

Health and Human Services will maintain a separate register listing everyone who

owes or is owed child support. It will check each new employee against the list of child support orders to see if the worker owes any money.

Thomas D. Neal, a child support specialist in the Texas Attorney General's office, said: ''The national directory will tremendously enhance our ability to locate absent parents and collect child support. Before now, we did not have a good mechanism to know that another state was looking for an individual who might be working in Texas.''

Virginia has required the reporting of all newly hired employees since 1993. Patricia Addison, manager of operations for the state's child support program, said, ''We've found it an invaluable tool.''

The State of Virginia is routinely informed whenever a person takes a new job. By contrast, Ms. Addison said, in the past, ''the only way we found out that the father had changed jobs is that the child support payments stopped.''

Despite the enthusiasm of state officials, Robert M. Gellman, an expert on privacy and information policy, expressed concern that the new data would be misused.

''The Government is creating a gigantic new database with very broad uses and very little attention paid to the protection of personal privacy,'' he said. ''Private detectives will find a friend in the police department or a child welfare office to give them access to information in the directory of new hires. That already happens with criminal, medical and credit records.''

Mr. Gellman predicted that Congress would increase the number of people authorized to use the new directory, just as it has expanded the list of officials with access to Federal tax return information over the years.

Under Federal law, state welfare and child support officials will have access to the new national directory. The Internal Revenue Service, the Social Security Administration and the Justice Department will also have access for some purposes.

A parent living with a child will be able to use the directory to get information about an absent parent who owes child support. For example, a mother with custody of a child will be able to ascertain the father's home address, the name and address of his employer and the amount of the father's income, assets and debts. Using such information, the mother may ask a local court to modify the child's support order if the father's earnings have increased.

In Missouri, child support collections rose 17 percent, to $279 million, in 1996 after the state required reporting of newly hired workers. Teresa L. Kaiser, director of the Missouri program, said, ''We had a big increase in collections from 'job jumpers,' parents who want work in one place for a few months, then move to another job before we could get a wage-withholding order.''

States say the reporting of new employees not only increases child support collections, but also saves money in other programs. State officials can often reduce or eliminate payments for welfare, food stamps, unemployment insurance and Medicaid after learning that the recipients of such aid have been hired.

Under Federal law, the hiring of a new employee must be reported within 20 days to state authorities, who then have 8 days to send the data to Washington. States may establish tighter deadlines for employers, and many have done so.

Collections through the Federal child support program increased last year by 50 percent, to $12 billion, from $8 billion in 1992. But nationwide, only half of the families with child support orders receive the full amount due, and millions get nothing.

Here is how the new program will work:

Employers may file information by mail or magnetic tape. States may also take the information over the telephone, by fax or through the Internet.

An employer who fails to report new employees may be fined $25 for each newly hired worker. An employer who conspires with an employee to flout the reporting requirements may be fined $500.

A multistate employer may file a report with one state listing all of its hiring across the country. Or, it may file a separate report for each new employee in the state where the person works.

The Federal Government will require only six items of information: the name, address and Social Security number of each newly hired employee, the employer's name and address and the identification number assigned to the employer by the Government.

But many states are requiring employers to file additional information, like telephone numbers, dates of birth, driver's license number and details of health insurance coverage provided to new employers.

By Mr. ALLARD (for himself and Mr. WYDEN):

S. 1224. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to ensure full Federal compliance with that Act; to the Committee on Environment and Public Works.

THE FACILITY SUPERFUND COMPLIANCE ACT OF 1997

Mr. ALLARD. Madam President, today, I am introducing, with the Senator from Oregon, RON WYDEN, legislation to ensure that Federal agencies comply with the Comprehensive Environmental Response, Compensation, and Liability Act.

This same legislation has been introduced in the House of Representatives for several years by my home State colleague, DAN SCHAEFER. His leadership in this area has been very important.

This legislation is very important to the country, but particularly to Colorado, where we have had several problems with the Federal Government applying one standard for themselves, and a different higher standard on private parties. I think this is unfair and should be changed. I've always believed that Superfund reform would be easier if all parties were in the same bathtub with the same scrub brush.

I've tried to address Colorado's problems with EPA, but unfortunately I've had little success in getting their attention. One example I have brought to their attention was a former research institute at the Colorado School of Mines in Golden, CO. The research institute at Golden was shut down in the late 1980's after years of research had been done by the School of Mines, private entities, and several agencies of the Federal Government, including the Environmental Protection Agency [EPA].

After the site ceased doing research various environmental contaminants were found at the site and in 1992 there was an accident that resulted in the contents of a holding pond spilling into Clear Creek. While there was no contamination found in Clear Creek, the EPA had an emergency response cleanup contractor remove approximately 22,000 cubic yards of material from the pond and had it placed in a temporary stockpile. The EPA then issued a unilateral administrative order [UAO] for its disposal. Despite the fact that EPA, the Department of Energy, the Department of Defense, and the Bureau of Mines did research at the site none of them were the subject of the UAO, even though the Bureau of Mines was identified as a potentially responsible party [PRP]. Only the State of Colorado, the Colorado School of Mines, and the private parties were subject to the UAO. To put it plainly, the EPA stuck everyone but their sister agencies with a bill for millions on cleanup.

In the case of the State of Colorado, they have appropriated a total of $7.465 million for cleanup to cover their costs and the costs the Federal Government should be paying. It's my view that this money could be spent much better, or not spent at all. However, to have the State spend it because EPA won't enforce and Federal agencies won't be responsible is unacceptable. There is also another case in Colorado involving a Superfund site in Leadville. Leadville is a small town that was the home of Baby Doe Tabor and formerly was the site of a large amount of mining. While there is still some mining that occurs in Leadville, they are also beginning to rely more on tourism dollars.

Unfortunately, the city has a stigma attached to it; it is a Superfund site. All the homes are a Superfund site, all the schools are a Superfund site, all the restaurants are a Superfund site, all the businesses on the main street are a Superfund site. They've been told that because of various mounds of old tailings laying around, the entire city has to be on the national priority list. It's interesting to note though, that the safety concerns of EPA seem to stop short when it comes to Federal responsibility. This story is one of two water treatment plants, one Federal, one private. The private plant, because it's on the Superfund site was built at much greater cost than the Federal plant, which is conveniently just outside the Superfund site. This is despite the fact that the level of contamination is basically equal at both locations. While the EPA disputes this claim, the people who live in Leadville and work at the cleanup site know the difference.

In case I'm accused of relying on anecdotes for this legislation let me describe two documents that found their way into my office. Let me describe them in reverse chronological order, the first is an August 2, 1996, memorandum which subject is, ''Documentation of Reason(s) for Not Issuing CERCLA 106 UAO's to All Identified PRP's.'' I want to quote a footnote in this document; it states that, ''Pursuant to the applicable procedures, DOJ must concur with any EPA decision to issue a UAO under CERCLA section 106

to a Federal agency.'' So if DOJ doesn't concur EPA won't act. So it is revealing to note that a December 15, 1994, letter from a region VIII attorney stated that, ''It is my understanding, however, that DOJ has never approved of the issuance of a unilateral order to a Federal agency.''

By the Federal Government's own admission they will not enforce against a sister agency. Since there is no environmental ''cop on the beat'' for Federal agencies, the Federal Government should be relieved of their immunity against lawsuits and be treated the same as any private party. That includes having to comply with laws that elected State legislatures enact. This is what this legislation does. It is my intention to see it enacted into law as quickly as possible.

I want to thank the Senator from Oregon for joining me in this effort.

Mr. WYDEN. Madam President, in 1992, Congress enacted the Federal Facilities Compliance Act, which requires Federal facilities to obey key environmental laws including the Resource Conservation and Recovery Act and State hazardous waste laws.

However, subsequent Federal court decisions threaten to undermine the important principle that Federal Government facilities must comply with the same environmental laws that govern the private sector. In fact, one court decision that covers the Hanford Nuclear Reservation would allow Hanford to poison the water, pollute the air and contaminate the soil for decades, and be immunized for any violations that occur before the Hanford cleanup is completed sometime in the next century.

This court ruling allowed the interagency agreement among the Energy Department, the Environmental Protection Agency and the Washington Department of Ecology that governs the Hanford cleanup to be used as a shield to block an enforcement action against the Energy Department for violations of the Clean Water Act.

The Energy Department's use of interagency agreement to bar enforcement of environmental laws not only undermines the Federal Facilities Compliance Act but also puts at risk the health of citizens who live downstream or downwind from Hanford, and near other Federal facilities around the country.

Madam President, we also have a double standard here. The Superfund law only authorizes interagency agreements for Federal facilities; there is no comparable provision and no comparable immunity from enforcement for private sector sites.

Today, Senator ALLARD and I are introducing the Federal Facilities Superfund Compliance Act to put an end to this double standard. Our legislation makes clear that Federal Government facilities are subject to the same environmental cleanup laws that apply to the private sector. And they are subject to the law now, not sometime off in the future.

Under this legislation, an interagency agreement, such as the Hanford Tri-Party Agreement, can no longer be used as a means to evade other environmental requirements.

Our legislation also makes clear that if Federal facilities fail to meet their obligations, States and affected citizens will be able to enforce against the Federal Government for these violations just as they would be able to enforce against private parties for violations of environmental laws at a private sector Superfund site.

Our citizens who live in the shadow of contaminated Federal facilities should not have to wait years or decades to obtain the health and environmental protections our laws are supposed to provide. I urge all our colleagues to support this important legislation to provide citizens who live downwind or downstream from Federal facilities equal protection under our environmental laws.

By Mr. ABRAHAM (for himself, Mr. BROWNBACK, Mr. KYL, Mr. HAGEL, Mr. ALLARD, Mr. FAIRCLOTH, Mr. HUTCHINSON, Mr. NICKLES, and Mr. GRAMM):

THE DEPARTMENT OF COMMERCE DISMANTLING ACT

Mr. ABRAHAM. Mr. President, for 3 years now, the Department of Commerce has been the target of critics in Congress and around the country. With the completion of the Balanced Budget Act and the tight discretionary budgets mandated by that law, I believe it is time once again to raise the question of Commerce's ongoing existence.

Is it necessary to have our Nation's weather and mapping services housed in the same department as our trade promotion activities, or would the American people be better served by smaller, tighter agencies with more clearly defined objectives? I suggest that through comprehensive restructuring we can both better serve the American people and help keep the budget within the spending targets that are now law.

Why terminate the Department of Commerce? The debate over the past 3 years has provided us with a simple answer: It's the least defensible department in a Government littered with wasteful, unnecessary departments. Its bureaucracy is bloated, its infrastructure is in disrepair, and its resources are strained to encompass numerous activities that have absolutely nothing to do with commerce or trade. Former Commerce Department officials, the General Accounting Office, and the inspector general have repeatedly testified before Congress that the Department of Commerce suffers from mismanagement, duplication, and a general lack of accountability. Confronted with this weight of evidence, I believe that the Commerce Department cannot be reinvented. Instead, the only responsible action is dismantle the Department to better serve the Congress and the American people.

Today, I am introducing a bill along with Senators BROWNBACK, KYL, FAIRCLOTH, GRAMM, NICKLES, ALLARD, HUTCHINSON, and HAGEL which targets this waste and duplication. It transfers those functions that can be better served elsewhere, consolidates duplicative agencies, and eliminates the remaining unnecessary or wasteful programs. Preliminary estimates indicate the bill will save about $2.5 billion over the next 5 years. How does it achieve these savings?

First, it eliminates unnecessary, duplicative and wasteful programs such as the Minority Business Development Agency, the U.S. Travel and Tourism Administration, the Technology Administration, and the National Telecommunications and Information Administration.

Second, it takes NOAA—which comprises the lion's share of the Department's activities—out from under the Department umbrella. Many of the functions under NOAA, including the Nation's weather service, are vital activities that all observers agree should be carried on. As an independent agency, NOAA will have the opportunity to focus on these core functions, free to achieve the savings necessary to fulfill its responsibilities.

Third, it rationalizes U.S. trade policy by consolidating the International Trade Administration, the Bureau of Export Administration, and the Office of the U.S. Trade Representative within the U.S. Trade Administration. Currently, 19 Federal agencies are charged with promoting trade, but only 8 percent of total Federal spending on trade promotion is directed by Commerce. The bill before us takes a dramatic step toward consolidating our existing trade activities, achieving the administrative savings necessary to rationalize our trade promotion efforts and make them more effective.

Finally, the bill establishes a new Federal Statistical Service by combining the Bureau of the Census and the Bureau of Economic Analysis with the Bureau of Labor Statistics from the Department of Labor. It also creates within the service a Federal Council on Statistical Policy to advise the service and Congress on statistical issues. Once again, the goal is to consolidate functions of the Federal Government that have been dispersed across the Federal Government. It's a more rational, efficient means of accomplishing these tasks.

Mr. President, some have argued that this effort will handicap American businesses by depriving them of their chief advocate in Washington. That's nonsense. Businessmen and women across this country understand what's necessary to promote economic growth and jobs—and it's not another Government handout.

As Jim Barrett, president of the Michigan Chamber of Commerce stated: ''Of all the priorities that the Congress can set to assist Michigan business, keeping the Commerce Department is not even on the radar screen.

* * * A balanced budget with lower interest rates will do much more than the Department of Commerce as it is presently structured ever could.''

A poll conducted by the Greater Detroit Chamber of Commerce indicates Mr. Barrett wasn't just speaking for himself. Forty-seven percent of those polled support eliminating the Department of Commerce—while only 6 percent were opposed. That is a ratio of almost 8 to 1 in favor of eliminating the Department of Commerce.

The lesson of the Commerce Department is simple. Absent clearly defined responsibilities and goals, the Department has become the resting place for the odds and ends of the Federal Government. In the process, it has provided shelter for numerous programs that do not serve the American people well.

This legislation targets those programs, unburdening the taxpayer from being forced to continue their subsidy, while freeing the more worthy programs to better accomplish their jobs. This legislation is an exercise in good government, and I hope my colleagues will support it.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

THE DEPARTMENT OF COMMERCE DISMANTLING ACT—HIGHLIGHTS

Terminates unnecessary department agencies: Eliminates the Technology Administration, the Minority Business Development Administration, the National Telecommunications and Information Administration, and the Economic Development Administration.

Eliminates wasteful department programs: Eliminates the Office of Technology Policy, the Advanced Technology Program, the Manufacturing Extension Partnership Program, the Federal Laboratory Consortium for Technology Transfer, the Metric Program, the NOAA Corps, the NOAA Fleet, grant programs under the National Telecommunications and Information Administration, and ocean and atmospheric grant programs.

Consolidates trade functions: Rationalizes U.S. trade policy by consolidating the International Trade Administration, the Bureau of Export Administration, the Office of the United States Trade Representative, and spectrum management within the United States Trade Administration.

Consolidates oceanographic, atmospheric and scientific functions within a newly independent National Oceanic and Atmospheric Administration: Consolidates the National Oceanic and Atmospheric Administration, the National Bureau of Standards (formerly the National Institute of Standards and Technology), spectrum research and analysis functions of the National Telecommunications and Information Administration, and the Office of Space Commerce. Core functions of NOAA, such as fisheries management and the National Weather Service, are preserved.

Consolidates statistical functions: Establishes a new Federal Statistical Service by combining the Bureau of the Census and the Bureau of Economic Analysis with the Bureau of Labor Statistics from the Department of Labor. Also creates within the Service a Federal Council on Statistical Policy to advise the Service and Congress on statistical issues.

Corporatizes the Patent and Trademark Office: Establishes a fee-funded, wholly owned government corporation, based on legislation reported out of the Senate Judiciary Committee this year.

SUMMARY

The terminations, transfers and consolidations called for by this bill are to be completed over a thirty-six month period under the direction of the Office of Management and Budget.

Administrative functions

The office of the Secretary, General Counsel, Inspector General, and other administrative functions are terminated six months after enactment of this bill.

Economic Development Administration

The EDA provides grants and assistance to loosely-defined ''economically depressed'' regions. EDA's functions are duplicated by numerous other federal agencies including the Departments of Agriculture, HUD, and Interior, the Small Business Administration, the Tennessee Valley Authority and the Appalachian Regional Commission. The parochial nature of the program often targets EDA grants to locations with healthy economies which do not need federal assistance. The EDA is terminated within this bill.

National Technical Information Service

The National Technical Information Service is transferred to the Office of Budget and Management for privatization. If an appropriate arrangement for the privatization of functions of the NTIS is not made within 18 months, then the Service is transferred to the National Oceanic and Atmospheric Administration and OMB is directed to provide legislation to Congress that would transform NTIS into a government-owned corporation.

Bureaus of the Census and economic analysis

The Census Bureau and the Bureau of Economic Analysis would be transferred, along with the Bureau of Labor Statistics to the newly created Federal Statistical Service, beginning the process of consolidating the federal government's statistical functions. The bill then requires the President to study and propose legislation to further the consolidation of these functions.

Minority Business Development Agency

Although MBDA has spent hundreds of millions on management assistance—not capital assistance—since 1971, the program has never been formally authorized by Congress. The MBDA's stated mission, to help minority-owned businesses get government contracts, is duplicated by such agencies and programs as the Small Business Administration, and Small Business Development Centers, along with the private sector. The MBDA would be terminated.

Technology Administration

The Technology Administration currently works with industry to promote the use and development of new technology. The federal government is poorly equipped to ''pick winners and losers'' in the marketplace. This agency is terminated, including the Offices of Technology Policy, Technology Commercialization, and Technology Evaluation and Assessment.

National Institute of Standards and Technology

The National Institute of Standards and Technology is redesignated as the National Bureau of Standards and transferred to the newly independent NOAA. The Advanced Technology Program (ATP) and the Manufacturing Extension Partnerships are terminated; these programs are often cited as prime examples of corporate welfare, wherein the federal government invests in applied research and product development programs which should be conducted in the private sector.

National Telecommunications and Information Administration

The NTIA, an advisory body on national telecommunications policy, would be terminated, including its grant programs. Federal spectrum research and analysis functions would be transferred to the National Bureau of Standards while federal spectrum management functions would be made an independent arm of the Federal Communications Commission. Finally, NTIA's laboratories would be moved to the OMB for privatization. If a suitable arrangement is not made within 18 months, they would be moved to NOAA.

Patent and Trademark Office

Providing for patents and trademarks is a constitutionally-mandated government function. This bill would establish the PTO as a government-owned corporation and require the PTO to be supported completely through fee collection. This text is the same as S. 507 reported by the Senate Committee on the Judiciary earlier this year.

National Oceanic and Atmospheric Administration

The bill establishes the National Oceanic and Atmospheric Administration as an independent agency. Consolidated within the newly independent National Oceanic and Atmospheric Administration are the National Bureau of Standards (formerly the National Institute of Standards and Technology), spectrum research and analysis functions of the National Telecommunications and Information Administration, and the Office of Space Commerce.

Core functions of NOAA, such as fisheries management and the National Weather Service, are preserved, while outdated programs like the NOAA Corps, NOAA Fleet, and 30 other atmospheric programs are terminated.

United States Trade Administration

The Department of Commerce claims to be the lead in U.S. Trade policy, but actually only plays a small part. Five percent of Commerce's budget is dedicated to trade promotion, and it comprises only 8 percent of total federal spending on trade promotion. Furthermore, nineteen different federal agencies have trade responsibilities.

Our legislation would begin the process of consolidating and rationalizing federal trade policy by combining the Bureau of Export Administration, the International Trade Administration, and the United States Trade Representative under the same roof, the United States Trade Administration. The U.S. Trade Representative would retain its current Cabinet and Ambassador status.

In an additional attempt to make our trade policies more coherent, the USTR would serve as a member of the Board of Directors of the Export-Import Bank and the Overseas Private Investment Corporation. Finally, the bill requires the President to transmit a plan to Congress to consolidate other federal export promotion activities and export financing activities and how to transfer those functions to the USTA.

Mr. HAGEL. Mr. President, I rise today in support of the Department of Commerce Dismantling Act as an original cosponsor. This legislation continues the battle to do away with unneeded government and wasteful spending. Over a 3-year period the Department of Commerce would be dismantled. Certain programs would be transferred or consolidated into agencies or departments that are better suited to handle them. Other programs and agencies would be terminated altogether. Unnecessary agencies and several tiers of bureaucracy would be

eliminated. According to the Congressional Budget Office, the abolishment of the Department of Commerce would save taxpayers more than $2 billion over 4 years. I commend Senator BROWNBACK for his leadership in crafting this legislation to abolish the Department of Commerce.

Today the Department of Commerce is a 31,000 person department costing American taxpayers $4 billion annually. Sixty of these employees have the rank of deputy assistant secretary or higher and have annual salaries of at least $96,000 each.

During my campaign, I ran on the ideals of less government, lower taxes, fewer Federal regulations and more personal responsibility. To obtain such goals, I called for the abolishment of four Federal departments including the Departments of Commerce, and Energy. Earlier this year I signed on as an original cosponsor to legislation to abolish the Department of Energy, sponsored by Senator ROD GRAMS.

The Department of Commerce, as we know it today, was created in 1913 during the Woodrow Wilson administration to help promote American businesses around the world. Today, only 5 percent of the Department's nearly $4 billion budget is dedicated to trade promotion. By comparison $2 billion is spent annually out of the Department's budget on the National Oceanic and Atmospheric Administration. Additionally, there are 19 other Federal agencies that hold some jurisdiction over trade. Trade is now a small part of the Department of Commerce.

America's future lies in trade, but the Department of Commerce's bureaucracy is a relic of the past. This legislation attempts to correct that by consolidating trade functions under a single agency, the United States Trade Administration, and eliminating the waste, bureaucracy, and duplication we have today in the Department of Commerce.

The time has come to abolish the Department of Commerce. We cannot continue to waste tax payers' dollars on outdated inefficient, and redundant programs. Taxpayers deserve better.

Mr. BROWNBACK. Mr. President, I rise today to join Senator ABRAHAM in introducing the Department of Commerce Dismantling Act. This legislation was completed after months of research and hearings in which we investigated the many costly structural, managerial, and programmatic problems confronting the Department. We have concluded that these problems are so severe and systemic that the department cannot be reinvented. To provide American taxpayers with the services they require at the level of efficiency and quality they demand, the Department of Commerce must be dismantled.

The Department of Commerce is a hodgepodge of unrelated functions and missions ranging from antidumping investigations to zebra mussel research. It is comprised of 11 unrelated agencies, overseeing more than 100 programs, catering to more than 1,000 customer bases, and overlapping the work of 71 other Government offices and agencies. This entire agglomeration is unmanageable, and diminishes the quality of those Commerce functions which must be provided by the Federal Government.

For example, historically, Secretaries of Commerce have focused their attention almost exclusively on the Department's trade functions. However, trade activities only account for 8 percent of the Department's budget, and Commerce accounts for less than 6 percent of total Federal spending on trade. Commerce is just one of 19 Federal agencies involved in trade issues, and isn't even regarded as the lead trade agency—the Office of the U.S. Trade Representative is.

However, while Secretaries of Commerce travel abroad on foreign trade missions, serious management problems have languished at Commerce headquarters. For example, in 1992 the General Accounting Office indicated that the National Weather Service modernization program and the Decennial Census—two important functions—were both experiencing severe management failures. Today, 5 years later, both of these programs remain on GAO's list of high-risk government management problems. This year, before the Governmental Affairs Committee, Subcommittee on Government Management, which I chair, the Department of Commerce's inspector general testified ''I think it is fair to say that there is little Departmental leadership or oversight in key administrative areas.''

Mr. President, in part as a result of this lack of leadership, the Department has also initiated or continued to perform functions which are not just mismanaged, but are unnecessary. In fact, in many instances, the Department which professes to be the advocate for America's business has gone into competition with them. In testimony before the Subcommittee on Government Management, representatives from the private mapping, weather forecasting and venture capital industries stated that the Department of Commerce routinely competes with companies in their fields. Because taxpayers unknowingly subsidize the Departments commercial ventures, Commerce is a formidable competitor for small businesses. By going into business, Commerce also misuses taxpayer resources that should be devoted to truly governmental functions.

Other functions performed in the Department of Commerce are just a waste of taxpayer dollars. For example, the Advanced Technology Program provides handouts to America's largest and wealthiest corporations to do product development research. This program is corporate welfare, plain and simple, and should be terminated. The Economic Development Administration duplicates the efforts of dozens of other economic development programs around the Federal Government.

And finally, the Department of Commerce has become entirely too politicized. Most employees at Commerce are dedicated public servants. However, too many of their leaders obtained their jobs when political connections prevailed over the public good.

The Department of Commerce began in 1902 and has evolved over the past 94 years into an agency which has no clear mission or responsibility, and is too unmanageable to reform. I believe the Department of Commerce Dismantling Act is the next necessary step in that evolution. The Commerce Department Dismantling Act would retain the important functions which are performed in Commerce, it consolidates many important functions with those performed elsewhere in the Federal Government, and it eliminates the waste. I urge my colleagues to support this measure.

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

S. 1228. A bill to provide for a 10-year circulating commemorative coin program to commemorate each of the 50 States, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE 50 STATES COMMEMORATIVE COIN PROGRAM ACT

Mr. CHAFEE. Mr. President, I am delighted to introduce legislation with Senator D'AMATO, chairman of the Banking Committee, to create a circulating commemorative quarter representing each of the 50 states. Last year, legislation was enacted which instructed the Secretary of the Treasury to study the feasibility of a circulating commemorative coin. That study found that there is considerable public interest in the circulating commemorative quarter and that collecting such coins would produce significant earnings. The bill that I am introducing today will implement this program. Identical legislation has been introduced in the House.

As we all know, the circulating quarters in use today are Washington/Eagle quarters, that is they have a bust of George Washington on one side and an eagle on the reverse side. Under this legislation, beginning in 1999, the Mint would strike only statehood quarters until all 50 states were represented. Only the design on the back of quarters would change. There would be no changes whatsoever to the physical size, weight, or other specifications of quarters. This uniformity is necessary to ensure that these new quarters will continue to work in vending machines, telephones, parking meters, and for other similar transactions.

This program would operate for 10 years, with the Mint producing five different statehood coins per year. The order in which States will be represented is based on the order in which States ratified the Constitution and

joined the Union. If a new state joins the Union during the life of the program, it will be extended in order to ensure that the new State is represented.

The design for each State will be selected by the Secretary of the Treasury in consultation with the Governor, the Commission on Fine Arts, and the Citizens Commemorative Coin Advisory Committee. Each State will nominate a design to the Secretary.

It is my hope that this proposal will spark interest in every State across our Nation. I hope that school children begin to study the history of their States in search of an appropriate individual or emblem to represent their States on the reverse side of these quarters. I hope that artists, coin collectors, historians, and scholars debate and ultimately join together to suggest an appropriate representation for their State.

I know that there are a wide range of appealing options for my own State of Rhode Island. Of course there is the founder of Rhode Island, Roger Williams or Anne Hutchinson, who, like Roger Williams, dedicated her life to the principle of religious freedom and tolerance. There is the Anchor of Hope, which is our State motto and is represented on our flag. Rhode Island is the Ocean State, so a seascape would be an interesting proposal, as would be a lighthouse or a gull.

I am delighted to have Senator D'AMATO's support in introducing this bill. I am sure that he agrees that the point of this new program is to honor all 50 States, and to encourage an interest in the unique history of each State. This program creates a program through which we can celebrate our diverse heritage.

I send a bill to the desk and ask for its appropriate referral.

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

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

S. 1228

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 ''50 States Commemorative Coin Program Act''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) it is appropriate and timely—

(A) to honor the unique Federal republic of 50 States that comprise the United States; and

(B) to promote the diffusion of knowledge among the youth of the United States about the individual States, their history and geography, and the rich diversity of the national heritage;

(2) the circulating coinage of the United States has not been modernized during the 25-year period preceding the date of enactment of this Act;

(3) a circulating commemorative 25-cent coin program could produce earnings of $110,000,000 from the sale of silver proof coins and sets over the 10-year period of issuance, and would produce indirect earnings of an estimated $2,600,000,000 to $5,100,000,000 to the United States Treasury, money that will replace borrowing to fund the national debt to at least that extent; and

(4) it is appropriate to launch a commemorative circulating coin program that encourages young people and their families to collect memorable tokens of all of the States for the face value of the coins.

SEC. 3. ISSUANCE OF REDESIGNED QUARTER DOLLARS OVER 10-YEAR PERIOD COMMEMORATING EACH OF THE 50 STATES.

Section 5112 of title 31, United States Code, is amended by inserting after subsection (k) the following new subsection:

''(l) REDESIGN AND ISSUANCE OF QUARTER DOLLAR IN COMMEMORATION OF EACH OF THE 50 STATES.—

''(1) REDESIGN BEGINNING IN 1999.—

''(A) IN GENERAL.—Notwithstanding the fourth sentence of subsection (d)(1) and subsection (d)(2), quarter dollar coins issued during the 10-year period beginning in 1999, shall have designs on the reverse side selected in accordance with this subsection which are emblematic of the 50 States.

''(B) TRANSITION PROVISION.—Notwithstanding subparagraph (A), the Secretary may continue to mint and issue quarter dollars in 1999 which bear the design in effect before the redesign required under this subsection and an inscription of the year '1998' as required to ensure a smooth transition into the 10-year program under this subsection.

''(2) SINGLE STATE DESIGNS.—The design on the reverse side of each quarter dollar issued during the 10-year period referred to in paragraph (1) shall be emblematic of 1 of the 50 States.

''(3) ISSUANCE OF COINS COMMEMORATING 5 STATES DURING EACH OF THE 10 YEARS.—

''(A) IN GENERAL.—The designs for the quarter dollar coins issued during each year of the 10-year period referred to in paragraph (1) shall be emblematic of 5 States selected in the order in which such States ratified the Constitution of the United States or were admitted into the Union, as the case may be.

''(B) NUMBER OF EACH OF 5 COIN DESIGNS IN EACH YEAR.—Of the quarter dollar coins issued during each year of the 10-year period referred to in paragraph (1), the Secretary of the Treasury shall prescribe, on the basis of such factors as the Secretary determines to be appropriate, the number of quarter dollars which shall be issued with each of the 5 designs selected for such year.

''(4) SELECTION OF DESIGN.—

''(A) IN GENERAL.—Each of the 50 designs required under this subsection for quarter dollars shall be—

''(i) selected by the Secretary after consultation with—

''(I) the Governor of the State being commemorated, or such other State officials or group as the State may designate for such purpose; and

''(II) the Commission of Fine Arts; and

''(ii) reviewed by the Citizens Commemorative Coin Advisory Committee.

''(B) SELECTION AND APPROVAL PROCESS.—Designs for quarter dollars may be submitted in accordance with the design selection and approval process developed by the Secretary in the sole discretion of the Secretary.

''(C) PARTICIPATION.—The Secretary may include participation by State officials, artists from the States, engravers of the United States Mint, and members of the general public.

''(D) STANDARDS.—Because it is important that the Nation's coinage and currency bear dignified designs of which the citizens of the United States can be proud, the Secretary shall not select any frivolous or inappropriate design for any quarter dollar minted under this subsection.

''(E) PROHIBITION ON CERTAIN REPRESENTATIONS.—No head and shoulders portrait or bust of any person, living or dead, and no portrait of a living person may be included in the design of any quarter dollar under this subsection.

''(5) TREATMENT AS NUMISMATIC ITEMS.—For purposes of sections 5134 and 5136, all coins minted under this subsection shall be considered to be numismatic items.

''(6) ISSUANCE.—

''(A) QUALITY OF COINS.—The Secretary may mint and issue such number of quarter dollars of each design selected under paragraph (4) in uncirculated and proof qualities as the Secretary determines to be appropriate.

''(B) SILVER COINS.—Notwithstanding subsection (b), the Secretary may mint and issue such number of quarter dollars of each design selected under paragraph (4) as the Secretary determines to be appropriate, with a content of 90 percent silver and 10 percent copper.

''(C) SOURCES OF BULLION.—The Secretary shall obtain silver for minting coins under subparagraph (B) from available resources, including stockpiles established under the Strategic and Critical Materials Stock Piling Act.

''(7) APPLICATION IN EVENT OF THE ADMISSION OF ADDITIONAL STATES.—If any additional State is admitted into the Union before the end of the 10-year period referred to in paragraph (1), the Secretary of the Treasury may issue quarter dollar coins, in accordance with this subsection, with a design which is emblematic of such State during any 1 year of such 10-year period, in addition to the quarter dollar coins issued during such year in accordance with paragraph (3)(A).''.

Mr. D'AMATO. Mr. President, today I join my colleague from Rhode Island, Senator CHAFEE, to introduce a bill which will authorize the 50 States Circulating Commemorative Coin Program.

This program, which allows for a temporary change to the reverse side of our quarters starting in the year 1999, has my complete and enthusiastic support.

Mr. President, I feel it is appropriate as we enter the new millennium to embark on a decade-long celebration honoring each of our 50 States in the order in which they ratified the Constitution and joined the Union. All States shall submit, for final selection by the Secretary of the Treasury, a design befitting the motto or symbol of each State.

The benefits of this program in promoting State pride on a national level and educating our citizens about our States' unique character and history are substantial.

In the year 1999, our Nation will be 223 years old. Before our next big celebration marking the tricentennial in the year 2076, we should take time to commemorate the attributes of every State in this Union.

Through this circulating coin program, we will be giving American youth an opportunity to cultivate an interest in the rich history that formed these United States. These coins will provide our teachers with a tangible tool to instill this interest.

The educational advantage for our children will not only be achieved in classrooms, but on playgrounds and in homes around the Nation.

In addition, Mr. President, I feel that the excitement and anticipation of the different coins in this program will also capture the interest of adults. Just imagine, receiving a collectible memento when you are handed your change.

And may I point out, Mr. President, while the entire set of 50 circulating quarters will cost only $12.50, this very affordable collection will generate a minimum of $2.6 billion and conceivably as much as $5 billion in additional earnings for the Treasury. These off-budget earnings will be applied directly to reduce borrowing to fund the national debt.

Mr. President, I would like to take this opportunity to thank my colleague, Congressman MICHAEL CASTLE, who has worked tirelessly to promote this great program. Identical legislation MIKE CASTLE sponsored passed the House on a record vote of 413 to 6. I am pleased that his efforts to create this commemorative coin are about to be realized. His outstanding leadership and dedication on this matter has been an inspiration to all who have committed their support.

As chairman of the Banking Committee, I intend to press for prompt passage of this broadly supported bill and I am pleased to be a cosponsor.

By Mr. CAMPBELL:

S. 1229. A bill to provide for the conduct of a clinical trial concerning digital mammography; to the Committee on Labor and Human Resources.

THE DIGITAL MAMMOGRAPHY CLINICAL TRIAL CONDUCT ACT OF 1997

Mr. CAMPBELL. Mr. President, today I am introducing a bill that will provide for a much needed clinical trial for the benefit of women's health. My bill would provide $20 million to the Nation's Office of Women's Health to conduct a large-scale clinical trial of digital mammography, involving 50,000 women and 20 sites, which could yield hard data in as little as a year regarding the potential of this technology.

Digital mammography is our best bet for bringing the fight against breast cancer into the 21st century. This technology could answer the question of what age a woman should begin seeking annual mammograms. It could prevent unnecessary biopsies, as well as catch the countless breast masses undetected by conventional mammography. Dr. Martin Yaffe, a senior cancer-imaging researcher from Canada, is quoted in the Wall Street Journal of March 20, 1997, as drawing this comparison, ''Using a conventional x ray mammography to find a tumor in dense breast tissue is like trying to find a cotton ball in a cloud. Digital technology allows us to improve the quality of the image and avoid missing the cancer.''

While conventional mammography invokes the usual procedure for x rays, which views the film of a breast image on a light box, digital mammography takes advantage of an advanced x ray source for digital image capture, allowing image enhancement, feature recognition, and the ability to adjust the display contrast to highlight shadows and otherwise undetected signs of breast cancer. Mammography is the only means for detecting breast microcalcifications, typically the earliest indicator of nonpalpable breast cancers.

Many of my Senate colleagues have taken a personal and avid interest in combating breast cancer. With good reason. More than 40,000 women will lose their battle with breast cancer this year alone, while another 2.6 million will continue to live with the disease. Further, the rate of diagnosis has been steadily increasing for the last 50 years. For women aged 40 to 45, breast cancer is the leading cause of death. Given these staggering statistics and the fact that women are literally defenseless against this disease, it is imperative that we do everything possible to promote early detection and treatment.

On June 3 of this year, 62 U.S. Senators sent a letter to the Appropriations Committee, urging funding for the Department of Defense Peer Reviewed Breast Cancer Research Program. This program is world renowned and responsible for many of the most important advances in breast cancer research. It has even facilitated several small-scale trials in digital mammography.

However, this program has, to date, proven unable to conduct a large-scale clinical trial of digital mammography. And yet, it is only a large-scale trial that can determine definitively the efficacy of this technology in saving women's lives. There are two bottom lines here. First, the trial would tell women at what age and with what frequency they should receive mammograms. Second, the trial would provide the Health Care Financing Administration with the data it needs to set a reasonable and appropriate cost for a digital mammography. We are all familiar with the role HCFA plays in setting not just rates of reimbursement but standards for reimbursement of healthcare services; the private sector takes its lead from HCFA. Once HCFA acts to make digital mammographies available to women, private pay insurers will follow suit. Therefore, in the interest of public health, the onus is on us to move these trials forward.

The NIH has an appropriation from the Senate for next year that reflects almost a billion dollar boost. Rightly so. But despite that, the National Cancer Institute simply does not have the resources to fund a clinical trial of this size. Grant dollars are still scarce relative to the number of compelling grant applications. The reality that NCI is simply unable to dedicate the necessary resources to conduct a large-scale trial of digital mammography is unfortunate yet understandable. The Senate is aware of this dilemma, and shares the frustration of the Nation's breast cancer victims. In explaining its fiscal year 1998 allocation for the National Cancer Institute, the Appropriations Committee report for Labor, Health and Human Services and Education noted that ''the national investment in cancer research remains the key to bringing down spiraling heath care costs, as treatment, cures, and prevention remain much cheaper than chronic and catastrophic diseases, like cancer.''

As Congress is well aware, the financial cost of breast cancer is indeed staggering. We spend over $5 billion annually on healthcare for women fighting breast cancer, a figure that is matched in the cost of lost productivity to our overall economy. Further, the human cost of this disease is felt tenfold by the families and communities whose lives it touches.

I realize this bill breaks with convention, to a certain degree. I am not assuming a level of scientific expertise that supplants that of the true experts at NIH. I am a firm believer in letting science drive where our research dollars are spent. However, I am willing to force the issue for the sake of women's health. We have available to us cutting edge technology that could yield us a remarkable return in the form of women's lives. My bill provides a modest sum to ensure that a large-scale clinical trial of digital mammography does not go unfunded any longer.

By Mr. CRAIG:

S. 1230. A bill to amend the Small Reclamation Projects of 1956 to provide for Federal cooperation in non-Federal reclamation projects and for participation by non-Federal agencies in Federal projects; to the Committee on Energy and Natural Resources.

THE SMALL RECLAMATION PROJECTS ACT OF 1956

Mr. CRAIG. Mr. President. I send to the desk for appropriate reference a measure to expand the use and availability of the Small Reclamation Projects Act of 1956.

The Small Reclamation Projects Act has provided important benefits throughout the Reclamation West in the 40 years since it was first established. Over the past several years there have been various discussions on ways to expand the benefits of the program. Last Congress I introduced two measures that included some of the suggestions that have been made. Neither of the measures would have affected ongoing projects.

One of the measures, S. 1564, dealt with financing. At the present time, the Secretary is limited to grants and loans to fulfill the objectives of the act. That legislation would have expanded the authority of the Secretary to include the use of loan guarantees as a way of stretching the limited federal resources. The other measure, S. 1565,

revised existing law to expand the purposes for which assistance can be received from the Federal Government. Irrigation would have remained an authorized purpose, but it would no longer be a required component. The purposes would now include the augmentation and management of local water supplies, conservation of water and energy, fish and wildlife conservation, supplemental water for existing supplies, water quality improvements, and flood control. The legislation would have limited the application of interest on any loans to those features which are currently reimbursable with interest under reclamation law.

On September 5, 1996, I conducted a hearing on these, and several other reclamation measures, as chairman of the Subcommittee on Forests and Public Land Management. Based on the comments that I received at the hearing, and subsequent conversations that I have had with individuals and groups interested in the potential of the Small Reclamation Program, I have combined the two measures and made several changes in the sustance. I am introducing the measure today and plan to request that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources add this measure to its scheduled hearing on October 7, 1997.

Mr. President, I sincerely hope that once the administration has the opportunity to read this measure and reflect on our hearing last year, they will change their minds and support this legislation. Quite frankly, I do not understand the reasons for the almost knee-jerk opposition of the administration to this proposal or their persistent efforts to terminate not only the Small Reclamation Project Act, but programs such as the Rehabilitation and Betterment loan activity. An administration that trumpets its concern for the environment should understand that one of the best ways of providing additional water supplies for instream uses, as well as for additional consumptive uses, is to repair old leaky systems. It may simple be that these programs either directly or indirectly help farmers, but I would submit, Mr. President, that they also benefit the environment and the economy.

