prepare to come back in the morning to take up that work. But I think, in the interests of the Members, we would want to hold ourselves available for as late as what might be reasonable, in the hopes that we might be able to get our folks on an early morning plane, if that is an option available. So we will be trying to evaluate that and make an announcement as we get better information.

Mr. BONIOR. Mr. Speaker, I would ask the gentleman, understanding the difficulty in guesstimating what time this is all going to culminate, let me ask my friend from Texas one other question. On Monday next, has he made any decisions about when we should be here for the first vote?

Mr. ARMEY. Again, I thank the gentleman for his inquiry. The fact is that, again, to a large extent, we are waiting to see what happens with the current work under consideration between the House and Senate, but I think a prudent advice I could give the Members would be to be prepared to be back in the Chamber by noon on Monday. Again, if I have any news to share on that later on, and hopefully good news, I will announce it, but I would be prepared, I think, to return to the Chamber on noon on Monday.

Mr. BONIOR. I thank my colleague.

GENERAL LEAVE

Mr. MCCRERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2586, the bill about to be considered.

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

There was no objection.

TEMPORARY INCREASE IN THE STATUTORY DEBT LIMIT

Mr. MCCRERY. Mr. Speaker, pursuant to the rule, I call up the bill (H.R. 2586) to provide for a temporary increase in the public debt limit, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 258, the gentleman from Louisiana [Mr. MCCRERY] will be recognized for 30 minutes, and the gentleman from Florida [Mr. GIBBONS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. MCCRERY].

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

Mr. Speaker, the subject of this bill, of course, is a short-term extension of the Nation's debt limit. This short-term extension is intended to provide an orderly process, with sufficient time for the Congress and the President to consider the balanced budget bill that will shortly be sent to the President. It is now clear that some type of pressure must be applied to bring the differing views together and to resolve this problem.

Mr. Speaker, H.R. 2586 would temporarily increase the statutory limit on the public debt to $4.967 trillion. It would do so until December 12, 1995. Under the bill, the limit would then revert to $4.8 trillion. H.R. 2586 also ensures the financial integrity of Government trust funds invested in Government debt obligations subject to the debt limit.

Mr. Speaker, this bill today is necessary because the Congress, the legislative branch, under our Constitution, is responsible for authorizing any debt to be incurred by the U.S. Government. That is an obligation which we must take very seriously, and consider very carefully. Some in this Chamber are reluctant to increase the Nation's debt limit at all. I understand that, Mr. Speaker.

However, we all recognize that this Government has made commitments and entered into obligations that must eventually be paid, so in an effort to accommodate those obligations and in an effort to accommodate this body and the executive branch with time to deliberate matters of great importance to the country, including balancing this Nation's budget in 7 years, this bill comes to us today. We believe this bill is not only necessary, but entirely appropriate, and we will get into more of the details as the debate continues.

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

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

Mr. Speaker, my fine and much-admired friend, the gentleman from Louisiana, has stated some of this bill, but perhaps he knows more about it than I do. He says that it is just a temporary legislation. The first page or so is temporary, but the other 400-and-some pages in this bill, and the pages that will perhaps be adopted here by additional amendments, are not temporary legislation. They are very permanent legislation. They do drastic things to this U.S. Government. They do it without debate, without consideration, or anything else.

The only reason we are here at this late hour and under this kind of confusing circumstances is because the Republicans have not been able to get their act together, to get their majority control together, and to do the things that should have been done. We are here on November 9 to do the work that should have been done in July of this same year.

The Republicans keep howling and screaming that the President will not bargain with them, but how, Mr. Speaker, can the President bargain with them? They have no budget bill. They have not even had a meeting on their budget bill in 2 weeks. I know. I am a conferee. I have not even gotten a notice, or, as one Member said, a postcard about a meeting of the conferees to iron out the differences in the budget resolution. We are about 4 months behind on the budget, the Congress is, because the Republicans cannot muster a majority on their side to get anything done.

We are here at this late hour attempting to blackmail the President into signing something that he will never sign. The President is not subject to blackmail. He has enough sense not to give in to that kind of treatment. He is not going to sign this ridiculous trash here, most of which is only put together, as the gentleman from Louisiana said, temporarily, so they can get enough votes together to get this thing through the House. They are going to drop all these amendments. Their Members ought to understand that. None of this is ever going to become law. It is only here so that the Republicans can be coerced or bribed or twisted their arms or whatever you want to call it to vote for this thing. It is not going to happen.

It is a terrible way to run the Government. It is a terrible reflection upon the Republican Party that they cannot do a simple thing, which is strike out one figure in a piece of legislation and add another figure. That is all that is here. We have done it hundreds of times in the years that I have been here without all of this rankle, all of this other garbage that has been added to it.

Mr. Speaker, this is a very, very poor and disastrous way to run the Government. It is a terrible reflection upon the Republican Party. We Democrats do not have control of this body. We do not set the agenda. We do not have the ability to produce a majority vote. It is all within their power. It is all within their ability. It is all within their responsibility. They cannot get up here and pretend that it is anybody's responsibility except theirs.

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

Mr. MCCRERY. Mr. Speaker, it is with a great deal of pleasure that I yield 3 minutes to the gentleman from Pennsylvania [Mr. CLINGER], one of the most distinguished Members of the Chamber, and chairman of the Committee on Government Reform and Oversight.

Mr. CLINGER. Mr. Speaker, I thank the gentleman very much for yielding time to me.

I guess we will have to put the gentleman from Florida [Mr. GIBBONS] as undecided on this matter.

Mr. Speaker, this bill is more, really, much more than an increase in the debt limit. It is really a down payment on the promise that we have made to make government smaller and more responsive to the American people. It is crucial that we refocus government on those essential functions that it must perform, and reconsider whether government should be involved in any activity which it cannot do well.

We presently are involved in a great many activities, Mr. Speaker, that we do not do well. The reason we have to

raise the debt ceiling again is that the bureaucracy in Washington has grown unchecked for far too long. Endlessly we have added, bloated, and enlarged the Federal Government, so today we are going to continue to reverse that trend by voting for a second time, Mr. Speaker, to eliminate the Department of Commerce. This has been debated, has been considered before with this body, and we have decided in our wisdom to eliminate the Department of Commerce as part of the reconciliation discussions.

In my view, the Department of Commerce is one bureaucracy that, frankly, is not necessary. Functions of the Department overlap with 71 independent agencies of the Government. True, there are, indeed, vital functions performed by Commerce involving trade, weather services, statistical information, and essential components will be retained in a more appropriate home. Other functions will be privatized, sent to the States and localities, or terminated.

Mr. Speaker, it has been suggested that we are doing this just to put a scalp on our belt. That is absolutely not true. We have really taken a very close look at how this Department can be dismantled, how the functions of that Department can be consolidated and made to work much more efficiently, much more productively than they have in the past.