By Mr. FRIST (for himself, Mr. MCCAIN, Mr. HOLLINGS, and Mr. ROCKEFELLER):

S. 1231. A bill to authorize appropriations for fiscal years 1998 and 1999 for the United States Fire Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE U.S. FIRE ADMINISTRATION AUTHORIZATION FOR FISCAL YEARS 1998 AND 1999

Mr. FRIST. Mr. President, I rise to introduce the authorization bill for the U.S. Fire Administration for fiscal years 1998 and 1999. I would like to thank the cosponsors of this bill, Senator MCCAIN, Senator HOLLINGS, and Senator ROCKEFELLER, for their hard work and dedication to making this bill a possibility.

The mission of the U.S. Fire Administration is to enhance the Nation's fire prevention and control activities and thereby significantly reduce the Nation's loss of life from fire while also achieving a reduction in property loss and nonfatal injury due to fire.

The bill, which authorizes the Fire Administration for $29.6 million in fiscal year 1998 and $30.5 million for fiscal year 1999, provides for collection, analysis, and dissemination of fire incidence and loss data; development and dissemination of public fire education materials; development and dissemination of better hazardous materials response information for first responders; and support for research and development for fire safety technologies.

With this authorization, our local and State firefighters will continue to have assess to the training from the National Fire Academy necessary to allow them to better perform their jobs of saving lives and protecting property.

Additionally, a number of amendments have been proposed to the legislation that established the National Fallen Firefighters Foundation. The Foundation was created by Congress in 1992 to assist their families. These proposed amendments offer some major changes to the structure of the Foundation. In order to allow for a more thorough evaluation of the issues surrounding these amendments, we plan to continue our review of these changes along with an examination of the Foundation's relationships with the U.S. Fire Administration and the Federal Emergency Management Agency next year.

Therefore, I along with my cosponsors, urge the Members of this body to support this bill and allow the U.S. Fire Administration to continue the fine job it has been performing for so many years.

I ask unanimous consent that the full text of this legislation be printed in the RECORD.

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

S. 1231

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 ''United States Fire Administration Authorization Act for Fiscal Years 1998 and 1999''.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 17(g)(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216(g)(1)) is amended—

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

(2) by striking the period at the end of subparagraph (F) and inserting a semicolon; and

(3) by adding at the end the following:

''(G) $29,664,000 for the fiscal year ending September 30, 1998; and

''(H) $30,554,000 for the fiscal year ending September 30, 1999.''.

SEC. 3. SUCCESSOR FIRE SAFETY STANDARDS.

The Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) is amended—

(1) in section 29(a)(1), by inserting ''or any successor standard to that standard'' after ''Association Standard 74'';

(2) in section 29(a)(2), by inserting '', or any successor standard to that standard'' before '', whichever is appropriate,'';

(3) in section 29(b)(2), by inserting '', or any successor standard to that standard'' after ''Association Standard 13 or 13–R'';

(4) in section 31(c)(2)(B)(i), by inserting ''or any successor standard to that standard'' after ''Life Safety Code)''; and

(5) in section 31(c)(2)(B)(ii), by inserting ''or any successor standard to that standard'' after ''Association Standard 101''.

SEC. 4. TERMINATION OR PRIVATIZATION OF FUNCTIONS.

(a) IN GENERAL.—Not later than 60 days before the termination or transfer to a private sector person or entity of any significant function of the United States Fire Administration, as described in subsection (b), the Administrator of the United States Fire Administration shall transmit to Congress a report providing notice of that termination or transfer.

(b) COVERED TERMINATIONS AND TRANSFERS.—For purposes of subsection (a), a termination or transfer to a person or entity described in that subsection shall be considered to be a termination or transfer of a significant function of the United States Fire Administration if the termination or transfer—

(1) relates to a function of the Administration that requires the expenditure of more than 5 percent of the total amount of funds made available by appropriations to the Administration; or

(2) involves the termination of more than 5 percent of the employees of the Administration.

SEC. 5. NOTICE.

(a) MAJOR REORGANIZATION DEFINED.—With respect to the United States Fire Administration, the term ''major reorganization'' means any reorganization of the Administration that involves the reassignment of more than 25 percent of the employees of the Administration.

(b) NOTICE OF REPROGRAMMING.—If any funds appropriated pursuant to the amendments made by this Act are subject to a reprogramming action that requires notice to be provided to the Committees on Appropriations of the Senate and the House of Representatives, notice of that action shall concurrently be provided to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives.

(c) NOTICE OF REORGANIZATION.—Not later than 15 days before any major reorganization of any program, project, or activity of the United States Fire Administration, the Administrator of the United States Fire Administration shall provide notice to the Committees on Science and Appropriations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate.

SEC. 6. SENSE OF CONGRESS ON THE YEAR 2000 PROBLEM.

With the year 2000 rapidly approaching, it is the sense of Congress that the Administrator of the United States Fire Administration should—

(1) give high priority to correcting all 2-digit date-related problems in the computer systems of the United States Fire Administration to ensure that those systems continue to operate effectively in the year 2000 and in subsequent years;

(2) as soon as practicable after the date of enactment of this Act, assess the extent of the risk to the operations of the United

States Fire Administration posed by the problems referred to in paragraph (1), and plan and budget for achieving compliance for all of the mission-critical systems of the system by the year 2000; and

(3) develop contingency plans for those systems that the United States Fire Administration is unable to correct by the year 2000.

SEC. 7. ENHANCEMENT OF SCIENCE AND MATHEMATICS PROGRAMS.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the United States Fire Administration.

(2) EDUCATIONALLY USEFUL FEDERAL EQUIPMENT.—The term ''educationally useful Federal equipment'' means computers and related peripheral tools and research equipment that is appropriate for use in schools.

(3) SCHOOL.—The term ''school'' means a public or private educational institution that serves any of the grades of kindergarten through grade 12.

(b) SENSE OF CONGRESS.—

(1) IN GENERAL.—It is the sense of Congress that the Administrator should, to the greatest extent practicable and in a manner consistent with applicable Federal law (including Executive Order No. 12999), donate educationally useful Federal equipment to schools in order to enhance the science and mathematics programs of those schools.

(2) REPORTS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Administrator shall prepare and submit to the President a report that meets the requirements of this paragraph. The President shall submit that report to Congress at the same time as the President submits a budget request to Congress under section 1105(a) of title 31, United States Code.

(B) CONTENTS OF REPORT.—The report prepared by the Administrator under this paragraph shall describe any donations of educationally useful Federal equipment to schools made during the period covered by the report.

SEC. 8. REPORT TO CONGRESS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator of the United States Fire Administration (referred to in this section as the ''Administrator'') shall prepare and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives a report that meets the requirements of this section.

(b) CONTENTS OF REPORT.—The report under this section shall—

(1) examine the risks to firefighters in suppressing fires caused by burning tires;

(2) address any risks that are uniquely attributable to fires described in paragraph (1), including any risks relating to—

(A) exposure to toxic substances (as that term is defined by the Administrator);

(B) personal protection;

(C) the duration of those fires; and

(D) site hazards associated with those fires;

(3) identify any special training that may be necessary for firefighters to suppress those fires; and

(4) assess how the training referred to in paragraph (3) may be provided by the United States Fire Administration.

Mr. MCCAIN. Mr. President, I rise in support of Senator FRIST's authorization bill for the U.S. Fire Administration for fiscal years 1997 and 1998. I would also like to thank the additional cosponsors, Senator HOLLINGS and Senator ROCKEFELLER, for their support of this very important legislation.

As chairman of the Commerce, Science and Transportation Committee, I am very pleased to see that the bill represents the bipartisan support that is so necessary to move this and other science and technology bills before the committee. It would be my hope that this bipartisan support would be continued for the many actions before this body, the U.S. Senate.

The United States has one of the highest fire death rates in the industrialized world. Fires account for approximately 4,500 deaths and 30,000 injuries annually. The extent of this problem covers all sectors of society and costs American taxpayers approximately $50 billion per year.

With these huge losses, the work of the U.S. Fire Administration plays a key role in reducing these numbers. Their work with the firefighters, those who are on the front lines in fighting these problems, should be commended. Their efforts in collecting data and other relevant information play a key role in the prevention of future fires.

The U.S. Fire Administration should continue to educate the public against the dangers of fire and how to safely protect ourselves and our property against such dangers.

I, along with my cosponsors, urge the Members of this body to support this bill.

Mr. HOLLINGS. Mr. President, I rise today to join my colleague, Senator FRIST, in introducing legislation to reauthorize the programs of the U.S. Fire Administration [USFA].

The United States currently has one of the worst fire records of any country in the industrial world. More than 2 million fires are reported in the United States every year. Annually, these fires result in approximately 4,500 deaths, 30,000 civilian injuries, more than $8 billion in direct property losses, and more than $50 billion in costs to taxpayers. In my State of South Carolina, in 1995, the most recent year in which data are available, 12,776 fires were reported resulting in 12 deaths, 103 injuries, and over $40 million in property losses. Even more disheartening is the fact that over 80 percent of the annual deaths and injuries from fires occur in residential fires. In South Carolina, while only 3,196 of the fires were residential, those fires claimed 8 lives and caused 74 injuries.

As terrible as these statistics are, they would reflect a far more tragic picture were it not for the USFA. The USFA was created under the 1974 act, pursuant to the recommendation of the National Commission on Fire and Control. The USFA is a part of the Federal Emergency Management Agency, and its responsibilities are to administer programs, research, and applied engineering projects to assist State and local governments in fire prevention and control. The USFA works with State and local governments specifically to educate the public in fire safety and prevention, control arson, collect and analyze data related to fire, conduct research and development in fire suppression, promote firefighter health and safety, and conduct fire service training.

The USFA assists our Nation's fire service which comprises of approximately 1.2 million members, 80 percent of whom are volunteers. The fire service is one of the most hazardous professions in the country. Firefighters not only confront daily the dangers of fire; they also are required to respond to other natural disasters, such as earthquakes, floods, medical emergencies, and hazardous materials spills. The USFA administers the National Fire Academy, which sponsors off-campus and on-campus training and management programs for members of the fire and rescue services, and allied professionals.

The effort of the USFA is focused in four areas: First, public education and awareness and arson control; second, data collection and analysis; third, fire service training; and fourth, technology and research and firefighter health and safety.

Through public education and awareness the USFA seeks to identify and educate the groups for whom fire presents the greatest menace. Efforts are focused to increase safety and reduce losses. For example, whether by accident or on purpose, children start over 100,000 fires per years. About 25 percent of the fires that kill young children are started by children playing with fire. The USFA through public-private partnerships had educated children with initiatives such as the ''Sesame Street Fire Safety Activity Book for Preschoolers,'' National Safe Kids, and various guides for parents and teachers.

Senior citizens are at the highest risk of being killed in a fire. The USFA has targeted this group through public service announcements with added focus on the importance of buying and maintaining residential smoke detectors.

Arsonists are responsible for over 500,000 fires every year. Arson is the No. 1 cause of all fires. Even though it is the leading cause of fire, only 15 percent of arson cases result in arrests with juveniles accounting for 55 percent of arrests, and only 2 percent result in convictions. It is the second leading cause of fire deaths in residences and the leading cause of dollar loss due to fire. In 1994, the most recent year for which comprehensive data is available, the total number of arson fires in the United States was estimated at 548,500—accounting for an estimated 560 fire deaths, 3,440 fire injuries, and $3.6 billion in property damage.

Of greater concern are investigators reports that more people are choosing to use fire as a weapon. According to the USFA's ''Arson in the United

States'' report, ''Investigators are becoming more aware of Molotov cocktails and pipe bombs being used as incendiary devices. Fires caused by explosives or motivated by spite and revenge tend to be more deadly because they often target residential structures, in keeping with the desire to inflict personal harm.'' In my own State of South Carolina, we suffer from the worst record for church burnings—over 30 since 1991. I visited with Rev. Lester Grant of Shiloh Baptist Church in Townville, SC, last month, and we discussed the recent trend of targeting churches with this new weapon of hatred and violence. I was impressed with how our church communities are rallying and growing stronger in the rubble of fires. Church burnings, whether acts of hatred or vandalism, have to stop.

We must do more to assist our church communities in stopping these vile efforts. The USFA has initiated several measures to combat this crime, including: community grants in high risk areas to hire part-time law enforcement officers, and to pay for law enforcement overtime and other church arson prevention activities; National Fire Academy training courses; additional training and education for arson investigators with the Bureau of Alcohol, Tobacco, and Firearms; arson prevention information for the general public; and juvenile arson prevention workshops. Although the President's budget request for fiscal year 1997 for arson-fighting activities was reduced, this bill restores that funding at last year's level.

USFA's emphasis on data collection and analysis provides it with the necessary tools for identifying problems and forecasting trends. USFA use this data to focus efforts in the areas that will most significantly reduce casualties and property losses caused by fire. National Fire data are published through USFA's National Fire Incident Reporting System, the only centralized and uniform collection of fire data in the United States.

Regarding fire service training, Mr. President, and the National Fire Academy provides national leadership for fire and emergency medical services personnel through education and training. The Academy offers training and educational programs at the Emmitsburg campus and at other sites throughout the country. The Academy trained 83,000 students in 1996 and plans to increase this number to 300,000 per year in the future. There now are four applicants for each available slot for many of the Academy's courses.

Finally, the USFA conducts research on technology to improve the occupational health and safety of firefighters including improvements to protective clothing and equipment, lifesaving operational technologies and equipment like liquid fire extinguishing agents, and equipment used in vehicle extrication and complex rescues.

Mr. President, the efforts of our Nation's 1.2 million firefighters are invaluable; they risk their lives every day to save the lives and property of others. The USFA provides the necessary education, data analysis, training, and technology needed to ensure that these brave individuals do their job as efficiently and safely as possible. We in Congress need to do our job: We need to enact this legislation to ensure that both firefighters and the USFA get the financial resources they need to serve the public. I encourage my colleagues to support this bill.

Mr. ROCKEFELLER. Mr. President, I rise today to join my colleagues, Senator FRIST, Senator MCCAIN, and Senator HOLLINGS in introducing legislation to reauthorize the programs of the U.S. Fire Administration [USFA].

I just want to say a few quick words about this program. The USFA has a tough and rewarding mission. As I am sure my colleagues have noted, the statistics relating to fires in this country are staggering: Approximately 4,500 people die annually, and over 30,000 people are injured. In West Virginia, there were over 9,000 fires in 1995 causing 28 fatalities and 160 injuries. The fact is, Mr. President, these numbers would be worse if it were not for the brave men and women firefighters who put their lives on the line to save and protect others.

I want to take this moment to commend the 1.2 million members of the Nation's fire service of whom 80 percent are volunteers. In 1995, 163 firefighters were injured in West Virginia in the line of duty. They deserve the best training, assistance, and technology available to do their job. The USFA provides these invaluable services to these men and women in an effort to ensure their safety, their health, and to improve their ability to fight fires with the best available technology.

If there is a Federal program that is worth its value in dollars, it is this one—an ounce of prevention is clearly worth a pound of cure. In addition to the services the USFA provides firefighters, I want to commend this agency for its education and awareness programs, particularly those that target young children, and for their use of the Internet. Children start over 100,000 fires a year from just playing. The USFA has developed an interactive homepage and guide for parents clearly demonstrating their awareness of today's tools needed to reach today's youth.

In closing, Mr. President, I would like to thank my colleague, the chairman of the Science Subcommittee, Senator FRIST, for his efforts to move legislation in a bipartisan manner. This bill is a fine example of his efforts to work with Members of both parties to move good legislation that benefits the public as a whole. I encourage my colleagues to support this bill.

By Mr. MOYNIHAN:

S. 1232. A bill to provide for the declassification of the journal kept by Glenn T. Seaborg while serving as Chairman of the Atomic Energy Commission; to the Committee on Energy and Natural Resources.

DECLASSIFICATION LEGISLATION

Mr. MOYNIHAN. Mr. President, Glenn T. Seaborg is a truly great American who for 14 years has suffered outrageous treatment from bureaucrats and is in need of our assistance. Dr. Seaborg, codiscoverer of plutonium, kept a journal whilst chairman of the Atomic Energy Commission from 1961 to 1971. The journal consisted of a diary written at home each evening, correspondence, announcements, minutes, and the like. He was careful about classified matters; nothing was included that could not be made public. Even as he was chairman the portions relating to the Kennedy and Johnson administrations were microfilmed for public access in their respective Presidential libraries. Before leaving the AEC, Dr. Seaborg got it all cleared virtually without deletion. Then lunacy descended. Or rather, the Atomic Energy Commission became the Department of Energy and bureaucracy got going. Seaborg writes of all this in an article ''Secrecy Runs Amok'' published in Science in 1994. It seems that in 1983 the chief historian of the Department asked to borrow one of two sets of the journal, some 26 volumes in all, for work on a history of the Commission. By the time the author got his journal back passage after passage was redacted, much of it explicitly public information, such as the published code names of nuclear weapons tests, some of it purely personal, as for example his description of accompanying his children on a trick or treat outing on a Halloween evening. The 26 volumes, ''in expurgated form'' as Seaborg puts it, are now available in the Manuscript Division of the Library of Congress. But where does one go for sanity? Seaborg writes: ''With the beginning of the Reagan administration, the government had begun to take a much more severe and rigid position with regard to secrecy.'' The balance between the ''right of the public to know'' and the ''right of the nation to protect itself'' was simply lost as, often apologetic, investigators poured over the papers of the great Americans of the time.

Dr. Seaborg recently came to my office seeking assistance in cutting through the bureaucracy. At this stage in his career he should not be forced to expend valuable time and energy trying to get back what he lent the Department of Energy. I immediately agreed to offer what assistance I could, having had experience of such matters as chairman of the Commission on Protecting and Reducing Government Secrecy.

Last week, with the energy and water appropriations bill nearly ready for conference, I thought there might be a chance to include a provision that would require the return of the unedited journal to Dr. Seaborg. I wrote to

the chairman and ranking members of the subcommittee, asking for their help. On Tuesday, September 23, the clerk for Senator REID, the ranking member of the subcommittee, reported to my staff that there had been a long staff discussion on the matter, that it was agreed the Department of Energy had acted inappropriately, that the journal was a valuable historical document, and that things looked promising for including the provision in the conference report.

The report was filed today with no mention of the Seaborg journal. This afternoon the clerk for Senator DOMENICI, the chairman, reported that the Department of Energy had been consulted and that they had raised objections to the return of the unexpurgated journal. And so, absent the opportunity for a hearing, the provision was dropped. I suppose doing the right thing for Dr. Seaborg in a simple, expedient manner was too much to expect. I suppose it was wishful thinking that the Department would do its part to rectify the situation. So, Mr. President, I am introducing the same provision as a freestanding bill. I look forward to a hearing on the matter, which the appropriations staff advocates, so that at least this one egregious example of the regulation and control of valuable public information can be brought to light and, I trust, remedied.

I ask unanimous consent that Dr. Seaborg's article in Science be included in the RECORD at this point. I send to the desk a bill requiring the return of Dr. Seaborg's journal in the original, unredacted form in which it was lent to the Department of Energy, and ask unanimous consent that it be printed in the RECORD and referred to the appropriate committee.

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

S. 1232

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

SECTION 1. FINDINGS.

(1) Whereas Dr. Glenn T. Seaborg is a truly great American who has made indispensable contributions in the development of nuclear energy.

(2) Whereas Dr. Seaborg is the co-discoverer of plutonium and eight other elements and as a result of these discoveries was awarded the 1951 Nobel Prize for chemistry.

(3) Whereas while serving as Chairman of the Atomic Energy Commission (AEC), Dr. Seaborg maintained a journal consisting of a diary, correspondence, announcements, minutes of meetings, and other documents of historical value.

(4) Whereas in preparing the journal, Dr. Seaborg took care to include only information which was not classified and could be made public.

(5) Whereas before leaving the Atomic Energy Commission, Dr. Seaborg submitted the journal to the AEC's Division of Classification for review.

(6) Whereas Dr. Seaborg's journal was cleared by the Division of Classification, virtually without deletion.

(7) Whereas twelve years later, in 1983, the chief historian at the Department of Energy asked to borrow a copy of Dr. Seaborg's journal in order to write a history of the AEC.

(8) Whereas when the journal was returned to Dr. Seaborg three years later, passage after passage was redacted, including explicitly public information, such as the published code names of nuclear weapons tests, and purely personal material, such as his description of accompanying his children on a ''trick or treat'' outing one Halloween evening.

SEC. 2. DECLASSIFICATION OF SEABORG JOURNAL.

The Secretary of Energy shall return to Dr. Glenn T. Seaborg his journal which he prepared while serving as Chairman of the AEC. The journal shall be returned in the original, unredacted form in which it was lent to the Department of Energy in 1983.

SECRECY RUNS AMOK

(By Glenn T. Seaborg)

Publishing information on scientific projects related to national security requires resolution of the conflicts between the ''right of the public to know'' and the ''right of the nation to protect itself.'' A recent experience of mine in regard to the declassification of historical material may illuminate the problems that can arise.

During my years as chairman of the Atomic Energy Commission (AEC) (1961 to 1971), I maintained a daily journal. The core of the journal was a diary, much of which I wrote at home each evening. (This continued a habit I had started at the age of 14.) The diary was supplemented by copies of correspondence, announcements, minutes of meetings, and other relevant documents that crossed my desk each day. Both in the diary and the supporting documents rigorous attention was given to excluding any subject matter that could be considered classified information under standards of the day. My purpose was to provide for historians and other scholars a record that might not be available elsewhere of what occurred at high levels of government regarding the AEC's important areas of activity.

Illustrative of the general recognition that my journal was unclassified was the fact that in 1965 the AEC historian microfilmed for public access in the John F. Kennedy and Lyndon B. Johnson libraries portions that correspond to those presidencies. To assure myself further that the journal contained no classified material I had it checked by the AEC Division of Classification during the summer and fall of 1971, just before my departure from the AEC. It was cleared, virtually without deletions. (Unfortunately, I received no written confirmation of this action which is perhaps understandable because of the obvious unclassified origin of the material.) A copy, which I will refer to as copy #1, was then transmitted by the AEC to my office at the University of California in Berkeley. Also, at about this time, the AEC tansferrd another copy of the journal, referred to hereinafter as copy #2, first to my Berkeley office, then to the Livermore laboratory, and, soon thereafter, to my home in Lafayette, California. It was known that neither my Berkeley office nor my home had any provision for the protection of classified material, and the fact that the AEC saws fit to ship the journal to those places is a clear indication that the AEC regarded the journal as an unclassified document.

The office and home copies of the journal remained accessible to scholars for the ensuing 12 years. Then the problems began. In July 1983 the chief historian of the Department of Energy (DOE) asked to borrow a copy for use in the next phase of the History Division's long-term project, the writing of *A History of the United States Atomic Energy Commission*. Volume IV of the *History* was to be devoted largely to the years of my chairmanship. The historian promised to return the journal within 3 weeks as soon as copies had been made. I sent him copy #1, the one in my Berkeley office. When the University of California historian, John Heilbron, learned of this transaction, he warned me that the DOE was likely to find classified material in the journal and to hold it indefinitely pending a complete classification review. Relying on past history during which the journal had been treated by the AEC as a wholly unclassified document, I told him I was not worried that this would happen. But, as Heilbron may have been aware from his own experience, times had changed. With the beginning of the Reagan administration, the government had begun to take a new, much more severe and rigid position with regard to secrecy.

Despite my repeated entreaties, the historian's office did not return the journal in 3 weeks, nor in 3 months, nor in a year-and-a-half. Nor was any explanation ever offered to me for the delay. Finally, just as Heilbron had predicted, I was informed in February 1985 that the journal had indeed been found to contain classified information. Accordingly, DOE ordered its San Francisco Area Office to pick up copy #2, the one that I kept at home, so that it also could be subjected to a classification review. At first I said I would not allow this. But then I was told that, legally, the journal could be seized and that I could be subject to arrest if I resisted. Faced with this disagreeable prospect, I acceded to a compromise plan (the best of several unsatisfactory alternatives) whereby DOE provided me with a locked storage safe, complete with burglar alarm, so that I could continue to have access to the journal, which I was at that time preparing for publication. It was no longer, however, to be available for use by scholars.

Then in May 1985 I was contacted by DOE's San Francisco Area Manager. He said that he had been instructed by DOE headquarters to institute a classification review of copy #2 at my home. He added that the consequence of my not agreeing to this would be that the FBI would seize the papers under court order. He said that the weakness of my case, if I chose to resist, was that there was no record of the journal ever having been declassified by the AEC. Thus, I could be accused of having illegally removed classified material when I left the AEC. He noted that if legal proceedings were instituted, I could, of course, hire a lawyer to defend myself, but that he knew of no case like this where the government, with all its resources, had lost.

Under this ultimatum, I agreed to the classification review with the understanding that it would be completed within 10 days. The reviewer started work in my home on 9 May 1985, kept at it for several weeks (not the promised 10 days), and came up with 162 deletions of words, phrases, sentences, or paragraphs, affecting 137 documents.

Then in May 1986 I learned that copy #1, the one borrowed by the DOE historian, was also undergoing a classification review. This review was complete in October 1986 and led to deletions from 327 documents. In addition, 530 documents were removed from the journal entirely pending further review by DOE or by other government agencies.

At the same time as reviews of my complete journal were being undertaken in DOE and in my home, a further review was taking place in the Bethesda, Maryland, home of Benjamin S. Loeb, who was then collaborating with me in preparation of the book, Stemming the Tide: Arms Control in the Johnson Years, which was to be published in 1987 (1). Copies had been sent to Loeb of just those portions of the journal that related to

arms control. Beginning 10 July 1986, as many as six DOE Division of Classification staff members sat around his dining room table for a few days, selecting a large number of documents which they then took with them back to DOE headquarters in Germantown, Maryland. In due course, most of these were returned with deletions, except that a number of documents that required review by U.S. government agencies other than DOE, or by the United Kingdom, were not returned until August 1990.

But there was more. In October 1986 I was informed that the DOE classification people wanted to perform another review of copy #2, the one in my home, in order to ''sanitize'' it, a euphemism for a further classification review of the already reviewed journal. I was informed that the sanitization procedure would take place at Livermore, that it would last 3 to 6 weeks, and that it would involve from 8 to 12 people. Copy #2 was duly picked up at my home and delivered to Livermore on 22 October 1986. When the sanitized version was returned almost 2 months later, it had been subjected, including the prior review, to about 1000 classification actions. These included the entire removal of about 500 documents for review by other U.S. agencies or, in a few cases, by the British. Over my objection, an unsightly declassification stamp was placed on every surviving document.

Finally, the DOE sent to the Lawrence Berkeley Laboratory a team of about 12 people to begin a ''catalog,'' that is, an itemized listing, of all the personal correspondence I had brought from the AEC and of the contents of my journal and files for the prior 25 years of my working life before I became AEC chairman. Beginning on 29 April 1987, the team spent about 2 weeks at this task. In March 1988 another DOE group visited me for about a month in order to complete the catalog. The motives of DOE in undertaking this task were not clear. They may well have intended to be helpful to me. Before they finished, however, the two groups uncovered some additional ''secret'' material.

My grammar and high school and university student papers stored in another part of my home, overlooked by the DOE classification teams, have so far escaped a security review.

My journal was finally reproduced in January 1989 (2) in 25 volumes, averaging about 700 pages each, many of them defaced with classification markings and containing large gaps where deletions had been made. In June 1992 a 26th volume was added. It contained a batch of documents initially taken away for classification review and subsequently returned to me, with many deletions, after the production of the other 25 volumes in January 1989. (Many other removed documents have still not been returned.). All 26 volumes are now publicly available in the expurgated form in the Manuscript Division of the Library of Congress.

This, then, is a summary narrative of the rocky voyage of my daily journal amid the shoals of multiple classification reviews. Those interested in a more detailed account can find it among the daily entries in my journal for the period after I left the AEC. This is available in the Manuscript Division of the Library of Congress, and has fortunately not yet been subjected to classification review.

What is to be concluded about this sorry tale? One conclusion I have reached is that the security classification of information became in the 1980s an arbitrary, capricious, and frivolous process, almost devoid of objective criteria. Witness the fact that the successive reviews of my journal at different places and by different people resulted in widely varying results in the types and number of deletions made or documents removed. Furthermore, some of the individual classification actions seem utterly ludicrous. These include my description of one of the occasions when I accompanied my children on a ''trick or treat'' outing on a Halloween evening, and my account of my wife Helen's visit to the Lake Country in England. One would have to ask how publication of these bits of family lore would adversely affect the security of the United States. A particular specialty of the reviewers was to delete from the journal many items that were already part of the public record. These included material published in my 1981 book (with Benjamin S. Loeb), ''Kennedy, Khrushchev, and the Test Ban'' (3). Another example concerned the code names of previously conducted nuclear weapons tests. These were deleted almost everywhere they appeared regardless of the fact that in January 1985 the DOE had issued a report listing, with their code names, all ''Announced United States Nuclear Tests, July 1945 through December 1984'' (4). A third category of deletions concerned entries that might have been politically or personally embarrassing to individuals or groups but whose publication would not in any way threaten U.S. national security. In fact, I would go so far as to contend that hardly any of the approximately 1,000 classification actions (removals of documents or deletions within document) taken so randomly by the various reviewers could be justified on legitimate national security grounds.

Consistent with this belief, I have requested repeatedly throughout this difficult time that a copy of my journal as originally prepared, that is, before all the classification reviews, be kept on file somewhere. I had in mind that there might come a day when a more rational approach to secrecy might prevail and permit wider access, especially to historians, of the complete record. There are indications that, especially with the end of the Cold War, such an era may be at hand or rapidly approaching. While the DOE has made no commitment to honor my request. I am informed that DOE's History Division does maintain an unexpurgated copy for its own use. Perforce, it is handled as a classified document.

I would like to emphasize that I received fine and sympathetic treatment from many in the DOE who made it clear to me that they were not in agreement with the treatment accorded me and my journal during the process recounted above. In fact, more than one person in DOE has told me informally that evidence does indeed exist verifying that my journal did indeed receive a clearance before my departure from the AEC in 1971.

The problems posed by classification and declassification of sensitive materials are major ones and require wise people who must make sophisticated decisions. It requires a range of individuals who, on the one hand, have vision in regard to the whole range of scientific and national security policies, and on the other hand, have the time to read pages of detailed descriptions in a wide range of areas. Sometimes this complex goal gets derailed by those who see the trees and not the forest. Those in charge of classification should have an appreciation of the need, in our open society, to publish all scientific and political information that has no adverse national security effect (realistically defined).

Although I have in general received sympathetic treatment, I cannot help but note that this treatment has produced quite different conclusions at different periods in the country's history. Actually, the AEC, from its beginning in 1947, initiated and executed an excellent progressive program of declassification with an enlightened regard for the need of such information in an open, increasingly scientific society. By the 1960s, this program was serving our country well. Unfortunately, during the 1980s the program had retrogressed to the extent of reversing many earlier declassification actions. Fortunately, the present situation is very much improved so we can look forward to the future with considerable optimism.

REFERENCES

1. G.T. Seaborg and B.S. Loeb. Stemming the Tide: Arms Control in the Johnson Years (Free Press, New York, 1987).

2. G.T. Seaborg. Lawr. Bork, Lab. Tech. Inf. Dep. Publ. PUB–625 (1989).

3. G.T. Seaborg and B.S. Loeb. Kennedy, Khrushchev, and the Test Ban (Univ. of California Press, Berkeley, 1981).

4. U.S. Dep. Energy Rep. NVO–209 (revision 5) (1985).

ADDITIONAL COSPONSORS

S. 412

At the request of Mr. LAUTENBERG, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 412, a bill to provide for a national standard to prohibit the operation of motor vehicles by intoxicated individuals.

S. 648

At the request of Mr. GORTON, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 648, a bill to establish legal standards and procedures for product liability litigation, and for other purposes.

S. 1042

At the request of Mr. GRAHAM, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 1042, a bill to require country of origin labeling of perishable agricultural commodities imported into the United States and to establish penalties for violations of the labeling requirements.

S. 1114

At the request of Mr. JEFFORDS, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 1114, a bill to impose a limitation on lifetime aggregate limits imposed by health plans.

S. 1133

At the request of Mr. BURNS, his name was added as a cosponsor of S. 1133, a bill to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses and to increase the maximum annual amount of contributions to such accounts.

SENATE CONCURRENT RESOLUTION 52

At the request of Mr. HOLLINGS, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of Senate Concurrent Resolution 52, a concurrent resolution relating to maintaining the current standard behind the ''Made in USA'' label, in order to protect consumers and jobs in the United States.

SENATE RESOLUTION 128—RELATIVE TO THE VACANCIES ACT

Mr. THURMOND (for himself, Mr. HATCH, Mr. GRASSLEY, Mr. KYL, Mr. SESSIONS, and Mr. DEWINE) submitted the following resolution; which was referred to the Committee on Governmental Affairs:

S. RES. 128

Whereas Congress enacted the Act entitled ''An Act to authorize the temporary supplying of vacancies in the executive departments'', approved July 23, 1868 (commonly referred to as the ''Vacancies Act''), to—

(1) preclude the extended filling of a vacancy in an office of an executive or military department subject to Senate confirmation, without the submission of a Presidential nomination;

(2) provide an exclusive means to temporarily fill such a vacancy; and

(3) clarify the role of the Senate in the exercise of the Senate's constitutional advice and consent powers in the Presidential appointment of certain officers;

Whereas subchapter III of chapter 33 of title 5, United States Code, includes a codification of the Vacancies Act, and (pursuant to an amendment on August 17, 1988, to section 3345 of such title) specifically applies such vacancy provisions to all Executive agencies, including the Department of Justice;

Whereas the legislative history accompanying the 1988 amendment makes clear in the controlling committee report that the general administrative authorizing provisions for the Executive agencies, which include sections 509 and 510 of title 28, United States Code, regarding the Department of Justice, do not supersede the specific vacancy provisions in title 5, United States Code;

Whereas there are statutory provisions of general administrative authority applicable to every Executive department and other Executive agencies that are similar to sections 509 and 510 of title 28, United States Code, relating to the Department of Justice;

Whereas despite the clear intent of Congress, the Attorney General of the United States has continued to interpret the provisions granting general administrative authority to the Attorney General under sections 509 and 510 of title 28, United States Code, to supersede the specific vacancy provisions in title 5, United States Code; and

Whereas the interpretation of the Attorney General would—

(1) virtually nullify the vacancy provisions under subchapter III of chapter 33 of title 5, United States Code;

(2) circumvent the clear intention of Congress to preclude the extended filling of certain vacancies and provide for the temporary filling of such vacancies; and

(3) subvert the constitutional authority and responsibility of the Senate to advise and consent to certain appointments: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) sections 3345, 3346, 3347, 3348, and 3349 of title 5, United States Code (relating to the filling of vacancies in certain offices), apply to all Executive agencies, including the Department of Justice.

(2) the general administrative authorizing statutes of Executive agencies, including sections 509 and 510 of title 28, United States Code, relating to the Department of Justice, do not supersede the specific vacancy provisions applicable to Executive agencies in title 5, United States Code; and

(3) the Attorney General of the United States should—

(A) take such necessary actions to ensure that the Department of Justice is in compliance with the statutory requirements of such sections; and

(B) inform other Executive agencies to comply with the vacancy provisions in title 5, United States Code.

Mr. THURMOND. Mr. President, today, I am submitting a sense-of-the Senate resolution regarding the Vacancies Act. I am pleased to do so on my behalf, and the distinguished chairman of the Senate Judiciary Committee, and other members of the Judiciary Committee. Our purpose is to clarify for the Attorney General that the Vacancies Act applies to all executive departments and agencies, including the Department of Justice.

The Vacancies Act provides that, except for recess periods, when an official serving in an advise and consent position in an executive agency leaves, the President may appoint certain individuals to serve in that position in an acting capacity for no more than 120 days before the nomination of a permanent replacement is forwarded for Senate confirmation. The Vacancies Act, which is codified in sections 3345 through 3349 of title 5 of the United States Code, has existed in some form since at least 1868.

This act is central to the advise and consent role of the Senate. By limiting the time that the President may temporarily fill a vacant advise and consent position, the act strongly encourages the President to quickly nominate a permanent replacement.

I have become increasingly alarmed at the Clinton administration's failure to nominate officials to fill the vacancies that have occurred in executive branch positions, and particularly in the Department of Justice. When we held a Justice Department oversight hearing in the Judiciary Committee at the end of April, vacancies existed for the Associate Attorney General, Solicitor General, Assistant Attorney General for Civil Rights, Assistant Attorney General for the Criminal Division, and Assistant Attorney General for the Office of Legal Counsel.

I asked Attorney General Reno at the oversight hearing whether she was concerned that a failure to nominate individuals for these positions within the 120-day deadline would violate the Vacancies Act. She responded in writing that the Justice Department was not bound by the Vacancies Act. The letter indicated that she could fill these vacancies pursuant to the Department's general administrative authorizing statutes without regard to the Vacancies Act.

In my opinion, the Attorney General is simply wrong. Her interpretation of the vacancies law in this area is nothing more than an attempt to get around the law.

First, the plain language of the Vacancies Act since it was amended in 1988 states that it applies to all executive departments and agencies. By law, the Department of Justice is an executive department, so Justice obviously is included. In fact, the original sponsor of the act, Representative Trumbull, stated on the Senate floor in 1868 that the act applied to, quote, ''any of the Departments.''

Also, the Congress flatly rejected the Attorney General's interpretation when it amended the Vacancies Act in 1988. As explained in the report of the Committee on Governmental Affairs, Congress made a choice in 1988 of whether to repeal or revive the Vacancies Act, and it chose the latter. The report stated that it was time ''to revitalize'' the Vacancies Act and ''make it relevant to the modern Presidential appointments process.'' One method of accomplishing this was to assist the President by expanding the number of days he had to submit a nominee from 30 to 120 days after the vacancy was created. That way, the President would have more time to submit a qualified replacement.

The committee report expressly rejected the Attorney General's flawed interpretation. It stated that the Vacancies Act was the exclusive authority for these appointments, and noted that the authorizing statutes of an executive department or agency do not provide an alternative means to fill vacancies. The amendment was made at the recommendation of the Comptroller General, who has battled with the Attorney General for many years over this flawed interpretation of vacancies law.

Mr. President, this is a matter of great constitutional significance. If the view of the Attorney General were correct, the President could routinely ignore the advise and consent role of the Senate. In the Justice Department, the President would never be obligated to nominate any official below the Attorney General for Senate confirmation after his first appointee left, as long as the President was content for the person to serve in an acting capacity.

In fact, based on the Attorney General's reasoning, the President apparently would not be bound by the Vacancies Act for officials in any department. Every Federal department from Agriculture to Veterans Affairs has authorizing statutes similar to Justice. Many Federal agencies do, too. Therefore, based on the Attorney General's reasoning, these departments and agencies can all claim to be exempt from the Vacancies Act. In fact, when faced with the Vacancies Act, many make the Attorney General's argument, and claim they aren't bound by it either. Obviously, the Congress would never have intended for its confirmation power to be circumvented in this manner.

The Framers of the Constitution surely would not be pleased. The advise and consent role of the Senate is one of the fundamental checks and balances included within our great system of Government. Under the appointments clause of article II, section 2, of the Constitution, the President has the exclusive power to nominate principal officers of the United States, but the

Senate must give its advise and consent. As Justice Scalia stated for the Supreme Court earlier this year, ''[T]he Appointments Clause * * * is more than a matter of etiquette or protocol; it is among the significant structural safeguards of the constitutional scheme.''

The involvement of the Senate is designed to promote a high quality of appointments and curb executive abuses. In the words of Alexander Hamilton in Federalist No. 76, ''The possibility of rejection [is] a strong motive to care in processing.''

This resolution is designed to affirm the Senate's role by insisting that the Attorney General stop interpreting the act out of existence. It expressly states what should already be obvious from the plain language of the Vacancies Act and its legislative history: that the Vacancies Act applies to all executive departments and agencies, including the Department of Justice. The resolution also states that the Attorney General should ensure that the Department of Justice complies with the act, and that she should inform other executive agencies to abide by it, as well.

This is not just a technical issue. It is not an idle problem. At some point this year, six advise and consent positions in the Justice Department have been in violation of the Vacancies Act. The position of the Assistant Attorney General for the Criminal Division has been vacant for over 2 years. This is an excellent example of the problem the Vacancies Act was designed to prevent. The Nation's chief law enforcement agency has been without a confirmed chief for crime since August 31, 1995. No name has been forwarded in the 9 months that this Congress has been in session. Mr. President, what message does that send about the Clinton administration's commitment to fighting crime?

In the meantime, the Attorney General has been in the middle of a tremendous controversy surrounding her reluctance to seek the appointment of an independent counsel to investigate apparently illegal campaign fundraising practices. Would not having a politically accountable chief of the Criminal Division be helpful to her in analyzing whether crimes were committed?

Also, consider the Office of Legal Counsel. Walter Dellinger was confirmed to head OLC in 1993, but he was very controversial. Many members of this body could not support him. Nevertheless, effective July 1, 1996, the Attorney General made Mr. Dellinger acting Solicitor General. The Senate may not have confirmed him to be Solicitor General. Of course, we will never know because by simply naming him acting Solicitor General, the administration avoided a fight over his appointment. For an entire year, for a full term of the Supreme Court, the United States was represented by a Solicitor General who was acting in violation of the Vacancies Act, in violation of the law. The President has just officially nominated someone else for the vacancy.

Moreover, Mr. Dellinger's appointment caused another violation of the Vacancies Act. When the Attorney General moved Mr. Dellinger, she appointed an acting chief of OLC, who served over 120 days without a permanent nomination being submitted. Not only did this appointment exceed 120 days, it wasn't even legal in the first place. The Vacancies Act not only limits the amount of time someone can serve in an acting capacity, it also limits who can serve. Only someone who was the first assistant, which refers to the principal deputy, or someone who was earlier confirmed to a different advice and consent position can serve in the acting position. Mr. Dellinger's replacement did not meet either of these requirements. Thus, the chief of OLC was serving in violation of the Vacancies Act, in violation of the law, from the first day Mr. Dellinger left.

Mr. President, the vacancies problem is not limited to the Department of Justice. It can be found throughout the executive branch. The Washington Post reported on August 29, 1997, that 30 percent of the top 470 political jobs in the administration remain unfilled. When confronted with the Vacancies Act, many departments and agencies use the Attorney General's argument and also claim not to be bound by the act.

It is time to put the Attorney General's flawed interpretation of the Vacancies Act to rest. Her reading of the Vacancies Act is a threat to the advise and consent role of the Senate. I am hopeful that my colleagues will join me and my cosponsors in supporting this simple but significant resolution. Let us adopt this important resolution, and reaffirm our constitutional duty of advise and consent.

AMENDMENTS SUBMITTED

THE VISA WAIVER PILOT PROGRAM REAUTHORIZATION ACT OF 1997

KYL (AND OTHERS) AMENDMENT NO. 1254

Mr. MCCONNELL (for Mr. KYL for himself, Mr. LEAHY, and Mr. JEFFORDS) proposed an amendment to the bill (S. 1178) to amend the Immigration and Nationality Act to extend the visa waiver pilot program, and for other purposes; as follows:

At the end of the bill insert the following section:

SEC. 3. REPORT ON AUTOMATED ENTRY-EXIT CONTROL SYSTEM.

(a) Within six months after the date of enactment of this Act, the Attorney General shall report to the Committees on the Judiciary of the Senate and the House of Representatives on her plans for and the feasibility of developing an automated entry-exit control system that would operate at the land borders of the United States and that would—

(1) collect a record of departure for every alien departing the United States and match the records of departure with the record of the alien's arrival in the United States; and

(2) enable the Attorney General to identify, through on-line searching procedures, lawfully admitted nonimmigrants who remain in the United States beyond the period authorized by the Attorney General.

(b) Such report shall assess the costs and feasibility of various means of operating such an automated entry-exit control system; shall evaluate how such a system could be implemented without increasing border traffic congestion and border crossing delays and, if any such system would increase border crossing delays, evaluate to what extent such congestion or delays would increase; and shall estimate the length of time that would be required for any such system to be developed and implemented at the land borders.

HUTCHISON AMENDMENT NO. 1255

Mr. MCCONNELL (for Mrs. HUTCHISON) proposed an amendment to the bill, S. 1178, supra; as follows:

On page 8, after line 6, insert the following:

(C) REPORTING REQUIREMENTS FOR OTHER COUNTRIES.—For every country from which nonimmigrants seek entry into the United States, the Attorney General shall make a precise numerical estimate of the figures under clauses (A)(i)(I) and (A)(i)(II) and report those figures to the Committees on the Judiciary of the Senate and the House of Representatives within 30 days after the end of the fiscal year.

ABRAHAM (AND KENNEDY) AMENDMENT NO. 1256

Mr. MCCONNELL (for Mr. ABRAHAM, for himself and Mr. KENNEDY) proposed an amendment to the bill, S. 1178, supra; as follows:

On page 8, between lines 6 and 7, insert the following new clause:

''(ii) COMMENCEMENT OF AUTHORIZED PERIOD FOR QUALIFYING COUNTRIES.—No country qualifying under the criteria in clauses (i) and (ii) may be newly designated as a pilot program country prior to October 1, 1998.

On page 8, line 6, strike ''2002'' and insert ''2000''.

THE PUBLIC HOUSING REFORM AND RESPONSIBILITY ACT OF 1997

MACK AMENDMENT NO. 1257

Mr. MCCONNELL (for Mr. MACK) proposed an amendment to the bill (S. 462). A bill to reform and consolidate the public and assisted housing programs of the United States, and to redirect primary responsibility for these programs from the Federal Government to States and localities, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Public Housing Reform and Responsibility Act of 1997''.

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

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) there exists throughout the Nation a need for decent, safe, and affordable housing;

(2) the inventory of public housing units owned and operated by public housing agencies, an asset in which the Federal Government has invested approximately $90,000,000,000, has traditionally provided rental housing that is affordable to low-income persons;

(3) despite serving this critical function, the public housing system is plagued by a series of problems, including the concentration of very poor people in very poor neighborhoods and disincentives for economic self-sufficiency;

(4) the Federal method of overseeing every aspect of public housing by detailed and complex statutes and regulations aggravates the problem and places excessive administrative burdens on public housing agencies;

(5) the interests of low-income persons, and the public interest, will best be served by a reformed public housing program that—

(A) consolidates many public housing programs into programs for the operation and capital needs of public housing;

(B) streamlines program requirements;

(C) vests in public housing agencies that perform well the maximum feasible authority, discretion, and control with appropriate accountability to both public housing residents and localities; and

(D) rewards employment and economic self-sufficiency of public housing residents; and

(6) voucher and certificate programs under section 8 of the United States Housing Act of 1937 are successful for approximately 80 percent of applicants, and a consolidation of the voucher and certificate programs into a single, market-driven program will assist in making section 8 tenant-based assistance more successful in assisting low-income families in obtaining affordable housing and will increase housing choice for low-income families.

(b) PURPOSES.—The purposes of this Act are—

(1) to consolidate the various programs and activities under the public housing programs administered by the Secretary in a manner designed to reduce Federal overregulation;

(2) to redirect the responsibility for a consolidated program to States, localities, public housing agencies, and public housing residents;

(3) to require Federal action to overcome problems of public housing agencies with severe management deficiencies; and

(4) to consolidate and streamline tenant-based assistance programs.

SEC. 3. DEFINITIONS.

In this Act:

(1) PUBLIC HOUSING AGENCY.—The term ''public housing agency'' has the same meaning as in section 3 of the United States Housing Act of 1937.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Housing and Urban Development.

SEC. 4. EFFECTIVE DATE.

(a) IN GENERAL.—Except with respect to any provision or amendment identified by the Secretary under subsection (b) and as otherwise specifically provided in this Act or the amendments made by this Act, this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) EXCEPTION.—

(1) DETERMINATION.—Not later than 2 months after the date of enactment of this Act, the Secretary shall identify any provision of this Act, or any amendment made by this Act, the implementation of which, in the determination of the Secretary—

(A) requires a substantial exercise of discretion, such that there exists a significant risk of litigation;

(B) requires a need for uniform interpretation; or

(C) is otherwise problematic, such that immediate implementation is inappropriate.

(2) NOTICE.—

(A) IN GENERAL.—Notwithstanding any other provision of law, not later than 6 months after the date on which the Secretary makes any identification under paragraph (1), the Secretary shall implement each provision or amendment so identified by notice published in the Federal Register, which notice shall—

(i) include such requirements as may be necessary to implement the provision or amendment; and

(ii) invite public comments on those requirements.

(B) EFFECTIVE DATE OF NOTICE.—The notice published under paragraph (2) may, in the discretion of the Secretary, take effect upon publication.

(3) FINAL REGULATIONS.—Not later than 12 months after the date of enactment of this Act, the Secretary shall issue such final regulations as may be necessary, taking into account any comments received under paragraph (2)(A)(ii), to implement each provision or amendment identified under paragraph (1).

SEC. 5. PROPOSED REGULATIONS; TECHNICAL RECOMMENDATIONS.

(a) PROPOSED REGULATIONS.—Not later than 9 months after the date of enactment of this Act, the Secretary shall submit to Congress proposed regulations that the Secretary determines are necessary to carry out the United States Housing Act of 1937, as amended by this Act.

(b) TECHNICAL RECOMMENDATIONS.—Not later than 9 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking and Financial Services of the House of Representatives, recommended technical and conforming legislative changes necessary to carry out this Act and the amendments made by this Act.

SEC. 6. ELIMINATION OF OBSOLETE DOCUMENTS.

Effective 1 year after the date of enactment of this Act, no rule, regulation, or order (including all handbooks, notices, and related requirements) pertaining to public housing or section 8 tenant-based programs issued or promulgated under the United States Housing Act of 1937 before the date of enactment of this Act may be enforced by the Secretary.

SEC. 7. ANNUAL REPORTS.

Not later than 1 year after the date of enactment of this Act, and annually thereafter,

the Secretary shall submit a report to Congress on—

(1) the impact of the amendments made by this Act on—

(A) the demographics of public housing residents and families receiving tenant-based assistance under the United States Housing Act of 1937; and

(B) the economic viability of public housing agencies; and

(2) the effectiveness of the rent policies established by this Act and the amendments made by this Act on the employment status and earned income of public housing residents.

TITLE I—PUBLIC HOUSING

SEC. 101. DECLARATION OF POLICY.

Section 2 of the United States Housing Act of 1937 (42 U.S.C. 1437) is amended to read as follows:

''SEC. 2. DECLARATION OF POLICY.

''It is the policy of the United States to promote the general welfare of the Nation by employing the funds and credit of the Nation, as provided in this title—

''(1) to assist States and political subdivisions of States to remedy the unsafe housing conditions and the acute shortage of decent and safe dwellings for low-income families;

''(2) to assist States and political subdivisions of States to address the shortage of housing affordable to low-income families; and

''(3) consistent with the objectives of this title, to vest in public housing agencies that perform well, the maximum amount of responsibility and flexibility in program administration, with appropriate accountability to both public housing residents and localities.''.

SEC. 102. MEMBERSHIP ON BOARD OF DIRECTORS.

Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended—

(1) by redesignating the second section designated as section 27 (as added by section 903(b) of Public Law 104–193 (110 Stat. 2348)) as section 28; and

(2) by adding at the end the following:

''SEC. 29. MEMBERSHIP ON BOARD OF DIRECTORS.

''(a) REQUIRED MEMBERSHIP.—Except as provided in subsection (b), the membership of the board of directors of each public housing agency shall contain not less than 1 member—

''(1) who is a resident who directly receives assistance from the public housing agency; and

''(2) who may, if provided for in the public housing agency plan (as developed with appropriate notice and opportunity for comment by the resident advisory board) be elected by the residents directly receiving assistance from the public housing agency.

''(b) EXCEPTION.—Subsection (a) shall not apply to any public housing agency—

''(1) that is located in a State that requires the members of the board of directors of a public housing agency to be salaried and to serve on a full-time basis; or

''(2) with less than 300 units, if—

''(A) the public housing agency has provided reasonable notice to the resident advisory board of the opportunity of not less than 1 resident described in subsection (a) to serve on the board of directors of the public housing agency pursuant to that subsection; and

''(B) within a reasonable time after receipt by the resident advisory board of notice under subparagraph (A), the public housing agency has not been notified of the intention of any resident to participate on the board of directors.

''(c) NONDISCRIMINATION.—No person shall be prohibited from serving on the board of directors or similar governing body of a public housing agency because of the residence of that person in a public housing project.''.

SEC. 103. RENTAL PAYMENTS.

(a) IN GENERAL.—Section 3(a)(1)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(1)(A)) is amended by inserting before the semicolon the following: '' or, if the family resides in public housing, an amount established by the public housing agency, which shall not exceed 30 percent of the monthly adjusted income of the family''.

(b) AUTHORITY OF PUBLIC HOUSING AGENCIES.—Section 3(a)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(2)) is amended to read as follows:

''(2) AUTHORITY OF PUBLIC HOUSING AGENCIES.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), a public housing agency may adopt ceiling rents that reflect the reasonable market value of the housing, but that are not less than—

''(i) 75 percent of the monthly cost to operate the housing of the public housing agency; and

''(ii) the monthly cost to make a deposit to a replacement reserve (in the sole discretion of the public housing agency).

''(B) MINIMUM RENT.—Notwithstanding paragraph (1), a public housing agency may provide that each family residing in a public housing project or receiving tenant-based or project-based assistance under section 8 shall pay a minimum monthly rent in an amount not to exceed $25 per month.

''(C) POLICE OFFICERS.—

''(i) IN GENERAL.—Notwithstanding any other provision of law and subject to clause (ii), a public housing agency may, in accordance with the public housing agency plan, allow a police officer who is not otherwise eligible for residence in public housing to reside in a public housing unit. The number and location of units occupied by police officers under this clause, and the terms and conditions of their tenancies, shall be determined by the public housing agency.

''(ii) INCREASED SECURITY.—A public housing agency may take the actions authorized in clause (i) only for the purpose of increasing security for the residents of a public housing project.

''(iii) DEFINITION.—In this subparagraph, the term 'police officer' means any person determined by a public housing agency to be, during the period of residence of that person in public housing, employed on a full-time basis as a duly licensed professional police officer by a Federal, State, or local government or by any agency thereof (including a public housing agency having an accredited police force).

''(D) EXCEPTION TO INCOME LIMITATIONS FOR CERTAIN PUBLIC HOUSING AGENCIES.—

''(i) DEFINITION OF OVER-INCOME FAMILY.—In this subparagraph, the term 'over-income family' means an individual or family that is not a low-income family or a very low-income family.

''(ii) AUTHORIZATION.—Notwithstanding any other provision of law, a public housing agency that manages less than 250 units may, on a month-to-month basis, lease a unit in a public housing project to an over-income family in accordance with this subparagraph, if there are no eligible families applying for residence in that public housing project for that month.

''(iii) TERMS AND CONDITIONS.—The number and location of units occupied by over-income families under this subparagraph, and the terms and conditions of those tenancies, shall be determined by the public housing agency, except that—

''(I) rent for a unit shall be in an amount that is equal to not less than the costs to operate the unit;

''(II) if an eligible family applies for residence after an over-income family moves in to the last available unit, the over-income family shall vacate the unit not later than the date on which the month term expires; and

''(III) if a unit is vacant and there is no one on the waiting list, the public housing agency may allow an over-income family to gain immediate occupancy in the unit, while simultaneously providing reasonable public notice of the availability of the unit.

''(E) ENCOURAGEMENT OF SELF-SUFFICIENCY.—Each public housing agency shall develop a rental policy that encourages and rewards employment and economic self-sufficiency.''.

(c) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall, by regulation, after notice and an opportunity for public comment, establish such requirements as may be necessary to carry out section 3(a)(2)(A) of the United States Housing Act of 1937, as amended by this section.

(2) TRANSITION RULE.—

(A) IN GENERAL.—Subject to subparagraph (B), prior to the issuance of final regulations under paragraph (1), a public housing agency may implement ceiling rents, which shall be—

(i) determined in accordance with section 3(a)(2)(A) of the United States Housing Act of 1937 (amended by subsection (b) of this section);

(ii) equal to the 95th percentile of the rent paid for a unit of comparable size by residents in the same public housing project or a group of comparable projects totaling 50 units or more; or

(iii) equal to the fair market rent for the area in which the unit is located.

(B) MINIMUM AMOUNT.—The amount of any ceiling rent implemented by a public housing agency under this paragraph may not be less than 75 percent of the monthly cost to operate the housing.

SEC. 104. DEFINITIONS.

(a) DEFINITIONS.—

(1) SINGLE PERSONS.—Section 3(b)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(3)) is amended—

(A) in subparagraph (A), by striking the third sentence; and

(B) in subparagraph (B), in the second sentence, by striking ''regulations of the Secretary'' and inserting ''public housing agency plan''.

(2) ADJUSTED INCOME.—Section 3(b)(5) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(5)) is amended to read as follows:

''(5) ADJUSTED INCOME.—The term 'adjusted income' means the income that remains after excluding—

''(A) $480 for each member of the family residing in the household (other than the head of the household or the spouse of the head of the household)—

''(i) who is under 18 years of age; or

''(ii) who is—

''(I) 18 years of age or older; and

''(II) a person with disabilities or a full-time student;

''(B) $400 for an elderly or disabled family;

''(C) the amount by which the aggregate of—

''(i) medical expenses for an elderly or disabled family; and

''(ii) reasonable attendant care and auxiliary apparatus expenses for each family member who is a person with disabilities, to the extent necessary to enable any member of the family (including a member who is a person with disabilities) to be employed;

exceeds 3 percent of the annual income of the family;

''(D) child care expenses, to the extent necessary to enable another member of the family to be employed or to further his or her education; and

''(E) any other adjustments to earned income that the public housing agency determines to be appropriate, as provided in the public housing agency plan.''.

(b) DISALLOWANCE OF EARNED INCOME FROM PUBLIC HOUSING RENT DETERMINATIONS.—

(1) IN GENERAL.—Section 3 of the United States Housing Act of 1937 (42 U.S.C. 1437a) is amended—

(A) by striking the undesignated paragraph at the end of subsection (c)(3) (as added by section 515(b) of the Cranston-Gonzalez National Affordable Housing Act); and

(B) by adding at the end the following:

''(d) DISALLOWANCE OF EARNED INCOME FROM PUBLIC HOUSING RENT DETERMINATIONS.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the rent payable under subsection (a) by a family—

''(A) that—

''(i) occupies a unit in a public housing project; or

''(ii) receives assistance under section 8; and

''(B) whose income increases as a result of employment of a member of the family who was previously unemployed for 1 or more years (including a family whose income increases as a result of the participation of a family member in any family self-sufficiency or other job training program);

may not be increased as a result of the increased income due to such employment during the 18-month period beginning on the date on which the employment is commenced.

''(2) PHASE-IN OF RATE INCREASES.—After the expiration of the 18-month period referred to in paragraph (1), rent increases due to the continued employment of the family member described in paragraph (1)(B) shall be phased in over a subsequent 3-year period.

''(3) OVERALL LIMITATION.—Rent payable under subsection (a) shall not exceed the amount determined under subsection (a).

''(e) INDIVIDUAL SAVINGS ACCOUNTS.—

''(1) IN GENERAL.—In lieu of a disallowance of earned income under subsection (d), upon the request of a family that qualifies under subsection (d), a public housing agency may establish an individual savings account in accordance with this subsection for that family.

''(2) DEPOSITS TO ACCOUNT.—The public housing agency shall deposit in any savings account established under this subsection an amount equal to the total amount that otherwise would be applied to the family's rent payment under subsection (a) as a result of employment.

''(3) WITHDRAWAL FROM ACCOUNT.—Amounts deposited in a savings account established under this subsection may only be withdrawn by the family for the purpose of—

''(A) purchasing a home;

''(B) paying education costs of family members;

''(C) moving out of public or assisted housing; or

''(D) paying any other expense authorized by the public housing agency for the purpose of promoting the economic self-sufficiency of residents of public and assisted housing.''.

(2) APPLICABILITY OF AMENDMENT.—

(A) PUBLIC HOUSING.—Notwithstanding the amendment made by paragraph (1), any resident of public housing participating in the program under the authority contained in the undesignated paragraph at the end of section 3(c)(3) of the United States Housing Act of 1937, as that section existed on the day before the date of enactment of this Act, shall be governed by that authority after that date.

(B) SECTION 8.—The amendment made by paragraph (1) shall apply to tenant-based assistance provided under section 8 of the United States Housing Act of 1937, with funds appropriated on or after October 1, 1997.

(c) DEFINITIONS OF TERMS USED IN REFERENCE TO PUBLIC HOUSING.—

(1) IN GENERAL.—Section 3(c) of the United States Housing Act of 1937 (42 U.S.C. 1437a(c)) is amended—

(A) in paragraph (1), by inserting ''and of the fees and related costs normally involved in obtaining non-Federal financing and tax credits with or without private and nonprofit partners'' after ''carrying charges''; and

(B) in paragraph (2), in the first sentence, by striking ''security personnel),'' and all that follows through the period and inserting the following: ''security personnel), service coordinators, drug elimination activities, or financing in connection with a public housing project, including projects developed with non-Federal financing and tax credits, with or without private and nonprofit partners.''.

(2) TECHNICAL CORRECTION.—Section 622(c) of the Housing and Community Development Act of 1992 (Public Law 102–550; 106 Stat. 3817) is amended by striking '' 'project.' '' and inserting ''paragraph (3)''.

(3) NEW DEFINITIONS.—Section 3(c) of the United States Housing Act of 1937 (42 U.S.C. 1437a(c)) is amended by adding at the end the following:

''(6) PUBLIC HOUSING AGENCY PLAN.—The term 'public housing agency plan' means the plan of the public housing agency prepared in accordance with section 5A.

''(7) DISABLED HOUSING.—The term 'disabled housing' means any public housing project, building, or portion of a project or building, that is designated by a public housing agency for occupancy exclusively by disabled persons or families.

''(8) ELDERLY HOUSING.—The term 'elderly housing' means any public housing project, building, or portion of a project or building, that is designated by a public housing agency exclusively for occupancy exclusively by elderly persons or families, including elderly disabled persons or families.

''(9) MIXED-FINANCE PROJECT.—The term 'mixed-finance project' means a public housing project that meets the requirements of section 30.

''(10) CAPITAL FUND.—The term 'Capital Fund' means the fund established under section 9(c).

''(11) OPERATING FUND.—The term 'Operating Fund' means the fund established under section 9(d).''.

SEC. 105. CONTRIBUTIONS FOR LOWER INCOME HOUSING PROJECTS.

(a) IN GENERAL.—Section 5 of the United States Housing Act of 1937 (42 U.S.C. 1437c) is amended by striking subsections (h) through (l).

(b) CONFORMING AMENDMENTS.—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended—

(1) in section 21(d), by striking ''section 5(h) or'';

(2) in section 25(l)(1), by striking ''and for sale under section 5(h)''; and

(3) in section 307, by striking ''section 5(h) and''.

SEC. 106. PUBLIC HOUSING AGENCY PLAN.

(a) IN GENERAL.—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by inserting after section 5 the following:

''SEC. 5A. PUBLIC HOUSING AGENCY PLANS.

''(a) 5-YEAR PLAN.—

''(1) IN GENERAL.—Subject to paragraph (2), not less than once every 5 fiscal years, each public housing agency shall submit to the Secretary a plan that includes, with respect to the 5 fiscal years immediately following the date on which the plan is submitted—

''(A) a statement of the mission of the public housing agency for serving the needs of low-income and very low-income families in the jurisdiction of the public housing agency during those fiscal years; and

''(B) a statement of the goals and objectives of the public housing agency that will enable the public housing agency to serve the needs identified pursuant to subparagraph (A) during those fiscal years.

''(2) INITIAL PLAN.—The initial 5-year plan submitted by a public housing agency under this subsection shall be submitted for the 5-year period beginning with the first fiscal year following the date of enactment of the Public Housing Reform and Responsibility Act of 1997 for which the public housing agency receives assistance under this Act.

''(b) ANNUAL PLAN.—

''(1) IN GENERAL.—Each public housing agency shall submit to the Secretary a public housing agency plan under this subsection for each fiscal year for which the public housing agency receives assistance under sections 8(o) and 9.

''(2) UPDATES.—For each fiscal year after the initial submission of a plan under this section by a public housing agency, the public housing agency may comply with requirements for submission of a plan under this subsection by submitting an update of the plan for the fiscal year.

''(c) PROCEDURES.—

''(1) IN GENERAL.—The Secretary shall establish requirements and procedures for submission and review of plans, including requirements for timing and form of submission, and for the contents of those plans.

''(2) CONTENTS.—The procedures established under paragraph (1) shall provide that a public housing agency shall—

''(A) consult with the resident advisory board established under subsection (e) in developing the plan; and

''(B) ensure that the plan under this section is consistent with the applicable comprehensive housing affordability strategy (or any consolidated plan incorporating that strategy) for the jurisdiction in which the public housing agency is located, in accordance with title I of the Cranston-Gonzalez National Affordable Housing Act and contains a certification by the appropriate State or local official that the plan meets the requirements of this paragraph and a description of the manner in which the applicable contents of the public housing agency plan are consistent with the comprehensive housing affordability strategy.

''(d) CONTENTS.—An annual public housing agency plan under this section for a public housing agency shall contain the following information relating to the upcoming fiscal year for which the assistance under this Act is to be made available:

''(1) NEEDS.—A statement of the housing needs of low-income and very low-income families residing in the jurisdiction served by the public housing agency, and of other low-income and very low-income families on the waiting list of the agency (including housing needs of elderly families and disabled families), and the means by which the public housing agency intends, to the maximum extent practicable, to address those needs.

''(2) FINANCIAL RESOURCES.—A statement of financial resources available to the agency and the planned uses of those resources.

''(3) ELIGIBILITY, SELECTION, AND ADMISSIONS POLICIES.—A statement of the policies governing eligibility, selection, admissions (including any preferences), assignment, and occupancy of families with respect to public

housing dwelling units and housing assistance under section 8(o).

''(4) RENT DETERMINATION.—A statement of the policies of the public housing agency governing rents charged for public housing dwelling units and rental contributions of assisted families under section 8(o).

''(5) OPERATION AND MANAGEMENT.—A statement of the rules, standards, and policies of the public housing agency governing maintenance and management of housing owned and operated by the public housing agency (which shall include measures necessary for the prevention or eradication of infestation by cockroaches), and management of the public housing agency and programs of the public housing agency.

''(6) GRIEVANCE PROCEDURE.—A statement of the grievance procedures of the public housing agency.

''(7) CAPITAL IMPROVEMENTS.—With respect to public housing developments owned or operated by the public housing agency, a plan describing the capital improvements necessary to ensure long-term physical and social viability of the developments.

''(8) DEMOLITION AND DISPOSITION.—With respect to public housing developments owned or operated by the public housing agency—

''(A) a description of any housing to be demolished or disposed of; and

''(B) a timetable for that demolition or disposition.

''(9) DESIGNATION OF HOUSING FOR ELDERLY AND DISABLED FAMILIES.—With respect to public housing developments owned or operated by the public housing agency, a description of any developments (or portions thereof) that the public housing agency has designated or will designate for occupancy by elderly and disabled families in accordance with section 7.

''(10) CONVERSION OF PUBLIC HOUSING.—With respect to public housing owned or operated by a public housing agency—

''(A) a description of any building or buildings that the public housing agency is required to convert to tenant-based assistance under section 31 or that the public housing agency voluntarily converts under section 22;

''(B) an analysis of those buildings required under that section for conversion; and

''(C) a statement of the amount of grant amounts to be used for rental assistance or other housing assistance.

''(11) HOMEOWNERSHIP ACTIVITIES.—A description of any homeownership programs of the public housing agency and the requirements for participation in and the assistance available under those programs.

''(12) ECONOMIC SELF-SUFFICIENCY AND COORDINATION WITH WELFARE AND OTHER APPROPRIATE AGENCIES.—A description of—

''(A) any programs relating to services and amenities provided or offered to assisted families;

''(B) any policies or programs of the public housing agency for the enhancement of the economic and social self-sufficiency of assisted families; and

''(C) how the public housing agency will comply with the requirements of subsections (c) and (d) of section 12.

''(13) SAFETY AND CRIME PREVENTION.—A description of policies established by the public housing agency that increase or maintain the safety of public housing residents.

''(14) CERTIFICATION.—An annual certification by the public housing agency that the public housing agency will carry out the public housing agency plan in conformity with title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 504 of the Rehabilitation Act of 1973, and title II of the Americans with Disabilities Act of 1990, and will affirmatively further the goal of fair housing.

''(15) ANNUAL AUDIT.—The results of the most recent fiscal year audit of the public housing agency.

''(e) RESIDENT ADVISORY BOARD.—

''(1) IN GENERAL.—Except as provided in paragraph (3), each public housing agency shall establish 1 or more resident advisory boards in accordance with this subsection, the membership of which shall adequately reflect and represent the residents of the dwelling units owned, operated, or assisted by the public housing agency.

''(2) PURPOSE.—Each resident advisory board established under this subsection shall assist and make recommendations regarding the development of the public housing agency plan. The public housing agency shall consider the recommendations of the resident advisory boards in preparing the final public housing agency plan, and shall include a copy of those recommendations and a description of the manner in which those recommendations were addressed in the public housing agency plan submitted to the Secretary under this section.

''(3) WAIVER.—The Secretary may waive the requirements of this subsection with respect to the establishment of resident advisory boards, if the public housing agency demonstrates to the satisfaction of the Secretary that there exists a resident council or other resident organization of the public housing agency that—

''(A) adequately represents the interests of the residents of the public housing agency; and

''(B) has the ability to perform the functions described in paragraph (2).

''(f) PUBLICATION OF NOTICE.—

''(1) IN GENERAL.—Not later than 45 days before the date of a hearing conducted under paragraph (2) by the governing body of a public housing agency, the public housing agency shall publish a notice informing the public that—

''(A) the proposed public housing agency plan and all relevant information is available for inspection at the principal office of the public housing agency during normal business hours; and

''(B) a public hearing will be conducted to discuss the public housing agency plan and to invite public comment regarding that plan.

''(2) PUBLIC HEARING.—Each public housing agency shall, at a location that is convenient to residents, conduct a public hearing, as provided in the notice published under paragraph (1).

''(3) ADOPTION OF PLAN.—After conducting the public hearing under paragraph (2), and after considering all public comments received and, in consultation with the resident advisory board, making any appropriate changes in the public housing agency plan, the public housing agency shall—

''(A) adopt the public housing agency plan; and

''(B) submit the plan to the Secretary in accordance with this section.

''(g) AMENDMENTS AND MODIFICATIONS TO PLANS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), nothing in this section shall preclude a public housing agency, after submitting a plan to the Secretary in accordance with this section, from amending or modifying any policy, rule, regulation, or plan of the public housing agency, except that no such significant amendment or modification may be adopted or implemented—

''(A) other than at a duly called meeting of commissioners (or other comparable governing body) of the public housing agency that is open to the public; and

''(B) until notification of the amendment or modification is provided to the Secretary and approved in accordance with subsection (h)(2).

''(2) CONSISTENCY.—Each significant amendment or modification to a public housing agency plan submitted to the Secretary under this section shall—

''(A) meet the consistency requirement of subsection (c)(2);

''(B) be subject to the notice and public hearing requirements of subsection (f); and

''(C) be subject to approval by the Secretary in accordance with subsection (h)(2).

''(h) TIMING OF PLANS.—

''(1) IN GENERAL.—

''(A) INITIAL SUBMISSION.—Each public housing agency shall submit the initial plan required by this section, and any amendment or modification to the initial plan, to the Secretary at such time and in such form as the Secretary shall require.

''(B) ANNUAL SUBMISSION.—Not later than 60 days prior to the start of the fiscal year of the public housing agency, after initial submission of the plan required by this section in accordance with subparagraph (A), each public housing agency shall annually submit to the Secretary a plan update, including any amendments or modifications to the public housing agency plan.

''(2) REVIEW AND APPROVAL.—

''(A) REVIEW.—Subject to subparagraph (B), after submission of the public housing agency plan or any amendment or modification to the plan to the Secretary, to the extent that the Secretary considers such action to be necessary to make determinations under this subparagraph, the Secretary shall review the public housing agency plan (including any amendments or modifications thereto) to determine whether the contents of the plan—

''(i) set forth the information required by this section to be contained in a public housing agency plan;

''(ii) are consistent with information and data available to the Secretary, including the approved comprehensive housing affordability strategy under title I of the Cranston-Gonzalez National Affordable Housing Act of the jurisdiction in which the public housing agency is located; and

''(iii) are prohibited by or inconsistent with any provision of this title or other applicable law.

''(B) EXCEPTION.—

''(i) IN GENERAL.—Except as provided in clause (ii), the Secretary may, by regulation, provide that 1 or more elements of a public housing agency plan shall be reviewed only if the element is challenged.

''(ii) INAPPLICABILITY TO CERTAIN PROVISIONS.—Notwithstanding clause (i), the Secretary shall review the information submitted under paragraphs (7) and (14) of subsection (d).

''(C) APPROVAL.—

''(i) IN GENERAL.—Except as provided in paragraph (3)(B), not later than 60 days after the date on which a public housing agency plan is submitted in accordance with this section (or, with respect to the initial provision of notice under this subparagraph, not later than 75 days after the date on which the initial public housing agency plan is submitted in accordance with this section), the Secretary shall provide written notice to the public housing agency if the plan has been disapproved, stating with specificity the reasons for the disapproval.

''(ii) FAILURE TO PROVIDE NOTICE OF DISAPPROVAL.—If the Secretary does not provide notice of disapproval under clause (i) before the expiration of the period described in clause (i), the public housing agency plan shall be deemed to be approved by the Secretary.

''(D) PUBLIC AVAILABILITY.—The public housing agency shall make the approved plan available to the general public.

''(3) SECRETARIAL DISCRETION.—

''(A) IN GENERAL.—The Secretary may require such additional information as the Secretary determines to be appropriate for each public housing agency that is—

''(i) at risk of being designated as troubled under section 6(j); or

''(ii) designated as troubled under section 6(j).

''(B) TROUBLED AGENCIES.—The Secretary shall provide explicit written approval or disapproval, in a timely manner, for a public housing agency plan submitted by any public housing agency designated by the Secretary as a troubled public housing agency under section 6(j).

''(C) ADVISORY BOARD CONSULTATION ENFORCEMENT.—Following a written request by the resident advisory board that documents a failure on the part of the public housing agency to provide adequate notice and opportunity for comment under subsection (f), and upon a Secretarial finding of good cause within the time period provided for in paragraph (2)(B) of this subsection, the Secretary may require the public housing agency to adequately remedy that failure prior to a final approval of the public housing agency plan under this section.

''(4) STREAMLINED PLAN.—In carrying out this section, the Secretary may establish a streamlined public housing agency plan for—

''(A) public housing agencies that are determined by the Secretary to be high performing public housing agencies;

''(B) public housing agencies with less than 250 public housing units that have not been designated as troubled under section 6(j); and

''(C) public housing agencies that only administer tenant-based assistance and that do not own or operate public housing.

''(5) COMPLIANCE WITH PLAN.—

''(A) IN GENERAL.—In providing assistance under this title, a public housing agency shall comply with the rules, standards, and policies established in the public housing agency plan of the public housing agency approved under this section.

''(B) INVESTIGATION AND ENFORCEMENT.—In carrying out this title, the Secretary shall—

''(i) provide an appropriate response to any complaint concerning noncompliance by a public housing agency with the applicable public housing agency plan; and

''(ii) if the Secretary determines, based on a finding of the Secretary or other information available to the Secretary, that a public housing agency is not complying with the applicable public housing agency plan, take such actions as the Secretary determines to be appropriate to ensure such compliance.''.

(b) IMPLEMENTATION.—

(1) INTERIM RULE.—Not later than 120 days after the date of enactment of this Act, the Secretary shall issue an interim rule to require the submission of an interim public housing agency plan by each public housing agency, as required by section 5A of the United States Housing Act of 1937 (as added by subsection (a) of this section).

(2) FINAL REGULATIONS.—Not later than 1 year after the date of enactment of this Act, in accordance with the negotiated rulemaking procedures set forth in subchapter III of chapter 5 of title 5, United States Code, the Secretary shall promulgate final regulations implementing section 5A of the United States Housing Act of 1937 (as added by subsection (a) of this section).

(c) AUDIT AND REVIEW; REPORT.—

(1) AUDIT AND REVIEW.—Not later than 1 year after the effective date of final regulations promulgated under subsection (b)(2), in order to determine the degree of compliance with public housing agency plans approved under section 5A of the United States Housing Act of 1937 (as added by subsection (a) of this section) by public housing agencies, the Comptroller General of the United States shall conduct—

(A) a review of a representative sample of the public housing agency plans approved under such section 5A before that date; and

(B) an audit and review of the public housing agencies submitting those plans.

(2) REPORT.—Not later than 2 years after the date on which public housing agency plans are initially required to be submitted under section 5A of the United States Housing Act of 1937 (as added by subsection (a) of this section) the Comptroller General of the United States shall submit to Congress a report, which shall include—

(A) a description of the results of each audit and review under paragraph (1); and

(B) any recommendations for increasing compliance by public housing agencies with their public housing agency plans approved under section 5A of the United States Housing Act of 1937 (as added by subsection (a) of this section).

SEC. 107. CONTRACT PROVISIONS AND REQUIREMENTS.

(a) CONDITIONS.—Section 6(a) of the United States Housing Act of 1937 (42 U.S.C. 1437d(a)) is amended—

(1) in the first sentence, by inserting '', in a manner consistent with the public housing agency plan'' before the period; and

(2) by striking the second sentence.

(b) REPEAL OF FEDERAL PREFERENCES; REVISION OF MAXIMUM INCOME LIMITS; CERTIFICATION OF COMPLIANCE WITH REQUIREMENTS; NOTIFICATION OF ELIGIBILITY.—Section 6(c) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)) is amended to read as follows:

''(c) ACCOUNTING SYSTEM FOR RENTAL COLLECTIONS AND COSTS.—

''(1) ESTABLISHMENT.—Each public housing agency that receives grant amounts under this title shall establish and maintain a system of accounting for rental collections and costs (including administrative, utility, maintenance, repair, and other operating costs) for each project.

''(2) ACCESS TO RECORDS.—Each public housing agency shall make available to the general public the information required pursuant to paragraph (1) regarding collections and costs.

''(3) EXEMPTION.—The Secretary may permit authorities owning or operating fewer than 500 dwelling units to comply with the requirements of this subsection by accounting on an agency-wide basis.''.

(c) EXCESS FUNDS.—Section 6(e) of the United States Housing Act of 1937 (42 U.S.C. 1437d(e)) is amended to read as follows:

''(e) [Reserved.]''.

(d) PERFORMANCE INDICATORS FOR PUBLIC HOUSING AGENCIES.—Section 6(j) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B)—

(i) by striking ''obligated'' and inserting ''provided''; and

(ii) by striking ''unexpended'' and inserting ''unobligated by the public housing agency'';

(B) in subparagraph (D), by striking ''energy'' and inserting ''utility'';

(C) by redesignating subparagraph (H) as subparagraph (L); and

(D) by inserting after subparagraph (G) the following:

''(H) The extent to which the public housing agency—

''(i) coordinates, promotes, or provides effective programs and activities to promote the economic self-sufficiency of public housing residents; and

''(ii) provides public housing residents with opportunities for involvement in the administration of the public housing.

''(I) The extent to which the public housing agency implements—

''(i) effective screening and eviction policies; and

''(ii) other anticrime strategies;

including the extent to which the public housing agency coordinates with local government officials and residents in the development and implementation of these strategies.

''(J) The extent to which the public housing agency is providing acceptable basic housing conditions.

''(K) The extent to which the public housing agency successfully meets the goals and carries out the activities and programs of the public housing agency plan under section 5(A).'';

(2) in paragraph (2)(A)(i), by inserting after the first sentence the following: ''The Secretary may use a simplified set of indicators for public housing agencies with less than 250 public housing units.''; and

(3) by adding at the end the following:

''(5)(A) To the extent that the Secretary determines such action to be necessary in order to ensure the accuracy of any certification made under this section, the Secretary shall require an independent auditor to review documentation or other information maintained by a public housing agency or resident management corporation pursuant to this section to substantiate each certification submitted by the agency or corporation relating to the performance of that agency or corporation.

''(B) The Secretary may withhold, from assistance otherwise payable to the agency or corporation under section 9, amounts sufficient to pay for the reasonable costs of any review under this paragraph.''.

(e) DRUG-RELATED AND CRIMINAL ACTIVITY.—Section 6(k) of the United States Housing Act of 1937 (42 U.S.C. 1437d(k)) is amended, in the matter following paragraph (6)—

(1) by striking ''drug-related'' and inserting ''violent or drug-related''; and

(2) by inserting ''or any activity resulting in a felony conviction,'' after ''on or off such premises,''.

(f) LEASES.—Section 6(l) of the United States Housing Act of 1937 (42 U.S.C. 1437d(l)) is amended—

(1) in paragraph (3), by striking ''not be less than'' and all that follows through the end of paragraph (3) and inserting: ''be the period of time required under State or local law, except that the public housing agency may provide such notice within a reasonable time which does not exceed the lesser of—

''(A) the period provided under applicable State or local law; or

''(B) 30 days—

''(i) if the health or safety of other tenants, public housing agency employees, or persons residing in the immediate vicinity of the premises is threatened; or

''(ii) in the event of any drug-related or violent criminal activity or any felony conviction;'';

(2) in paragraph (6), by striking ''and'' at the end;

(3) by redesignating paragraph (7) as paragraph (8); and

(4) by inserting after paragraph (6) following:

''(7) provide that any occupancy in violation of section 7(e)(1) or the furnishing of any false or misleading information pursuant to section 7(e)(2) shall be cause for termination of tenancy; and''.