Specifically, the commerce title in the debt ceiling bill highlights the importance of a strong trade policy, consolidates the various activities that are now spread all over the Federal Government dealing with trade, presents a cohesive approach to trade promotion. We consolidate the Department of Scientific and Environmental Functions of the National Oceanic and Atmospheric Administration, we privatize or eliminate 40 agencies and programs, and we establish a citizens commission on 21st century government to evaluate the entire Federal Government, and determine how we can make this government, yes, smaller, more productive, more efficient, and more responsive to the American people.

Let me be clear, however, that we are not cutting just for the sake of saving dollars. If that was the only objective, I do not think it would be worth doing. In fact, we will be saving a great deal of dollars as a result of this exercise. The CBO has recently revised their estimate. We are going to save $6 billion by the elimination or the dismantlement of the Department of Commerce. The other side suggests we are just bloating up other parts of the government. That could not possibly be the case if we are going to save $6 billion. Clearly we are reducing, not enlarging the government.

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So, Mr. Speaker, I would urge support for this debt limit extension, and for the elimination of the Department of Commerce. It is long overdue.

Mr. GIBBONS. Mr. Speaker, I yield 2½ minutes to the gentleman from Michigan [Mr. LEVIN].

(Mr. LEVIN asked and was given permission to revise and extend his remarks.)

Mr. LEVIN. Mr. Speaker, the issue here today is not a balanced budget and it is not a short-term extension to achieve it. Democrats favor an extension to help achieve a balanced budget. Most of us are willing to vote for a clean, short-term extension. Now, why are the Republicans not proposing it? Why is this layered with all of these additional proposals?

There are two reasons, Mr. Speaker. First of all, leverage on the President. Now, look, I am in favor of pressure. But this goes beyond pressure to try to create a pistol, and I suggest it will not work, it will backfire. The second reason there is not a clean extension is to satisfy some internal pressures within the Republican House Caucus. So they have added a provision on the Department of Commerce and one on regulatory language, a huge bill that few, if any, have read. Why are they doing this?

The Senate Republican leadership has made clear that they will not buy the Commerce Department provision, so you are doing this to have some satisfaction internally within the Republican House Caucus.

The Senate is working on regulatory reform. So what the Republicans are really doing here today is to play games, but going beyond it and playing with fire. What they are going to do through this, if it were ever to succeed, is to limit the management ability of the President to manage, to manage this situation, to manage this debt.

Secretary Rubin has said very clearly, this legislation severely limits options the Secretary has under current law to relieve pressure and to avert default.

Let us stop playing with fire with the debt. It would increase the interest rates. It would increase the interest rates for people with variable mortgages, with credit card debt. Look, what you are doing through this kind of proposal is linking chaos in this House with crassness. It will not work.

What you should be doing here today is joining on a bipartisan basis to pass a short-term extension of the debt period. That is going to happen sooner or later; let us do it now. I urge defeat of this. Let us get to our senses and work on a bipartisan basis.

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

Mr. Speaker, just in response to the gentleman's comments, it might be good to know that the day after the Committee on Ways and Means took the action to bring this bill to the floor, the stock market went up some 55 points and interest rates went down. So I think the fact that we have established a drop-dead date for negotiations to take place between the executive and legislative branches has, in fact, had a salutary effect on the markets and we hope to continue this.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida [Mr. MCCOLLUM], the chairman of the Subcommittee on Crime of the Committee on the Judiciary.

(Mr. MCCOLLUM asked and was given permission to revise and extend his remarks.)

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

Mr. Speaker, I want to talk about one of those extra things that are on this bill, that really is not controversial in the broad sense, because it has passed the House a number of times, including this Congress, by overwhelming margins. It is something that really should be enacted into law, and we have an opportunity on this debt ceiling bill to get it down to the President in a timely fashion, which we have not had before, and that is the reform of what is known as habeas corpus laws to try to end the seemingly endless appeals that death row inmates have.

Mr. Speaker, I can assure anybody who has paid attention to the death row situation, where people have committed heinous crimes and have been convicted and sentenced to death, that that is an abomination that people can carry out the sentence for as much as 15 or 20 years by procedural gimmicks.

What happens, of course, is that they get convicted, they go through a State court appeal posture after they get sentenced to death, they go all the way to the Supreme Court of the United States, and a court says, the conviction is fine, the sentence is fine. They come back and they have an opportunity to go into Federal district court and file what is known as a habeas corpus petition and seek to get out on a procedural matter; for example, they did not have a lawyer who represented them properly at trial.

They then take that appeal and go all the way back to the Supreme Court, which takes a considerable amount of time, and after the Supreme Court denies that appeal, they can go back into Federal district court again on some other procedural ground and appeal that, and it could go on and on and on.

What we do in this and what the House did earlier this year, and what is part of this bill, if we pass it today and send it to the President and maybe get it enacted into law, we say that after your finish your Federal appeal you can go into Federal court only one time. You have to put all of your apples in that basket, all of your procedural complaints and issues, and let it be decided and get on with the carrying out of the sentence if you do not have any grounds for those. Obviously, anybody who can provide that they are really innocent of the crime, they are not going to have the death penalty carried out.

We have been waiting for a long, long time, years battling over this issue. This is a perfect bill, one the President

really has to face and sign, a short-term debt extension, to finally get it enacted into law, the reform of habeas corpus, to end this process of staying and keeping staying, again and again and again, the death penalties in the State courts of this Nation. It is time to act now, and I urge the adoption of this bill.

Mr. GIBBONS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY asked and was give permission to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, I rise in opposition to H.R. 2586. As a Member who has consistently been responsible and voted to increase the debt ceiling, it saddens me to stand here in opposition.

We have heard all sorts of obfuscation from the majority. But let there be no mistake, raising the debt ceiling has nothing to do with the current level of government spending, and everything to do with financing our prior obligations—living up to our commitments. There is no doubt that the debt ceiling will be raised in the long run. What we should be doing here today is passing a clean temporary debt ceiling as an interim measure to prevent default while a balanced budget agreement can be hammered out.

The bill before us today purports to protect trust funds but it has the practical effect of ensuring that Medicare claims won't be paid, tax refund checks can't be cashed and our Armed Forces won't be paid. It also strips the Secretary of the Treasury of all cash management tools—tools that were provided Republican Secretaries of the Treasury by Democratic Congresses. It is nothing more than an attempt to blackmail the President and to ultimately push us closer to default. It is irresponsible and unacceptable.

We stand here today and listen to the majority try to blame the President for delay. But, let's look at the facts. It is November 9th, 5 weeks after the start of the fiscal year and congressional Republicans have yet to even send their plan to the President. In 1993, the Clinton budget plan was enacted by August. The majority talks about getting their budget done on time, yet, they've only sent the President 3 of the 13 required appropriations bills. So let us be clear now who is responsible for delay.

When all is said and done, the debt ceiling will be increased. We shouldn't hold the economy or average American families hostage to a partisan debate on a balanced budget. We should enact a clean extension in the debt ceiling immediately.