(g) PUBLIC HOUSING ASSISTANCE TO FOSTER CARE CHILDREN.—Section 6(o) of the United States Housing Act of 1937 (42 U.S.C. 1437d(o))

is amended by striking ''Subject'' and all that follows through '', in'' and inserting ''In''.

(h) PREFERENCE FOR AREAS WITH INADEQUATE SUPPLY OF VERY LOW-INCOME HOUSING.—Section 6(p) of the United States Housing Act of 1937 (42 U.S.C. 1437d(p)) is amended to read as follows:

''(p) [Reserved.]''.

(i) TRANSITION RULE RELATING TO PREFERENCES.—During the period beginning on the date of enactment of this Act and ending on the date on which the initial public housing agency plan of a public housing agency is approved under section 5A of the United States Housing Act of 1937 (as added by this Act) the public housing agency may establish local preferences for making available public housing under the United States Housing Act of 1937 and for providing tenant-based assistance under section 8 of that Act.

SEC. 108. EXPANSION OF POWERS FOR DEALING WITH PUBLIC HOUSING AGENCIES IN SUBSTANTIAL DEFAULT.

(a) IN GENERAL.—Section 6(j)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437d) is amended—

(1) in subparagraph (A)—

(A) by striking clause (i) and inserting the following:

''(i) solicit competitive proposals from other public housing agencies and private housing management agents that, in the discretion of the Secretary, may be selected by existing public housing residents through administrative procedures established by the Secretary; if appropriate, these proposals shall provide for such agents to manage all, or part, of the housing administered by the public housing agency or all or part of the other programs of the agency;'';

(B) by striking clause (iv) and inserting the following:

''(v) require the agency to make other arrangements acceptable to the Secretary and in the best interests of the public housing residents and families assisted under section 8 for managing all, or part, of the public housing administered by the agency or of the programs of the agency.''; and

(C) by inserting after clause (iii) the following:

''(iv) take possession of all or part of the public housing agency, including all or part of any project or program of the agency, including any project or program under any other provision of this title; and''; and

(2) by striking subparagraphs (B) through (D) and inserting the following:

''(B)(i) If a public housing agency is identified as troubled under this subsection, the Secretary shall notify the agency of the troubled status of the agency.

''(ii)(I) Upon the expiration of the 1-year period beginning on the later of the date on which the agency receives notice from the Secretary of the troubled status of the agency under clause (i) and the date of enactment of the Public Housing Reform and Responsibility Act of 1997, the Secretary shall—

''(aa) in the case of a troubled public housing agency with 1,250 or more units, petition for the appointment of a receiver pursuant to subparagraph (A)(ii); or

''(bb) in the case of a troubled public housing agency with fewer than 1,250 units, either petition for the appointment of a receiver pursuant to subparagraph (A)(ii), or take possession of the public housing agency (including all or part of any project or program of the agency) pursuant to subparagraph (A)(iv) and appoint, on a competitive or noncompetitive basis, an individual or entity as an administrative receiver to assume the responsibilities of the Secretary for the administration of all or part of the public housing agency (including all or part of any project or program of the agency).

''(II) During the period between the date on which a petition is filed under item (aa) and the date on which a receiver assumes responsibility for the management of the public housing agency under that item, the Secretary may take possession of the public housing agency (including all or part of any project or program of the agency) pursuant to subparagraph (A)(iv) and may appoint, on a competitive or noncompetitive basis, an individual or entity as an administrative receiver to assume the responsibilities of the Secretary for the administration of all or part of the public housing agency (including all or part of any project or program of the agency).

''(C) If a receiver is appointed pursuant to subparagraph (A)(ii), in addition to the powers accorded by the court appointing the receiver, the receiver—

''(i) may abrogate any contract to which the United States or an agency of the United States is not a party that, in the receiver's written determination (which shall include the basis for such determination), substantially impedes correction of the substantial default, but only after the receiver determines that reasonable efforts to renegotiate such contract have failed;

''(ii) may demolish and dispose of all or part of the assets of the public housing agency (including all or part of any project of the agency) in accordance with section 18, including disposition by transfer of properties to resident-supported nonprofit entities;

''(iii) if determined to be appropriate by the Secretary, may seek the establishment, as permitted by applicable State and local law, of 1 or more new public housing agencies;

''(iv) if determined to be appropriate by the Secretary, may seek consolidation of all or part of the agency (including all or part of any project or program of the agency), as permitted by applicable State and local laws, into other well-managed public housing agencies with the consent of such well-managed agencies; and

''(v) shall not be required to comply with any State or local law relating to civil service requirements, employee rights (except civil rights), procurement, or financial or administrative controls that, in the receiver's written determination (which shall include the basis for such determination), substantially impedes correction of the substantial default.

''(D)(i) If the Secretary takes possession of all or part of the public housing agency, including all or part of any project or program of the agency, pursuant to subparagraph (A)(iv), the Secretary—

''(I) may abrogate any contract to which the United States or an agency of the United States is not a party that, in the written determination of the Secretary (which shall include the basis for such determination), substantially impedes correction of the substantial default, but only after the Secretary determines that reasonable efforts to renegotiate such contract have failed;

''(II) may demolish and dispose of all or part of the assets of the public housing agency (including all or part of any project of the agency) in accordance with section 18, including disposition by transfer of properties to resident-supported nonprofit entities;

''(III) may seek the establishment, as permitted by applicable State and local law, of 1 or more new public housing agencies;

''(IV) may seek consolidation of all or part of the agency (including all or part of any project or program of the agency), as permitted by applicable State and local laws, into other well-managed public housing agencies with the consent of such well-managed agencies;

''(V) shall not be required to comply with any State or local law relating to civil service requirements, employee rights (except civil rights), procurement, or financial or administrative controls that, in the Secretary's written determination (which shall include the basis for such determination), substantially impedes correction of the substantial default; and

''(VI) shall, without any action by a district court of the United States, have such additional authority as a district court of the United States would have the authority to confer upon a receiver to achieve the purposes of the receivership.

''(ii) If the Secretary, pursuant to subparagraph (B)(ii)(II), appoints an administrative receiver to assume the responsibilities of the Secretary for the administration of all or part of the public housing agency (including all or part of any project or program of the agency), the Secretary may delegate to the administrative receiver any or all of the powers given the Secretary by this subparagraph, as the Secretary determines to be appropriate.

''(iii) Regardless of any delegation under this subparagraph, an administrative receiver may not seek the establishment of 1 or more new public housing agencies pursuant to clause (i)(III) or the consolidation of all or part of an agency into other well-managed agencies pursuant to clause (i)(IV), unless the Secretary first approves an application by the administrative receiver to authorize such action.

''(E) The Secretary may make available to receivers and other entities selected or appointed pursuant to this paragraph such assistance as the Secretary determines in the discretion of the Secretary is necessary and available to remedy the substantial deterioration of living conditions in individual public housing developments or other related emergencies that endanger the health, safety, and welfare of public housing residents or families assisted under section 8. A decision made by the Secretary under this paragraph is not subject to review in any court of the United States, or in any court of any State, territory, or possession of the United States.

''(F) In any proceeding under subparagraph (A)(ii), upon a determination that a substantial default has occurred, and without regard to the availability of alternative remedies, the court shall appoint a receiver to conduct the affairs of all or part of the public housing agency in a manner consistent with this Act and in accordance with such further terms and conditions as the court may provide. The receiver appointed may be another public housing agency, a private management corporation, or any other person or appropriate entity. The court shall have power to grant appropriate temporary or preliminary relief pending final disposition of the petition by the Secretary.

''(G) The appointment of a receiver pursuant to this paragraph may be terminated, upon the petition of any party, when the court determines that all defaults have been cured or the public housing agency is capable again of discharging its duties.

''(H) If the Secretary (or an administrative receiver appointed by the Secretary) takes possession of a public housing agency (including all or part of any project or program of the agency), or if a receiver is appointed by a court, the Secretary or receiver shall be deemed to be acting not in the official capacity of that person or entity, but rather in the capacity of the public housing agency, and any liability incurred, regardless of whether the incident giving rise to that liability occurred while the Secretary or receiver was in possession of all or part of the public housing agency (including all or part of any project

or program of the agency), shall be the liability of the public housing agency.''.

(b) APPLICABILITY.—The provisions of, and duties and authorities conferred or confirmed by, the amendments made by subsection (a) shall apply with respect to any action taken before, on, or after the effective date of this Act and shall apply to any receiver appointed for a public housing agency before the date of enactment of this Act.

(c) TECHNICAL CORRECTION REGARDING APPLICABILITY TO SECTION 8.—Section 8(h) of the United States Housing Act of 1937 is amended by inserting ''(except as provided in section 6(j)(3))'' after ''6''.

SEC. 109. PUBLIC HOUSING SITE-BASED WAITING LISTS.

Section 6 of the United States Housing Act of 1937 is amended by adding at the end the following:

''(s) SITE-BASED WAITING LISTS.—

''(1) IN GENERAL.—A public housing agency may establish, in accordance with guidelines established by the Secretary, procedures for maintaining waiting lists for admissions to public housing developments of the agency, which may include a system under which applicants may apply directly at or otherwise designate the development or developments in which they seek to reside.

''(2) CIVIL RIGHTS.—Any procedures established under paragraph (1) shall comply with title VI of the Civil Rights Act of 1964, the Fair Housing Act, and other applicable civil rights laws.

''(3) NOTICE REQUIRED.—Any system described in paragraph (1) shall provide for the full disclosure by the public housing agency to each applicant of any option available to the applicant in the selection of the development in which to reside.''.

SEC. 110. PUBLIC HOUSING CAPITAL AND OPERATING FUNDS.

(a) IN GENERAL.—Section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g) is amended to read as follows:

''SEC. 9. PUBLIC HOUSING CAPITAL AND OPERATING FUNDS.

''(a) IN GENERAL.—Except for assistance provided under section 8 of this Act or as otherwise provided in the Public Housing Reform and Responsibility Act of 1997, all programs under which assistance is provided for public housing under this Act on the day before October 1, 1998, shall be merged, as appropriate, into either—

''(1) the Capital Fund established under subsection (c); or

''(2) the Operating Fund established under subsection (d).

''(b) USE OF EXISTING FUNDS.—With the exception of funds made available pursuant to section 8 or section 20(f) and funds made available for the urban revitalization demonstration program authorized under the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Acts—

''(1) funds made available to the Secretary for public housing purposes that have not been obligated by the Secretary to a public housing agency as of October 1, 1998, shall be made available, for the period originally provided in law, for use in either the Capital Fund or the Operating Fund, as appropriate; and

''(2) funds made available to the Secretary for public housing purposes that have been obligated by the Secretary to a public housing agency but that, as of October 1, 1998, have not been obligated by the public housing agency, may be made available by that public housing agency, for the period originally provided in law, for use in either the Capital Fund or the Operating Fund, as appropriate.

''(c) CAPITAL FUND.—

''(1) IN GENERAL.—The Secretary shall establish a Capital Fund for the purpose of making assistance available to public housing agencies to carry out capital and management activities, including—

''(A) the development and modernization of public housing projects, including the redesign, reconstruction, and reconfiguration of public housing sites and buildings and the development of mixed-finance projects;

''(B) vacancy reduction;

''(C) addressing deferred maintenance needs and the replacement of dwelling equipment;

''(D) planned code compliance;

''(E) management improvements;

''(F) demolition and replacement;

''(G) resident relocation;

''(H) capital expenditures to facilitate programs to improve the empowerment and economic self-sufficiency of public housing residents and to improve resident participation;

''(I) capital expenditures to improve the security and safety of residents; and

''(J) homeownership activities.

''(2) ESTABLISHMENT OF CAPITAL FUND FORMULA.—The Secretary shall develop a formula for providing assistance under the Capital Fund, which may take into account—

''(A) the number of public housing dwelling units owned or operated by the public housing agency and the percentage of those units that are occupied by very low-income families;

''(B) if applicable, the reduction in the number of public housing units owned or operated by the public housing agency as a result of any conversion to a system of tenant-based assistance;

''(C) the costs to the public housing agency of meeting the rehabilitation and modernization needs, and meeting the reconstruction, development, replacement housing, and demolition needs of public housing dwelling units owned and operated by the public housing agency;

''(D) the degree of household poverty served by the public housing agency;

''(E) the costs to the public housing agency of providing a safe and secure environment in public housing units owned and operated by the public housing agency;

''(F) the ability of the public housing agency to effectively administer the Capital Fund distribution of the public housing agency; and

''(G) any other factors that the Secretary determines to be appropriate.

''(3) CONDITION ON USE OF THE CAPITAL FUND FOR DEVELOPMENT AND MODERNIZATION.—

''(A) DEVELOPMENT.—Any public housing developed using amounts provided under this subsection shall be operated for a 40-year period under the terms and conditions applicable to public housing during that period, beginning on the date on which the development (or stage of development) becomes available for occupancy.

''(B) MODERNIZATION.—Any public housing, or portion thereof, that is modernized using amounts provided under this subsection shall be maintained and operated for a 20-year period under the terms and conditions applicable to public housing during that period, beginning on the latest date on which modernization is completed.

''(C) APPLICABILITY OF LATEST EXPIRATION DATE.—Public housing subject to this paragraph or to any other provision of law mandating the operation of the housing as public housing or under the terms and conditions applicable to public housing for a specified length of time shall be maintained and operated as required until the latest expiration date.

''(d) OPERATING FUND.—

''(1) IN GENERAL.—The Secretary shall establish an Operating Fund for the purpose of making assistance available to public housing agencies for the operation and management of public housing, including—

''(A) procedures and systems to maintain and ensure the efficient management and operation of public housing units (including amounts sufficient to pay for the reasonable costs of review by an independent auditor of the documentation or other information maintained pursuant to section 6(j)(5) by a public housing agency or resident management corporation to substantiate the performance of that agency or corporation);

''(B) activities to ensure a program of routine preventative maintenance;

''(C) anticrime and antidrug activities, including the costs of providing adequate security for public housing residents;

''(D) activities related to the provision of services, including service coordinators for elderly persons or persons with disabilities;

''(E) activities to provide for management and participation in the management and policymaking of public housing by public housing residents;

''(F) the costs associated with the operation and management of mixed-finance projects, to the extent appropriate (including the funding of an operating reserve to ensure affordability for low-income and very low-income families in lieu of the availability of operating funds for public housing units in a mixed-finance project);

''(G) the reasonable costs of insurance;

''(H) the reasonable energy costs associated with public housing units, with an emphasis on energy conservation; and

''(I) the costs of administering a public housing work program under section 12, including the costs of any related insurance needs.

''(2) ESTABLISHMENT OF OPERATING FUND FORMULA.—The Secretary shall establish a formula for providing assistance under the Operating Fund, which may take into account—

''(A) standards for the costs of operation and reasonable projections of income, taking into account the character and location of the public housing project and characteristics of the families served, or the costs of providing comparable services as determined with criteria or a formula representing the operations of a prototype well-managed public housing project;

''(B) the number of public housing dwelling units owned and operated by the public housing agency, the percentage of those units that are occupied by very low-income families, and, if applicable, the reduction in the number of public housing units as a result of any conversion to a system of tenant-based assistance;

''(C) the degree of household poverty served by a public housing agency;

''(D) the extent to which the public housing agency provides programs and activities designed to promote the economic self-sufficiency and management skills of public housing residents;

''(E) the number of dwelling units owned and operated by the public housing agency that are chronically vacant and the amount of assistance appropriate for those units;

''(F) the costs of the public housing agency associated with anticrime and antidrug activities, including the costs of providing adequate security for public housing residents;

''(G) the ability of the public housing agency to effectively administer the Operating Fund distribution of the public housing agency; and

''(H) any other factors that the Secretary determines to be appropriate.

''(e) LIMITATIONS ON USE OF FUNDS.—

''(1) IN GENERAL.—Each public housing agency may use not more than 20 percent of the Capital Fund distribution of the public

housing agency for activities that are eligible for assistance under the Operating Fund under subsection (d), if the public housing agency plan provides for such use.

''(2) NEW CONSTRUCTION.—

''(A) IN GENERAL.—A public housing agency may not use any of the Capital Fund or Operating Fund distributions of the public housing agency for the purpose of constructing any public housing unit, if such construction would result in a net increase in the number of public housing units owned or operated by the public housing agency on the date of enactment of the Public Housing Reform and Responsibility Act of 1997, including any public housing units demolished as part of any revitalization effort.

''(B) EXCEPTION.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A), a public housing agency may use the Capital Fund or Operating Fund distributions of the public housing agency for the construction and operation of housing units that are available and affordable to low-income families in excess of the limitations on new construction set forth in subparagraph (A), except that the formulas established under subsections (c)(2) and (d)(2) shall not provide additional funding for the specific purpose of allowing construction and operation of housing in excess of those limitations.

''(ii) EXCEPTION.—Notwithstanding clause (i), subject to reasonable limitations set by the Secretary, the formulae established under subsections (c)(2) and (d)(2) may provide additional funding for the operation and modernization costs (but not the initial development costs) of housing in excess of amounts otherwise permitted under this paragraph if—

''(I) those units are part of a mixed-finance project or otherwise leverage significant additional private or public investment; and

''(II) the estimated cost of the useful life of the project is less than the estimated cost of providing tenant-based assistance under section 8(o) for the same period of time.

''(f) DIRECT PROVISION OF OPERATING AND CAPITAL ASSISTANCE.—

''(1) IN GENERAL.—The Secretary shall directly provide operating and capital assistance under this section to a resident management corporation managing a public housing development pursuant to a contract under this section, but only if—

''(A) the resident management corporation petitions the Secretary for the release of the funds

''(B) the contract provides for the resident management corporation to assume the primary management responsibilities of the public housing agency; and

''(C) the Secretary determines that the corporation has the capability to effectively discharge such responsibilities.

''(2) USE OF ASSISTANCE.—Any operating and capital assistance provided to a resident management corporation pursuant to this subsection shall be used for purposes of operating the public housing developments of the agency and performing such other eligible activities with respect to public housing as may be provided under the contract.

''(3) RESPONSIBILITY OF PUBLIC HOUSING AGENCY.—If the Secretary provides direct funding to a resident management corporation under this subsection, the public housing agency shall not be responsible for the actions of the resident management corporation.

''(g) TECHNICAL ASSISTANCE.—To the extent approved in advance in appropriations Acts, the Secretary may make grants or enter into contracts in accordance with this subsection for purposes of providing, either directly or indirectly—

''(1) technical assistance to public housing agencies, resident councils, resident organizations, and resident management corporations, including assistance relating to monitoring and inspections;

''(2) training for public housing agency employees and residents;

''(3) data collection and analysis; and

''(4) training, technical assistance, and education to assist public housing agencies that are—

''(A) at risk of being designated as troubled under section 6(j) from being so designated; and

''(B) designated as troubled under section 6(j) in achieving the removal of that designation.

''(h) EMERGENCY RESERVE.—

''(1) IN GENERAL.—

''(A) SET-ASIDE.—In each fiscal year, the Secretary shall set aside not more than 2 percent of the amount made available for use under the capital fund to carry out this section for that fiscal year for use in accordance with this subsection.

''(B) USE OF FUNDS.—Amounts set aside under this paragraph shall be available to the Secretary for use in connection with—

''(i) emergencies and other disasters;

''(ii) housing needs resulting from any settlement of litigation; and

''(iii) the Operation Safe Home program, except that amounts set aside under this clause may not exceed $10,000,000 in any fiscal year.

''(2) LIMITATION.—With respect to any fiscal year, the Secretary may carry over not more than a total of $25,000,000 in unobligated amounts set aside under this subsection for use in connection with the activities described in paragraph (1)(B) during the succeeding fiscal year.

''(3) REPORTS.—The Secretary and the Office of Inspector General shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking and Financial Services of the House of Representatives regarding the feasibility of transferring the authority to administer the program functions implemented to reduce violent crime in public housing under Operation Safe Home to the Office of Public and Indian Housing or to the Department of Justice.

''(4) PUBLICATION.—The Secretary shall publish the use of any amounts allocated under this subsection relating to emergencies (other disasters and housing needs resulting from any settlement of litigation) in the Federal Register.

''(5) ELIGIBLE USES.—In carrying out this subsection, the Secretary may use amounts set aside under this subsection for—

''(A) any eligible use under the Operating Fund or the Capital Fund established by this section; or

''(B) the provision of tenant-based assistance in accordance with section 8.

''(i) PENALTY FOR SLOW EXPENDITURE OF CAPITAL FUNDS.—

''(1) IN GENERAL.—

''(A) TIME PERIOD.—Except as provided in paragraph (2), and subject to subparagraph (B) of this paragraph, a public housing agency shall obligate any assistance received under this section not later than 24 months after, as applicable—

''(i) the date on which the funds become available to the agency for obligation in the case of modernization; or

''(ii) the date on which the agency accumulates adequate funds to undertake comprehensive modernization, substantial rehabilitation, or new construction of units.

''(B) EXTENSION OF TIME PERIOD.—The Secretary—

''(i) may, extend the time period described in subparagraph (A) , for such period of time as the Secretary determines to be necessary, if the Secretary determines that the failure of the public housing agency to obligate assistance in a timely manner is attributable to—

''(I) litigation;

''(II) obtaining approvals of a Federal, State, or local government;

''(III) complying with environmental assessment and abatement requirements;

''(IV) relocating residents;

''(V) an event beyond the control of the public housing agency; or

''(VI) any other reason established by the Secretary by notice published in the Federal Register;

''(ii) shall disregard the requirements of subparagraph (A) with respect to any unobligated amounts made available to a public housing agency, to the extent that the total of those amounts does not exceed 10 percent of the original amount made available to the public housing agency; and

''(iii) may, with the prior approval of the Secretary, extend the period of time described in subparagraph (A), for an additional period not to exceed 12 months, based on—

''(I) the size of the public housing agency;

''(II) the complexity of capital program of the public housing agency;

''(III) any limitation on the ability of the public housing agency to obligate the Capital Fund distributions of the public housing agency in a timely manner as a result of State or local law; or

''(IV) such other factors as the Secretary determines to be relevant.

''(C) EFFECT OF FAILURE TO COMPLY.—

''(i) IN GENERAL.—A public housing agency shall not be awarded assistance under this section for any month during any fiscal year in which the public housing agency has funds unobligated in violation of subparagraph (A) or (B).

''(ii) EFFECT OF FAILURE TO COMPLY.—During any fiscal year described in clause (i), the Secretary shall withhold all assistance that would otherwise be provided to the public housing agency. If the public housing agency cures its default during the year, it shall be provided with the share attributable to the months remaining in the year.

''(iii) REDISTRIBUTION.—The total amount of any funds not provided public housing agencies by operation of this subparagraph shall be distributed to high-performing agencies, as determined under section 6(j).

''(2) EXCEPTION.—

''(A) IN GENERAL.—Subject to subparagraph (B), if the Secretary has consented, before the date of enactment of the Public Housing Reform and Responsibility Act of 1997, to an obligation period for any agency longer than provided under paragraph (1)(A), a public housing agency that obligates its funds before the expiration of that period shall not be considered to be in violation of paragraph (1)(A).

''(B) FISCAL YEAR 1995.—Notwithstanding subparagraph (A)—

''(i) any funds appropriated to a public housing agency for fiscal year 1995, or for any preceding fiscal year, shall be fully obligated by the public housing agency not later than September 30, 1998; and

''(ii) any funds appropriated to a public housing agency for fiscal year 1996 or 1997 shall be fully obligated by the public housing agency not later than September 30, 1999.

''(3) EXPENDITURE OF AMOUNTS.—

''(A) IN GENERAL.—A public housing agency shall spend any assistance received under this section not later than 4 years (plus the period of any extension approved by the Secretary under paragraph (1)(B)) after the date on which funds become available to the agency for obligation.

''(B) ENFORCEMENT.—The Secretary shall enforce the requirement of subparagraph (A) through default remedies up to and including withdrawal of the funding.

''(4) RIGHT OF RECAPTURE.—Any obligation entered into by a public housing agency shall be subject to the right of the Secretary to recapture the obligated amounts for violation by the public housing agency of the requirements of this subsection.''.

(b) IMPLEMENTATION; EFFECTIVE DATE; TRANSITION PERIOD.—

(1) IMPLEMENTATION.—Not later than 1 year after the date of enactment of this Act, in accordance with the negotiated rulemaking procedures set forth in subchapter III of chapter 5 of title 5, United States Code, the Secretary shall establish the formulas described in subsections (c)(3) and (d)(2) of section 9 of the United States Housing Act of 1937, as amended by this section.

(2) EFFECTIVE DATE.—The formulas established under paragraph (1) shall be effective only with respect to amounts made available under section 9 of the United States Housing Act of 1937, as amended by this section, in fiscal year 1999 or in any succeeding fiscal year.

(3) TRANSITION PERIOD.—

(A) IN GENERAL.—Subject to subparagraph (B), prior to the effective date described in paragraph (2), the Secretary shall provide that each public housing agency shall receive funding under sections 9 and 14 of the United States Housing Act of 1937, as those sections existed on the day before the date of enactment of this Act.

(B) QUALIFICATION.—If a public housing agency establishes a rental amount that is less than 30 percent of the monthly adjusted income of the family under section 3(a)(1)(A) of the United States Housing Act of 1937 (as amended by section 103(a) of this Act), or a rental amount that is based on an adjustment to income under section 3(b)(5)(E) (as amended by section 104(a)(2) of this Act), the Secretary shall not take into account any reduction of or increase in the per unit dwelling rental income of the public housing agency resulting from the use of that rental amount in calculating the contributions for the public housing agency for the operation of the public housing under section 9 of the United States Housing Act of 1937 (as in existence on the day before the date of enactment of this Act).

SEC. 111. COMMUNITY SERVICE AND SELF-SUFFICIENCY.

Section 12 of the United States Housing Act of 1937 (42 U.S.C. 1437j) is amended by adding at the end the following:

''(c) COMMUNITY SERVICE AND SELF-SUFFICIENCY REQUIREMENT.—

''(1) MINIMUM REQUIREMENT.—Notwithstanding any other provision of law, each adult resident of a public housing project shall—

''(A) contribute not less than 8 hours per month of community service (not to include any political activity) within the community in which that adult resides; or

''(B) participate in a self-sufficiency program (as that term is defined in subsection (d)(1)) for not less than 8 hours per month.

''(2) INCLUSION IN PLAN.—Each public housing agency shall include in the public housing agency plan a detailed description of the manner in which the public housing agency intends to implement and administer paragraph (1).

''(3) EXEMPTIONS.—The Secretary may provide an exemption from paragraph (1) for any adult who—

''(A) has attained age 62;

''(B) is a blind or disabled individual, as defined under section 216(i)(1) or 1614 of the Social Security Act (42 U.S.C. 416(i)(1); 1382c) and who is unable to comply with this section, or a primary caretaker of that individual;

''(C) is engaged in a work activity (as that term is defined in subsection (d)(1)(C)); or

''(D) meets the requirements for being exempted from having to engage in a work activity under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under any other welfare program of the State in which the public housing agency is located.

''(4) GEOGRAPHIC LOCATION; PROHIBITION AGAINST REPLACEMENT OF EMPLOYEES.—

''(A) GEOGRAPHIC LOCATION.—The requirement described in paragraph (1) may include community service or participation in a self-sufficiency program performed at a location not owned by the public housing agency.

''(B) PROHIBITION AGAINST REPLACEMENT OF EMPLOYEES.—In carrying out this subsection, a public housing agency may not—

''(i) substitute community service or participation in a self-sufficiency program, as described in paragraph (1), for work performed by a public housing employee; or

''(ii) supplant a job at any location at which community work requirements under section 111 are fulfilled.

''(d) SELF-SUFFICIENCY.—

''(1) DEFINITIONS.—In this section—

''(A) the term 'covered family' means a family that—

''(i) receives benefits for welfare or public assistance from a State or other public agency under a program for which the Federal, State, or local law relating to the program requires, as a condition of eligibility for assistance under the program, participation of a member of the family in a self-sufficiency program; and

''(ii) resides in a public housing dwelling unit or is provided tenant-based assistance;

''(B) the term 'self-sufficiency program' means any program designed to encourage, assist, train, or facilitate the economic independence of participants and their families or to provide work for participants, including programs for job training, employment counseling, work placement, basic skills training, education, workfare and apprenticeship; and

''(C) the term 'work activities' has the meaning given that term in section 407(d) of the Social Security Act (42 U.S.C. 607(d)) (as in effect on and after July 1, 1997).

''(2) COMPLIANCE.—

''(A) SANCTIONS.—Notwithstanding any other provision of law, if the welfare or public assistance benefits of a covered family are reduced under a Federal, State, or local law regarding such an assistance program because of any failure of any member of the family to comply with the conditions under the assistance program requiring participation in a self-sufficiency program or a work activities requirement, or because of an act of fraud by any member of the family under the law or program, the amount required to be paid by the family as a monthly contribution toward rent may not be decreased, during the period of the reduction, as a result of any decrease in the income of the family (to the extent that the decrease in income is a result of the benefits reduction).

''(B) REVIEW.—Any covered family that is affected by the operation of this paragraph shall have the right to review the determination under this paragraph through the administrative grievance procedure for the public housing agency.

''(C) NOTICE.—Subparagraph (A) shall not apply to any covered family before the public housing agency providing assistance under this Act on behalf of the family obtains written notification from the relevant welfare or public assistance agency specifying that the family's benefits have been reduced because of noncompliance with self-sufficiency program or an applicable work activities requirement and the level of such reduction.

''(D) NO APPLICATION OF REDUCTIONS BASED ON TIME LIMIT FOR ASSISTANCE.—For purposes of this paragraph, a reduction in benefits as a result of the expiration of a lifetime time limit for a family receiving welfare or public assistance benefits shall not be considered to be a failure to comply with the conditions under the assistance program requiring participation in a self-sufficiency program or a work activities requirement.

''(3) OCCUPANCY RIGHTS.—This subsection may not be construed to authorize any public housing agency to limit the duration of tenancy in a public housing dwelling unit or of tenant-based assistance.

''(4) COOPERATION AGREEMENTS FOR SELF-SUFFICIENCY ACTIVITIES.—

''(A) REQUIREMENT.—To the maximum extent practicable, a public housing agency providing public housing dwelling units or tenant-based assistance for covered families shall enter into such cooperation agreements, with State, local, and other agencies providing assistance to covered families under welfare or public assistance programs, as may be necessary, to provide for such agencies to transfer information to facilitate administration of subsection (c) or paragraph (2) of this subsection, and other information regarding rents, income, and assistance that may assist a public housing agency or welfare or public assistance agency in carrying out its functions.

''(B) CONTENTS.—A public housing agency shall seek to include in a cooperation agreement under this paragraph requirements and provisions designed to target assistance under welfare and public assistance programs to families residing in public and other assisted housing developments, which may include providing for self-sufficiency services within such housing, providing for services designed to meet the unique employment-related needs of residents of such housing, providing for placement of workfare positions on-site in such housing, and such other elements as may be appropriate.

''(C) CONFIDENTIALITY.—This paragraph may not be construed to authorize any release of information that is prohibited by, or in contravention of, any other provision of Federal, State, or local law.''.

SEC. 112. REPEAL OF ENERGY CONSERVATION; CONSORTIA AND JOINT VENTURES.

Section 13 of the United States Housing Act of 1937 (42 U.S.C. 1437k) is amended to read as follows:

''SEC. 13. CONSORTIA, JOINT VENTURES, AFFILIATES, AND SUBSIDIARIES OF PUBLIC HOUSING AGENCIES.

''(a) CONSORTIA.—

''(1) IN GENERAL.—Any 2 or more public housing agencies may participate in a consortium for the purpose of administering any or all of the housing programs of those public housing agencies in accordance with this section.

''(2) EFFECT.—With respect to any consortium described in paragraph (1)—

''(A) any assistance made available under this title to each of the public housing agencies participating in the consortium shall be paid to the consortium; and

''(B) all planning and reporting requirements imposed upon each public housing agency participating in the consortium with respect to the programs operated by the consortium shall be consolidated.

''(3) RESTRICTIONS.—

''(A) AGREEMENT.—Each consortium described in paragraph (1) shall be formed and operated in accordance with a consortium agreement, and shall be subject to the requirements of a joint public housing agency

plan, which shall be submitted by the consortium in accordance with section 5A.

''(B) MINIMUM REQUIREMENTS.—The Secretary shall specify minimum requirements relating to the formation and operation of consortia and the minimum contents of consortium agreements under this paragraph.

''(b) JOINT VENTURES.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, a public housing agency, in accordance with the public housing agency plan, may—

''(A) form and operate wholly owned or controlled subsidiaries (which may be nonprofit corporations) and other affiliates, any of which may be directed, managed, or controlled by the same persons who constitute the board of commissioners or other similar governing body of the public housing agency, or who serve as employees or staff of the public housing agency; or

''(B) enter into joint ventures, partnerships, or other business arrangements with, or contract with, any person, organization, entity, or governmental unit—

''(i) with respect to the administration of the programs of the public housing agency, including any program that is subject to this title; or

''(ii) for the purpose of providing or arranging for the provision of supportive or social services.

''(2) USE OF AND TREATMENT INCOME.—Any income generated under paragraph (1)—

''(A) shall be used for low-income housing or to benefit the residents of the public housing agency; and

''(B) shall not result in any decrease in any amount provided to the public housing agency under this title.

''(3) AUDITS.—The Comptroller General of the United States, the Secretary, and the Inspector General of the Department of Housing and Urban Development may conduct an audit of any activity undertaken under paragraph (1) at any time.''.

SEC. 113. REPEAL OF MODERNIZATION FUND.

(a) IN GENERAL.—Section 14 of the United States Housing Act of 1937 (42 U.S.C. 14371) is repealed.

(b) CONFORMING AMENDMENTS.—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended—

(1) in section 5(c)(5), by striking ''for use under section 14 or'';

(2) in section 5(c)(7)—

(A) in subparagraph (A)—

(i) by striking clause (iii); and

(ii) by redesignating clauses (iv) through (x) as clauses (iii) through (ix), respectively; and

(B) in subparagraph (B)—

(i) by striking clause (iii); and

(ii) by redesignating clauses (iv) through (x) as clauses (iii) through (ix), respectively;

(3) in section 6(j)(1)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraphs (C) through (H) as subparagraphs (B) through (G), respectively;

(4) in section 6(j)(2)(A)—

(A) in clause (i), by striking ''The Secretary shall also designate,'' and all that follows through the period at the end; and

(B) in clause (iii), by striking ''(including designation as a troubled agency for purposes of the program under section 14)'';

(5) in section 6(j)(2)(B)—

(A) in clause (i), by striking ''and determining that an assessment under this subparagraph will not duplicate any review conducted under section 14(p)''; and

(B) in clause (ii)—

(i) by striking ''(I) the agency's comprehensive plan prepared pursuant to section 14 adequately and appropriately addresses the rehabilitation needs of the agency's inventory, (II)'' and inserting ''(I)''; and

(ii) by striking ''(III)'' and inserting ''(II)'';

(6) in section 6(j)(3)—

(A) in clause (ii), by adding ''and'' at the end;

(B) by striking clause (iii); and

(C) by redesignating clause (iv) as clause (iii);

(7) in section 6(j)(4)—

(A) in subparagraph (D), by adding ''and'' at the end;

(B) in subparagraph (E), by striking ''; and'' at the end and inserting a period; and

(C) by striking subparagraph (F);

(8) in section 20—

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

''(c) [Reserved.]''; and

(B) by striking subsection (f) and inserting the following:

''(f) [Reserved.]'';

(9) in section 21(a)(2)—

(A) by striking subparagraph (A); and

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively;

(10) in section 21(a)(3)(A)(v), by striking ''the building or buildings meet the minimum safety and livability standards applicable under section 14, and'';

(11) in section 25(b)(1), by striking ''From amounts reserved'' and all that follows through ''the Secretary may'' and inserting the following: ''To the extent approved in appropriations Acts, the Secretary may'';

(12) in section 25(e)(2)—

(A) by striking ''The Secretary'' and inserting ''To the extent approved in appropriations Acts, the Secretary''; and

(B) by striking ''available annually from amounts under section 14'';

(13) in section 25(e), by striking paragraph (3);

(14) in section 25(f)(2)(G)(i), by striking ''including—'' and all that follows through ''an explanation'' and inserting ''including an explanation'';

(15) in section 25(i)(1), by striking the second sentence; and

(16) in section 202(b)(2)—

(A) by striking ''(b) FINANCIAL ASSISTANCE.—'' and all that follows through ''The Secretary may,'' and inserting the following:

''(b) FINANCIAL ASSISTANCE.—The Secretary may''; and

(B) by striking paragraph (2).

SEC. 114. ELIGIBILITY FOR PUBLIC AND ASSISTED HOUSING.

Section 16 of the United States Housing Act of 1937 (42 U.S.C. 1437n) is amended to read as follows:

''SEC. 16. ELIGIBILITY FOR PUBLIC AND ASSISTED HOUSING.

''(a) INCOME ELIGIBILITY FOR PUBLIC HOUSING.—

''(1) IN GENERAL.—Of the dwelling units of a public housing agency, including public housing units in a designated mixed-finance project, made available for occupancy in any fiscal year of the public housing agency—

''(A) not less than 40 percent shall be occupied by families whose incomes do not exceed 30 percent of the area median income for those families;

''(B) not less than 70 percent shall be occupied by families whose incomes do not exceed 60 percent of the area median income for those families; and

''(C) any remaining dwelling units may be made available for families whose incomes do not exceed 80 percent of the area median income for those families.

''(2) ESTABLISHMENT OF DIFFERENT STANDARDS.—Notwithstanding paragraph (1), if approved by the Secretary, a public housing agency, in accordance with the public housing agency plan, may for good cause establish and implement an admission standard other than the standard described in paragraph (1).

''(3) PROHIBITION OF CONCENTRATION OF LOW-INCOME FAMILIES.—A public housing agency may not, in complying with the requirements under paragraph (1), concentrate very low-income families (or other families with relatively low incomes) in public housing dwelling units in certain public housing developments or certain buildings within developments.

''(4) MIXED-INCOME HOUSING STANDARD.—Each public housing agency plan submitted by a public housing agency shall include a plan for achieving a diverse income mix among residents in each public housing project of the public housing agency and among the scattered site public housing of the public housing agency.

''(b) INCOME ELIGIBILITY FOR CERTAIN ASSISTED HOUSING.—

''(1) TENANT-BASED ASSISTANCE.—Of the dwelling units receiving tenant-based assistance under section 8 made available for occupancy in any fiscal year of the public housing agency—

''(A) not less than 65 percent shall be occupied by families whose incomes do not exceed 30 percent of the area median income for those families;

''(B) not less than 90 percent shall be occupied by families whose incomes do not exceed 60 percent of the area median income for those families; and

''(C) any remaining dwelling units may be made available for families whose incomes do not exceed 80 percent of the area median income for those families.

''(2) ESTABLISHMENT OF DIFFERENT STANDARDS.—Notwithstanding paragraph (1), if approved by the Secretary, a public housing agency, in accordance with the public housing agency plan, may for good cause establish and implement an admission standard other than the standard described in paragraph (1).

''(3) PROJECT-BASED ASSISTANCE.—Of the total number of dwelling units in a project receiving assistance under section 8, other than assistance described in paragraph (1), that are made available for occupancy by eligible families in any year (as determined by the Secretary)—

''(A) not less than 40 percent shall be occupied by families whose incomes do not exceed 30 percent of the area median income;

''(B) not less than 70 percent shall be occupied by families whose incomes do not exceed 60 percent of the area median income; and

''(C) any remaining dwelling units may be made available for families whose incomes do not exceed 80 percent of the area median income for those families.

''(c) DEFINITION OF AREA MEDIAN INCOME.—In this section, the term 'area median income' means the median income of an area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than the percentages specified in subsections (a) and (b) if the Secretary determines that such variations are necessary because of unusually high or low family incomes.''.

SEC. 115. DEMOLITION AND DISPOSITION OF PUBLIC HOUSING.

(a) IN GENERAL.—Section 18 of the United States Housing Act of 1937 (42 U.S.C. 1437p) is amended to read as follows:

''SEC. 18. DEMOLITION AND DISPOSITION OF PUBLIC HOUSING.