Mr. ARCHER. Mr. Speaker, I yield 2½ minutes to the gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Speaker, I rise in support of H.R. 2586 as chairman of the Subcommittee on Civil Service. This bill provides important protections for active and retired Federal workers. It protects the integrity of the civil service retirement and disability fund and the government securities investment fund.

Under this bill, the administration will not be able to raid these funds in order to pretend that our national debt does not exceed the debt limit. The civil service retirement and disability fund provides authority to fund annuities paid under the Civil Service Retirement System and the Federal Employees Retirement System. It is a tempting target for the administration to raid, Mr. Speaker. In fact, it contains about 374 billion dollars' worth of special nonmarketable government securities that are subject to the debt limit.

Many current Federal employees invest their money in the government securities investment fund. This is one of the three funds in which employees can invest under the thrift savings plan. Their money is also invested in special nonmarketable government securities subject to the debt limit. In the past, Mr. Speaker, administrations have raided the civil service retirement and disability fund in order to stay under the debt limit. They have refused to invest the dollars coming into the fund. The administration could even just tear up existing nonmarketable securities in the fund. It has been done before.

It is also clear, Mr. Speaker, that the administration intends to raid the civil service retirement and disability fund. I have here a set of administration talking points that make that clear.

Mr. Speaker, the civil service retirement disability fund is already woefully underfunded to the tune of $540 billion. Yes, Mr. Speaker, there is already an unfunded liability of half a trillion dollars. Our learned colleagues on the other side of the aisle screamed and hollered when the private employers asked to be able to withdraw their excess contributions from their employee retirement funds that were more than 125 percent funded. Yes, Mr. Speaker, they did not even want private employers to reach into expensively funded plans. These same people now have the gall to give the administration a free reign to raid the retirement fund that is so woefully underfunded.

Mr. Speaker, we need to manage our public debt and to work hard to reduce it, but allowing the administration to dip into these funds would just be a gimmick. It is a charade. It is time to inject some fiscal responsibility in managing the Government accounts.

I support H.R. 2586, Mr. Speaker, because it prevents the administration from raiding the funds behind our employee retirement systems and behind their backs, and it makes sure their annuities are paid.

Mr. Speaker, I insert the following information in support of my statement.

EXCERPT FROM DEPARTMENT OF TREASURY TALKING POINTS, NOV. 7, 1995

Finally, by repealing the debt management features of the law relating to the Civil Service Retirement and Disability Fund, the bill would increase the risk of default by severely limiting the ability of the Secretary of the Treasury to assure that crucial government payments—including benefit payments such as Social Security, as well as payments on the public debt—could be made in a time of debt limit crisis. These provisions were enacted in a Republican Administration and reflect the widely held view that the Secretary should have options to relieve pressure and avert default.

Mr. GIBBONS. Mr. Speaker, before this debate gets too rough, I yield 1 minute to the gentleman from Virginia [Mr. MORAN] who knows something about the subject that was just discussed.

Mr. MORAN. Mr. Speaker, in fact, I have my money in that very retirement fund.

Mr. Speaker, first of all, it must be said that this legislation plays politics with people's lives. It is deliberately designed to force a default of Federal debt obligations, and specifically ties the President's hands from being able to avert a debt ceiling crisis under the excuse that this is supposed to save Civil Service retirees. That provision was put in during the Reagan administration precisely to protect the Civil Service Retirement Trust Fund. That is why it was put there. Now it is being repealed.

Mr. Speaker, I have a letter from the Federal Retirement Thrift Investment Board, dated today. This is a nonpartisan board designed to oversee the Federal Thrift Savings Plan. This letter says that this provision, if this bill is passed, will cost Federal retirees' $3.5 million per day, an amount that once lost, will never be recaptured. Do not do this to Federal retirees, do not do it to Social Security retirees. I urge defeat of this legislation.

Mr. Speaker, the letter referred to follows:

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD,
Washington, DC, November 9, 1995.

Hon. JAMES P. MORAN, Jr.,
Ranking Member, Subcommittee on Civil Service, U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN MORAN: I have reviewed H.R. 2586 which provides for a temporary extension of the Federal debt limit. The proposed legislation provides for the repeal, inter alia, of 5 U.S.C. §8438(g), which was enacted on May 22, 1987, to prevent harming Federal employees with investments in the Thrift Savings Plan's G Fund. It was foreseen at that time that, during periods of constraint on the issuance of Treasury securities brought about by the debt limit, the moneys of Federal employees in the G Fund would irretrievably lose interest (since they could not be invested) but for this carefully drafted, bipartisan ''make-whole'' provision. (The enclosed letter from former Executive Director Francis Cavanaugh forwarded the proposed legislation (not included) to Congress in April 1987, and it was quickly enacted.)

A repeal of this provision at this time would cost Federal employees invested in the G Fund more than $3.5 million per day of debt limit constraint, an amount that, once lost, will never be recaptured. That Federal employees' retirement funds might be thus diminished is a matter of great concern to

me and my fellow fiduciaries, as I am sure it is to you.

All of the provisions of the proposed legislation can be enacted without harm to Federal employee' retirement funds except for the repeal of §8438(g) (and its administrative concomitant, §8438(h). That is, the purpose of the proposed draft legislation can be fully met, as set forth in its accompanying two-page explanation, with the deletion of the words '', and subsections (g) and (h) of section 8438 of such title'' on page 6, lines 7 and 8. (The other provisions to be repealed pertain to the Civil Service Trust fund; because that fund is not owned by employees directly, their ultimate benefit levels as derived therefrom are unaffected.)

If the bill were passed in its present form, the fiduciaries of the Thrift Savings Plan would be obligated to point out the needless and costly removal by Congress of a protection for Federal employees intended to prevent debt limit politics from impairing the integrity of their retirement funds. (The ''make-whole'' provision of §8438(g) has been employed on four separate occasions in the past to restore interest otherwise lost to Federal employees from debt limit hiatuses.)

I have sent a similar letter to Congressman John Mica. I am asking your and his cooperation in preventing any repeal of §8438(g) in order to safeguard Federal employees' retirement moneys and ensure their confidence in the G Fund, which, at $21.5 billion currently, comprises approximately ⅔ of total Thrift Savings Plan investments.

Sincerely,

ROGER W. MEHLE,
Executive Director.

Enclosure.

FEDERAL RETIREMENT THRIFT
INVESTMENT BOARD,
Washington, DC, April 30, 1987.

Hon. JIM WRIGHT,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: The Federal Retirement Thrift Investment Board respectfully submits the enclosed draft bill to prevent the loss of interest earnings to federal employees in the Thrift Savings Plan (Plan) which would otherwise result from a temporary suspension of the authority of the Secretary of the Treasury to issue public debt obligations to the Plan.

The Federal Employees' Retirement System Act of 1986 (5 U.S.C. 8401–8479) established a tax-deferred Thrift Savings Plan for federal employees. Effective April 1, 1987, all government and employee contributions to the Plan must be invested in Treasury securities issued to the Government Securities Investment Fund (GSIF) of the Plan. Since such securities, like other Treasury debt issues, are subject to the statutory limit on the amount of public debt outstanding, the Secretary will be unable to issue such securities to the GSIF after May 15 unless Congress acts on debt limit legislation by that date.

The present temporary public debt limit of $2.3 trillion is due to expire on May 15, 1987, on which date the debt limit will revert to the permanent statutory ceiling of $2.1 trillion.

We understand that the Treasury Department advised Congress today, in testimony before the House Ways and Means Committee that the Department expects to have sufficient cash on May 15 so that an increase in the debt ceiling would not be necessary until May 28. Nevertheless, beginning May 16 the Treasury will be unable to issue any securities subject to the debt limit, including securities issued to the GSIF. Thus, if Congress does not act on debt limit legislation prior to May 16, the GSIF will lose interest; there is no authority for the Treasury to pay such interest at a later date to make up for such losses.

The proposed legislation would provide the same treatment to the Thrift Savings Plan as is now provided by law (P.L. 99–509) to the Civil Service Retirement Fund. This treatment requires the Treasury to make up any loss of earnings to the Fund created by a suspension of Treasury borrowing authority.

Although the bill seeks parity of treatment with the Civil Service Retirement Fund, it is important to note that the Thrift Savings Plan is different from the Civil Service Retirement System (CSRS) in that the Thrift Savings Plan is a wholly voluntary, defined contribution plan; whereas CSRS is a mandatory, defined benefit plan. CSRS plan benefits do not depend directly on the amount of the Fund's interest earnings. The employer-employee contributions to the Thrift Savings Plan, although held

in the custody of the Treasury Department, actually belong to the individual employees. Accordingly, Congress intended that the Thrift Investment Board be a financially independent agency and exempted the Board from the appropriations process, the budget, and the controls of the Executive Office of the President which apply to other federal agencies. Yet, perhaps inadvertently, Congress did not insulate the Board or the Plan from the constraints of the public debt limit.

The Board believes that obligations issued to the GSIF should clearly be exempt from the public debt limit constraints. Yet, in view of the urgent need for timely legislative action before May 15, we are requesting only that the Plan be accorded the same treatment as the Civil Service Retirement Fund.

Federal employees have been urged to deposit their funds in the Thrift Savings Plan upon the representation that such funds will be safely invested in government securities with a guaranteed rate of return based on a prescribed statutory interest rate formula. The Board has an obligation to federal employees to make every effort to see that this commitment is honored. Now, at the very beginning of the Plan, it is especially important that there be no question as to the integrity of the government's representation as to such investments. In order to prevent unnecessary fear and confusion on this point, we urge Congress to act on the enclosed bill as soon as possible and before any suspension of Treasury borrowing authority occurs.

We are sending a similar letter to the President of the Senate. Copies have been sent to the Director of the Office of Management and Budget.

Sincerely,

FRANCIS X. CAVANAUGH,
Executive Director.

Enclosure.

SUMMARY OF THE BILL

The purpose of the bill is to ensure that the federal employees' Thrift Savings Plan (Plan) does not suffer a loss of earnings in its Government Securities Investment Fund in the event of a temporary suspension of borrowing authority of the United States Treasury Department, due to the statutory public debt limit.

The bill provides that, in the event the Secretary of the Treasury suspends additional issuance of Treasury securities to the Government Securities Investment Fund because such issuance would exceed the debt limit, immediately upon lifting of the borrowing suspension, the Secretary of the Treasury shall issue securities to the Plan at interest rates and maturities which will replicate the obligations that would have been held by the Plan if the suspension had not occurred. This ''make-whole'' relief will include the payment of any interest the Plan loses as a result of the suspension. Both the obligations and the interest will be determined in accordance with the daily investment decisions made by the Federal Retirement Thrift Investment Board during the suspension period which would have been effective were it not for the suspension.

The treatment accorded to the Plan by the bill is similar to that accorded to the Civil Service Retirement and Disability Fund in Section 6002 of the Omnibus Budget Reconciliation Act of 1986, except that the bill recognizes the statutory responsibility of the Executive Director (5 U.S.C. 8438(f)(2)(A)), rather than the Secretary of the Treasury, to determine the amounts and maturities of the investments in the Government Securities Investment Fund.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, I rise today in support of this bill, but obviously, like many, I do so with some reluctance. While I have often opposed raising the debt ceiling, because of our efforts this bill includes a pledge to achieve a CBO-scored balanced budget in 7 years. I call attention to my colleagues on both sides of the aisle, this pledge is in the rule committing the President and Congress to enact in the year 1995, the calendar year, legislation for a balanced budget by the year 2002. It affirms the intent of Congress and the President to do so, and it is in black and white, and it is part of this package that we are voting on.

This, my friends, is the crux of our Contract With America. This is why we have the responsibility today to be responsible. Do I like raising the debt? Obviously I do not. But, for this reason, and for this language, I intend to vote for this raising of the debt to ultimately balance the budget. However, Mr. Speaker, what is also a concern of mine is that without certain provisions in this bill, that Chairman ARCHER made sure were in this bill, the Clinton administration could dip into supposedly safe trust funds such as the Social Security trust fund, the Medicare trust fund, and the Federal retiree trust fund.

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I find this totally unacceptable and, frankly, so do the American taxpayers. Yet the President is threatening to veto this bill because we refuse to let the administration raid the Social Security, Medicare, and Federal retiree trust funds. That is what the people on the other side are saying. These trust funds should not see their assets reduced even temporarily. It sets a bad precedent of encouraging the Treasury Department to raid these funds. Without this amendment in the bill, the money paid into these funds would be diverted to pay for other services.

Mr. Speaker, this is not the American way, and this should not be done. The American people have placed their trust in us to manage their funds, to protect their investments. We cannot let them down.

I urge my colleagues, it is time to be responsible to pass this bill and to pass

a balanced budget amendment that will eliminate the need after almost 40 years of Democrat control for such legislation in the future.

Mr. GIBBONS. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. SABO].

(Mr. SABO asked and was given permission to revise and extend his remarks.)

Mr. SABO. Mr. Speaker, I thank the ranking member for yielding me the time.

Mr. Speaker, we should vote this bill down. We should be passing a clean continuing resolution or a clean debt limit extension for a reasonable time.

Why are we here today? We are here because this is the most mismanaged legislative session I have seen in 35 years serving in legislative office. It is November 9. The fiscal year began October 1. I fully expected we would need a continuing resolution because the majority would have passed appropriation bills, they would have been vetoed in some cases, and the Congress and administration would be negotiating. Instead, 9 of 13 bills have not passed the Congress. So we need a continuing resolution.

Why do we need this bill on the debt ceiling? Because it is now November. The Congress is doing what it should have been doing in July, should have been passing its budget bill, sending it to the President, probably vetoed, then serious negotiations occurring.