''(a) APPLICATIONS FOR DEMOLITION AND DISPOSITION.—Except as provided in subsection (b), not later than 60 days after receiving an application by a public housing

agency for authorization, with or without financial assistance under this title, to demolish or dispose of a public housing project or a portion of a public housing project (including any transfer to a resident-supported nonprofit entity), the Secretary shall approve the application, if the public housing agency certifies—

''(1) in the case of—

''(A) an application proposing demolition of a public housing project or a portion of a public housing project, that—

''(i) the project or portion of the public housing project is obsolete as to physical condition, location, or other factors, making it unsuitable for housing purposes; and

''(ii) no reasonable program of modifications is cost-effective to return the public housing project or portion of the project to useful life; and

''(B) an application proposing the demolition of only a portion of a public housing project, that the demolition will help to assure the viability of the remaining portion of the project;

''(2) in the case of an application proposing disposition of a public housing project or other real property subject to this title by sale or other transfer, that—

''(A) the retention of the property is not in the best interests of the residents or the public housing agency because—

''(i) conditions in the area surrounding the public housing project adversely affect the health or safety of the residents or the feasible operation of the project by the public housing agency; or

''(ii) disposition allows the acquisition, development, or rehabilitation of other properties that will be more efficiently or effectively operated as low-income housing;

''(B) the public housing agency has otherwise determined the disposition to be appropriate for reasons that are—

''(i) in the best interests of the residents and the public housing agency;

''(ii) consistent with the goals of the public housing agency and the public housing agency plan; and

''(iii) otherwise consistent with this title; or

''(C) for property other than dwelling units, the property is excess to the needs of a public housing project or the disposition is incidental to, or does not interfere with, continued operation of a public housing project;

''(3) that the public housing agency has specifically authorized the demolition or disposition in the public housing agency plan, and has certified that the actions contemplated in the public housing agency plan comply with this section;

''(4) that the public housing agency—

''(A) will notify residents in a project subject to demolition or disposition 90 days prior to the displacement date except in cases of imminent threat to health or safety;

''(B) will provide for the payment of the actual and reasonable relocation expenses of each resident to be displaced;

''(C) will ensure that each displaced resident is offered comparable housing—

''(i) that meets housing quality standards;

''(ii) which may include—

''(I) tenant-based assistance;

''(II) project-based assistance; or

''(III) occupancy in a unit operated or assisted by the public housing agency;

''(iii) that is at a rental rate paid by the resident that is comparable to the rental rate applicable to the unit from which the resident is vacated; and

''(iv) that is located in an area that is generally not less desirable than the location of the displaced person's housing;

''(D) will provide any necessary counseling for residents who are displaced; and

''(E) will not commence demolition or complete disposition until all residents residing in the unit are relocated;

''(5) that the net proceeds of any disposition will be used—

''(A) unless waived by the Secretary, for the retirement of outstanding obligations issued to finance the original public housing project or modernization of the project; and

''(B) to the extent that any proceeds remain after the application of proceeds in accordance with subparagraph (A), for the provision of low-income housing or to benefit the residents of the public housing agency; and

''(6) that the public housing agency has complied with subsection (c).

''(b) DISAPPROVAL OF APPLICATIONS.—The Secretary shall disapprove an application submitted under subsection (a) if the Secretary determines that—

''(1) any certification made by the public housing agency under that subsection is clearly inconsistent with information and data available to the Secretary or information or data requested by the Secretary; or

''(2) the application was not developed in consultation with—

''(A) residents who will be affected by the proposed demolition or disposition; and

''(B) each resident advisory board and resident council, if any, that will be affected by the proposed demolition or disposition.

''(c) RESIDENT OPPORTUNITY TO PURCHASE IN CASE OF PROPOSED DISPOSITION.—

''(1) IN GENERAL.—In the case of a proposed disposition of a public housing project or portion of a project, the public housing agency shall, in appropriate circumstances, as determined by the Secretary, initially offer the property to any eligible resident organization, eligible resident management corporation, or nonprofit organization acting on behalf of the residents, if that entity has expressed an interest, in writing, to the public housing agency in a timely manner, in purchasing the property for continued use as low-income housing.

''(2) TIMING.—

''(A) THIRTY-DAY NOTICE.—A resident organization, resident management corporation, or other resident-supported nonprofit entity referred to in paragraph (1) may express interest in purchasing property that is the subject of a disposition, as described in paragraph (1), during the 30-day period beginning on the date of notification of a proposed sale of the property.

''(B) SIXTY-DAY NOTICE.—If an entity expresses written interest in purchasing a property, as provided in subparagraph (A), no disposition of the property shall occur during the 60-day period beginning on the date of receipt of that written notice, during which time that entity shall be given the opportunity to obtain a firm commitment for financing the purchase of the property.

''(d) REPLACEMENT UNITS.—Notwithstanding any other provision of law, replacement housing units for public housing units demolished in accordance with this section may be built on the original public housing location or in the same neighborhood as the original public housing location if the number of those replacement units is fewer than the number of units demolished.''.

(b) HOMEOWNERSHIP REPLACEMENT PLAN.—

(1) IN GENERAL.—Section 304(g) of the United States Housing Act of 1937 (42 U.S.C. 1437aaa–3(g)), as amended by section 1002(b) of the Emergency Supplemental Appropriations for Additional Disaster Assistance, for Anti-terrorism Initiatives, for Assistance in the Recovery from the Tragedy that Occurred At Oklahoma City, and Rescissions Act, 1995 (Public Law 104–19; 109 Stat. 236), is amended to read as follows:

''(g) [Reserved.]''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective with respect to any plan for the demolition, disposition, or conversion to homeownership of public housing that is approved by the Secretary after September 30, 1995.

(c) UNIFORM RELOCATION AND REAL PROPERTY ACQUISITION ACT.—The Uniform Relocation and Real Property Acquisition Act shall not apply to activities under section 18 of the United States Housing Act of 1937, as amended by this section.

SEC. 116. REPEAL OF FAMILY INVESTMENT CENTERS; VOUCHER SYSTEM FOR PUBLIC HOUSING.

(a) IN GENERAL.—Section 22 of the United States Housing Act of 1937 (42 U.S.C. 1437t) is amended to read as follows:

''SEC. 22. VOUCHER SYSTEM FOR PUBLIC HOUSING.

''(a) IN GENERAL.—

''(1) AUTHORIZATION.—A public housing agency may convert any public housing project (or portion thereof) owned and operated by the public housing agency to a system of tenant-based assistance in accordance with this section.

''(2) REQUIREMENTS.—In converting to a tenant-based system of assistance under this section, the public housing agency shall develop a conversion assessment and plan under subsection (b) in consultation with the appropriate public officials, with significant participation by the residents of the project (or portion thereof), which assessment and plan shall—

''(A) be consistent with and part of the public housing agency plan; and

''(B) describe the conversion and future use or disposition of the public housing project, including an impact analysis on the affected community.

''(b) CONVERSION ASSESSMENT AND PLAN.—

''(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Public Housing Reform and Responsibility Act of 1997, each public housing agency shall assess the status of each public housing project owned and operated by that public housing agency, and shall submit to the Secretary an assessment that includes—

''(A) a cost analysis that demonstrates whether or not the cost (both on a net present value basis and in terms of new budget authority requirements) of providing tenant-based assistance under section 8 for the same families in substantially similar dwellings over the same period of time is less expensive than continuing public housing assistance in the public housing project proposed for conversion for the remaining useful life of the project;

''(B) an analysis of the market value of the public housing project proposed for conversion both before and after rehabilitation, and before and after conversion;

''(C) an analysis of the rental market conditions with respect to the likely success of tenant-based assistance under section 8 in that market for the specific residents of the public housing project proposed for conversion, including an assessment of the availability of decent and safe dwellings renting at or below the payment standard established for tenant-based assistance under section 8 by the public housing agency;

''(D) the impact of the conversion to a system of tenant-based assistance under this section on the neighborhood in which the public housing project is located; and

''(E) a plan that identifies actions, if any, that the public housing agency would take with regard to converting any public housing project or projects (or portions thereof) of the public housing agency to a system of tenant-based assistance.

''(2) STREAMLINED ASSESSMENT.—At the discretion of the Secretary or at the request of

a public housing agency, the Secretary may waive any or all of the requirements of paragraph (1) or otherwise require a streamlined assessment with respect to any public housing project or class of public housing projects.

''(3) IMPLEMENTATION OF CONVERSION PLAN.—

''(A) IN GENERAL.—A public housing agency may implement a conversion plan only if the conversion assessment under this section demonstrates that the conversion—

''(i) will not be more expensive than continuing to operate the public housing project (or portion thereof) as public housing; and

''(ii) will principally benefit the residents of the public housing project (or portion thereof) to be converted, the public housing agency, and the community.

''(B) DISAPPROVAL.—The Secretary shall disapprove a conversion plan only if—

''(i) the plan is plainly inconsistent with the conversion assessment under subsection (b);

''(ii) there is reliable information and data available to the Secretary that contradicts that conversion assessment; or

''(iii) the plan otherwise fails to meet the requirements of this subsection.

''(c) OTHER REQUIREMENTS.—To the extent approved by the Secretary, the funds used by the public housing agency to provide tenant-based assistance under section 8 shall be added to the annual contribution contract administered by the public housing agency.''.

(b) SAVINGS PROVISION.—The amendment made by subsection (a) does not affect any contract or other agreement entered into under section 22 of the United States Housing Act of 1937, as that section existed on the day before the date of enactment of this Act.

SEC. 117. REPEAL OF FAMILY SELF-SUFFICIENCY; HOMEOWNERSHIP OPPORTUNITIES.

(a) IN GENERAL.—Section 23 of the United States Housing Act of 1937 (42 U.S.C. 1437u) is amended to read as follows:

''SEC. 23. PUBLIC HOUSING HOMEOWNERSHIP OPPORTUNITIES.

''(a) IN GENERAL.—Notwithstanding any other provision of law, a public housing agency may, in accordance with this section—

''(1) sell any public housing unit in any public housing project of the public housing agency to—

''(A) the low-income residents of the public housing agency; or

''(B) any organization serving as a conduit for sales to those persons; and

''(2) provide assistance to public housing residents to facilitate the ability of those residents to purchase a principal residence.

''(b) RIGHT OF FIRST REFUSAL.—In making any sale under this section, the public housing agency shall initially offer the public housing unit at issue to the resident or residents occupying that unit, if any, or to an organization serving as a conduit for sales to any such resident.

''(c) SALE PRICES, TERMS, AND CONDITIONS.—Any sale under this section may involve such prices, terms, and conditions as the public housing agency may determine in accordance with procedures set forth in the public housing agency plan.

''(d) PURCHASE REQUIREMENTS.—

''(1) IN GENERAL.—Each resident that purchases a dwelling unit under subsection (a) shall, as of the date on which the purchase is made—

''(A) intend to occupy the property as a principal residence; and

''(B) submit a written certification to the public housing agency that such resident will occupy the property as a principal residence for a period of not less than 12 months beginning on that date.

''(2) RECAPTURE.—Except for good cause, as determined by a public housing agency in the public housing agency plan, if, during the 1-year period beginning on the date on which any resident acquires a public housing unit under this section, that public housing unit is resold, the public housing agency shall recapture 75 percent of the amount of any proceeds from that resale that exceed the sum of—

''(A) the original sale price for the acquisition of the property by the qualifying resident;

''(B) the costs of any improvements made to the property after the date on which the acquisition occurs; and

''(C) any closing costs incurred in connection with the acquisition.

''(e) PROTECTION OF NONPURCHASING RESIDENTS.—If a public housing resident does not exercise the right of first refusal under subsection (b) with respect to the public housing unit in which the resident resides, the public housing agency shall—

''(1) ensure that either another public housing unit or rental assistance under section 8 is made available to the resident; and

''(2) provide for the payment of the actual and reasonable relocation expenses of the resident.

''(f) NET PROCEEDS.—The net proceeds of any sales under this section remaining after payment of all costs of the sale and any unassumed, unpaid indebtedness owed in connection with the dwelling units sold under this section unless waived by the Secretary, shall be used for purposes relating to low-income housing and in accordance with the public housing agency plan.

''(g) HOMEOWNERSHIP ASSISTANCE.—From amounts distributed to a public housing agency under section 9, or from other income earned by the public housing agency, the public housing agency may provide assistance to public housing residents to facilitate the ability of those residents to purchase a principal residence, including a residence other than a residence located in a public housing project.''.

(b) CONFORMING AMENDMENTS.—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended—

(1) in section 8(y)(7)(A)—

(A) by striking '', (ii)'' and inserting '', and (ii)''; and

(B) by striking '', and (iii)'' and all that follows before the period at the end; and

(2) in section 25(l)(2)—

(A) in the first sentence, by striking '', consistent with the objectives of the program under section 23,''; and

(B) by striking the second sentence.

(c) SAVINGS PROVISION.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section do not affect any contract or other agreement entered into under section 23 of the United States Housing Act of 1937, as that section existed on the day before the date of enactment of this Act.

(2) EXCEPTION.—Section 23(d)(3) of the United States Housing Act of 1937, as in existence on the day before the date of enactment of this Act, shall not apply to any contract or other agreement after the date of enactment of this Act.

SEC. 118. REVITALIZING SEVERELY DISTRESSED PUBLIC HOUSING.

Section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v) is amended to read as follows:

''SEC. 24. REVITALIZING SEVERELY DISTRESSED PUBLIC HOUSING.

''(a) IN GENERAL.—To the extent provided in advance in appropriations Acts, the Secretary may make grants to public housing agencies for the purposes of—

''(1) enabling the demolition of obsolete public housing projects or portions thereof;

''(2) revitalizing sites (including remaining public housing units) on which such public housing projects are located;

''(3) the provision of replacement housing, which will avoid or lessen concentrations of very low-income families; and

''(4) the provision of tenant-based assistance under section 8 for use as replacement housing.

''(b) COMPETITION.—The Secretary shall make grants under this section on the basis of a competition, which shall be based on such factors as—

''(1) the need for additional resources for addressing a severely distressed public housing project;

''(2) the need for affordable housing in the community;

''(3) the supply of other housing available and affordable to a family receiving tenant-based assistance under section 8; and

''(4) the local impact of the proposed revitalization program.

''(c) TERMS AND CONDITIONS.—The Secretary may impose such terms and conditions on recipients of grants under this section as the Secretary determines to be appropriate to carry out the purposes of this section, except that such terms and conditions shall be similar to the terms and conditions of either—

''(1) the urban revitalization demonstration program authorized under the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Acts; or

''(2) section 24 of the United States Housing Act of 1937, as such section existed before the date of enactment of the Public Housing Reform and Responsibility Act of 1997.

''(d) ALTERNATIVE MANAGEMENT.—The Secretary may require any recipient of a grant under this section to make arrangements with an entity other than the public housing agency to carry out the purposes for which the grant was awarded, if the Secretary determines that such action is necessary for the timely and effective achievement of the purposes for which the grant was awarded.

''(e) SUNSET.—No grant may be made under this section on or after October 1, 2000.''.

SEC. 119. MIXED-FINANCE AND MIXED-OWNERSHIP PROJECTS.

(a) IN GENERAL.—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following:

''SEC. 30. MIXED-FINANCE AND MIXED-OWNERSHIP PROJECTS.

''(a) IN GENERAL.—A public housing agency may own, operate, assist, or otherwise participate in 1 or more mixed-finance projects in accordance with this section.

''(b) REQUIREMENTS.—

''(1) MIXED-FINANCE PROJECT.—In this section, the term 'mixed-finance project' means a project that meets the requirements of paragraph (2) and that is occupied both by 1 or more very low-income families and by 1 or more families that are not very low-income families.

''(2) STRUCTURE OF PROJECTS.—Each mixed-finance project shall be developed—

''(A) in a manner that ensures that units are made available in the project, by master contract, individual lease, or equity interest for occupancy by eligible families identified by the public housing agency for a period of not less than 20 years;

''(B) in a manner that ensures that the number of public housing units bears approximately the same proportion to the total number of units in the mixed-finance project as the value of the total financial commitment provided by the public housing agency

bears to the value of the total financial commitment in the project, or shall not be less than the number of units that could have been developed under the conventional public housing program with the assistance; and

''(C) in accordance with such other requirements as the Secretary may prescribe by regulation.

''(3) TYPES OF PROJECTS.—The term 'mixed-finance project' includes a project that is developed—

''(A) by a public housing agency or by an entity affiliated with a public housing agency;

''(B) by a partnership, a limited liability company, or other entity in which the public housing agency (or an entity affiliated with a public housing agency) is a general partner, managing member, or otherwise participates in the activities of that entity;

''(C) by any entity that grants to the public housing agency a right of first refusal to acquire the public housing project within the applicable period of time after initial occupancy of the public housing project in accordance with section 42(i)(7) of the Internal Revenue Code of 1986; or

''(D) in accordance with such other terms and conditions as the Secretary may prescribe by regulation.

''(c) TAXATION.—

''(1) IN GENERAL.—A public housing agency may elect to have all public housing units in a mixed-finance project subject to local real estate taxes, except that such units shall be eligible at the discretion of the public housing agency for the taxing requirements under section 6(d).

''(2) LOW-INCOME HOUSING TAX CREDIT.—With respect to any unit in a mixed-finance project that is assisted pursuant to the low-income housing tax credit under section 42 of the Internal Revenue Code of 1986, the rents charged to the residents may be set at levels not to exceed the amounts allowable under that section.

''(d) RESTRICTION.—No assistance provided under section 9 shall be used by a public housing agency in direct support of any unit rented to a family that is not a low-income family.

''(e) EFFECT OF CERTAIN CONTRACT TERMS.—If an entity that owns or operates a mixed-finance project under this section enters into a contract with a public housing agency, the terms of which obligate the entity to operate and maintain a specified number of units in the project as public housing units in accordance with the requirements of this Act for the period required by law, such contractual terms may provide that, if, as a result of a reduction in appropriations under section 9, or any other change in applicable law, the public housing agency is unable to fulfill its contractual obligations with respect to those public housing units, that entity may deviate, under procedures and requirements developed through regulations by the Secretary, from otherwise applicable restrictions under this Act regarding rents, income eligibility, and other areas of public housing management with respect to a portion or all of those public housing units, to the extent necessary to preserve the viability of those units while maintaining the low-income character of the units to the maximum extent practicable.''.

(b) REGULATIONS.—The Secretary shall issue such regulations as may be necessary to promote the development of mixed-finance projects, as that term is defined in section 30 of the United States Housing Act of 1937 (as added by this Act).

SEC. 120. CONVERSION OF DISTRESSED PUBLIC HOUSING TO TENANT-BASED ASSISTANCE.

(a) IN GENERAL.—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following:

''SEC. 31. CONVERSION OF DISTRESSED PUBLIC HOUSING TO TENANT-BASED ASSISTANCE.

''(a) IDENTIFICATION OF UNITS.—Each public housing agency shall identify all public housing projects of the public housing agency—

''(1) that are on the same or contiguous sites;

''(2) that the public housing agency determines to be distressed, which determination shall be made in accordance with guidelines established by the Secretary, which guidelines shall take into account the criteria established in the Final Report of the National Commission on Severely Distressed Public Housing (August 1992);

''(3) identified as distressed housing under paragraph (2) for which the public housing agency cannot assure the long-term viability as public housing through reasonable modernization expenses, density reduction, achievement of a broader range of family income, or other measures; and

''(4) for which the estimated cost, during the remaining useful life of the project, of continued operation and modernization as public housing exceeds the estimated cost, during the remaining useful life of the project, of providing tenant-based assistance under section 8 for all families in occupancy, based on appropriate indicators of cost (such as the percentage of total development costs required for modernization).

''(b) CONSULTATION.—Each public housing agency shall consult with the appropriate public housing residents and the appropriate unit of general local government in identifying any public housing projects under subsection (a).

''(c) REMOVAL OF UNITS FROM THE INVENTORIES OF PUBLIC HOUSING AGENCIES.—

''(1) IN GENERAL.—

''(A) DEVELOPMENT OF PLAN.—Each public housing agency shall develop and, to the extent provided in advance in appropriations Acts, carry out a 5-year plan in conjunction with the Secretary for the removal of public housing units identified under subsection (a) from the inventory of the public housing agency and the annual contributions contract.

''(B) APPROVAL OF PLAN.—The plan required under subparagraph (A) shall—

''(i) be included as part of the public housing agency plan;

''(ii) be certified by the relevant local official to be in accordance with the comprehensive housing affordability strategy under title I of the Housing and Community Development Act of 1992; and

''(iii) include a description of any disposition and demolition plan for the public housing units.

''(2) EXTENSIONS.—The Secretary may extend the 5-year deadline described in paragraph (1) by not more than an additional 5 years if the Secretary makes a determination that the deadline is impracticable.

''(3) DETERMINATION OF SECRETARY.—

''(A) FAILURE TO IDENTIFY PROJECTS.—If the Secretary determines, based on a plan submitted under this subsection, that a public housing agency has failed to identify 1 or more public housing projects that the Secretary determines should have been identified under subsection (a), the Secretary may designate the public housing projects to be removed from the inventory of the public housing agency pursuant to this section.

''(B) ERRONEOUS IDENTIFICATION OF PROJECTS.—If the Secretary determines, based on a plan submitted under this subsection, that a public housing agency has identified 1 or more public housing projects that should not have been identified pursuant to subsection (a), the Secretary shall—

''(i) require the public housing agency to revise the plan of the public housing agency under this subsection; and

''(ii) prohibit the removal of any such public housing project from the inventory of the public housing agency under this section.

''(d) CONVERSION TO TENANT-BASED ASSISTANCE.—

''(1) IN GENERAL.—To the extent approved in advance in appropriations Acts, the Secretary shall make authority available to a public housing agency to provide assistance under this Act to families residing in any public housing project that is removed from the inventory of the public housing agency and the annual contributions contract pursuant to this section.

''(2) PLAN REQUIREMENTS.—Each plan under subsection (c) shall require the agency—

''(A) to notify each family residing in the public housing project, consistent with any guidelines issued by the Secretary governing such notifications, that—

''(i) the public housing project will be removed from the inventory of the public housing agency;

''(ii) the demolition will not commence until each resident residing in the public housing project is relocated; and

''(iii) each family displaced by such action will be offered comparable housing—

''(I) that meets housing quality standards; and

''(II) which may include—

''(aa) tenant-based assistance;

''(bb) project-based assistance; or

''(cc) occupancy in a unit operated or assisted by the public housing agency at a rental rate paid by the family that is comparable to the rental rate applicable to the unit from which the family is vacated;

''(B) to provide any necessary counseling for families displaced by such action; and

''(C) to provide any actual and reasonable relocation expenses for families displaced by such action.

''(e) REMOVAL BY SECRETARY.—The Secretary shall take appropriate actions to ensure removal of any public housing project identified under subsection (a) from the inventory of a public housing agency, if the public housing agency fails to adequately develop a plan under subsection (c) with respect to that project, or fails to adequately implement such plan in accordance with the terms of the plan.

''(f) ADMINISTRATION.—

''(1) IN GENERAL.—The Secretary may require a public housing agency to provide to the Secretary or to public housing residents such information as the Secretary considers to be necessary for the administration of this section.

''(2) APPLICABILITY OF SECTION 18.—Section 18 does not apply to the demolition of public housing projects removed from the inventory of the public housing agency under this section.''.

(b) CONFORMING AMENDMENT.—Section 202 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (42 U.S.C. 14371 note) is repealed.

SEC. 121. PUBLIC HOUSING MORTGAGES AND SECURITY INTERESTS.

Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following:

''SEC. 32. PUBLIC HOUSING MORTGAGES AND SECURITY INTERESTS.

''(a) GENERAL AUTHORIZATION.—The Secretary may, upon such terms and conditions as the Secretary may prescribe, authorize a public housing agency to mortgage or otherwise grant a security interest in any public

housing project or other property of the public housing agency.

''(b) TERMS AND CONDITIONS.—

''(1) CRITERIA FOR APPROVAL.—In making any authorization under subsection (a), the Secretary may consider—

''(A) the ability of the public housing agency to use the proceeds of the mortgage or security interest for low-income housing uses;

''(B) the ability of the public housing agency to make payments on the mortgage or security interest; and

''(C) such other criteria as the Secretary may specify.

''(2) TERMS AND CONDITIONS OF MORTGAGES AND SECURITY INTERESTS OBTAINED.—Each mortgage or security interest granted under this section shall be—

''(A) for a term that—

''(i) is consistent with the terms of private loans in the market area in which the public housing project or property at issue is located; and

''(ii) does not exceed 30 years; and

''(B) subject to conditions that are consistent with the conditions to which private loans in the market area in which the subject project or other property is located are subject.

''(3) NO FEDERAL LIABILITY.—No action taken under this section shall result in any liability to the Federal Government.''.

SEC. 122. LINKING SERVICES TO PUBLIC HOUSING RESIDENTS.

Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following:

''SEC. 33. SERVICES FOR PUBLIC HOUSING RESIDENTS.

''(a) IN GENERAL.—To the extent provided in advance in appropriations Acts, the Secretary may make grants to public housing agencies on behalf of public housing residents, or directly to resident management corporations, resident councils, or resident organizations (including nonprofit entities supported by residents), for the purposes of providing a program of supportive services and resident empowerment activities to assist public housing residents in becoming economically self-sufficient.

''(b) ELIGIBLE ACTIVITIES.—Grantees under this section may use such amounts only for activities on or near the property of the public housing agency or public housing project that are designed to promote the self-sufficiency of public housing residents, including activities relating to—

''(1) physical improvements to a public housing project in order to provide space for supportive services for residents;

''(2) the provision of service coordinators or a congregate housing services program for elderly disabled individuals, nonelderly disabled individuals, or temporarily disabled individuals;

''(3) the provision of services related to work readiness, including education, job training and counseling, job search skills, business development training and planning, tutoring, mentoring, adult literacy, computer access, personal and family counseling, health screening, work readiness health services, transportation, and child care;

''(4) economic and job development, including employer linkages and job placement, and the start-up of resident microenterprises, community credit unions, and revolving loan funds, including the licensing, bonding, and insurance needed to operate such enterprises;

''(5) resident management activities and resident participation activities; and

''(6) other activities designed to improve the economic self-sufficiency of residents.

''(c) FUNDING DISTRIBUTION.—

''(1) IN GENERAL.—Except for amounts provided under subsection (d), the Secretary may distribute amounts made available under this section on the basis of a competition or a formula, as appropriate.

''(2) FACTORS FOR DISTRIBUTION.—Factors for distribution under paragraph (1) shall include—

''(A) the demonstrated capacity of the applicant to carry out a program of supportive services or resident empowerment activities;

''(B) the ability of the applicant to leverage additional resources for the provision of services; and

''(C) the extent to which the grant will result in a high quality program of supportive services or resident empowerment activities.

''(d) MATCHING REQUIREMENT.—The Secretary may not make any grant under this section to any applicant unless the applicant supplements each dollar made available under this section with funds from sources other than this section, in an amount equal to not less than 25 percent of the grant amount, including—

''(1) funds from other Federal sources;

''(2) funds from any State or local government sources;

''(3) funds from private contributions; and

''(4) the value of any in-kind services or administrative costs provided to the applicant.

''(e) FUNDING FOR RESIDENT COUNCILS.—Of amounts appropriated for activities under this section, not less than 25 percent shall be provided directly to resident councils, resident organizations, and resident management corporations.''.

SEC. 123. PROHIBITION ON USE OF AMOUNTS.

Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following:

''SEC. 34. PROHIBITION ON USE OF AMOUNTS.

''None of the amounts made available to the Department of Housing and Urban Development to carry out this Act, that are obligated to State or local governments, public housing agencies, housing finance agencies, or other public or quasi-public housing agencies, may be used to indemnify contractors or subcontractors of the government or agency against costs associated with judgments of infringement of intellectual property rights.''.

SEC. 124. PET OWNERSHIP.

Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following:

''SEC. 35. PET OWNERSHIP IN FEDERALLY ASSISTED RENTAL HOUSING.

''(a) OWNERSHIP CONDITIONS.—

''(1) IN GENERAL.—A resident of a dwelling unit in federally assisted rental housing may own 1 or more common household pets or have 1 or more common household pets present in the dwelling unit of such resident, subject to the reasonable requirements of the owner of the federally assisted rental housing, if the resident maintains each pet responsibly and in accordance with applicable State and local public health, animal control, and animal anti-cruelty laws and regulations.

''(2) REQUIREMENTS.—The reasonable requirements described in paragraph (1) may include—

''(A) requiring payment of a nominal fee, a pet deposit, or both, by residents owning or having pets present, to cover the reasonable operating costs to the project relating to the presence of pets and to establish an escrow account for additional costs not otherwise covered, respectively;

''(B) limitations on the number of animals in a unit, based on unit size; and

''(C) prohibitions on—

''(i) certains breeds or types of animals that are determined to be dangerous; and

''(ii) individual animals, based on certain factors, including the size and weight of the animal.

''(b) PROHIBITION AGAINST DISCRIMINATION.—No owner of federally assisted rental housing may restrict or discriminate against any person in connection with admission to, or continued occupancy of, such housing by reason of the ownership of common household pets by, or the presence of such pets in the dwelling unit of, such person.

''(c) DEFINITIONS.—In this section:

''(1) FEDERALLY ASSISTED RENTAL HOUSING.—The term 'federally assisted rental housing' means any public housing project or any rental housing receiving project-based assistance under—

''(A) the new construction and substantial rehabilitation program under section 8(b)(2) of this Act (as in effect before October 1, 1983);

''(B) the property disposition program under section 8(b);

''(C) the moderate rehabilitation program under section 8(e)(2) of this Act (as it existed prior to October 1, 1991);

''(D) section 23 of this Act (as in effect before January 1, 1975);

''(E) the rent supplement program under section 101 of the Housing and Urban Development Act of 1965;

''(F) section 8 of this Act, following conversion from assistance under section 101 of the Housing and Urban Development Act of 1965; or

''(G) loan management assistance under section 8 of this Act.

''(2) OWNER.—The term 'owner' means, with respect to federally assisted rental housing, the entity or private person, including a cooperative or public housing agency, that has the legal right to lease or sublease dwelling units in such housing (including a manager of such housing having such right).

''(d) REGULATIONS.—This section shall take effect upon the date of the effectiveness of regulations issued by the Secretary to carry out this section. Such regulations shall be issued after notice and opportunity for public comment in accordance with the procedure under section 553 of title 5, United States Code, applicable to substantive rules (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).''.

SEC. 125. CITY OF INDIANAPOLIS FLEXIBLE GRANT DEMONSTRATION.

Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following:

''SEC. 36. CITY OF INDIANAPOLIS FLEXIBLE GRANT DEMONSTRATION.

''(a) DEFINITIONS.—In this section:

''(1) COVERED HOUSING ASSISTANCE.—The term 'covered housing assistance' means—

''(A)(i) operating assistance under section 9 of the United States Housing Act of 1937 (as in existence on the day before the effective date of the Public Housing Reform and Responsibility Act of 1997), modernization assistance under section 14 of the United States Housing Act of 1937 (as in existence on the day before the effective date of the Public Housing Reform and Responsibility Act of 1997); and

''(ii) assistance for the certificate and voucher programs under section 8 of the United States Housing Act of 1937 (as in existence on the day before the effective date of the Public Housing Reform and Responsibility Act of 1997);

''(B) assistance for public housing under the Capital and Operating Funds established under section 9; and

''(C) tenant-based rental assistance under section 8.

''(2) CITY.—The term 'City' means the city of Indianapolis, Indiana.

''(b) PURPOSE.—The Secretary shall carry out a demonstration program in accordance with this section under which the City, in

coordination with the public housing agency of the City—

''(1) may receive and combine program allocations of covered housing assistance; and

''(2) shall have the flexibility to design creative approaches for providing and administering Federal housing assistance that—

''(A) provide incentives to low-income families with children whose head of the household is employed, seeking employment, or preparing for employment by participating in a job training or educational program, or any program that otherwise assists individuals in obtaining employment and attaining economic self-sufficiency;

''(B) reduce costs of Federal housing assistance and achieve greater cost-effectiveness in Federal housing assistance expenditures;

''(C) increase the stock of affordable housing and housing choices for low-income families;

''(D) increase homeownership among low-income families; and

''(E) achieve such other purposes with respect to low-income families, as determined by the City in coordination with the public housing agency.

''(c) PROGRAM ALLOCATION.—In each fiscal year, the amount made available to the City under this section shall be equal to the sum of the amounts that would otherwise be made available to the public housing agency of the City under the provisions of this Act described in subparagraphs (A) through (C) of subsection (a)(1).

''(d) APPLICABILITY OF PROGRAM REQUIREMENTS.—

''(1) IN GENERAL.—In each fiscal year of the demonstration program under this section, amounts made available to the City under this section shall be subject to the same terms and conditions as those amounts would be subject if made available under the provisions of this Act pursuant to which covered housing assistance is otherwise made available to the public housing agency of the City under this Act, except that—

''(A) the Secretary may waive any such term or condition to the extent that the Secretary determines such action to be appropriate to carry out the demonstration program under this section; and

''(B) the City may combine the amounts made available and use the amounts for any activity eligible under each such program under section 8 or 9.

''(2) NUMBER OF FAMILIES ASSISTED.—In carrying out the demonstration program under this section, the City shall assist substantially the same total number of eligible low-income families as would have otherwise been served by the public housing agency of the City.

''(3) PROTECTION OF RECIPIENTS.—Nothing is this section shall be construed to authorize the termination of assistance to any recipient of assistance under this Act before the date of enactment of this section, as a result of the implementation of the demonstration program under this section.

''(e) PLAN REQUIREMENT.—In carrying out this section, the Secretary may establish a streamlined public housing agency plan and planning process for the City in accordance with section 5A.

''(f) EFFECT ON ABILITY TO COMPETE FOR OTHER CATEGORICAL PROGRAMS.—Nothing in this section shall be construed to affect the ability of the City (or the public housing agency of the City) to compete or otherwise apply for or receive assistance under any other housing assistance program administered by the Secretary.

''(g) PERFORMANCE STANDARDS.—The Secretary and the City shall collectively establish standards for evaluating the performance of the City in meeting the goals set forth in subsection (b) including—

''(1) moving dependent low-income families to economic self-sufficiency;

''(2) reducing the per-family cost of providing housing assistance;

''(3) expanding the stock of affordable housing and housing choices of low-income families;

''(4) increasing the number of homeownership opportunities for low-income families; and

''(5) any other performance goals established by the Secretary and the City.

''(h) RECORDS AND REPORTS.—

''(1) RECORDS.—The City shall maintain such records as the Secretary may require in order to—

''(A) document the amounts received by the City under this Act, and the disposition of those amounts under the demonstration program under this section;

''(B) ensure compliance by the City with this section; and

''(C) evaluate the performance of the City under the demonstration program under this section.

''(2) REPORTS.—

''(A) IN GENERAL.—The City shall annually submit to the Secretary a report in a form and at a time specified by the Secretary.

''(B) CONTENTS.—Each report under this paragraph shall include—

''(i) documentation of the use of funds made available to the City under this section;

''(ii) such data as the Secretary may request to assist the Secretary in evaluating the demonstration program under this section; and

''(iii) a description and analysis of the effect of assisted activities in addressing the objectives of the demonstration program under this section.

''(3) ACCESS TO DOCUMENTS BY THE SECRETARY AND COMPTROLLER GENERAL.—The Secretary and the Comptroller General of the United States, or any duly authorized representative of the Secretary or the Comptroller General, shall have access for the purpose of audit and examination to any books, documents, papers, and records maintained by the City that relate to the demonstration program under this section.

''(i) PERFORMANCE REVIEW AND EVALUATION.—

''(1) PERFORMANCE REVIEW.—Based on the performance standards established under subsection (g), the Secretary shall monitor the performance of the City in providing assistance under this section.

''(2) STATUS REPORT.—Not later than 60 days after the last day of the second year of the demonstration program under this section, the Secretary shall submit to Congress an interim report on the status of the demonstration program and the progress of the City in achieving the purposes of the demonstration program under subsection (b).

''(3) TERMINATION AND EVALUATION.—

''(A) TERMINATION.—The demonstration program under this section shall terminate not less than 2 and not more than 5 years after the date on which the program is commenced under this section.

''(B) EVALUATION.—Not later than 6 months after the termination of the demonstration program under this section, the Secretary shall submit to Congress a final report, which shall include—

''(i) an evaluation the effectiveness of the activities carried out under the demonstration program under this section; and

''(ii) any findings and recommendations of the Secretary for any appropriate legislative action.''.

TITLE II—SECTION 8 RENTAL ASSISTANCE

SEC. 201. MERGER OF THE CERTIFICATE AND VOUCHER PROGRAMS.

(a) IN GENERAL.—Section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) is amended to read as follows:

''(o) VOUCHER PROGRAM.—

''(1) PAYMENT STANDARD.—

''(A) IN GENERAL.—The Secretary may provide assistance to public housing agencies for tenant-based assistance using a payment standard established in accordance with subparagraph (B). The payment standard shall be used to determine the monthly assistance that may be paid for any family, as provided in paragraph (2).

''(B) ESTABLISHMENT OF PAYMENT STANDARD.—Except as provided under subparagraph (D), the payment standard shall not exceed 110 percent of the fair market rental established under subsection (c) and shall be not less than 90 percent of that fair market rental.

''(C) SET-ASIDE.—The Secretary may set aside not more than 5 percent of the budget authority available under this subsection as an adjustment pool. The Secretary shall use amounts in the adjustment pool to make adjusted payments to public housing agencies under subparagraph (A), to ensure continued affordability, if the Secretary determines that additional assistance for such purpose is necessary, based on documentation submitted by a public housing agency.

''(D) APPROVAL.—The Secretary may require a public housing agency to submit the payment standard of the public housing agency to the Secretary for approval, if the payment standard is less than 90 percent of the fair market rent or exceeds 110 percent of the fair market rent.

''(E) REVIEW.—The Secretary—

''(i) shall monitor rent burdens and review any payment standard that results in a significant percentage of the families occupying units of any size paying more than 30 percent of adjusted income for rent; and

''(ii) may require a public housing agency to modify the payment standard of the public housing agency based on the results of that review.

''(2) AMOUNT OF MONTHLY ASSISTANCE PAYMENT.—

''(A) FAMILIES RECEIVING TENANT-BASED ASSISTANCE; RENT DOES NOT EXCEED PAYMENT STANDARD.—For a family receiving tenant-based assistance under this title, if the rent for that family (including the amount allowed for tenant-paid utilities) does not exceed the payment standard established under paragraph (1), the monthly assistance payment to that family shall be equal to the amount by which the rent exceeds the greatest of the following amounts, rounded to the nearest dollar:

''(i) Thirty percent of the monthly adjusted income of the family.

''(ii) Ten percent of the monthly income of the family.

''(iii) If the family is receiving payments for welfare assistance from a public agency and a part of those payments, adjusted in accordance with the actual housing costs of the family, is specifically designated by that agency to meet the housing costs of the family, the portion of those payments that is so designated.

''(B) FAMILIES RECEIVING TENANT-BASED ASSISTANCE; RENT EXCEEDS PAYMENT STANDARD.—For a family receiving tenant-based assistance under this title, if the rent for that family (including the amount allowed for tenant-paid utilities) exceeds the payment standard established under paragraph (1), the monthly assistance payment to that family shall be equal to the amount by

which the applicable payment standard exceeds the greatest of the following amounts, rounded to the nearest dollar:

''(i) Thirty percent of the monthly adjusted income of the family.

''(ii) Ten percent of the monthly income of the family.

''(iii) If the family is receiving payments for welfare assistance from a public agency and a part of those payments, adjusted in accordance with the actual housing costs of the family, is specifically designated by that agency to meet the housing costs of the family, the portion of those payments that is so designated.

''(C) FAMILIES RECEIVING PROJECT-BASED ASSISTANCE.—For a family receiving project-based assistance under this title, the rent that the family is required to pay shall be determined in accordance with section 3(a)(1), and the amount of the housing assistance payment shall be determined in accordance with subsection (c)(3) of this section.

''(3) FORTY PERCENT LIMIT.—At the time a family initially receives tenant-based assistance under this title with respect to any dwelling unit, the total amount that a family may be required to pay for rent may not exceed 40 percent of the monthly adjusted income of the family.

''(4) ELIGIBLE FAMILIES.—At the time a family initially receives assistance under this subsection, a family shall qualify as—

''(A) a very low-income family;

''(B) a family previously assisted under this title;

''(C) a low-income family that meets eligibility criteria specified by the public housing agency;

''(D) a family that qualifies to receive a voucher in connection with a homeownership program approved under title IV of the Cranston-Gonzalez National Affordable Housing Act; or

''(E) a family that qualifies to receive a voucher under section 223 or 226 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990.

''(5) ANNUAL REVIEW OF FAMILY INCOME.—Each public housing agency shall, not less frequently than annually, conduct a review of the family income of each family receiving assistance under this subsection.

''(6) SELECTION OF FAMILIES.—

''(A) IN GENERAL.—Each public housing agency may establish local preferences consistent with the public housing agency plan submitted by the public housing agency under section 5A, including a preference for families residing in public housing who are victims of a crime of violence (as that term is defined in section 16 of title 18, United States Code) that has been reported to an appropriate law enforcement agency.

''(B) SELECTION OF TENANTS.—The selection of tenants shall be made by the owner of the dwelling unit, subject to the annual contributions contract between the Secretary and the public housing agency.