Instead, we have drifted along all session doing what was not crucial; and here, a month and a half into the fiscal year, the House and Senate is still dealing with the conference report. Shame on us. If we had done our work, this bill would have been on the President's desk before the August recess as it was 2 years ago, negotiations could have occurred in September, maybe into mid-October, and had a solution. Instead, total mismanagement. Mid-November, no budget bill, most of the appropriation bills still hung up in the Congress. Instead, we find ourselves with a debt ceiling extension, with habeas corpus and Commerce and I do not know what all else is in here.

Mr. Speaker, we should defeat this bill.

Mr. GIBBONS. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the ranking member for yielding me the time.

Mr. Speaker, I said yesterday that we started this Congress with the Contract With America. There were 10 items essentially. Two out of the first three talked about responsibility. The first item talked about responsibility. The third item talked about personal responsibility. I tell my friends on the Republican side of the aisle that this bill is neither fiscally responsible nor it is personally responsible; and, yes, we ought to be ashamed of playing with the credit of the United States of America as we are doing.

This is not a serious attempt at responsible Government. It contains extraneous matters unrelated to the critical issue of making sure America pays it bills. Every American thinks its Government ought to do that.

But that's not what we're doing today. This bill is loaded down with unrelated provisions that have nothing to do with the problem before us and will cause the President to veto this legislation.

Just like yesterday's continuing resolution, which the President has also indicated he will veto, this is not a serious attempt at responsible Government.

I am afraid that the message to Federal employees is: Don't consider this a holiday weekend because you may not have a job next week.

The Republican leadership seems determined to close down Government operations.

They are taking the CR and the debt limit extension down the path to the same fate as many of the appropriations bills—stuck in the mud of political partisanship.

This Government is not put at risk by this irresponsibility with which we are confronted today. They want to up Social Security and Medicare payments by $151 per recipient in this bill. That ought to be debated fully. Habeas corpus, that may be a good bill, but it is not subject to having an impact on the debt of the United States. Eliminate the Commerce Department, a 200-page bill that the President disagrees with. You put at risk the credit of the United States.

This debt limit extension measure also limits the Secretary of the Treasury's ability to manage Federal employee investments in the thrift savings plan as well as their retirement fund.

These provisions have nothing to do with allowing the Treasury Department to continue to borrow money.

Auctions have already been canceled because of the Republican leadership's failure to act.

I am gravely concerned about the impact of not passing a CR and debt limit extension on Federal employees. They have been attacked again and again in this Congress and now the leadership is threatening to send them home on furlough.

Those in the Congress who claim to be Federal employee advocates and then vote for these extreme measures are, in my opinion, undermining the security of those Federal employees whom they claim to represent.

This is not a rhetorical issue. This is real fear for civil servants who have families to feed and mortgages to pay. The lives of Federal employees are once again being thrown into chaos as the Republicans pursue their extreme agenda.

Ladies and gentlemen of this House, ladies and gentlemen of America, this bill is a patently petty political terrorist tactic. That is what it is. An attempt to force the President of the United States to adopt things that you cannot get through your own Senate, not just the Congress. This bill adopts tactics that put America as a hostage to an extremist agenda.

Mr. HASTERT. Mr. Speaker, I ask that the gentleman's words be taken down.

The SPEAKER pro tempore (Mr. HOBSON). The Clerk will report the words.

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Mr. HOYER. I would be glad to repeat them if you would like just so they are clear on the RECORD.

The SPEAKER pro tempore (Mr. HOBSON). The gentleman shall refrain from speaking.

The Clerk will report the words.

The Clerk read as follows:

Ladies and gentlemen of this House, ladies and gentlemen of America, this bill is a patently petty political terrorist tactic, that is what it is, an attempt to force the President of the United States to adopt things that you cannot get through your own Senate, not just the Congress. This bill adopts tactics that put America as a hostage to an extremist agenda.

The SPEAKER pro tempore. The Chair rules that since this is not a reference to an individual Member, that the remarks are in order.

However, the Chair would observe that there is a civility within the House in addressing bills and Members that should be observed, and it would be hoped that in the future that would be observed by all Members.

Mr. HOYER. I thank the Speaker for his ruling.

The SPEAKER. The time of the gentleman from Maryland [Mr. HOYER] has expired.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

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

Mr. Speaker, I believe that there is a legitimate concern about the use of trust funds that has been mentioned earlier, and that the reason why some who are coming to the floor are suggesting that they want to give the administration total latitude on these issues is because, I think, they are probably aware that the administration intends to use the civil service retirement trust funds, the Government securities investment fund, other cash, and perhaps even the Social Security trust fund as the way of financing our debt into the future.

Now, we have heard discussion on the floor about the fact that we do not want to default for the first time in history. The fact is we have never used the Social Security trust fund for anything other than Social Security payments at any time in history, either, and yet what we are being told by this administration and by those defending the administration on the floor, they are prepared, in pursuit of their political agenda, to allow the Social Security trust fund to at some point in the future be invaded for the purposes of paying the bills.

Now, our direction has been to try to balance the budget. We realize that that takes a lot of hard work. We realize it has been an uphill fight, with those who are opposed to that agenda fighting us every step of the way to see

to it these bills do not get passed. We realize there has been a concerted effort to try to stop bills in other places in the Capitol Building so that, in fact, the work cannot get completed, and now we come down to the point where there is no longer an ability to pay the debts that have been incurred over the last several years.

Now we are being told that the Social Security trust fund should be put in jeopardy in the future. I would suggest that we ought to pass the bill that is before us. Yes, it does contain a number of items in it that we think are good for the country, such as regulatory reform, we hope, after that amendment is adopted, habeas corpus reform, and a number of other things. Fundamentally, what it does is allow the President to borrow temporarily, and does so in a way that assures protection of the trust funds.

Why do I say that we believe all this is happening? We have heard it directly from the Department of the Treasury.

I have before me materials that indicate that the Department of the Treasury is prepared in fact to begin using the civil service retirement and disability fund. At a press briefing yesterday, they outlined about $28 billion of money they are going to use, first out of the Government securities investment fund, then out of civil service retirement, then out of other petty cash amounts, and the next step down the line, my friends, is the Social Security trust fund.

That is, I think, a very grave danger for us all. the way that you can prevent that kind of problem from occurring is to vote for the bill brought to you by the gentleman from Texas [Mr. ARCHER], assure that we do protect the Social Security trust fund now and into the future, assure we do have the ability to raise the debt limit enough to pay our bills and, oh, by the way, get a couple of things done good for America, such as eliminating a Cabinet department and giving this Nation regulatory reform.

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

Mr. Speaker, I am placing in the RECORD at this point a statement made by the Secretary of the Treasury on the subject matter under debate.

The referenced material is as follows:

STATEMENT OF TREASURY SECRETARY ROBERT E. RUBIN AND SOCIAL SECURITY COMMISSIONER SHIRLEY S. CHATER

As Trustees of the Social Security Trust Funds we want to assure the American people that the resources of the Funds are preserved and protected for the benefit of every American who is now, or will in the future become, entitled to receive Social Security benefits.

Questions have arisen recently whether, because of the failure by Congress to increase the national debt limit, the resources of the Funds might be used to provide funds for governmental purposes unrelated to the payment of Social Security benefits. This is our reply: The Social Security Trust Funds will not be used for any purpose other than to assure the payment of benefits to Social Security recipients. We will continue to protect Social Security.

Furthermore, Congress should increase the statutory debt limit in a manner so all of the government's obligations will be paid on time. The Ways and Means Committee's bill, however, leaves Medicare, Medicaid, Food Stamps, Supplemental Security Income, veterans and military personnel, and obligations such as the principal and interest on the public debt all at risk. This is simply not acceptable.

In sum: this Administration will not use Social Security Trust Funds for any purpose other than to assure the payment of benefits to Social Security recipients.

Mr. GIBBONS. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. SCOTT].

Mr. SCOTT. Mr. Speaker, I rise in opposition to the resolution, and in particular the provision involving death row appeals.

Mr. Speaker, the provisions in this bill are different from the provisions in the House-passed bill, and these provisions have been sprung on us in the last 24 hours.

Mr. Speaker, the provisions of this will do nothing to reduce crime. Death row inmates are not the ones out there robbing, raping and murdering in the streets. There is not even anecdotal evidence these inmates are the cause of crime in our community.

Mr. Speaker, we have not addressed the problem of innocent people being put to death. It was reported in the New York Times this Sunday that a man who had been on death row for 11 years in Illinois was released after being acquitted when a subsequent trial disclosed that a police officer had lied in the first trial.

What have we done about the police officer lying? Yesterday we had a hearing on a bill that would limit the civil liability of the police officer who lied, and today we consider legislation that will put the defendant to death quicker so it will be less likely we ever could have found out the truth.

Mr. Speaker, if we are going to do something about crime, we need to do something different than what we have done so far this year, such as cut funding for attorneys and death row appeals, which will create more complications and more appeals. We have cut funding for crime prevention and cops on the beat; cut funding for summer jobs, putting more youth out on the streets; cut funding for college scholarships and Head Start. All of that will increase crime.

If we really wanted to do something about crime, we would increase the money for Head Start, summer jobs, college scholarships, crime prevention and cops on the beat, and not insert these useless sound bites in essential legislation.

Mr. Speaker, we should focus on the financial crisis before us and not sneak provisions such as this through a debt ceiling resolution.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. COLLINS], a member of the Committee on Ways and Means.

Mr. COLLINS of Georgia. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of the resolution by the chairman to increase the debt limit, but I do so with some reluctance.

I hate to see us increase the debt that the taxpayers of this country owe and that I know that our children will someday have to pay. But I also know that if we are going to reach a balanced budget over the 7 years, as we have planned and as we have passed in both bodies, that we will have to extend that debt limit. I understand that there is a lot of confusion and controversy about how we are going to do that, and it will take a couple, 2, 3 more weeks to really rectify those differences.

So, therefore, we must increase the funding and the borrowing power of our Government.

The thing that I like about this bill or this proposal is it will restrict the use of trust funds. But, Mr. Speaker, you have heard the old saying, ''A day late and a dollar short.'' Well, sir, I think we are years late and several billon dollars short, because out of the $4.9 trillion that we currently owe as the debt, the debt that is owed by the taxpayers that has been created by the Congress, $1.25 trillion of it is actually owed to trust funds, trust funds that people have contributed to that they expect someday to receive in return.

Let me give you some of those amounts, Mr. Speaker. The Federal employee's trust fund, some $375 billion owed by Treasury to that trust fund; the Medicare part A trust fund, $130 billion owed by Treasury to that trust fund; VA retirement, over $112 billion owed to that trust fund by the Treasury; and Social Security, Mr. Speaker, some $483 billion of old age pension, part of my old age pension, owed to the trust fund by the Treasury.

Mr. Speaker, I am including at this point in the RECORD a table concerning the trust fund impact on budget results and investment holdings as of September 30, 1995:

TABLE 8.—TRUST FUND IMPACT ON BUDGET RESULTS AND INVESTMENT HOLDINGS AS OF SEPT. 30, 1995

[In millions of dollars]

Classification	This month			Fiscal year to date			Securities held as investments, current fiscal year		
	Receipts	Outlays	Excess	Receipts	Outlays	Excess	Beginning of This year	Beginning of This month	Close of this month
Trust receipts, outlays, and investments held:									
Airport	333	777	−445	6,125	7,242	−1,117	12,206	11,547	11,145
Black lung disability	416	426	−46	987	987	(**)	(*)	(*)	(*)
Federal disability insurance	4,749	3,606	1,143	70,215	41,380	28,835	6,100	34,146	35,225
Federal employees life and health	(*)	−145	145	(*)	−1,240	1,240	22,503	23,601	23,729
Federal employees retirement	24,375	3,268	21,108	66,821	38,899	27,923	346,317	353,081	374,219
Federal hospital insurance	9,150	10,271	−1,121	114,847	114,883	−36	128,716	180,931	129,864
Federal old-age and survivors insurance	26,560	24,569	1,991	326,084	294,474	31,611	403,425	445,944	147,947
Federal supplementary medical insurance	1,746	5,903	−4,157	58,169	65,213	−7,044	21,489	17,675	13,513
Highways	2,115	2,340	−226	23,613	22,688	925	17,694	8,846	8,531
Military advances	967	1,314	−347	12,469	13,417	−948	(*)	(*)	(*)
Railroad retirement	451	675	−224	9,093	7,924	1,169	12,203	14,063	14,440
Military retirement	918	2,386	−1,468	34,624	27,797	6,827	105,367	114,320	112,963
Unemployment	336	1,801	−1,465	32,820	25,282	7,539	39,788	48,660	47,141
Veterans life insurance	23	110	−86	1,356	1,231	126	13,477	13,690	13,606
All other trust	525	555	−30	6,056	4,346	1,710	12,317	14,180	14,060
Total trust fund receipts and outlays and investments held from Table 6–D	72,665	57,893	14,772	763,281	664,521	98,760	1,151,601	1,240,682	1,256,385
Less Interfund transactions	27,150	27,150	.....	212,849	212,849	(*)	.....	.....	.....
Trust fund receipts and outlays on the basis of Tables 4 and 5	45,515	30,742	14,772	550,432	451,671	98,760	.....	.....	.....
Total Federal fund receipts and outlays	100,994	108,480	−7,486	835,221	1,097,794	262,573	.....	.....	.....
Less Interfund transactions	443	443	(*)	975	975	(*)	.....	.....	.....
Federal fund receipts and outlays on the basis of Tables 4 and 5	100,551	108,037	−7,486	834,245	1,096,819	−262,573	.....	.....	.....
Less: Offsetting proprietary receipts	2,846	2,846	(*)	34,101	34,101	(*)	.....	.....	.....
Net budget receipts and outlays	143,219	135,933	7,286	1,350,576	1,514,389	−163,813	.....	.....	.....

*No transactions.