''(7) LEASE.—Each housing assistance payment contract entered into by the public housing agency and the owner of a dwelling unit—

''(A) shall provide that the screening and selection of families for those units shall be the function of the owner;

''(B) shall provide that the lease between the tenant and the owner shall be for a term of not less than 1 year, except that the public housing agency may approve a shorter term for an initial lease between the tenant and the dwelling unit owner if the public housing agency determines that such shorter term would improve housing opportunities for the tenant and if such shorter term is considered to be an acceptable local market practice;

''(C) shall provide that the dwelling unit owner shall offer leases to tenants assisted under this subsection that—

''(i) are in a standard form used in the locality by the dwelling unit owner; and

''(ii) contain terms and conditions that—

''(I) are consistent with State and local law; and

''(II) apply generally to tenants in the property who are not assisted under this section;

''(D) shall provide that the dwelling unit owner may not terminate the tenancy of any person assisted under this subsection during the term of a lease that meets the requirements of this section unless the owner determines, on the same basis and in the same manner as would apply to a tenant in the property who does not receive assistance under this subsection, that—

''(i) the tenant has committed a serious or repeated violation of the terms and conditions of the lease;

''(ii) the tenant has violated applicable Federal, State, or local law; or

''(iii) other good cause for termination of the tenancy exists;

''(E) shall provide that any termination of tenancy under this subsection shall be preceded by the provision of written notice by the owner to the tenant specifying the grounds for that action, and any relief shall be consistent with applicable State and local law; and

''(F) may include any addenda appropriate to set forth the provisions of this title.

''(8) INSPECTION OF UNITS BY PUBLIC HOUSING AGENCIES.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), for each dwelling unit for which a housing assistance payment contract is established under this subsection, the public housing agency shall—

''(i) inspect the unit before any assistance payment is made to determine whether the dwelling unit meets housing quality standards for decent safe housing established—

''(I) by the Secretary for purposes of this subsection; or

''(II) by local housing codes or by codes adopted by public housing agencies that—

''(aa) meet or exceed housing quality standards; and

''(bb) do not severely restrict housing choice; and

''(ii) make not less than annual inspections during the contract term.

''(B) LEASING OF UNITS OWNED BY PUBLIC HOUSING AGENCY.—If an eligible family assisted under this subsection leases a dwelling unit (other than public housing) that is owned by a public housing agency administering assistance under this subsection, the Secretary shall require the unit of general local government, or another entity approved by the Secretary, to make inspections and rent determinations as required by this paragraph.

''(9) VACATED UNITS.—If an assisted family vacates a dwelling unit for which rental assistance is provided under a housing assistance contract before the expiration of the term of the lease for the unit, rental assistance pursuant to such contract may not be provided for the unit after the month during which the unit was vacated.

''(10) RENT.—

''(A) REASONABLE MARKET RENT.—The rent for dwelling units for which a housing assistance payment contract is established under this subsection shall be reasonable in comparison with rents charged for comparable dwelling units in the private, unassisted, local market, or for comparable dwelling units that are in the assisted, local market.

''(B) NEGOTIATED RENT.—A public housing agency shall, at the request of a family receiving tenant-based assistance under this subsection, assist that family in negotiating a reasonable rent with a dwelling unit owner. A public housing agency shall review the rent for a unit under consideration by the family (and all rent increases for units under lease by the family) to determine whether the rent (or rent increase) requested by the owner is reasonable. If a public housing agency determines that the rent (or rent increase) for a dwelling unit is not reasonable, the public housing agency shall not make housing assistance payments to the owner under this subsection with respect to that unit.

''(C) UNITS EXEMPT FROM LOCAL RENT CONTROL.—If a dwelling unit for which a housing assistance payment contract is established under this subsection is exempt from local rent control provisions during the term of that contract, the rent for that unit shall be reasonable in comparison with other units in the market area that are exempt from local rent control provisions.

''(D) TIMELY PAYMENTS.—Each public housing agency shall make timely payment of any amounts due to a dwelling unit owner under this subsection. The housing assistance payment contract between the owner and the public housing agency may provide for penalties for the late payment of amounts due under the contract, which shall be imposed on the public housing agency in accordance with generally accepted practices in the local housing market.

''(E) PENALTIES.—Unless otherwise authorized by the Secretary, each public housing agency shall pay any penalties from administrative fees collected by the public housing agency, except that no penalty shall be imposed if the late payment is due to factors that the Secretary determines are beyond the control of the public housing agency.

''(11) MANUFACTURED HOUSING.—

''(A) IN GENERAL.—A public housing agency may make assistance payments in accordance with this subsection on behalf of a family that utilizes a manufactured home as a principal place of residence. Such payments may be made for the rental of the real property on which the manufactured home owned by any such family is located.

''(B) RENT CALCULATION.—

''(i) CHARGES INCLUDED.—For assistance pursuant to this paragraph, the rent for the space on which a manufactured home is located and with respect to which assistance payments are to be made shall include maintenance and management charges and tenant-paid utilities.

''(ii) PAYMENT STANDARD.—The public housing agency shall establish a payment standard for the purpose of determining the monthly assistance that may be paid for any family under this paragraph. The payment standard may not exceed an amount approved or established by the Secretary.

''(iii) MONTHLY ASSISTANCE PAYMENT.—The monthly assistance payment under this paragraph shall be determined in accordance with paragraph (2).

''(12) CONTRACT FOR ASSISTANCE PAYMENTS.—

''(A) IN GENERAL.—If the Secretary enters into an annual contributions contract under this subsection with a public housing agency pursuant to which the public housing agency will enter into a housing assistance payment contract with respect to an existing structure under this subsection—

''(i) the housing assistance payment contract may not be attached to the structure unless the owner agrees to rehabilitate or newly construct the structure other than with assistance under this Act, and otherwise complies with this section; and

''(ii) the public housing agency may approve a housing assistance payment contract for such existing structure for not more than

15 percent of the funding available for tenant-based assistance administered by the public housing agency under this section.

''(B) EXTENSION OF CONTRACT TERM.—In the case of a housing assistance payment contract that applies to a structure under this paragraph, a public housing agency may enter into a contract with the owner, contingent upon the future availability of appropriated funds for the purpose of renewing expiring contracts for assistance payments, as provided in appropriations Acts, to extend the term of the underlying housing assistance payment contract for such period as the Secretary determines to be appropriate to achieve long-term affordability of the housing. The contract shall obligate the owner to have such extensions of the underlying housing assistance payment contract accepted by the owner and the successors in interest of the owner.

''(C) RENT CALCULATION.—For project-based assistance under this paragraph, housing assistance payment contracts shall establish rents and provide for rent adjustments in accordance with subsection (c).

''(D) ADJUSTED RENTS.—With respect to rents adjusted under this paragraph—

''(i) the adjusted rent for any unit shall be reasonable in comparison with rents charged for comparable dwelling units in the private, unassisted, local market, or for comparable dwelling units that are in the assisted local market; and

''(ii) the provisions of subsection (c)(2)(C) do not apply.

''(13) INAPPLICABILITY TO TENANT-BASED ASSISTANCE.—Subsection (c) does not apply to tenant-based assistance under this subsection.

''(14) HOMEOWNERSHIP OPTION.—

''(A) IN GENERAL.—A public housing agency providing assistance under this subsection may, at the option of the agency, provide assistance for homeownership under subsection (y).

''(B) ALTERNATIVE ADMINISTRATION.—A public housing agency may contract with a nonprofit organization to administer a homeownership program under subsection (y).

''(15) RENTAL VOUCHERS FOR RELOCATION OF WITNESSES AND VICTIMS OF CRIME.—

''(A) IN GENERAL.—Of amounts made available for assistance under this subsection in each fiscal year, the Secretary, in consultation with the Inspector General, shall make available such sums as may be necessary for the relocation of witnesses in connection with efforts to combat crime in public and assisted housing pursuant to requests from law enforcement or prosecution agencies.

''(B) VICTIMS OF CRIME.—

''(i) IN GENERAL.—Of amounts made available for assistance under this section in each fiscal year, the Secretary shall make available such sums as may be necessary for the relocation of families residing in public housing who are victims of a crime of violence (as that term is defined in section 16 of title 18, United States Code) that has been reported to an appropriate law enforcement agency.

''(ii) NOTICE.—A public housing agency that receives amounts under this subparagraph shall establish procedures for providing notice of the availability of that assistance to families that may be eligible for that assistance.''.

(b) CONFORMING AMENDMENT.—Section 8(f)(6) of the United States Housing Act (42 U.S.C. 1437f(f)(6)) is amended by striking ''(d)(2)'' and inserting ''(o)(12)''.

SEC. 202. REPEAL OF FEDERAL PREFERENCES.

(a) SECTION 8 EXISTING AND MODERATE REHABILITATION.—Section 8(d)(1)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(A)) is amended to read as follows:

''(A) the selection of tenants shall be the function of the owner, subject to the annual contributions contract between the Secretary and the agency, except that with respect to the certificate and moderate rehabilitation programs only, for the purpose of selecting families to be assisted, the public housing agency may establish local preferences, consistent with the public housing agency plan submitted by the public housing agency under section 5A;''.

(b) SECTION 8 NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION.—

(1) REPEAL.—Section 545(c) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437f note) is amended to read as follows:

''(c) [Reserved.]''.

(2) PROHIBITION.—The provisions of section 8(e)(2) of the United States Housing Act of 1937, as in existence on the day before October 1, 1983, that require tenant selection preferences shall not apply with respect to—

(A) housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of the United States Housing Act of 1937, as in existence on the day before October 1, 1983; or

(B) projects financed under section 202 of the Housing Act of 1959, as in existence on the day before the date of enactment of the Cranston-Gonzalez National Affordable Housing Act.

(c) RENT SUPPLEMENTS.—Section 101(k) of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s(k)) is amended to read as follows:

''(k) [Reserved.]''.

(d) CONFORMING AMENDMENTS.—

(1) UNITED STATES HOUSING ACT OF 1937.—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended—

(A) in section 6(o), by striking ''preference rules specified in'' and inserting ''written selection criteria established pursuant to'';

(B) in section 8(d)(2)(A), by striking the last sentence; and

(C) in section 8(d)(2)(H), by striking ''Notwithstanding subsection (d)(1)(A)(i), an'' and inserting ''An''.

(2) CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT.—The Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704 et seq.) is amended—

(A) in section 455(a)(2)(D)(iii), by striking ''would qualify for a preference under'' and inserting ''meet the written selection criteria established pursuant to''; and

(B) in section 522(f)(6)(B), by striking ''any preferences for such assistance under section 8(d)(1)(A)(i)'' and inserting ''the written selection criteria established pursuant to section 8(d)(1)(A)''.

(3) LOW-INCOME HOUSING PRESERVATION AND RESIDENT HOMEOWNERSHIP ACT OF 1990.—The second sentence of section 226(b)(6)(B) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4116(b)(6)(B)) is amended by striking ''requirement for giving preferences to certain categories of eligible families under'' and inserting ''written selection criteria established pursuant to''.

(4) HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992.—Section 655 of the Housing and Community Development Act of 1992 (42 U.S.C. 13615) is amended by striking ''preferences for occupancy'' and all that follows before the period at the end and inserting ''selection criteria established by the owner to elderly families according to such written selection criteria, and to near-elderly families according to such written selection criteria, respectively''.

(5) REFERENCES IN OTHER LAW.—Any reference in any Federal law other than any provision of any law amended by paragraphs (1) through (5) of this subsection or section 201 to the preferences for assistance under section 8(d)(1)(A)(i) or 8(o)(3)(B) of the United States Housing Act of 1937, as those sections existed on the day before the effective date of this title, shall be considered to refer to the written selection criteria established pursuant to section 8(d)(1)(A) or 8(o)(6)(A), respectively, of the United States Housing Act of 1937, as amended by this subsection and section 201 of this Act.

SEC. 203. PORTABILITY.

Section 8(r) of the United States Housing Act of 1937 (42 U.S.C. 1437f(r)) is amended—

(1) in paragraph (1)—

(A) by striking ''assisted under subsection (b) or (o)'' and inserting ''receiving tenant-based assistance under subsection (o)''; and

(B) by striking ''the same State'' and all that follows before the semicolon and inserting ''any area in which a program is being administered under this section'';

(2) in paragraph (2), by striking the last sentence;

(3) in paragraph (3)—

(A) by striking ''(b) or''; and

(B) by adding at the end the following: ''The Secretary shall establish procedures for the compensation of public housing agencies that issue vouchers to families that move into or out of the jurisdiction of the public housing agency under portability procedures. The Secretary may reserve amounts available for assistance under subsection (o) to compensate those public housing agencies.''; and

(4) by adding at the end the following:

''(5) LEASE VIOLATIONS.—A family may not receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has moved out of the assisted dwelling unit of the family in violation of a lease.''.

SEC. 204. LEASING TO VOUCHER HOLDERS.

Section 8(t) of the United States Housing Act of 1937 (42 U.S.C. 1437f(t)) is amended to read as follows:

''(t) [Reserved.]''.

SEC. 205. HOMEOWNERSHIP OPTION.

(a) IN GENERAL.—Section 8(y) of the United States Housing Act of 1937 (42 U.S.C. 1437f(y)) is amended—

(1) in paragraph (1)—

(A) by striking ''A family receiving'' and all that follows through ''if the family'' and inserting the following: ''A public housing agency providing tenant-based assistance on behalf of an eligible family under this section may provide assistance for an eligible family that purchases a dwelling unit (including a unit under a lease-purchase agreement) that will be owned by 1 or more members of the family, and will be occupied by the family, if the family'';

(B) in subparagraph (A), by inserting before the semicolon '', or owns or is acquiring shares in a cooperative''; and

(C) in subparagraph (B)—

(i) by striking ''(i) participates'' and all that follows through ''(ii) demonstrates'' and inserting ''demonstrates''; and

(ii) by inserting '', except that the Secretary may provide for the consideration of public assistance in the case of an elderly family or a disabled family'' after ''other than public assistance'';

(2) by striking paragraph (2) and inserting the following:

''(2) DETERMINATION OF AMOUNT OF ASSISTANCE.—

''(A) MONTHLY EXPENSES DO NOT EXCEED PAYMENT STANDARD.—If the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, do not exceed the payment standard, the monthly assistance payment shall be the amount by which the homeownership

expenses exceed the highest of the following amounts, rounded to the nearest dollar:

''(i) Thirty percent of the monthly adjusted income of the family.

''(ii) Ten percent of the monthly income of the family.

''(iii) If the family is receiving payments for welfare assistance from a public agency, and a portion of those payments, adjusted in accordance with the actual housing costs of the family, is specifically designated by that agency to meet the housing costs of the family, the portion of those payments that is so designated.

''(B) MONTHLY EXPENSES EXCEED PAYMENT STANDARD.—If the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, exceed the payment standard, the monthly assistance payment shall be the amount by which the applicable payment standard exceeds the highest of the following amounts, rounded to the nearest dollar:

''(i) Thirty percent of the monthly adjusted income of the family.

''(ii) Ten percent of the monthly income of the family.

''(iii) If the family is receiving payments for welfare assistance from a public agency and a part of those payments, adjusted in accordance with the actual housing costs of the family, is specifically designated by that agency to meet the housing costs of the family, the portion of those payments that is so designated.'';

(3) by striking paragraphs (3) and (4) and inserting the following:

''(3) INSPECTIONS AND CONTRACT CONDITIONS.—

''(A) IN GENERAL.—Each contract for the purchase of a unit to be assisted under this section shall—

''(i) provide for pre-purchase inspection of the unit by an independent professional; and

''(ii) require that any cost of necessary repairs be paid by the seller.

''(B) ANNUAL INSPECTIONS NOT REQUIRED.—The requirement under subsection (o)(8)(A)(ii) for annual inspections shall not apply to units assisted under this section.

''(4) OTHER AUTHORITY OF THE SECRETARY.—The Secretary may—

''(A) limit the term of assistance for a family assisted under this subsection; and

''(B) modify the requirements of this subsection as the Secretary determines to be necessary to make appropriate adaptations for lease-purchase agreements.'';

(4) by striking paragraph (5); and

(5) by redesignating paragraphs (6) through (8) as paragraphs (5) through (7), respectively.

(b) DEMONSTRATION.—

(1) IN GENERAL.—With the consent of the affected public housing agencies, the Secretary may carry out (or contract with 1 or more entities to carry out) a demonstration program under section 8(y) of the United States Housing Act of 1937 (42 U.S.C. 1437f(y)) to expand homeownership opportunities for low-income families.

(2) REPORT.—The Secretary shall report annually to Congress on activities conducted under this subsection.

SEC. 206. LAW ENFORCEMENT AND SECURITY PERSONNEL IN PUBLIC HOUSING.

Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended by adding at the end the following:

''(cc) LAW ENFORCEMENT AND SECURITY PERSONNEL.—

''(1) IN GENERAL.—Notwithstanding any other provision of this Act, in the case of assistance attached to a structure, for the purpose of increasing security for the residents of a public housing project, an owner may admit, and assistance may be provided to, police officers and other security personnel who are not otherwise eligible for assistance under the Act).

''(2) RENT REQUIREMENTS.—With respect to any assistance provided by an owner under this subsection, the Secretary may—

''(A) permit the owner to establish such rent requirements and other terms and conditions of occupancy that the Secretary considers to be appropriate; and

''(B) require the owner to submit an application for those rent requirements, which application shall include such information as the Secretary, in the discretion of the Secretary, determines to be necessary.''.

SEC. 207. TECHNICAL AND CONFORMING AMENDMENTS.

(a) LOWER INCOME HOUSING ASSISTANCE.—Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended—

(1) in subsection (a), by striking the second and third sentences;

(2) in subsection (b)—

(A) in the subsection heading, by striking ''RENTAL CERTIFICATES AND''; and

(B) in the first undesignated paragraph—

(i) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary''; and

(ii) by striking the second sentence;

(3) in subsection (c)—

(A) in paragraph (3)—

(i) by striking ''(A)''; and

(ii) by striking subparagraph (B);

(B) in the first sentence of paragraph (4), by striking ''or by a family that qualifies to receive'' and all that follows through ''1990'';

(C) by striking paragraph (5) and redesignating paragraph (6) as paragraph (5);

(D) by striking paragraph (7) and redesignating paragraphs (8) through (10) as paragraphs (6) through (8), respectively;

(E) effective on October 1, 1997, in paragraph (7), as redesignated, by striking ''housing certificates or vouchers under subsection (b) or'' and inserting ''a voucher under subsection''; and

(F) in paragraph (8), as redesignated, by striking ''(9)'' and inserting ''(7)'';

(4) in subsection (d)—

(A) in paragraph (1)(B)(iii), by striking ''drug-related criminal activity on or near such premises'' and inserting ''violent or drug-related criminal activity on or off such premises, or any activity resulting in a felony conviction'';

(B) in paragraph (2)—

(i) in subparagraph (A), by striking the third sentence and all that follows through the end of the subparagraph; and

(ii) by striking subparagraphs (B) through (E) and redesignating subparagraphs (F) through (H) as subparagraphs (B) through (D), respectively;

(5) in subsection (f)—

(A) in paragraph (6), by striking ''(d)(2)'' and inserting ''(o)(11)''; and

(B) in paragraph (7)—

(i) by striking ''(b) or''; and

(ii) by inserting before the period the following: ''and that provides for the eligible family to select suitable housing and to move to other suitable housing'';

(6) by striking subsection (j) and inserting the following:

''(j) [Reserved.]'';

(7) by striking subsection (n) and inserting the following:

''(n) [Reserved.]'';

(8) in subsection (q)—

(A) in the first sentence of paragraph (1), by striking ''certificate and housing voucher programs under subsections (b) and (o)'' and inserting ''voucher program under this section'';

(B) in paragraph (2)(A)(i), by striking ''certificate and housing voucher programs under subsections (b) and (o)'' and inserting ''voucher program under this section''; and

(C) in paragraph (2)(B), by striking ''certificate and housing voucher programs under subsections (b) and (o)'' and inserting ''voucher program under this section'';

(9) in subsection (u)—

(A) in paragraph (2), by striking '', certificates''; and

(B) by striking ''certificates or'' each place that term appears; and

(10) in subsection (x)(2), by striking ''housing certificate assistance'' and inserting ''tenant-based assistance''.

(b) PUBLIC HOUSING HOMEOWNERSHIP AND MANAGEMENT OPPORTUNITIES.—Section 21(b)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437s(b)(3)) is amended—

(1) in the first sentence, by striking ''(at the option of the family) a certificate under section 8(b)(1) or a housing voucher under section 8(o)'' and inserting ''tenant-based assistance under section 8''; and

(2) by striking the second sentence.

(c) DOCUMENTATION OF EXCESSIVE RENT BURDENS.—Section 550(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437f note) is amended—

(1) in paragraph (1), by striking ''assisted under the certificate and voucher programs established'' and inserting ''receiving tenant-based assistance'';

(2) in the first sentence of paragraph (2)—

(A) by striking '', for each of the certificate program and the voucher program'' and inserting ''for the tenant-based assistance under section 8''; and

(B) by striking ''participating in the program'' and inserting ''receiving tenant-based assistance''; and

(3) in paragraph (3), by striking ''assistance under the certificate or voucher program'' and inserting ''tenant-based assistance under section 8 of the United States Housing Act of 1937''.

(d) GRANTS FOR COMMUNITY RESIDENCES AND SERVICES.—Section 861(b)(1)(D) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12910(b)(1)(D)) is amended by striking ''certificates or vouchers'' and inserting ''assistance''.

(e) SECTION 8 CERTIFICATES AND VOUCHERS.—Section 931 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437c note) is amended by striking ''assistance under the certificate and voucher programs under sections 8(b) and (o) of such Act'' and inserting ''tenant-based assistance under section 8 of the United States Housing Act of 1937''.

(f) ASSISTANCE FOR DISPLACED RESIDENTS.—Section 223(a) of the Housing and Community Development Act of 1987 (12 U.S.C. 4113(a)) is amended by striking ''assistance under the certificate and voucher programs under sections 8(b) and 8(o)'' and inserting ''tenant-based assistance under section 8''.

(g) RURAL HOUSING PRESERVATION GRANTS.—Section 533(a) of the Housing Act of 1949 (42 U.S.C. 1490m(a)) is amended in the second sentence by striking ''assistance payments as provided by section 8(o)'' and inserting ''tenant-based assistance as provided under section 8''.

(h) REPEAL OF MOVING TO OPPORTUNITIES FOR FAIR HOUSING DEMONSTRATION.—Section 152 of the Housing and Community Development Act of 1992 (42 U.S.C. 1437f note) is repealed.

(i) PREFERENCES FOR ELDERLY FAMILIES AND PERSONS.—Section 655 of the Housing and Community Development Act of 1992 (42 U.S.C. 13615) is amended by striking ''the first sentence of section 8(o)(3)(B)'' and inserting ''section 8(o)(6)(A)''.

(j) ASSISTANCE FOR TROUBLED MULTIFAMILY HOUSING PROJECTS.—Section 201(m)(2)(A) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–1a(m)(2)(A)) is amended by striking ''section 8(b)(1)'' and inserting ''section 8''.

(k) MANAGEMENT AND DISPOSITION OF MULTIFAMILY HOUSING PROJECTS.—Section 203(g)(2) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z–11(g)(2)) is amended by striking ''8(o)(3)(B)'' and inserting ''8(o)(6)(A)''.

SEC. 208. IMPLEMENTATION.

In accordance with the negotiated rulemaking procedures set forth in subchapter III of chapter 5 of title 5, United States Code, the Secretary shall issue such regulations as may be necessary to implement the amendments made by this title after notice and opportunity for public comment.

SEC. 209. DEFINITION.

In this title, the term ''public housing agency'' has the same meaning as section 3 of the United States Housing Act of 1937, except that such term shall also include any other nonprofit entity serving more than 1 local government jurisdiction that was administering the section 8 tenant-based assistance program pursuant to a contract with the Secretary or a public housing agency prior to the date of enactment of this Act.

SEC. 210. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this title shall become effective not later than 1 year after the date of enactment of this Act.

(b) CONVERSION ASSISTANCE.—

(1) IN GENERAL.—The Secretary may provide for the conversion of assistance under the certificate and voucher programs under subsections (b) and (o) of section 8 of the United States Housing Act of 1937, as those sections existed on the day before the effective date of the amendments made by this title, to the voucher program established by the amendments made by this title.

(2) CONTINUED APPLICABILITY.—The Secretary may apply the provisions of the United States Housing Act of 1937, or any other provision of law amended by this title, as those provisions existed on the day before the effective date of the amendments made by this title, to assistance obligated by the Secretary before that effective date for the certificate or voucher program under section 8 of the United States Housing Act of 1937, if the Secretary determines that such action is necessary for simplification of program administration, avoidance of hardship, or other good cause.

SEC. 211. RECAPTURE AND REUSE OF ANNUAL CONTRIBUTION CONTRACT PROJECT RESERVES UNDER THE TENANT-BASED ASSISTANCE PROGRAM.

Section 8(d) of the United States Housing Act of 1937 is amended by adding at the end the following:

''(5) RECAPTURE AND REUSE OF ANNUAL CONTRIBUTION CONTRACT PROJECT RESERVES.—

''(A) RECAPTURE.—To the extent that the Secretary determines that the amount in the annual contribution contract reserve account under a contract with a public housing agency for tenant-based assistance under this section is in excess of the amount needed by the public housing agency, the Secretary shall recapture such excess amount.

''(B) REUSE.—The Secretary may hold any amounts under this paragraph in reserve until needed to amend or renew an annual contributions contract with any public housing agency.''.

TITLE III—SAFETY AND SECURITY IN PUBLIC AND ASSISTED HOUSING

SEC. 301. SCREENING OF APPLICANTS.

(a) INELIGIBILITY BECAUSE OF PAST EVICTIONS.—

(1) IN GENERAL.—Any household or member of a household evicted from federally assisted housing (as that term is defined in section 305(1)) by reason of drug-related criminal activity (as that term is defined in section 305(3)) or for other serious violations of the terms or conditions of the lease shall not be eligible for federally assisted housing—

(A) in the case of eviction by reason of drug-related criminal activity, for a period of not less than 3 years from the date of the eviction unless the evicted member of the household successfully completes a rehabilitation program; and

(B) for other evictions, for a reasonable period of time as determined by the public housing agency or owner of the federally assisted housing, as applicable.

(2) WAIVER.—The requirements of subparagraphs (A) and (B) of paragraph (1) may be waived if the circumstances leading to eviction no longer exist.

(b) INELIGIBILITY OF ILLEGAL DRUG USERS AND ALCOHOL ABUSERS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a public housing agency shall establish standards that prohibit admission to the program or admission to federally assisted housing for any household with a member—

(A) who the public housing agency determines is engaging in the illegal use of a controlled substance; or

(B) with respect to whom the public housing agency determines that it has reasonable cause to believe that such household member's illegal use (or pattern of illegal use) of a controlled substance, or abuse (or pattern of abuse) of alcohol would interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.

(2) OWNERS OF FEDERALLY ASSISTED HOUSING.—The Secretary may require any owner of federally assisted housing to establish admission standards under this subsection.

(3) CONSIDERATION OF REHABILITATION.—In determining whether, pursuant to paragraph (1)(B), to deny admission to the program or to federally assisted housing to any household based on a pattern of illegal use of a controlled substance or a pattern of abuse of alcohol by a household member, a public housing agency may consider whether such household member—

(A) has successfully completed a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable);

(B) has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable); or

(C) is participating in a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable).

(c) PROCEDURE FOR RECEIPT OF INFORMATION FROM A DRUG ABUSE TREATMENT FACILITY ABOUT THE CURRENT ILLEGAL USE OF A CONTROLLED SUBSTANCE.—

(1) DEFINITIONS.—In this subsection:

(A) DRUG ABUSE TREATMENT FACILITY.—The term ''drug abuse treatment facility'' means—

(i) an entity other than a general medical care facility; or

(ii) an identified unit within a general medical care facility which holds itself out as providing, and provides, diagnosis, treatment, or referral for treatment with respect to the illegal use of a controlled substance.

(B) CONTROLLED SUBSTANCE.—The term ''controlled substance'' has the meaning given the term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(C) CURRENTLY ENGAGING IN THE ILLEGAL USE OF A CONTROLLED SUBSTANCE.—The term ''currently engaging in the illegal use of a controlled substance'' means the illegal use of a controlled substance that occurred recently enough to justify a reasonable belief that an applicant's illegal use of a controlled substance is current or that continuing illegal use of a controlled substance by the applicant is a real and ongoing problem.

(2) AUTHORITY.—Notwithstanding any other provision of law other than the Public Health Service Act (42 U.S.C. 201 et seq.), a public housing agency may require each person who applies for admission to public housing to sign 1 or more forms of written consent authorizing the public housing agency to receive information from a drug abuse treatment facility that is solely related to whether the applicant is currently engaging in the illegal use of a controlled substance.

(3) RESTRICTIONS TO PROTECT THE CONFIDENTIALITY OF AN APPLICANT'S RECORDS.—

(A) LIMITATION ON THE KIND AND AMOUNT OF INFORMATION REQUESTED ON FORM OF WRITTEN CONSENT.—In a form of written consent, a public housing agency may request only whether the drug abuse treatment facility has reasonable cause to believe that the applicant is currently engaging in the illegal use of a controlled substance.

(B) RECORDS MANAGEMENT.—Each public housing agency that receives information under this subsection from a drug abuse treatment facility shall establish and implement a system of records management that ensures that any information received by the public housing agency under this subsection—

(i) is maintained confidentially in accordance with section 543 of the Public Health Service Act (12 U.S.C. 290dd–2);

(ii) is not misused or improperly disseminated; and

(iii) is destroyed, as applicable—

(I) not later than 5 business days after the date on which the public housing agency gives final approval for an application for admission; or

(II) if the public housing agency denies the application for admission, in a timely manner after the date on which the statute of limitations for the commencement of a civil action from the applicant based upon that denial of admission has expired.

(C) EXPIRATION OF WRITTEN CONSENT.—In addition to the requirements of subparagraph (B), an applicant's signed written consent shall expire automatically after the public housing agency has made a final decision to either approve or deny the applicant's application for admittance to public housing.

(4) RESTRICTIONS TO PROHIBIT THE DISCRIMINATORY TREATMENT OF APPLICANTS.—

(A) FORMS SIGNED.—A public housing agency may only require an applicant for admission to public housing to sign 1 or more forms of written consent under this subsection if the public housing agency requires all such applicants to sign the same form or forms of written consent.

(B) CIRCUMSTANCES OF INQUIRY.—A public housing agency may only make an inquiry to a drug abuse treatment facility under this subsection if—

(i) the public housing agency makes the same inquiry with respect to all applicants; or

(ii) the public housing agency only makes the same inquiry with respect to each and every applicant with respect to whom—

(I) the public housing agency receives information from the criminal record of the applicant that indicates evidence of a prior arrest or conviction; or

(II) the public housing agency receives information from the records of prior tenancy of the applicant that demonstrates that the applicant—

(aa) engaged in the destruction of property;

(bb) engaged in violent activity against another person; or

(cc) interfered with the right of peaceful enjoyment of the premises of another tenant.

(5) FEE PERMITTED.—A drug abuse treatment facility may charge a public housing agency a reasonable fee for information provided under this subsection.

(6) DISCLOSURE PERMITTED BY DRUG ABUSE TREATMENT FACILITIES.—A drug abuse treatment facility shall not be liable for damages based on any information required to be disclosed pursuant to this subsection if such disclosure is consistent with section 543 of the Public Health Service Act (42 U.S.C. 290dd–2).

(7) PUBLIC HOUSING AGENCIES NOT REQUIRED TO MAKE INQUIRIES TO DRUG ABUSE TREATMENT FACILITIES.—A public housing agency shall not be liable for damages based on its decision not to require each person who applies for admission to public housing to sign 1 or more forms of written consent authorizing the public housing agency to receive information from a drug abuse treatment facility under this subsection.

(8) EFFECTIVE DATE.—This subsection shall take effect upon enactment and without the necessity of guidance from, or any regulation issued by, the Secretary.

(d) STUDY AND REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study, and submit to the Committee on Banking, Housing, and Urban Affairs of the Senate a report that includes information relating to—

(1) the proportion of United States public housing agencies that screen applicants for drug and alcohol addiction;

(2) the extent, if any, to which the screening described in paragraph (1), alone or in combination with other initiatives, has reduced crime in public housing; and

(3) the relative value of different types of information used by public housing agencies in the screening process described in paragraph (1), including criminal records, credit histories, tenancy records, and information from drug abuse treatment facilities on current illegal drug use of applicants (as that term is defined in subsection (c)(1)).

(e) AUTHORITY TO REQUIRE ACCESS TO CRIMINAL RECORDS.—A public housing agency may require, as a condition of providing admission to the public housing program or assisted housing program under the jurisdiction of the public housing agency, that each adult member of the household provide a signed, written authorization for the public housing agency to obtain records described in section 304 regarding such member of the household from the National Crime Information Center, police departments, and other law enforcement agencies.

(f) INELIGIBILITY OF SEXUALLY VIOLENT PREDATORS FOR ADMISSION TO PUBLIC HOUSING.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a public housing agency shall prohibit admission to public or assisted housing of any family that includes any individual who is a sexually violent predator.

(2) DEFINITION.—In this subsection, the term ''sexually violent predator'' means an individual who—

(A) is a sexually violent predator (as that term is defined in section 170101(a)(3) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(a)(3))); and

(B) is subject to a registration requirement under section 170101(a)(1)(B) or 170102(c) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(a)(1)(B), 14072(c)), as provided under section 170101(b)(6)(B) or 170102(d)(2), respectively, of that Act.

SEC. 302. TERMINATION OF TENANCY AND ASSISTANCE.

(a) TERMINATION OF TENANCY AND ASSISTANCE FOR ILLEGAL DRUG USERS AND ALCOHOL ABUSERS.—Notwithstanding any other provision of law, a public housing agency or an owner of federally assisted housing, as applicable, shall establish standards or lease provisions for continued assistance or occupancy in federally assisted housing that allow a public housing agency or the owner, as applicable, to terminate the tenancy or assistance for any household with a member—

(1) who the public housing agency or owner determines is engaging in the illegal use of a controlled substance; or

(2) whose illegal use of a controlled substance, or whose abuse of alcohol, is determined by the public housing agency or owner to interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.

(b) TERMINATION OF ASSISTANCE FOR SERIOUS OR REPEATED LEASE VIOLATION.—Notwithstanding any other provision of law, the public housing agency must terminate tenant-based assistance for all household members if the household is evicted from assisted housing for serious or repeated violation of the lease.

SEC. 303. LEASE REQUIREMENTS.

In addition to any other applicable lease requirements, each lease for a dwelling unit in federally assisted housing shall provide that, during the term of the lease—

(1) the owner may not terminate the tenancy except for serious or repeated violation of the terms and conditions of the lease, violation of applicable Federal, State, or local law, or other good cause; and

(2) grounds for termination of tenancy shall include any activity, engaged in by the resident, any member of the resident's household, any guest, or any other person under the control of any member of the household, that—

(A) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other residents or employees of the public housing agency, owner, or other manager of the housing;

(B) threatens the health or safety of, or right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises; or

(C) is drug-related or violent criminal activity on or off the premises, or any activity resulting in a felony conviction.

SEC. 304. AVAILABILITY OF CRIMINAL RECORDS FOR PUBLIC HOUSING RESIDENT SCREENING AND EVICTION.

(a) IN GENERAL.—

(1) PROVISION OF INFORMATION.—Notwithstanding any other provision of law other than paragraph (2), upon the request of a public housing agency, the National Crime Information Center, a police department, and any other law enforcement agency shall provide to the public housing agency information regarding the criminal conviction records of an adult applicant for, or residents of, the public housing program or assisted housing program under the jurisdiction of the public housing agency for purposes of applicant screening, lease enforcement, and eviction, but only if the public housing agency requests such information and presents to such Center, department, or agency a written authorization, signed by such applicant, for the release of such information to such public housing agency.

(2) EXCEPTION.—A law enforcement agency described in paragraph (1) shall provide information under this paragraph relating to any criminal conviction of a juvenile only to the extent that the release of such information is authorized under the law of the applicable State, tribe, or locality.

(b) INFORMATION REGARDING CRIMES COMMITTED BY SEXUALLY VIOLENT PREDATORS AND CRIMES AGAINST CHILDREN.—

(1) DEFINITION OF APPROPRIATE LAW ENFORCEMENT AGENCY.—In this subsection, the term ''appropriate law enforcement agency'' means—

(A) the Federal Bureau of Investigation;

(B) a State law enforcement agency designated as a registration agency under a State registration program under subtitle A of title XVII of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071 et seq.); or

(C) any local law enforcement agency authorized by a State law enforcement agency described in subparagraph (B).

(2) PROVISION OF INFORMATION.—Notwithstanding any other provision of law other than subsection (a)(2), the appropriate law enforcement agency shall provide to a public housing agency any information collected under the national database established pursuant to section 170102 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14072), or under a State registration program under subtitle A of title XVII of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071 et seq.), as applicable, regarding an adult who is an applicant for, or a resident of, federally assisted housing, for purposes of applicant screening, lease enforcement, or eviction, if the public housing agency—

(A) requests the information; and

(B) presents to the appropriate law enforcement agency a written authorization, signed by the adult at issue, for the release of that information to the public housing agency or other owner of the federally assisted housing.

(c) OPPORTUNITY TO DISPUTE.—Before an adverse action is taken with regard to assistance for public housing on the basis of a criminal record, the public housing agency shall provide the resident or applicant with a copy of the criminal record and an opportunity to dispute the accuracy and relevance of that record.

(d) RECORDS MANAGEMENT.—Each public housing agency that receives criminal record information under this section shall establish and implement a system of records management that ensures that any criminal record received by the agency is—

(1) maintained confidentially;

(2) not misused or improperly disseminated; and

(3) destroyed in a timely fashion, once the purpose for which the record was requested has been accomplished.

(e) FEE.—A public housing agency may be charged a reasonable fee for information provided under this section.

(f) DEFINITION OF ADULT.—In this section, the term ''adult'' means a person who is 18 years of age or older, or who has been convicted of a crime as an adult under any Federal, State, or tribal law.

SEC. 305. DEFINITIONS.

In this title:

(1) FEDERALLY ASSISTED HOUSING.—The term ''federally assisted housing'' means a unit in—

(A) public housing under the United States Housing Act of 1937;

(B) housing assisted under section 8 of the United States Housing Act of 1937 including both tenant-based assistance and project-based assistance;

(C) housing that is assisted under section 202 of the Housing Act of 1959 (as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act);

(D) housing that is assisted under section 202 of the Housing Act of 1959 (as in existence immediately before the date of enactment of

the Cranston-Gonzalez National Affordable Housing Act); and

(E) housing that is assisted under section 811 of the Cranston-Gonzalez National Affordable Housing Act.

(2) DRUG-RELATED CRIMINAL ACTIVITY.—The term ''drug-related criminal activity'' means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

(3) OWNER.—The term ''owner'' means, with respect to federally assisted housing, the entity or private person, including a cooperative or public housing agency, that has the legal right to lease or sublease dwelling units in such housing.

SEC. 306. CONFORMING AMENDMENTS.

Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) is amended—

(1) in subsection (l) (as amended by section 107(f) of this Act)—

(A) by striking paragraphs (4) and (5);

(B) by striking the last sentence; and

(C) by redesignating paragraphs (6) through (8) as paragraphs (4) through (6), respectively;

(2) by striking subsections (q) and (r); and

(3) by redesignating subsection (s) (as added by section 109 of this Act) as subsection (q).

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. PUBLIC HOUSING FLEXIBILITY IN THE CHAS.

Section 105(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)) is amended—

(1) by redesignating the second paragraph designated as paragraph (17) (as added by section 681(2) of the Housing and Community Development Act of 1992) as paragraph (20);

(2) by redesignating paragraph (17) (as added by section 220(b)(3) of the Housing and Community Development Act of 1992) as paragraph (19);

(3) by redesignating the second paragraph designated as paragraph (16) (as added by section 220(c)(1) of the Housing and Community Development Act of 1992) as paragraph (18);

(4) in paragraph (16)—

(A) by striking the period at the end and inserting a semicolon; and

(B) by striking ''(16)'' and inserting ''(17)'';

(5) by redesignating paragraphs (11) through (15) as paragraphs (12) through (16), respectively; and

(6) by inserting after paragraph (10) the following:

''(11) describe the manner in which the plan of the jurisdiction will help address the needs of public housing and is consistent with the local public housing agency plan under section 5A of the United States Housing Act of 1937;''.

SEC. 402. DETERMINATION OF INCOME LIMITS.

(a) IN GENERAL.—Section 3(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(2)) is amended—

(1) in the fourth sentence—

(A) by striking ''County,'' and inserting ''and Rockland Counties''; and

(B) by inserting ''each'' before ''such county''; and

(2) in the fifth sentence, by striking ''County'' each place that term appears and inserting ''and Rockland Counties''.

(b) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall issue regulations implementing the amendments made by subsection (a).

SEC. 403. DEMOLITION OF PUBLIC HOUSING.

Notwithstanding any other provision of law, beginning on the date of enactment of this Act, the public housing projects described in section 415 of the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1988 (as in existence on April 25, 1996) shall be eligible for demolition under—

(1) section 9 of the United States Housing Act of 1937, as amended by this Act; and

(2) section 14 of the United States Housing Act of 1937, as that section existed on the day before the date of enactment of this Act.