Note: Interfund receipts and outlays are transactions between Federal funds and trust funds such as Federal payments and contributions, and interest and profits on investments in Federal securities. They have no net effect on overall budget receipts and outlays since the receipts side of such transactions is offset against budget outlays. In this table, Interfund receipts are shown as an adjustment to arrive at total receipts and outlays of trust funds respectively. Details may not add to totals due to rounding.

Source: U.S. Treasury, final monthly Treasury statement of receipts and outlays, September 1995.

Mr. GIBBONS. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. CONYERS].

(Mr. CONYERS asked and was given permission to revise and extend his remarks.)

Mr. CONYERS. Mr. Speaker, first, my thanks to the gentleman from Florida [Mr. GIBBONS] for his courtesies and tenacity in this debate.

Members of the committee, it is pathetic that in a several hundred page bill that was delivered to the Democrats on the Judiciary at 10:45 a.m. this morning, 27 pages of habeas corpus reform of the Senate's that we have never seen, never read, never discussed, never debated, never.

Why? This is the short-term debt ceiling limitation bill. What in God's name is habeas corpus doing in this provision? You can pass it, Republicans, anyway separately, I guess. You have been rolling all the votes here for 10 months. But why stick it in overnight? Is there some logic that this could be happening here in the most democratic forum, the most democratic, fairest parliamentary system that we have in the Federal Government?

But worse than that, this provision limits review in other habeas cases. And my colleagues who have been so concerned about civil rights violations by Federal law enforcement, read Ruby Ridge and Waco, that now they want to leave Federal law enforcement and judges with no way to protect against overzealous Federal law officers who may not have acted lawfully.

It is pathetic that habeas reform has been tucked away in the debt ceiling package. Habeas reform has absolutely nothing to do with short-term debt and I cannot help but wonder why the Republicans, who control both Houses of Congress need to attempt to pass habeas reform in this underhanded manner.

My colleagues should make no mistake, this so-called habeas reform bill does not reform habeas corpus law, it all but eliminates Federal appeals in death penalty cases.

This bill will also limit review in other habeas cases. My colleagues on the right who have been so concerned about civil rights violations by Federal law enforcement officers may find that they are left with no remedy when a lower court judge finds that those overzealous Federal officers acted lawfully.

There are some particularly egregious elements in this habeas bill. The worst provision is that all condemned inmates will be limited to only one appeal in Federal court and this appeal must be within 1 year of conviction. In addition, if a State agrees to compensate attorneys who represent defendants in habeas cases, that time period is reduced to 6 months with Federal courts directed to review habeas cases with undue haste.

The bill also says that no Federal court may grant habeas corpus to a State prisoner if State courts had decided his or her claim on the merits—unless the State decision was ''contrary to, or involved an unreasonable application of'' Federal constitutional law as determined by the Supreme Court.

This means that Federal judges must overlook even incorrect State rulings on constitutional law claims so long as they are not ''unreasonably'' incorrect. It is a new and remarkable concept that mere wrongness in a constitutional decision is to be ignored.

The habeas bill has numerous other provisions, all designed to further the goal of reaching finality in death penalty cases. It includes a ''rule of deference'' to State court determinations of Federal constitutional law. This means that contrary to logic and precedence, State courts, not Federal courts, are the final arbiters of Federal constitutional law.

The bill also places new restrictions upon the availability of hearings by allowing hearings only when there is new, retroactive law or facts that could not have been presented earlier. Moreover, those facts must establish by clear and convincing evidence that the petitioner would not be found guilty of the underlying offense.

Finally, the bill provides that claims litigated, even constitutional violations are barred from second or successive applications and new claims can be heard on their merits only if they rely upon a new retroactive Supreme Court decision or upon facts that could not have previously been discovered, but only if the petitioner shows by clear and convincing evidence that but for the constitutional error, no reasonable jury would have voted to convict.

These provisions make clear that the desire to ensure finality has not been counterweighted by any provisions designed to ensure fairness or correct decisions.

The terrible legal representation that many death row prisoners receive in their initial trials is a key cause of delays, appeals, and reversals in capital cases. Federal courts have found constitutional errors warranting reversal or retrial in about 40 percent of death row cases since the reinstatement of capital punishment. Yet this bill does nothing to address the critical problem. It provides no standards for lawyers who represent habeas defendants.

This habeas reform proposal will leave habeas corpus in a shambles and leave Federal judges confused and overworked. If my colleagues are not persuaded solely by the substantive arguments against his bill, they should at least consider why the Republicans—who control both the House and the Senate—have

bypassed the standard procedures and instead included this provision in the totally unrelated debt ceiling package.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. Mr. Speaker, through you to the chairman and the ranking member of the Committee on Ways and Means, would not it be interesting if the President decides to go into these trust funds for disinvestment, and the people of the United States find out that there is no money in these trust funds, that they are void of the kind of cash that a lot of people imagine, and it is only a bookkeeping, an accounting entry?

You know, I think if all the people of the United States knew that in these trust funds there was little, if any, money, they would say, ''Hey, Congress, enough is enough. Get on the ball. Balance the budget, do not wait 7 years, do it in much less time, because our future is at stake.''

You know, we hear comments about all of the add-ons on this bill. I for one do not think those add-ons should be on this bill. But is it not interesting, for the last 12 years the Democrats have had the Gephardt rule, rule 41, so they did not have to vote directly on increasing the debt ceiling and said, ''Look, we are just going to automatically increase that every time we pass a budget resolution that is greater than the amount that we have coming in in revenues; therefore it goes up automatically.''

I am concerned that we do not have a reconciliation bill before the President. Let us get that reconciliation bill to the President as quickly as we can. Let us work this weekend, but I took to the Committee on Rules last night language that says let us stop borrowing marketable debt after 2002. We owe it to future generations, our kids and our grandkids.

Mr. GIBBONS. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, the resolution that is brought before us today again tries to carry out the extreme ideology of the new majority in this Congress; not enough to attack education and the ability of young people to get a college education, not enough to go after Medicare and Medicaid, but an attempt to cripple our economy by undermining the Commerce Department.

Yes, ideology says we have to shrink Government, so that every other nation has a leading cabinet level, powerful individual to deal with commerce that keeps the economy alive. But, no, this extreme ideology says we are getting rid of that.

The United States spends 3 cents out of every $1,000 of GDP on export promotion. Japan spends 12 cents, France, 18, and England, 25.

American workers are going to be left behind. American workers are going to be left behind if we shut down the Commerce Department, not to save money in the process, no; this is simply an ideological drill to test if you are willing to follow every dictum of this new extreme ideology: Get rid of the Commerce Department, cripple our export policy, take away the ability of American corporations to compete, more unemployment at the end of the day and a higher deficit.

Yes, let us not have a debate on this issue. Let us just sneak it through when we are doing the debt limit. This is the wrong kind of policy. It is the wrong kind of politics. It is a long-term damage to the American worker, and we ought to oppose it for that alone.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. CHRYSLER].

Mr. CHRYSLER. Mr. Speaker, I appreciate this opportunity.