SEC. 404. NATIONAL COMMISSION ON HOUSING ASSISTANCE PROGRAM COSTS.

(a) DEFINITIONS.—In this section—

(1) the term ''Commission'' means the National Commission on Housing Assistance Program Costs established in subsection (b);

(2) the term ''Federal assisted housing programs'' means—

(A) the public housing program under the United States Housing Act of 1937;

(B) the certificate program for rental assistance under section 8(b)(1) of the United States Housing Act of 1937;

(C) the voucher program for rental assistance under section 8(o) of the United States Housing Act of 1937;

(D) the programs for project-based assistance under section 8 of the United States Housing Act of 1937;

(E) the rental assistance payments program under section 521(a)(2)(A) of the Housing Act of 1949;

(F) the program for housing for the elderly under section 202 of the Housing Act of 1959;

(G) the program for housing for persons with disabilities under section 811 of the Cranston-Gonzalez National Affordable Housing Act;

(H) the program for financing housing by a loan or mortgage insured under section 221(d)(3) of the National Housing Act that bears interest at a rate determined under the proviso of section 221(d)(5) of such Act;

(I) the program under section 236 of the National Housing Act;

(J) the program for constructed or substantial rehabilitation under section 8(b)(2) of the United States Housing Act of 1937, as in effect before October 1, 1983; and

(K) any other program for housing assistance administered by the Secretary of Housing and Urban Development or the Secretary of Agriculture, under which occupancy in the housing assisted or housing assistance provided is based on income, as the Commission may determine; and

(3) the term ''Secretary'' means the Secretary of Housing and Urban Development.

(b) ESTABLISHMENT; PURPOSE.—

(1) ESTABLISHMENT.—There is established a commission to be known as the ''National Commission on Housing Assistance Program Costs''.

(2) PURPOSE.—The purpose of the Commission shall be to provide an objective and independent accounting and analysis of the full cost to the Federal Government, public housing agencies, State and local governments, and other entities, per assisted household, of the Federal assisted housing programs, taking into account the qualitative differences among Federal assisted housing programs in accordance with applicable standards of the Department of Housing and Urban Development.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 12 members, of whom—

(A) 1 member shall be the Inspector General of the Department of Housing and Urban Development;

(B) 2 members shall be appointed by the Secretary;

(C) 2 members shall be appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing Opportunity and Community Development of the Committee on Banking, Housing, and Urban Affairs of the Senate and the Chairman and Ranking Minority Member of the Subcommittee on VA, HUD, and Independent Agencies of the Committee on Appropriations of the Senate;

(D) 2 members shall be appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Community Opportunity of the Committee on Banking and Financial Services of the House of Representatives and the Chairman and Ranking Minority Member of the Subcommittee on VA, HUD, and Independent Agencies of the Committee on Appropriations of the House of Representatives;

(E) 1 member shall be appointed by the Majority Leader of the Senate;

(F) 1 member shall be appointed by the Majority Leader of the House of Representatives;

(G) 1 member shall be appointed by the Minority Leader of the Senate;

(H) 1 member shall be appointed by the Minority Leader of the House of Representatives; and

(I) 1 member shall be an ex-officio member appointed by the Comptroller General of the United States, from among officers and employees of the General Accounting Office.

(2) INITIAL APPOINTMENTS.—The initial members of the Commission shall be appointed not later than 90 days after the date of enactment of this Act.

(3) QUALIFICATIONS.—The members of the Commission appointed under paragraph (1)—

(A) shall all be experts in the field of accounting, economics, cost analysis, finance, or management; and

(B) shall include—

(i) 1 individual who is a distinguished academic engaged in teaching or research;

(ii) 1 individual who is a business leader, financial officer, or management expert; and

(iii) 1 individual who is—

(I) a financial expert employed in the private sector; and

(II) knowledgeable about housing and real estate issues.

(4) ADDITIONAL QUALIFICATIONS.—In selecting members of the Commission for appointment, the individual making the appointment shall ensure that each member selected is able to analyze the Federal assisted housing programs on an objective basis, and that no individual is appointed to the Commission if that individual has a personal financial interest, professional association, or business interest in any Federal assisted housing program, such that it would pose a conflict of interest if that individual were appointed to the Commission.

(d) ORGANIZATION.—

(1) CHAIRPERSON.—The Commission shall elect a chairperson from among members of the Commission.

(2) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business, but a lesser number may hold hearings.

(3) VOTING.—

(A) IN GENERAL.—Except as provided in subparagraph (B), each member of the Commission shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Commission.

(B) EXCEPTION.—The member of the Commission appointed pursuant to subsection (c)(1)(I) shall be a nonvoting member of the Commission.

(4) VACANCIES.—Any vacancy on the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(5) PROHIBITION ON ADDITIONAL PAY.—Members of the Commission shall serve without compensation.

(6) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem

in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(e) FUNCTIONS.—

(1) IN GENERAL.—The Commission shall—

(A) analyze the full cost to the Federal Government, public housing agencies, State and local governments, and other parties, per assisted household, of the Federal assisted housing programs, and shall conduct the analysis on a nationwide and regional basis and in a manner such that accurate per unit cost comparisons may be made between Federal assisted housing programs, including grants, direct subsidies, tax concessions, Federal mortgage insurance liability, periodic renovation and rehabilitation, and modernization costs, demolition costs, and other ancillary costs such as security; and

(B) measure and evaluate qualitative differences among Federal assisted housing programs in accordance with applicable standards of the Department of Housing and Urban Development.

(2) FINAL REPORT.—Not later than 24 months after the initial members of the Commission are appointed pursuant to subsection (c)(2), the Commission shall submit to the Secretary and to the Congress a final report which shall contain the results of the analysis and estimates required under paragraph (1).

(3) LIMITATION.—The Commission may not make any recommendations regarding Federal housing policy.

(f) POWERS.—

(1) HEARINGS.—The Commission may, for the purpose of carrying out this section, hold such hearings and sit and act at such times and places as the Commission may find advisable.

(2) RULES AND REGULATIONS.—The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel.

(3) ASSISTANCE FROM FEDERAL AGENCIES.—

(A) INFORMATION.—The Commission may request from any department or agency of the United States, and such department or agency shall provide to the Commission in a timely fashion, such data and information as the Commission may require to carry out this section.

(B) ADMINISTRATIVE SUPPORT.—The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(C) PERSONNEL DETAILS AND TECHNICAL ASSISTANCE.—Upon the request of the chairperson of the Commission, the Secretary shall, to the extent possible and subject to the discretion of the Secretary—

(i) detail any of the personnel of the Department of Housing and Urban Development, on a nonreimbursable basis, to assist the Commission in carrying out its duties under this section; and

(ii) provide the Commission with technical assistance in carrying out its duties under this section.

(4) INFORMATION FROM LOCAL HOUSING AND MANAGEMENT AUTHORITIES.—The Commission shall have access, for the purpose of carrying out its functions under this section, to any books, documents, papers, and records of a local housing and management authority that are pertinent to this section and assistance received pursuant to this section.

(5) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(6) CONTRACTING.—The Commission may, to the extent and in such amounts as are provided in appropriations Acts, enter into contracts necessary to carry out its duties under this section.

(7) STAFF.—

(A) EXECUTIVE DIRECTOR.—The Commission shall appoint an executive director of the Commission who shall be compensated at a rate fixed by the Commission, not to exceed the rate established for level V of the Executive Schedule under title 5, United States Code.

(B) PERSONNEL.—In addition to the executive director, the Commission may appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(C) LIMITATION.—Subparagraphs (A) and (B) shall be effective only to the extent and in such amounts as are provided in appropriations Acts.

(D) SELECTION CRITERIA.—In appointing an executive director and staff, the Commission shall ensure that the individuals appointed can conduct any functions they may have regarding the Federal assisted housing programs on an objective basis and that no such individual has a personal financial or business interest in any such program.

(8) ADVISORY COMMITTEE.—The Commission shall be considered an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. App.).

(g) FUNDING.—Of any amounts made available to the Department of Housing and Urban Development for each of fiscal years 1998 and 1999, there shall be available $4,500,000 to carry out this section.

(h) SUNSET.—The Commission shall terminate upon the expiration of the 24-month period beginning on the date on which the initial members of the Commission are appointed pursuant to subsection (c)(2).

SEC. 405. TECHNICAL CORRECTION OF PUBLIC HOUSING AGENCY OPT-OUT AUTHORITY.

Section 214(h)(2)(A) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436(h)(2)(A)) is amended by striking ''this section'' and inserting ''paragraph (1) of this subsection''.

SEC. 406. REVIEW OF DRUG ELIMINATION PROGRAM CONTRACTS.

(a) REQUIREMENT.—The Secretary shall investigate all security contracts awarded by grantees under the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11901 et seq.) that are public housing agencies that own or operate more than 4,500 public housing dwelling units—

(1) to determine whether the contractors under such contracts have complied with all laws and regulations regarding prohibition of discrimination in hiring practices;

(2) to determine whether such contracts were awarded in accordance with the applicable laws and regulations regarding the award of such contracts;

(3) to determine how many such contracts were awarded under emergency contracting procedures;

(4) to evaluate the effectiveness of the contracts; and

(5) to provide a full accounting of all expenses under the contracts.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall complete the investigation required under subsection (a) and submit a report to Congress regarding the findings under the investigation. With respect to each such contract, the report shall—

(1) state whether the contract was made and is operating, or was not made or is not operating, in full compliance with applicable laws and regulations; and

(2) for each contract that the Secretary determines is in such compliance issue a personal certification of such compliance by the Secretary.

(c) ACTIONS.—For each contract that is described in the report under subsection (b) as not made or not operating in full compliance with applicable laws and regulations, the Secretary shall promptly take any actions available under law or regulation that are necessary—

(1) to bring such contract into compliance; or

(2) to terminate the contract.

(d) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

SEC. 407. TREATMENT OF PUBLIC HOUSING AGENCY REPAYMENT AGREEMENT.

(a) LIMITATION ON SECRETARY.—During the 2-year period beginning on the date of the enactment of this Act, if the Housing Authority of the City of Las Vegas, Nevada, is otherwise in compliance with the Repayment Lien Agreement and Repayment Plan approved by the Secretary on February 12, 1997, the Secretary of Housing and Urban Development shall not take any action that has the effect of reducing the inventory of senior citizen housing owned by such housing authority that does not receive assistance from the Department of Housing and Urban Development.

(b) ALTERNATIVE REPAYMENT OPTIONS.—During the period referred to in subsection (a), the Secretary shall assist the housing authority referred to in such subsection to identify alternative repayment options to the plan referred to in such subsection and to execute an amended repayment plan that will not adversely affect the housing referred to in such subsection.

(c) RULE OF CONSTRUCTION.—This section may not be construed to alter—

(1) any lien held by the Secretary pursuant to the agreement referred to in subsection (a); or

(2) the obligation of the housing authority referred to in subsection (a) to close all remaining items contained in the Inspector General audits numbered 89 SF 1004 (issued January 20, 1989), 93 SF 1801 (issued October 30, 1993), and 96 SF 1002 (issued February 23, 1996).

SEC. 408. CEILING RENTS FOR CERTAIN SECTION 8 PROPERTIES.

Notwithstanding any other provision of law, upon the request of the owner of the project, the Secretary may establish ceiling rents for the Marshall Field Garden Apartments Homes in Chicago, Illinois, if the ceiling rents are, in the determination of the Secretary, equivalent to rents for comparable properties.

SEC. 409. SENSE OF CONGRESS.

It is the sense of Congress that, each public housing agency involved in the selection of residents under the United States Housing Act of 1937 (including section 8 of that Act) should, consistent with the public housing agency plan of the public housing agency, consider preferences for individuals who are victims of domestic violence.

SEC. 410. OTHER REPEALS.

The following provisions of law are repealed:

(1) REPORT REGARDING FAIR HOUSING OBJECTIVES.—Section 153 of the Housing and Community Development Act of 1992 (42 U.S.C. 1437f note).

(2) SPECIAL PROJECTS FOR ELDERLY OR HANDICAPPED FAMILIES.—Section 209 of the Housing and Community Development Act of 1974 (42 U.S.C. 1438).

(3) LOCAL HOUSING ASSISTANCE PLANS.—Subsection (c) of section 213 of the Housing and Community Development Act of 1974 (42 U.S.C. 1439(c)).

(4) MISCELLANEOUS PROVISIONS.—Subsections (b)(1), (c), and (d) of section 326 of the Housing and Community Development Amendments of 1981 (Public Law 97–35, 95 Stat. 406; 42 U.S.C. 1437f note).

(5) PUBLIC HOUSING CHILDHOOD DEVELOPMENT.—Section 222 of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701z–6 note).

(6) INDIAN HOUSING CHILDHOOD DEVELOPMENT.—Section 518 of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 1701z–6 note).

(7) PUBLIC HOUSING ONE-STOP PERINATAL SERVICES DEMONSTRATION.—Section 521 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437t note).

(8) PUBLIC HOUSING MINCS DEMONSTRATION.—Section 522 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437f note).

(9) PUBLIC HOUSING ENERGY EFFICIENCY DEMONSTRATION.—Section 523 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437g note).

(10) PUBLIC AND ASSISTED HOUSING YOUTH SPORTS PROGRAMS.—Section 520 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11903a).

SEC. 411. GUARANTEE OF LOANS FOR ACQUISITION OF PROPERTY.

Notwithstanding section 108(b) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(b)), with respect to any eligible public entity (or any public agency designated by an eligible public entity) receiving assistance under that section (in this section referred to as the ''issuer''), a guarantee or commitment to guarantee may be made with respect to any note or other obligation under such section 108 if the issuer's total outstanding notes or obligations guaranteed under that section (excluding any amount defeased under the contract entered into under section 108(d)(1)(A) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(d)(1)(A))) would thereby exceed an amount equal to 5 times the amount of the grant approval for the issuer pursuant to section 106 or 107 of the Housing and Community Development Act of 1974, if the issuer's total outstanding notes or obligations guaranteed under that section (excluding any amount defeased under the contract entered into under section 108(d)(1)(A) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(d)(1)(A))) would not thereby exceed an amount equal to 6 times the amount of the grant approval for the issuer pursuant to section 106 or 107 of the Housing and Community Development Act of 1974, if the additional grant amount is used only for the purpose of acquiring or transferring the ownership of the production facility located at the following address in order to maintain production: One Prince Avenue, Lowell, Massachusetts 01852.

SEC. 412. PROHIBITION ON USE OF ASSISTANCE FOR EMPLOYMENT RELOCATION ACTIVITIES.

Section 105 of the Housing and Community Development Act of 1974 (42 U.S.C. 5305) is amended by adding at the end the following:

''(h) PROHIBITION ON USE OF ASSISTANCE FOR EMPLOYMENT RELOCATION ACTIVITIES.—Notwithstanding any other provision of law, no amount from a grant under section 106 made in fiscal year 1997 or any succeeding fiscal year may be used to directly assist in the relocation of any industrial or commercial plant, facility, or operation, from 1 area to another area, if the relocation is likely to result in an increase in the unemployment rate in the labor market area from which the relocation occurs.''.

SEC. 413. USE OF HOME FUNDS FOR PUBLIC HOUSING MODERNIZATION.

Notwithstanding section 212(d)(5) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(d)(5)), amounts made available to the City of Bismarck, North Dakota or the State of North Dakota, under subtitle A of title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12741 et seq.) for fiscal year 1998, 1999, 2000, 2001, or 2002, may be used to carry out activities authorized under section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437l) for the purpose of modernizing the Crescent Manor public housing project located at 107 East Bowen Avenue, in Bismarck, North Dakota, if—

(1) the Burleigh County Housing Authority (or any successor public housing agency that owns or operates the Crescent Manor public housing project) has obligated all other Federal assistance made available to that public housing agency for that fiscal year; or

(2) the Secretary of Housing and Urban Development authorizes the use of those amounts for the purpose of modernizing that public housing project, which authorization may be made with respect to 1 or more of those fiscal years.

SEC. 414. REPORT ON SINGLE FAMILY AND MULTIFAMILY HOMES.

Not later than March 1, 1998, the Inspector General of the Department of Housing and Urban Development shall submit to Congress a report, which shall include information relating to—

(1) with respect to 1- to 4-family dwellings owned by the Department of Housing and Urban Development as of November 1, 1997—

(A) the total number of units in those dwellings;

(B) the number and percentage of units in those dwellings that are unoccupied, and their average period of vacancy, as of that date; and

(C) the number and percentage of units in those dwellings that have been unoccupied for more than 1 year, as of that date;

(2) with respect to multifamily housing projects (as that term is defined in section 203 of the Housing and Community Development Amendments of 1978) owned by the Department of Housing and Urban Development as of November 1, 1997—

(A) the total number of units in those projects;

(B) the number and percentage of units in those projects that are unoccupied, and their average period of vacancy, as of that date;

(C) the number and percentage of units in those projects that have been unoccupied for more than 1 year, as of that date; and

(D) the number and percentage of units in those projects that are determined by the Inspector General to be substandard, based on any—

(i) lack of hot or cold piped water;

(ii) lack of working toilets;

(iii) regular and prolonged breakdowns in heating;

(iv) dangerous electrical problems;

(v) unsafe hallways or stairways;

(vi) leaking roofs, windows, or pipes;

(vii) open holes in walls and ceilings; and

(viii) indications of rodent infestation;

(3) the causes of the vacancies described in subparagraphs (B) and (C) of paragraph (1), and subparagraphs (B) and (C) of paragraph (2), and the programs of the Department of Housing and Urban Development that are, as of November 1, 1997, targeted to rectifying those causes; and

NOTICE OF HEARING

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I wish to announce that the Committee on Rules and Administration will hold a business meeting in SR–301, Russell Senate Office Building, on Wednesday, October 1, 1997, at 10 a.m. concerning the contested election for U.S. Senator from Louisiana.

For further information concerning this business meeting, please contact Bruce Kasold of the committee staff at 4–3448.

ADDITIONAL STATEMENTS

THE NATIONAL GUARD

• Mr. WARNER. Mr. President, as we are all well aware, sustained military operations around the world, coupled with declining numbers of active duty personnel, have required the Defense Department to rely more and more on the National Guard. Guard units and air assets have been called to active duty by the President and deployed throughout the world with increasing frequency. Serving directly with their active duty counterparts, National Guard units today are in every military theater. Theater commanders have continually stated that it would be a challenge to efficiently execute their operations without the Guard.

Two weeks ago, I had the privilege of attending a parade in honor of Virginia National Guard soldiers who have been recalled to support Operation Joint Guard, the ongoing NATO mission in the former Yugoslavia. The unit is Company C, 3–116th Infantry Battalion from the 29th Infantry Division and their mission will be to secure the base camp and Sava River bridge in Slavonski-Brod, Croatia. The 129 soldiers of this company will be deployed for up to 270 days. This is the first time an infantry unit has been mobilized under a Presidential callup for the Bosnia operation. I am very proud of this unit and all of the Commonwealth's National Guardsmen.

With the expanded role of the National Guard, I personally support greater recognition of the National Guard chief. Guardsmen from the Commonwealth and across the United States require strong leadership which can make their concerns known to the active duty military and ensure that the Guard is ready to perform its important missions. As always, these citizen-soldiers have committed themselves to be ready on a moment's notice. They must have a leader of sufficient rank and stature to effectively advocate their cause.

Recently, Senator STEVENS delivered remarks to the National Guard Association on the role of the National Guard Bureau chief. Senator STEVENS' remarks highlight the important issues facing the National Guard today and why it is necessary for their chief to receive a place at the table with his active duty counterparts. I am submitting Senator STEVENS' remarks for the RECORD and I encourage my colleagues to take a moment and review his thoughtful comments.

The remarks follow:

REMARKS OF SENATOR TED STEVENS

Thank you for the recognition and honor you confer on me today.

The Harry S. Truman Award, unlike any other, reflects the input of leaders from the 54 association chapters from every corner of America.

There is no organization with whom I have worked more closely than the National Guard Association during my 17 years as chairman or ranking member of the Senate Defense Appropriations Subcommittee.

This award reflects the tutelage I received from a previous recipient of this honor, my close friend and mentor, John Stennis.

The insight and wisdom of my great friend, compounded by my own experience working with the Alaska National Guard, founded my belief that the Guard serves as an essential pillar of our national security.

Over the years, we have worked to modernize during the buildup led by President Reagan in the 1980's, and now realign force structure during the 1990's.

Our efforts reflect a determination to fulfill the vision of our Nation's Founding Fathers—that our national defense be maintained and preserved by citizen soldiers—by all Americans.

The National Guard, and the National Guard Association of the United States, are the embodiment of that guiding principle in our Constitution.

Your conference here in Albuquerque serves to refresh, and reforge, our mutual commitment to ensure the National Guard grows in capability and stature within our national security establishment.

While the Guard faces some tough trials in the weeks and months ahead, there is genuine reason for optimism that our efforts will succeed.

A major factor contributing to this optimism is the bipartisan budget agreement, negotiated by my good friend, Senator PETE DOMENICI, who is with us here today.

This compact should give us 5 years of stability in defense funding—we've not enjoyed these circumstances since the early 1980's.

With predictable spending levels, Secretary Bill Cohen and the Joint Chiefs may plan and implement force realignment and modernization plans.

Our job now is to assure Guard participation in the allocation of resources and to modernize the force as we enter the 21st century.

You have many real friends to turn to in this effort.

We've just heard from one of our most important friends, Joe Ralston.

You don't need to hear from me how Joe feels about the National Guard. Just ask Ed Baca, Jake Lestenkof, or Hugh Cox.

Secretary Cohen knows first hand what the Guard means to all our States, and is a genuine ally in the Senate on Guard issues—he listens with a sympathetic ear. You'll hear from General Reimer tomorrow. You'll find him a true friend also.

Your job, and mine, is to help these friends effectively advocate the Guard's interests and priorities.

Now, more than ever before, the National Guard must function as a total partner in the total force. We cannot permit the National Guard to struggle for resources—it needs the total support of the Army and Air Force.

The Army and Air Force can only achieve their missions—our National Security missions—with the total participation and support of the National Guard. It's a two-way street, and our system simply won't work any other way.

Recent missions in Bosnia, Southwest Asia, Haiti, and Korea make apparent this axiom.

Each of you knows the extraordinary service performed by Air and Army National Guard units overseas. On my own visits to these forces, every CINC has extolled the performance, readiness, and dedication of the National Guard Forces assigned to their commands. That is the success story of our total force.

While undertaking these military missions, the National Guard continues to serve its State role. Everyone of us here understands the unique status the Guard holds as an arm or our State governments. Whether responding to natural disasters, or managing the youth challenge program performing so successfully, the National Guard serves our communities every day.

To ensure the representation of the National Guard at the highest levels of DOD, I authored an amendment sponsored by 48 other Senators. This legislation would change the rank, and role, of the Chief of the National Guard Bureau.

That amendment passed the Senate without any objection, and awaits final resolution on the Defense authorization bill.

We succeeded in passing this legislation in large part because of the work of the Guard, the association, and the adjutants general.

The expanded role of the Guard, and its relative size within the military, should be reflected in an appropriate rank for the chief.

Resolution of this issue must include a voice—and a seat at the table—for the National Guard, when the Secretary and the Joint Chiefs make force structure and resource decisions that impact the Guard.

The details of my suggestion are yet to be resolved. Our goal is to assure that the National Guard leader is equal in rank and capability to the members of the Joint Chiefs.

Achieving this priority is only meaningful if we improve and build on relations between the Army, the National Guard, and the Army Reserve.

This initiative is meant to build bridges, and expand the dialog and understanding by Pentagon leaders of the Guard's needs and capabilities.

If by doing so, we burn bridges behind us, we will achieve little in the end. We must achieve change—change that all parties can live with, and will commit to work together to achieve.

We continue to need your support and active involvement—you will make the difference in the end. You and your force meet more Americans every day than all other military forces put together. You need to support adequate funding levels for all defense activities, including the Coast Guard.

You need to tell the chamber of commerce, the Rotary, the Lions, the Kiwanis Clubs, and the PTA's what America needs is a ready defense force. You are part of that force.

Again, let me thank you for honoring me today with the Truman Award. I am humbled by your recognition of my efforts.

I will continue to be your partner, and advocate, in the years to come.●

COMMEMORATION OF LAWSUIT ABUSE AWARENESS WEEK

● Mr. ROCKEFELLER. Mr. President, today I recognize a growing group of concerned citizens in West Virginia working to educate the public about their concerns over the costs of what they refer to as ''lawsuit abuse.''

In many areas of West Virginia, local supporters of Citizens Against Lawsuit Abuse have given their time on a volunteer basis to speak out about an issue that has statewide and national implications. The costs of lawsuits can include higher costs for consumer products, higher medical expenses, higher taxes, and fewer jobs, due to lost business expansion and forgone product development. At the same time, the legal system must provide avenues for recourse and justice. Together, leaders and citizens must try to achieve consensus in ensuring that our system is balanced and fair to all.

Citizens Against Lawsuit Abuse has a straightforward goal. They want to help the public prevent unnecessary lawsuits.

When West Virginians see a problem, we work to make people aware of it, and we try to make it right. CALA members are citizens who believe they see harm to our society brought on by certain unnecessary lawsuits and excessive awards that can cripple a small business or strip an individual of his or her life savings. CALA supporters emphasize that they want to make sure that persons with a real need for the civil justice system have access to the courts. Public opinion surveys in our state have shown that a majority of responsible citizens want their legal system to be more fair, more effective, and more sensible, to serve everyone's interests.

These nonprofit CALA groups have raised local funds to run educational media announcements and are speaking to local organizations and citizen groups across the State to raise public awareness of the issue that they call ''lawsuit abuse.''

Supporters of CALA also encourage that citizens do their part by serving on juries when they are called. To help encourage the youth of West Virginia to become responsible citizens when they reach adulthood, CALA groups have offered scholarship grants to students through an essay contest on the subject of importance of jury service.

While the local groups have thousands of supporters, there are few individuals who should be recognized for their ongoing leadership and for dedicating countless volunteer hours in the past year. These individuals are Cuz Blake of Bridgeport, chairman and founding member of CALA of Northern

West Virginia, and Robert Mauk of Huntington, chairman and founding member of CALA of Southern West Virginia. Many others have given their time and energy to these public watchdog groups as well, persons such as Sid Davis of Charleston who, despite having to take time off recently for health reasons, has returned to his volunteer position as an officer of CALA of Southern West Virginia.

Citizens Against Lawsuit Abuse groups have declared September 21 through September 27, 1997, to be Lawsuit Abuse Awareness Week in West Virginia. I commend all of the individuals who are involved in Citizens Against Lawsuit Abuse for their involvement in civic affairs and their efforts to promote constructive action in a policy area they care about.

As someone who has been a leader for a balanced, responsible form of product liability reform, I continue to hope for the kind of education, dialogue, and consensus-building clearly needed to address problems in our legal system that hurt consumers, victims, and the private sector. I encourage CALA to continue raising these issues and promoting solutions that ensure justice and improve the legal system. West Virginia and the country as a whole need informed, educated, and dedicated citizens to help elected officials address serious issues and achieve proper reforms when necessary.●

RIGHT TO LIFE OF MICHIGAN

● Mr. ABRAHAM. Mr. President, I rise today to honor those of Right to Life of Livingston County, Inc. and Right to Life of Michigan for their enduring commitment and dedication to one of today's most important social issues.

Mr. President, to those of us who are pro-life, being pro-life means protecting our families and respecting the sanctity of life. It also means maintaining the central role of the family in all our lives. I would like to take this opportunity to thank those of Right to Life of Michigan for their perseverance in support of those goals. Unfortunately, we still must spend much of our time in the political sphere, arguing against laws that promote the taking of unborn human lives, and I am grateful for all their efforts in that area as well.

Ending the tragedy of abortion will not be easy. But groups like Right to Life of Livingston County, National Right to Life of Michigan, and the National Right to Life Committee, are fighting a winning battle. By their example, as well as their arguments, they are showing the power and the beauty of human life.●

● Mr. WYDEN. Mr. President, retinal degenerative diseases affect more than six million Americans. This number is expected to climb beyond 10 million as the baby boomers age. This is a vision timebomb and I have witnessed its devastating impact on many of our senior citizens. September 27, 1997 marks World Retina Day, a day in which organizations around the world dedicated to finding the cures for retinal degenerative diseases join together to call attention to the collaborative research that is being done internationally.

The most common retinal disease is age-related macular degeneration (AMD) which is the leading cause of vision loss in adults over the age of 60. Individuals with AMD not only lose their central vision, but also their ability to read, drive and in many cases they lose their sense of independence. Retinitis Pigmentosa (RP) is a genetic disease that steals the sight of the young, robbing them in the prime of their life, their night vision and then their peripheral vision. RP is a progressive disease, leading in most cases to blindness. There is no treatment to stop the progression of this disease. Usher's Syndrome is also a genetic disease and it is the leading cause of deaf-blindness in the United States. This again shows up in our young, robbing them of vision and hearing. The suffering to the patients and their families is incalculable.

Due to the work funded by the National Eye Institute at the National Institute of Health, and organizations such as the Foundation Fighting Blindness and similar organizations worldwide, significant progress in research has been made. Just this past week a stunning research breakthrough was announced. Scientists have discovered gene mutations that cause AMD. This landmark finding offers the first concrete evidence that AMD is genetically linked. There is now hope that by the time the generation of the baby boomers reaches age 60, in about 10 years, that there will be a genetic treatment for AMD. If a treatment is found, we will see a return on our investments in eye research, and the savings to the budget in terms of health care costs will be significant.

With the international collaboration among researchers who represent a broad spectrum of highly specialized scientific disciplines, great strides have been made in understanding AMD, RP, Usher's syndrome and related retinal degenerative diseases. International breakthroughs and collaboration in research warrant the recognition of World Retina Day. I am hopeful that there is a cure in sight. I believe that as we continue to fund medical research, diseases such as these will become eradicated and remembered only in the archives of medical history.●

TRIBUTE TO SOUTHWEST MISSOURI STATE UNIVERSITY

● Mr. BOND. Mr. President, I stand before you today to pay tribute to a truly outstanding University in my home State of Missouri, Southwest Missouri State University (SMSU). SMSU was one of 135 schools in 42 states selected to the John Templeton Foundation Honor Roll, ''a designation recognizing colleges and universities that emphasize character building as an integral part of the college experience.''

Being the only public institution in Missouri to earn the 1997–98 Honor Roll distinction, SMSU is also one of the eight state-funded schools to receive the award nationwide. Schools competing for the Honor Roll were judged on five criteria and out of 2,208 four-year accredited undergraduate institutions only the top few were chosen. One of the categories where SMSU stood out was in community service. During the 1996–97 school year the SMSU campus, including the faculty and students, volunteered more than 69,500 hours.

It is an honor for the entire State of Missouri to have a University like SMSU, whose service and character-building programs have earned it this distinguished award. I commend SMSU's President, Dr. John Kaiser, for his commitment to excellence and hope for continued success in the future.●

JUDGE ROBERT AND HELENE BRANG GOLDEN ANNIVERSARY

● Mr. ABRAHAM. Mr. President, I rise today to congratulate Judge Robert and Helene Brang on the occasion of their Golden Wedding Anniversary. A long and successful marriage is truly a cause for celebration, well worthy of recognition by the United States Senate. Their commitment to each other and their family is commendable and a great contribution to the tradition of strong American families.

Robert Francis Brang and Helene Marie Foley met at the University of Detroit while both were students. Helene was a reporter for the Varsity News and Bob was the President of the Student Union. They met on the steps of the Commerce and Finance Building when Helene approached him for an interview.

They were married at St. Scholastica's Catholic Church in Detroit on October 4, 1947. In 1956, Robert and Helene moved their growing family from their home in Detroit to Redford Township where they reside to this day. Bob practiced law and Helene reared 8 wonderful children. In 1968, Bob was elected a Judge for the 17th District Court and retained that position until his retirement.

Mr. President, on October 4, Robert and Helene will have celebrated fifty years together. Their children—Kathleen, Robert, Mary, William, Barry, Stephen, Daniel, and Patrick—along with their twelve grandchildren—Diana, Laura, Rob, Patrick, Amy, Beth, Adam, Kellie, Sarah, Kaitlyn, Dakota, and Austin—will join with them in celebration.

Martin Luther once wrote: ''There is no more lovely, friendly and charming relationship, communion or company than a good marriage.'' Robert and Helene are blessed to enjoy such a strong and enduring bond. On behalf of the United States Senate, I wish them a happy anniversary and many more years of joy.●

ESTUARY HABITAT RESTORATION PARTNERSHIP ACT OF 1997

• Mr. CHAFEE. Mr. President, yesterday I introduced S. 1222. I ask that the text of the bill be printed in the RECORD.

The text of the bill follows:

S. 1222

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 ''Estuary Habitat Restoration Partnership Act of 1997''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the estuaries and coastal regions of the United States are home to half the population of the United States;

(2) the traditions, economy, and quality of life of many communities depend on the natural abundance and health of the estuaries;

(3) approximately 75 percent of the commercial fish and shellfish of the United States depend on estuaries at some stage in their life cycle;

(4) the varied habitats of estuaries and other coastal waters provide jobs to 28,000,000 United States citizens in commercial and sport fishing, tourism, recreation, and other industries, with fishing alone contributing $111,000,000,000 to the United States economy each year;

(5) despite the many values of estuaries, estuaries are gravely threatened by estuary habitat alteration and loss;

(6) the accumulated loss of estuary habitat, reaching over 90 percent in some estuaries, threatens the ecological and economic bounty of regions experiencing the loss, and can be reversed only by action to restore lost and degraded estuary habitat;

(7) the demands on Federal, State, and local funding for estuary habitat restoration activities exceed available resources and prompt serious concerns about the ability of the United States to restore estuary habitat vital to efforts to restore, preserve, and protect the health of estuaries;

(8) successful restoration of estuaries demands the full coordination of Federal and State estuary habitat restoration programs;

(9) to succeed in restoring estuaries, it is important to link estuary habitat restoration projects to broader ecosystem planning in order to establish restoration programs that are effective in the long term;

(10) efficient leveraging of scarce public resources and new and innovative market-based funding for estuary habitat restoration activities would generate real returns on investments for communities through improvement of the vibrancy and health of estuaries;

(11) the Federal, State, and private cooperation in estuary habitat restoration activities in existence on the date of enactment of this Act should be strengthened and new public and public-private estuary habitat restoration partnerships established; and

(12) such new partnerships would help ensure the ecological and economic vibrancy of estuaries for the benefit of future generations.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to establish a voluntary, community-driven, incentive-based program that will catalyze the restoration of 1,000,000 acres of estuary habitat by 2010;

(2) to encourage enhanced coordination and leveraging of Federal, State, and community estuary habitat restoration programs, plans, and studies;

(3) to establish effective estuary habitat restoration partnerships among public agencies at all levels of government and between the public and private sectors;

(4) to promote efficient financing of estuary habitat restoration activities to help better leverage limited Federal funding; and

(5) to develop and enhance monitoring and maintenance capabilities designed to ensure that restoration efforts build on the successes of past and current efforts and scientific understanding.

SEC. 4. DEFINITIONS.

In this Act:

(1) COLLABORATIVE COUNCIL.—The term ''Collaborative Council'' means the interagency council established by section 5.

(2) DEGRADED ESTUARY HABITAT.—The term ''degraded estuary habitat'' means estuary habitat where natural ecological functions have been impaired and normal beneficial uses have been reduced.

(3) ESTUARY.—The term ''estuary'' means—

(A) a body of water in which fresh water from a river or stream meets and mixes with salt water from the ocean; and

(B) the physical, biological, and chemical elements associated with such a body of water.

(4) ESTUARY HABITAT.—

(A) IN GENERAL.—The term ''estuary habitat'' means the complex of physical and hydrologic features and living organisms within estuaries and associated ecosystems.

(B) INCLUSIONS.—The term ''estuary habitat'' includes salt and fresh water coastal marshes, coastal forested wetlands and other coastal wetlands, tidal flats, natural shoreline areas, shellfish beds, sea grass meadows, kelp beds, river deltas, and river and stream banks under tidal influence.

(5) ESTUARY HABITAT RESTORATION ACTIVITY.—

(A) IN GENERAL.—The term ''estuary habitat restoration activity'' means an activity that results in improving degraded estuary habitat (including both physical and functional restoration), with the goal of attaining a self-sustaining, ecologically based system integrated into the surrounding landscape.

(B) INCLUDED ACTIVITIES.—The term ''estuary habitat restoration activity'' includes—

(i) the reestablishment of physical features and biological and hydrologic functions;

(ii) except as provided in subparagraph (C)(ii), the cleanup of contamination;

(iii) the control of nonnative and invasive species;

(iv) the reintroduction of native or ecologically beneficial species through planting or natural succession; and

(v) other activities that improve estuary habitat.

(C) EXCLUDED ACTIVITIES.—The term ''estuary habitat restoration activity'' does not include—

(i) an act that constitutes mitigation for the adverse effects of an activity regulated or otherwise governed by Federal or State law; or

(ii) an act that constitutes satisfaction of liability for natural resource damages under any Federal or State law.

(6) ESTUARY HABITAT RESTORATION PROJECT.—The term ''estuary habitat restoration project'' means an estuary habitat restoration activity under consideration or selected by the Collaborative Council, in accordance with this Act, to receive financial, technical, or another form of assistance.

(7) ESTUARY HABITAT RESTORATION STRATEGY.—The term ''estuary habitat restoration strategy'' means the estuary habitat restoration strategy developed under section 6(a).

(8) FEDERAL ESTUARY MANAGEMENT OR HABITAT RESTORATION PLAN.—The term ''Federal estuary management or habitat restoration plan'' means any Federal plan for restoration of degraded estuary habitat that—

(A) was developed by a public body with the substantial participation of appropriate public and private stakeholders; and

(B) reflects a community-based planning process.

(9) PERSON.—The term ''person'' includes an entity of a Federal, State, or local government, an Indian tribe, an entity organized or existing under the law of a State, and a nongovernmental organization.

(10) SECRETARY.—The term ''Secretary'' means the Secretary of the Army, or a designee.

(11) UNDER SECRETARY.—The term ''Under Secretary'' means the Under Secretary for Oceans and Atmosphere of the Department of Commerce, or a designee.

SEC. 5. ESTABLISHMENT OF COLLABORATIVE COUNCIL.

(a) COLLABORATIVE COUNCIL.—There is established an interagency council to be known as the ''Estuary Habitat Restoration Collaborative Council''.

(b) MEMBERSHIP.—The Collaborative Council shall be composed of the Secretary, the Under Secretary, the Administrator of the Environmental Protection Agency, the Secretary of the Interior (acting through the Director of the United States Fish and Wildlife Service), the Secretary of Agriculture, and the Secretary of Transportation, or their designees.

(c) CONVENING OF COLLABORATIVE COUNCIL.—The Secretary shall—

(1) convene the first meeting of the Collaborative Council not later than 30 days after the date of enactment of this Act; and

(2) convene additional meetings as often as appropriate to ensure that this Act is fully carried out, but not less often than quarterly.

(d) COLLABORATIVE COUNCIL PROCEDURES.—

(1) QUORUM.—Three members of the Collaborative Council shall constitute a quorum.

(2) VOTING AND MEETING PROCEDURES.—The Collaborative Council shall establish procedures for voting and the conduct of meetings by the Council.

SEC. 6. DUTIES OF COLLABORATIVE COUNCIL.

(a) ESTUARY HABITAT RESTORATION STRATEGY.—

(1) IN GENERAL.—

(A) DEVELOPMENT.—Not later than 1 year after the date of enactment of this Act, the Collaborative Council, in consultation with representatives from coastal States and nonprofit organizations with expertise in estuary habitat restoration, shall develop an estuary habitat restoration strategy designed to ensure a comprehensive approach to the selection and prioritization of estuary habitat restoration projects and the full coordination of Federal and non-Federal activities related to restoration of estuary habitat.

(B) PROVISION OF NATIONAL FRAMEWORK.—The estuary habitat restoration strategy shall provide a national framework for estuary habitat restoration activities by—

(i) identifying existing estuary habitat restoration plans;

(ii) integrating overlapping estuary habitat restoration plans; and

(iii) identifying appropriate processes for the development of estuary habitat restoration plans where needed.

(2) INTEGRATION OF PREVIOUSLY AUTHORIZED ESTUARY HABITAT RESTORATION PLANS, PROGRAMS, AND PARTNERSHIPS.—In developing the estuary habitat restoration strategy, the Collaborative Council shall—

(A) conduct a review of—

(i) Federal estuary management or habitat restoration plans; and

(ii) Federal programs established under other law that provide funding for estuary habitat restoration activities;

(B) develop, based on best management practices, a framework for fully coordinating and streamlining the activities of the Federal plans and programs referred to in subparagraph (A);

(C) develop a set of proposals for—

(i) using programs established under this or any other Act to maximize the incentives for the creation of new public-private partnerships to carry out estuary habitat restoration projects; and

(ii) leveraging Federal resources to encourage increased private sector involvement in estuary habitat restoration activities; and

(D) ensure that the estuary habitat restoration strategy is developed and will be implemented in a manner that is consistent with the findings and requirements of Federal estuary management or habitat restoration plans.

(3) ELEMENTS TO BE CONSIDERED.—Consistent with the requirements of this section, the Collaborative Council, in the development of the estuary habitat restoration strategy, shall consider—

(A) the contributions of estuary habitat to—

(i) wildlife, including endangered and threatened species, migratory birds, and resident species of an estuary watershed;

(ii) fish and shellfish, including commercial and sport fisheries;

(iii) surface and ground water quality and quantity, and flood control;

(iv) outdoor recreation; and

(v) other areas of concern that the Collaborative Council determines to be appropriate for consideration;

(B) the estimated historic losses, estimated current rate of loss, and extent of the threat of future loss or degradation of each type of estuary habitat;

(C) the most appropriate method for selecting estuary habitat restoration projects essential to—

(i) the proper protection and preservation of an estuary ecosystem;

(ii) the implementation of a Federal estuary management or habitat restoration plan; or

(iii) the selection by the Collaborative Council of an appropriate balance of smaller and larger estuary habitat restoration projects; and

(D) procedures to minimize duplicative and conflicting application requirements for public and private landowners seeking assistance for estuary habitat restoration activities.

(4) COMMUNITY ADVICE.—The Collaborative Council shall seek the advice of experts in restoration of estuary habitat from the private, including nonprofit, sectors to assist in the development of an estuary habitat restoration strategy.

(5) PUBLIC REVIEW AND COMMENT.—Before adopting a final estuary habitat restoration strategy, the Collaborative Council shall publish in the Federal Register a draft of the estuary habitat restoration strategy and provide an opportunity for public review and comment.

(b) ESTABLISHMENT OF PROJECT APPLICATION AND SELECTION CRITERIA.—

(1) IN GENERAL.—Consistent with the other provisions of this section, the Collaborative Council shall establish—

(A) application procedures to be followed by States and other non-Federal persons to nominate estuary habitat restoration activities for consideration by the Collaborative Council for assistance under this Act;

(B) criteria for determining eligibility for financial assistance under this Act for an estuary habitat restoration project;

(C) application procedures and criteria for granting a reduction in the minimum non-Federal share requirement, in accordance with section 7(d)(2); and

(D) such other criteria as the Collaborative Council determines to be reasonable and necessary in carrying out this Act.

(2) PROPOSALS.—A proposal for an estuary habitat restoration project shall originate from a non-Federal person and shall require, when appropriate, the approval of State or local agencies.

(3) FACTORS TO BE TAKEN INTO ACCOUNT.—The criteria established under paragraph (1) shall provide for the consideration of the following factors in determining the eligibility of an estuary habitat restoration project for financial assistance under this Act and in prioritizing the selection of estuary habitat restoration projects by the Collaborative Council:

(A) Whether the proposed estuary habitat restoration project meets the criteria specified in the estuary habitat restoration strategy.

(B) The technical merit and feasibility of the proposed estuary habitat restoration project.

(C) Whether the non-Federal persons proposing the estuary habitat restoration project can provide satisfactory assurances that they will have adequate personnel, funding, and authority to carry out and properly maintain the estuary habitat restoration project.

(D) Whether, in the State in which a proposed estuary habitat restoration project is to be carried out, there is a State dedicated source of funding for programs to acquire or restore estuary habitat, natural areas, and open spaces.

(E) Whether the proposed estuary habitat restoration project will encourage the increased coordination and cooperation of Federal, State, and local Government agencies.

(F) The level of private matching fund or in-kind contributions to the estuary habitat restoration project.

(G) Whether the proposed habitat restoration project includes a monitoring plan to ensure that short-term and long-term restoration goals are achieved.

(H) Other factors that the Collaborative Council determines to be reasonable and necessary for consideration.

(4) PRIORITY ESTUARY HABITAT RESTORATION PROJECTS.—

(A) DESIGNATION.—The Collaborative Council may designate an estuary habitat restoration project as a priority estuary habitat restoration project if, in addition to meeting the selection criteria specified in this section—

(i) the estuary habitat restoration project addresses a restoration goal identified in the estuary habitat restoration strategy;

(ii) the estuary habitat restoration project is part of an approved Federal estuary management or habitat restoration plan;

(iii) the non-Federal share with respect to the estuary habitat restoration project exceeds 50 percent; or

(iv) there is a nonpoint source program upstream of the estuary habitat restoration project that addresses upstream sources that would otherwise re-impair the restored habitat.

(B) EFFECT OF DESIGNATION.—A priority estuary habitat restoration project shall be given a higher priority in receipt of funding under this Act.

(c) INTERIM ACTIONS.—

(1) IN GENERAL.—Pending completion of the estuary habitat restoration strategy developed under subsection (a), the Collaborative Council may pay the Federal share of the cost of an interim action to carry out an estuary habitat restoration activity.

(2) FEDERAL SHARE.—The Federal share shall not exceed 25 percent.

(d) COOPERATION OF NON-FEDERAL PARTNERS.—

(1) IN GENERAL.—The Collaborative Council shall not select an estuary habitat restoration project until each non-Federal interest has entered into a written cooperation agreement in accordance with section 221(a) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(a)).

(2) MAINTENANCE AND MONITORING.—A cooperation agreement entered into under paragraph (1) shall provide for maintenance and monitoring of the estuary habitat restoration project to the extent determined necessary by the Collaborative Council.

(e) LEAD COLLABORATIVE COUNCIL MEMBER.—The Collaborative Council shall designate a lead Collaborative Council member for each proposed estuary habitat restoration project. The lead Collaborative Council member shall have primary responsibility for overseeing and assisting others in implementing the proposed project.

(f) AGENCY CONSULTATION AND COORDINATION.—

(1) IN GENERAL.—In carrying out this section, the Collaborative Council shall consult with, cooperate with, and coordinate its activities with the activities of other appropriate Federal agencies, as determined by the Collaborative Council.

(2) USE OF COORDINATING MECHANISMS.—The Collaborative Council shall work to ensure that Federal agency coordinating and streamlining mechanisms established under other law are fully used in cases in which the Collaborative Council determines the use of the mechanisms to be appropriate.

(g) BENEFITS AND COSTS OF ESTUARY HABITAT RESTORATION PROJECTS.—The Collaborative Council shall evaluate the benefits and costs of estuary habitat restoration projects in accordance with section 907 of the Water Resources Development Act of 1986 (33 U.S.C. 2284).

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of the Army for the administration and operation of the Collaborative Council $4,000,000 for each fiscal year.

SEC. 7. COST SHARING OF ESTUARY HABITAT RESTORATION PROJECTS.

(a) IN GENERAL.—No financial assistance in carrying out an estuary habitat restoration project shall be available under this Act from any Federal agency unless the non-Federal applicant for assistance demonstrates to the satisfaction of the Collaborative Council that the estuary habitat restoration project meets—

(1) the requirements of this Act; and

(2) any criteria established by the Collaborative Council under this Act.

(b) FEDERAL SHARE.—

(1) IN GENERAL.—Except as provided in paragraph (2), for each fiscal year, the Federal share of the cost of an estuary habitat restoration project assisted under this Act shall be not less than 25 percent and not more than 65 percent.

(2) INCREASED FEDERAL SHARE.—In the case of an estuary habitat restoration project with respect to which the applicant demonstrates need under subsection (d)(2), the Federal share of the cost of the project shall not exceed 75 percent.

(c) PAYMENT OF FEDERAL SHARE UNDER OTHER LAW.—The Collaborative Council may use funds made available under this Act to pay all or part of the Federal share of the cost of an estuary habitat restoration activity eligible for funding under a program established under another provision of law, if the activity would also be eligible for funding under this Act as an estuary habitat restoration project.

(d) NON-FEDERAL SHARE.—

(1) IN-KIND CONTRIBUTIONS.—The non-Federal share of the cost of an estuary habitat restoration project may be provided in the form of land, easements, rights-of-way, services, or any other form of in-kind contribution determined by the Collaborative Council to be an appropriate contribution equivalent to the monetary amount required for the non-Federal share of the estuary habitat restoration project.

(2) REDUCED NON-FEDERAL SHARE.—An applicant for assistance in carrying out an estuary habitat restoration project may submit an application for a reduction in the requirement of the payment of a non-Federal share of at least 35 percent, if the applicant submits a statement of need and demonstrates a need for a reduced non-Federal share in accordance with section 103(m) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(m)).

(e) ALLOCATION OF FUNDS BY STATES TO POLITICAL SUBDIVISIONS.—With the approval of the Secretary, a State may allocate to any local government, area wide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334), regional agency, or interstate agency, a portion of any funds disbursed by the Collaborative Council to the State for the purpose of carrying out an estuary habitat restoration project.

SEC. 8. MONITORING AND MAINTENANCE OF ESTUARY HABITAT RESTORATION PROJECTS.

(a) DATABASE OF RESTORATION PROJECT INFORMATION.—The Under Secretary shall maintain an appropriate database of information concerning estuary habitat restoration projects funded by the Collaborative Council, including information on project techniques, project completion, monitoring data, and other relevant information.

(b) REPORT.—

(1) IN GENERAL.—The Collaborative Council shall biennially submit a report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the results of activities carried out under this Act.

(2) CONTENTS OF REPORT.—A report under paragraph (1) shall include—

(A) data on the number of acres of estuary habitat restored under this Act, including the number of projects approved and completed that comprise those acres;

(B) the percentage of restored estuary habitat monitored under a plan to ensure that short-term and long-term restoration goals are achieved;

(C) an estimate of the long-term success of varying restoration techniques used in carrying out estuary habitat restoration projects;

(D) a review of how the Collaborative Council has incorporated the information described in subparagraphs (A) through (C) in the selection and implementation of estuary habitat restoration projects;

(E) a review of efforts made by the Collaborative Council to maintain an appropriate database of restoration projects funded under this Act; and

(F) a review of the measures that the Collaborative Council has taken to provide the information described in subparagraphs (A) through (C) to persons with responsibility for assisting in the restoration of estuary habitat.

SEC. 9. MEMORANDA OF UNDERSTANDING.

In carrying out this Act, the Collaborative Council may—

(1) enter into cooperative agreements with persons; and

(2) execute such memoranda of understanding as are necessary to reflect the agreements.

SEC. 10. DISTRIBUTION OF APPROPRIATIONS FOR ESTUARY HABITAT RESTORATION ACTIVITIES.

The Secretary shall allocate funds made available to carry out this Act based on the need for the funds and such other factors as the Collaborative Council determines to be appropriate to carry out this Act.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATIONS OF APPROPRIATIONS UNDER OTHER LAW.—Funds authorized to be appropriated under section 908 of the Water Resources Development Act of 1986 (33 U.S.C. 2285) and section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330) may be used by the Secretary in accordance with this Act to assist States and other non-Federal persons in carrying out estuary habitat restoration projects or interim actions under section 6(c).

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this Act—

(1) $40,000,000 for fiscal year 1999;

(2) $50,000,000 for fiscal year 2000; and

(3) $75,000,000 for each of fiscal years 2001 through 2003.

SEC. 12. GENERAL PROVISIONS.

(a) ADDITIONAL AUTHORITY FOR ARMY CORPS OF ENGINEERS.—The Secretary—

(1) may carry out estuary habitat restoration projects as determined by the Collaborative Council; and

(2) shall give estuary habitat restoration projects the same consideration (as determined by the Collaborative Council) as projects relating to irrigation, navigation, or flood control.

(b) INAPPLICABILITY OF CERTAIN LAW.—Sections 203, 204, and 205 of the Water Resources Development Act of 1986 (33 U.S.C. 2231, 2232, 2233) shall not apply to an estuary habitat restoration project selected in accordance with this Act.

(c) ESTUARY HABITAT RESTORATION MISSION.—The Secretary shall establish restoration of estuary habitat as a primary mission of the Army Corps of Engineers.

(d) FEDERAL AGENCY FACILITIES AND PERSONNEL.—

(1) IN GENERAL.—Federal agencies may cooperate in carrying out scientific and other programs necessary to carry out this Act, and may provide facilities and personnel, for the purpose of assisting the Collaborative Council in carrying out its duties under this Act.

(2) REIMBURSEMENT FROM COLLABORATIVE COUNCIL.—Federal agencies may accept reimbursement from the Collaborative Council for providing services, facilities, and personnel under paragraph (1).

(e) COLLABORATIVE COUNCIL ADMINISTRATIVE EXPENSES AND STAFFING.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress and the Secretary an analysis of the extent to which the Collaborative Council needs additional personnel and administrative resources to fully carry out its duties under this Act. The analysis shall include recommendations regarding necessary additional funding.

(f) APPLICATION OF AND CONSISTENCY WITH OTHER LAWS.—Except as specifically provided in this Act—

(1) nothing in this Act supersedes or modifies any Federal law in existence on the date of enactment of this Act; and

(2) each action by a Federal agency under this Act shall be carried out in a manner that is consistent with such law.●

ORDERS FOR MONDAY, SEPTEMBER 29, 1997

Mr. MCCONNELL. 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, September 29. I further ask that on Monday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate immediately resume S. 25, the campaign finance reform bill.

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

PROGRAM

Mr. MCCONNELL. Mr. President, on Monday, the Senate will resume the pending campaign finance reform bill. As a reminder to all Senators, no votes will occur during Monday's session of the Senate. The next vote will be at 11 a.m. on Tuesday, September 30, on the motion to invoke cloture on the Coats amendment concerning scholarships to the District of Columbia appropriations bill. Also during Tuesday's session of the Senate, the Senate will consider the continuing resolution. Therefore, votes will occur throughout the day on Tuesday.

ORDER FOR ADJOURNMENT

Mr. MCCONNELL. If there is no further business to come before the Senate, I now ask the Senate stand in adjournment under the previous order, following the remarks of Senator DORGAN.

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

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

BIPARTISAN CAMPAIGN REFORM ACT OF 1997

The Senate continued with the consideration of the bill.

Mr. DORGAN. Mr. President, this is truly what is called getting the last word, as I understand the unanimous consent agreement is for the adjourning of the Senate following my presentation.

I regret I was delayed. I wanted to be here to be involved in the back-and-forth discussion on campaign finance reform. Nonetheless, I am able to offer a few comments about some of the discussion we have had in the last few hours on this important issue.

It is important for everybody to understand that we are talking now about campaign finance reform, and we ought not take a victory lap by virtue of the fact that it is on the floor of the Senate. We are at the starting line, not the finish line. The starting line was to scratch and fight and prod to try to get campaign finance reform to the floor because a whole lot of people didn't want us to talk about it or to consider it.

Well, it is here, and now we are going to have some votes. I am going to offer amendments, some others will offer amendments, and we will see how people feel about reforming our campaign finance system in this country.

Much of the discussion in the last couple of hours has been by those who say they have constitutional objections to the McCain-Feingold bill, for example, and/or other proposals; that they somehow would violate the Constitution. Earlier in the week, 126 legal scholars weighed in saying, ''Nonsense, this wouldn't violate the Constitution at all.'' In response to the scholars, one of my colleagues said, ''Well, I suppose we could get 126 people who would tell us the Earth is flat.'' I imagine you could, but not constitutional scholars.

The issue here is people who understand the Constitution, people who study the Constitution, weighing in on this question of whether the proposals to change our system of campaign financing runs afoul of the Constitution. The answer, clearly, at least by 126 constitutional scholars is no, that's a bogus issue.

Mr. President, this issue of campaign finance reform is a critically important issue. I have served in public office for some long while, and I am proud to serve in public office. I am one of those who believes public service is important. I wake up in the morning and feel privileged to be able to serve in the U.S. Senate. I come to work enjoying my job. I have a thirst for public issues and public debate and a contest of ideas. I think this is an honorable profession. I enjoy serving here. I want to do the things to advance public policy in a way that gives the American people some confidence that those of us who serve here serve the public interest.

I want to tell a story briefly about the campaign I waged for the U.S. Senate, having served for some terms in the U.S. House of Representatives. I was better known than my opponent because I was an incumbent Congressman, although my opponent had run in statewide races previously. Nonetheless, we both were endorsed by our respective political conventions to run for the U.S. Senate.

So I called for something in public debate with my opponent that I thought was unique, unusual, and something that had never been done before in this country in a Senate campaign. I said to my opponent, Why don't you and I engage in a campaign that is the most unique and unusual that has been waged in modern times? Here's my proposition. I'm better known than you are because I've served in Congress and have run statewide a good number of times. I accept that. I will be better known than you are when we start this race. I propose this: I propose that I will not run any television commercials, no radio advertisements, no commercials of any kind during the entire campaign. You commit to do the same thing, and then what we do is we pool our money and we buy 8 hours of prime-time television on the stations that serve in North Dakota, and each week for 1 hour, we show up at a television station and have it simulcast across the stations in North Dakota; we show up with no assistants, no aides, no handlers, no notes, no research materials, just the two of us, and no moderator, and for 1 hour a week prime time that we pay for, we tell North Dakotans why we want to serve in the U.S. Senate and the kind of ideas that we have for the future of our State in this country; we debate the issues of the day, one on one, an hour a week prime time for 8 weeks leading up to the election.

At the end of 8 weeks, having an hour debate every week, prime time simulcast on all the stations, everyone in North Dakota would know who he is, how he feels about issues, how he reacts in response to a public debate about issues, and they would know who I am and how I respond to the same thing.

My opponent chose not to accept that challenge. So the result was we had a traditional campaign: He ran 30-second advertisements, the little slash-and-burn 30-second explosion that goes off in our minds that contribute nothing to the public knowledge. It is part of the air pollution in this country that happens every election year, that on television and on the radio, we hear these 30-second and 1-minute explosions that contribute nothing to the political dialog in America. So that is what happened in my Senate race.

I regret that was the case because we could have had a Senate race that would have hearkened back to the old days in which, without the 30-second slash-and-burn advertisements, we would have had live, prime-time debates without notes, without handlers, without moderators, just talking about what we believed was necessary to do to assure a better future for this country and for our children.

Election contests should, after all, be a contest of ideas, but it is not that these days. I have run in 10 statewide elections in North Dakota—10 of them. So I know something about statewide campaigns. They are not any longer contests of ideas. They are an opportunity for handlers and aides and gurus and assistants and pollsters and media advisers to put together these little explosions and put them on television, attempting to mischaracterize some other position or some other candidate.

Often, the television commercial that is paid for by a candidate has no explanation except a little line that no one can see on the bottom that the candidate is even sponsoring it. I have made some suggestions on how we should address that issue, just as an example, and I am going to offer it as an amendment and we will have a chance to vote on it in the Senate. Some will not like it. I don't know if it will prevail.

Here is what I think we should do. We, by law, say television stations are to provide what we call the lowest card rate for political advertising during certain political periods during campaigns. If you are running political campaigns and buying political time, you get the lowest rate on the rate card and you are guaranteed that by law. I am going to offer an amendment that I think will change the culture of these 30-second little slash-and-burn commercials that have become the trademark of American campaigns. Mine will be very simple. The only commercials in political advertising that will qualify for the lowest rate or lowest cost will be those that are at least 1 minute in length and on which the candidate appears on the commercial 75 percent of the time. If those two conditions are not met, they don't buy at the bottom of the rate card.

It costs them much, much more. Let us at least, if we are going to have a law that requires cutrate advertising prices, be afforded campaigns, as now exists in law, let us at least allow that to provide an incentive for the right kind of public discussion. No one who is thinking, in my judgment, can believe the right kind of public discourse in this country these days is the little 30-second pollution out there on television and radio that contributes nothing to public dialog; it simply attempts to cut down the other candidate and demean the other candidate, having nothing to do with the issues.

Am I suggesting those who run for public office ought to be free of public scrutiny and free of public criticism? Not at all, but we ought to provide some incentives in which the public gets a decent debate about public issues in our campaigns. So we will have an opportunity to vote on my amendment during this discussion.

I come to the floor of the Senate as a supporter of the McCain-Feingold legislation. Would I have written it differently? Yes, I think so. There are some things I would have changed substantially, but I have great admiration for Senator MCCAIN and Senator FEINGOLD and for the persistence with which they bring this legislation to the floor of the Senate. They believe the current system of financing campaigns is broken and something ought to be done. There are some in the Senate who believe that things are just fine, let's just keep going just the way we are going, things are just terrific, and they don't want anybody to do anything to change what is now happening.

There is an old saying that the water ''ain't'' going to clear up until you get the hogs out of the creek. The only way we are going to clear up the water of campaign financing in this country is for those of us who believe that we need to change the method by which we finance campaigns in this country is if we are able to beat back, by voting on the Senate floor, the attempts of those who want to stall, once again, our ability to change this system.

Mr. President, I want to show a chart that describes better than all the words

I can use what is wrong with our campaign financing system.

This is money in politics, an explosion of money in politics, spending on all congressional races, 1976 to 1996. And you say, ''What's happening to this line?'' Money in politics.

I wonder if when George Washington and Mason and Madison and Ben Franklin sat in that little room in Philadelphia and talked about what kind of a constitution they should create for this country, I wonder if they thought that we would get to this kind of situation where a representative democracy would see the election of those representatives part and parcel of a system in which there is an explosion of money and elections all too often become auctions rather than elections. I do not think so.

I do not think this represents the best of democracy. I do not think it represents something that we can be proud of, as those of us who participate. I think we ought to change it.

So the question for me and some others in this Chamber is not whether we address this issue and make some changes, the question is, What kind of changes should we make? The McCain-Feingold bill comes to the floor of the Senate—as I have indicated, I am a cosponsor but I might have written parts of it differently.

As I understand it, the specific McCain-Feingold proposal that is brought to the floor of the Senate now does not contain some of the central portions that I think are necessary in really making progress in reforming our campaign financing system.

For example, we have to, in my judgment, have expenditure limits on campaigns in order to be effective. There is too much money in politics. If we do not put spending limits on campaigns, then we are not going to solve the problem. I understand that the spending limits which were in the McCain-Feingold bill, which were voluntary spending limits, have been removed and we will now have to try to put them back in by amendment.

So the question for the Senate is going to be, Can we attach individual spending limits, State by State, to campaigns and enforce them in some way in this piece of legislation?

Originally, the legislation had what are called voluntary spending limits which had incentives in order to get people to say, ''Yes, we'll accept spending limits.'' And the incentives persuading them to accept spending limits would then impose limits on the campaigns.

It is interesting, the Supreme Court in a case called Buckley versus Valeo ruled by a 5–4 decision that we cannot have spending limits that are enforceable in campaigns. I would like to see the Supreme Court revisit that issue, the 5–4 decision. Everybody has a right to be wrong. When the Supreme Court is wrong, of course, it is the law of the land.

The Supreme Court, in my judgment, was fundamentally wrong here. We really ought to have the Supreme Court review this once again—and I think we reach a different result. But, nonetheless, the result we now have in Buckley versus Valeo says that you cannot have enforceable spending limits. So the attempt has been to provide what are called voluntary spending limits and sufficient incentives in law that would persuade people to abide by and adopt those spending limits.

I think in the coming days it is going to be clear, with respect to the debate in the Senate, the difference between the two groups. I am not talking about Democrats and Republicans; I am talking about two groups of people. There is one group that says, ''Look, things are fine. What do you mean, there's too much money in politics? Too much money spent on Rolaids or Kleenex,'' they will say. ''Gee, we don't have enough money in politics.''

There is another group that said, ''Wait a second.'' I mean, it does not take glasses to see what is going on here. What has happened is an avalanche of money is thrown into this political system, and it is corrupting the system. If we cannot have some spending limits someplace, if we cannot, as a group, decide there is too much money in politics, if we cannot decide that this red line going nearly straight up represents the corrosive influence of money in politics, then we are not going to succeed. Yes, we got the bill to the floor of the Senate, but we will not succeed in solving the campaign finance problem that exists in this country.

So we will see now in the coming weeks, I suppose the coming 2 weeks, perhaps, when this is finally complete. There is a group that says, ''Gee, things are terrific. Let's leave things the way they are. We like money. In fact, the more the merrier.'' They don't say it, but I think they are kind of concocting a golden rule—he who has the gold, rules. The fact is that we have one group that has twice as much as the other group, so they want the rules to admire that and suggest that that is just fine.

I suppose you can make the case that those who do not have as much money would like to put limits on those who do. But you know, the American people are eventually going to rule the day here. The American people are going to make the decision through their representatives here in Congress and through public pressure to say either, ''Yes, we think this is great. We think this flood of money coming into politics is a wonderful thing. It really nurtures our political system,'' or the American people will likely say, as all the polls tell us, by 70 and 80 percent, ''This doesn't make any sense at all. This avalanche of money is hurting our political system.''

We have what is called ''hard money'' and ''soft money'' and contributions on this side and that side. I imagine that people have difficulty understanding ''hard money'' and ''soft money.'' The easy way to understand it, for example, is soft money is the legal form of cheating—cheating, yes—because no one anticipated, with current campaign laws, that the kind of money that is now used called ''soft money'' would be, could be, or should ever be used for purposes it is now being employed to achieve; that is, millions, tens of millions of dollars, yes, by both political parties, tens of millions of dollars thrown into what is called party building. But it is not party building. These are moneys that are spent in a way designed to influence individual elections and designed carefully in ways to avoid it appearing like they are direct expenditures under regulation of the Federal Election Commission.

The corrosive part of the soft money issue is that is money that can be thrown in—it can be by a corporation, labor organization, rich individuals, you name it—it can be thrown into a race under the guise of not part of the hard money contribution, but it can affect that race in a dramatic way. The source of the money is never revealed—secret money out there, never revealed. And you can move the money around three, four different ways to different organizations, and the source of the money is never revealed—half a million dollars here, a million dollars there.

You know who the victims have been of that? We can name some of the victims who at the end of their campaigns, thinking it was them versus another candidate in a contest of ideas in their State, found out it was not that. Yes, that was part of it. Then there are organizations, unnamed and newly named organizations, off to the side, running in with saddlebags full of soft money, the source of which no one would ever disclose, putting advertisements on television, negative, corrosive, ugly advertisements in order to knock one of the candidates out of the race.

That is what this political system has become. If we do not fix it, if we do not address that, shame on us. The American people know it is wrong, and we ought to know it is wrong.

So the question ought not be for anybody in this Chamber whether we address this issue in a thoughtful way and pass some legislation finally to reform the campaign finance system; the question ought to be, how? How do we do it? We have a couple weeks in which this Senate can express its judgment on that issue.

I have great respect for every other Member of this Senate. There are some who stand here today and say they are very concerned about this aspect or that aspect. I have great respect for them. I am not going to suggest they have impure motives. But I am saying that in the strongest possible ways, if they believe that what we ought to do is nothing, if they believe the current system of financing campaigns in this country is good for this country, then they are dreadfully wrong. So we will see in the next couple of weeks.

I just mentioned soft money and independent expenditures. There is another category called issue advertising which is tied in with the same sort of thing—issue advertising.

Let me read from an article out of Rollcall.

While presidential, Senate, and House candidates spent a record $400 million on TV ads last year, more than two dozen organizations dumped an additional $150 million into controversial issue advertising in the 1995–96 cycle . . .

And guess what? What kind of advertising was this? Eighty-one percent of it was negative advertising; 81 percent negative advertising. That is the air pollution in this country that we ought to worry about. We ought to do something about it.

I am not suggesting it is inappropriate to have issue advertising. But we ought to make it all accountable. If you are going to come in and play a role in these campaigns, then tell the American people where you got your money, whose money is it you are spending, and what is the purpose of the expenditure.

Mr. President, we have had a lengthy discussion today and the discussion will go on, I assume, for about 2 weeks, and it will be between those who believe we ought to have reform and those who don't.

Speaker GINGRICH calls for more, not less, campaign cash, in an article in the Washington Post. He represents a group who believe that money is not a problem—we probably need more money in politics, not less. I absolutely disagree with him.

In another article, ''Group launches effort against campaign finance reform bill.'' Some very large influential groups in this country who are deeply involved in issue advertising of the type I just described don't want campaign finance reform. I guess I can understand why, but I think they are wrong.

Mr. President, 45 members of my caucus signed a piece of legislation saying they are prepared to vote for McCain-Feingold; four in the other caucus said the same thing. If we can get a vote, up or down, we are looking for one or two additional Members of the Senate who will decide whether we pass this legislation.

There are those, I suppose, who will say, ''We need more time.'' We have had 6,700 pages of hearing, 3,361 floor speeches—and we can add today's to that, all of this on the issue of campaign finance reform—446 legislative proposals, and 113 votes in the Senate. I don't know of anyone who can credibly say we need more time.

What we need is the nerve and the will to do what is right. I hope we might see that kind of nerve and will in the next couple of weeks.

FAST-TRACK LEGISLATION

Mr. DORGAN. Mr. President, I have been so tempted today, I wanted very much to come and speak about fast track, which the President is asking with respect to trade authority, and I was intending to do that at time when it was appropriate today, but because of the debate on campaign finance reform time was not available for that. I thought about doing it at the end of my remarks on campaign finance reform, but I know that there are those who want to do other things and there is some sort of dispatch for the Senate to adjourn. I will respect that. But I want to say about two paragraphs as I conclude.

I hope to come back on Monday and find some time to discuss President Clinton's proposal to provide fast-track trade authority so he can negotiate additional trade agreements. I am opposed to that, and I am going to resist vigorously trade authority that would provide the President, any President, the opportunity to negotiate new trade agreements until we fix the problems in the old agreement.

Let me leave with a couple of statistics. We now have a pretty good economy, that is true. We tackled the fiscal policy budget deficit. But the other deficit, the trade deficit, is the highest in this country's history.

Every time we negotiate a new trade agreement we seem to lose. We negotiated an agreement with Canada. Our deficit was $13 billion with Canada; now it is double. We negotiated a trade agreement with Mexico. We had a $2 billion surplus; now after the trade agreement we have a $14 billion deficit. We have a $50 to $60 billion trade deficit with Japan, a $40 to $50 billion trade deficit with China. We are up to our neck in trade problems and cannot resolve virtually any of those problems because our trade treaties, first of all, were negotiated inappropriately to provide the kind of sanctions they ought to for those that don't open their markets to American goods. And second, we don't enforce trade treaties that other countries have signed with us.

I want to speak at some great length, I hope on Monday, on this subject. I am not speaking on trade because I am what is called a protectionist, xenophobe, or isolationist. I believe in trade. I believe in free trade. I demand fair trade, and I believe we ought to expand our trade opportunities. But I believe this country ought to, for a change, stand up for its own economic interests and demand that manufacturing and jobs and opportunity exist in this country's future and not trade away those opportunities so that corporations can access dime-an-hour labor by 14-year-old kids working 14 hours a day to ship products to Fargo, ND, or Pittsburgh. That is not free trade. I will talk at some length on Monday about that.

I yield the floor.

ADJOURNMENT UNTIL MONDAY, SEPTEMBER 29, 1997

The PRESIDING OFFICER. Under a previous order, the Senate stands in adjournment until 12 noon, Monday, September 29, 1997.

Thereupon, the Senate, at 3:45 p.m., adjourned until Monday, September 29, 1997, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate September 26, 1997:

EXECUTIVE OFFICE OF THE PRESIDENT

ARTHUR BIENENSTOCK, OF CALIFORNIA, TO BE AN ASSOCIATE DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY, VICE ERNEST J. MONIZ.

COMMODITY FUTURES TRADING COMMISSION

JOSEPH B. DIAL, OF TEXAS, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR THE TERM EXPIRING JUNE 19, 2001. (REAPPOINTMENT)

NATIONAL TRANSPORTATION SAFETY BOARD

JAMES E. HALL, OF TENNESSEE, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM EXPIRING DECEMBER 31, 2002. (REAPPOINTMENT)

DEPARTMENT OF VETERANS AFFAIRS

ALPHONSO MALDON, JR., OF VIRGINIA, TO BE DEPUTY SECRETARY OF VETERANS AFFAIRS, VICE HERSHEL WAYNE GOBER.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 26, 1997:

INTER-AMERICAN FOUNDATION

JEFFREY DAVIDOW, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION, FOR A TERM EXPIRING SEPTEMBER 20, 2002.

DEPARTMENT OF COMMERCE

ROBERT L. MALLETT, OF TEXAS, TO BE DEPUTY SECRETARY OF COMMERCE.

W. SCOTT GOULD, OF THE DISTRICT OF COLUMBIA, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF COMMERCE.

W. SCOTT GOULD, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

INTER-AMERICAN FOUNDATION

NANCY DORN, OF THE DISTRICT OF COLUMBIA, TO BE MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING JUNE 26, 2002.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

MARJORIE O. RENDELL, OF PENNSYLVANIA, TO BE U.S. CIRCUIT JUDGE FOR THE THIRD CIRCUIT.

RICHARD A. LAZZARA, OF FLORIDA, TO BE U.S. DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF FLORIDA.

IN THE ARMY

THE FOLLOWING U.S. ARMY RESERVE OFFICER FOR PROMOTION IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTIONS 14101, 14315 AND 12203(A):

To be brigadier general

COL. JAMES W. COMSTOCK, 0000

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE REGULAR ARMY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be brigadier general

COL. ANTONIO M. TAGUBA, 0000

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be major general

BRIG. GEN. JOHN G. MEYER, JR., 0000.
BRIG. GEN. ROBERT L. NABORS, 0000.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 624:

To be major general

MAJ. GEN. ROBERT G. CLAYPOOL, 0000.

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 12203:

To be major general

BRIG. GEN. EARL L. ADAMS, 0000

BRIG. GEN. JOHN E. BLAIR, 0000
BRIG. GEN. JAMES G. BLANEY, 0000
BRIG. GEN. DON C. MORROW, 0000
BRIG. GEN. THOMAS E. WHITECOTTON III, 0000
BRIG. GEN. JACKIE D. WOOD, 0000

To be brigadier general

COL. STEPHEN E. AREY, 0000
COL. GEORGE A. BUSKIRK, JR., 0000
COL. WILLIAM A. CUGNO, 0000
COL. JOSEPH A. GOODE, JR., 0000
COL. STANLEY J. GORDON, 0000
COL. LARRY W. HALTOM, 0000
COL. DANIEL E. LONG, JR., 0000
COL. GERALD P. MINETTI, 0000
COL. RONALD G. YOUNG, 0000

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CONGRESS, SECTION 601:

To be lieutenant general

LT. GEN. GEORGE A. FISHER, 0000

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CONGRESS, SECTION 601:

To be lieutenant general

MAJ. GEN. WILLIAM J. BOLT, 0000

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. ARMY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CONGRESS, SECTION 624:

To be brigadier general

COL. HENRY W. STRATMAN, 0000

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CONGRESS, SECTION 601:

To be lieutenant general

LT. GEN. PETER PACE, 0000

IN THE NAVY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. NAVY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CONGRESS, SECTION 624:

To be rear admiral

REAR ADM. (IH) LOUIS M. SMITH, 0000

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CONGRESS, SECTION 12203:

To be rear admiral (lower half)

CAPT. KENNETH C. BELISLE, 0000
CAPT. JOHN G. COTTON, 0000
CAPT. STEPHEN S. ISRAEL, 0000
CAPT. GERALD J. SCOTT, JR., 0000
CAPT. JOE S. THOMPSON, 0000

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE NAVY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CONGRESS, SECTION 12203:

To be rear admiral (lower half)

CAPT. HOWARD W. DAWSON, JR., 0000
CAPT. WILLIAM J. LYNCH, 0000
CAPT. ROBERT R. PERCY III, 0000

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT AS DEPUTY JUDGE ADVOCATE GENERAL OF THE U.S. NAVY IN THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CONGRESS, SECTION 5149:

To be rear admiral

CAPT. DONALD J. GUTER, 0000

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. NAVY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CONGRESS, SECTION 624:

To be rear admiral (lower half)

CAPT. WILLIAM W. COBB, JR., 0000

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING RICHARD W. ALDRICH, AND ENDING FRANK A. YERKES, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 29, 1997.

AIR FORCE NOMINATIONS BEGINNING LUIS C. ARROYO, AND ENDING MICHAEL R. EMERSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 31, 1997.

AIR FORCE NOMINATIONS BEGINNING JAMES M. BARTLETT, AND ENDING *ELLIS D. DINSMORE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 31, 1997.

AIR FORCE NOMINATION OF ROBERT J. SPERMO, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 3, 1997.

AIR FORCE NOMINATIONS BEGINNING *CARL M. GOUGH, AND ENDING SAMUEL STRAUSS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 3, 1997.

AIR FORCE NOMINATIONS BEGINNING JOSEPH ARGYLE, AND ENDING MICHAEL D. ELLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 3, 1997.

AIR FORCE NOMINATIONS BEGINNING ARNOLD K. *ABANGAN, AND ENDING DARREN L. ZWOLINSKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 3, 1997.

IN THE ARMY

ARMY NOMINATION OF FRANK G. WHITEHEAD, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 31, 1997.

ARMY NOMINATIONS BEGINNING MARY A. ALLRED, AND ENDING JAMES R. TINKHAM, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 31, 1997.

ARMY NOMINATIONS BEGINNING ROBERT C. BAKER, AND ENDING JAMES R. WOOTEN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 31, 1997.

ARMY NOMINATIONS BEGINNING EDWIN E. *AHL, AND ENDING MARK A. *ZERGER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 31, 1997.

ARMY NOMINATIONS BEGINNING CHRISTIAN F. ACHLEITHNER, AND ENDING DANIEL A. *ZELESKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 31, 1997.

ARMY NOMINATION OF SHRI KANT MISHRA, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 3, 1997.

ARMY NOMINATION OF DAVID S. FEIGIN, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 3, 1997.

ARMY NOMINATION OF CLYDE A. MOORE, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 3, 1997.

ARMY NOMINATIONS BEGINNING TERRY A. WIKSTROM, AND ENDING RICHARD C. BUTLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 3, 1997.

ARMY NOMINATION OF JAMES H. WILSON, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 3, 1997.

ARMY NOMINATIONS BEGINNING ELLIS E. BRUMRAUGH, JR., AND ENDING JOHN C. ZIMMERMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 3, 1997.

ARMY NOMINATIONS BEGINNING GRATEN D. BEAVERS, AND ENDING JOHN E. ZUPKO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 3, 1997.

ARMY NOMINATIONS BEGINNING JAMES L. *ATKINS, AND ENDING SCOTT WILKINSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 3, 1997.

ARMY NOMINATIONS BEGINNING FRANK J. ABBOTT, AND ENDING X0383, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 3, 1997.

ARMY NOMINATIONS BEGINNING MADELFIA A. *ABB, AND ENDING *X0663, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 3, 1997.

ARMY NOMINATION OF RAFAEL LARA, JR., WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 15, 1997.

ARMY NOMINATIONS BEGINNING MORRIS F. ADAMS, JR., AND ENDING GEORGE W. WILSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 15, 1997.

ARMY NOMINATIONS BEGINNING CYNTHIA A. ABBOTT, AND ENDING ANTHONY W. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 15, 1997.

IN THE COAST GUARD

COAST GUARD NOMINATIONS BEGINNING MICHAEL F. HOLMES, AND ENDING BEVERLY G. KELLEY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 3, 1997.

COAST GUARD NOMINATIONS BEGINNING STEPHEN E. FLYNN, AND ENDING VINCENT WILCZYNSKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 15, 1997.

COAST GUARD NOMINATIONS BEGINNING FRANK M. PASKEWICH, AND ENDING ROBERT M. PYLE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 15, 1997.

COAST GUARD NOMINATIONS BEGINNING STEVEN C. ACOSTA, AND ENDING MARC A. ZLOMEK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 18, 1997.

IN THE MARINE CORPS

MARINE CORPS NOMINATION OF FRANKLIN D. MCKINNEY, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 29, 1997.

MARINE CORPS NOMINATION OF WILLIAM C. JOHNSON, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 3, 1997.

MARINE CORPS NOMINATION OF TONY WECKERLING, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 3, 1997.

MARINE CORPS NOMINATION OF JEFFREY E. LISTER, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 3, 1997.

MARINE CORPS NOMINATION OF HARRY DAVIS, JR., WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 3, 1997.

MARINE CORPS NOMINATION OF MICHAEL D. DAHL, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 3, 1997.

MARINE CORPS NOMINATION OF JAMES C. CLARK, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 3, 1997.

MARINE CORPS NOMINATION OF JOHN C. KOTRUCH, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 15, 1997.

IN THE NAVY

NAVY NOMINATIONS BEGINNING LAWRENCE E. ADLER, AND ENDING THOMAS A. ZIMMERMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 3, 1997.

NAVY NOMINATIONS BEGINNING DAVID M. BELT, JR., AND ENDING GENE P. THERIOT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 15, 1997.

NAVY NOMINATIONS BEGINNING EUGENE M. ABLER, AND ENDING ERIC A. ZOEHRER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 15, 1997.

IN THE PUBLIC HEALTH SERVICE

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING JENNIFER L. BETTS, AND ENDING REBECCA J. WERNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 4, 1997.

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING WILLIAM E. HALPERIN, AND ENDING TRINH K. NGUYEN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 12, 1997.