I have sat and listened to an awful lot of this debate. I have listened about the bad Government that is happening here. I think the only bad Government that happened is the 40 years before I got here.

The President, you know, has supported all or parts of this package in whatever speech he was giving on that particular day over the last 10 months.

When it comes to, you know, worrying about this media-manufactured train wreck, we hear from market people all over this country, and they say do not blink. The most important thing that this Congress can do is to balance the budget, and part of that balancing of the budget is dismantling the Department of Commerce.

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The Commerce Department is the Government's attic. It is where you throw everything when you do not have any place else to put it. In fact, 60 percent of the Department of Commerce has absolutely nothing to do with commerce at all. It is the Weather Service, it is the Census Bureau and the Patents and Trademarks.

If the Department of Commerce was in fact the voice for business that the previous speaker just talked about, then it would be supporting a balanced budget, it would be supporting a capital gains tax cut, it would be supporting tort reform, and it would be supporting regulatory reform. In fact, it is diametrically opposed to all of those things. In fact, in a Business Week magazine poll that was taken just a few months ago, two out of the three business executives in that poll were in favor of dismantling the Department of Commerce.

We have taken a very logical and methodical plan forward that takes about 30 months. We said we are going to eliminate the programs that are unnecessary, we are going to privatize the programs that can be better done by the private sector, and we are going to streamline the beneficial programs, the ones we need to keep, and we are going to consolidate the duplicative programs.

Mr. GIBBONS. Mr. Speaker, I yield 1½ minutes to the gentleman from Florida [Mr. HASTINGS].

Mr. HASTINGS of Florida. Mr. Speaker, I thank the ranking Member for yielding me time.

Mr. Speaker, this bill makes draconian cuts in NOAA's budget which would effectively shut down crucial operations in many areas of the country. The cuts made in this bill jeopardize NOAA's ability to provide accurate and timely weather prediction, thereby putting all our lives in danger. If these cuts are enacted we will not be giving NOAA the money it needs to function properly and hundreds of lives and billions of dollars will be needlessly lost.

Floridians, having survived some of the most brutal storms in the world, are dependent on weather information and strongly support efforts to improve operational weather and forecast services. I do not understand why this Congress wants to endanger the lives of people in my home State by closing 62 of the 118 weather forecast offices, such as those in Miami, Melbourne, Tampa, Jacksonville, and Tallahassee, FL.

In addition to fewer offices, NOAA will lose one-half of its satellite capability, thus increasing the chance of a total satellite blackout. This bill would also decrease the number of storm surge models, resulting in chaotic evacuation procedures in large areas and a greater risk of fatalities. To make matters worse, the bill terminates funding for NOAA's P–3 hurricane aircraft, thereby reducing the accuracy of hurricane landfall predictions.

It is ludicrous that the majority would advocate an arbitrary reduction in funding for NOAA in the name of change. Mr. Speaker, some things, like the Government's responsibility for the health and safety of its citizens, should not be subject to political posturing. Change is good if it helps. But these cuts do not serve the public interest. And after all, is that not why we are here?

Mr. Speaker, let me ask the gentleman from Texas [Mr. ARCHER], for example, are the provisions in this bill we are considering today the same as the provisions considered 2 weeks ago in the reconciliation bill? Is it not true that 2 weeks ago the House approved 25-percent reductions in this Nation's weather programs, and in this bill, in section 2206, you have upped the ante to 35 percent? What is the impact of an additional 10-percent reduction in severe weather forecasting for this country? All of this is absurd.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. SCARBOROUGH].

Mr. SCARBOROUGH. Mr. Speaker, let me just say as a member of the Florida delegation who has had two hurricanes tear through my area in the past few months and devastate the beaches and the homes there, the last thing I would ever do is vote for anything that would have an impact, a

negative impact, on NOAA. I have looked over the bill. I have worked with DICK CHRYSLER on the Commerce bill. That simply is not the case.

Also, I hear people coming up, beating their chests in self-righteous indignation, saying how we are going to hurt the American worker and the American people because we have the courage to say no to the last great bastion of corporate welfare in America and that is the Commerce Department. The Democrats come to us and say, ''Yes, we want to be part of a balanced budget process, but we do not even have the courage, we do not have the courage to say no to runaway corporate welfare. We do not even have the courage to reinvent government.''

We always hear this talk about reinventing Government. CHRYSLER has a good idea. Let us go ahead and consolidate and have all science-related agencies put together. We do not do away with it; we truly do reinvent it. We have the courage to make a difference.

We are not trying to make political points. It makes sense. If you want to help the American worker, you do it by getting the Federal Government out of the way.

We also have language in this bill that says we will balance the budget in 7 years. More importantly than that, we have language that may be added, and this is not terrorism. This makes good sense. We have language that is going to be added that will bring about true regulatory reform.

You want to talk about money? You want to talk about real dollars? Regulatory burdens on American businesses, small businesses, cost over $500 billion a year, and we are doing something today to make a difference.

I am very proud to be part of that process. I am proud to say no to the Commerce Department corporate welfare plan that Ron Brown has been supporting, I am proud to say yes to real regulatory reform, and I am proud to say for the first time in a generation we are going to balance this budget.

Mr. GIBBONS. Mr. Speaker, I yield 1½ minutes to the gentleman from New York [Mr. SCHUMER].

(Mr. SCHUMER asked and was given permission to revise and extend his remarks.)

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

Mr. Speaker, this debate is not about the Commerce Department. It is not about habeas corpus. It is not about any of the other dangles that have been suspended from the debt ceiling bill. This is about a game of chicken, a very dangerous game of chicken, where irresponsible people are saying, ''We are going to put what we want on here, and we hope that you will blink so this country doesn't default.''

That is like playing will fire. The markets are waking up to this irresponsible game. Today, bonds are down half a point because of news that the other side is playing with the issue of default. Now, this not only affects the bond markets and the bondholders, it affects all Americans.

I called up five leading economists. They estimated that permanently interest rates would go up a quarter to a half a percent if we defaulted. That says to the average homeowner on an ARM, you pay more than $600 a year. That says to the average student loan holder, you pay $850 more a year. That says to the U.S. Government, your debt is increased more than $90 billion a year.

The budget game that Republicans are playing, this game of chicken, could well hurt seniors, students, and homeowners. Let us separate the budget debate from the debt ceiling debate and be responsible and stop playing games.

Mr. ARCHER. Mr. Speaker, I yield 30 seconds to the gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Speaker, I have to address the issue that my colleague from Florida brought up about the dismantling and how it would affect NOAA, the Weather Bureau. There are 36,000 employees in the Department of Commerce, of which 17,000 are in the Weather Service, 17,000 employees. Get some handle on that. In addition, with FAA that has a Weather Bureau, we have DOD with a Weather Bureau. We are recommending some consolidation.

This is not the day when you stick your finger out and get the weather with 17,000 people around the country. You get it from satellites and new technology and savings.

Mr. GIBBONS. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. NEAL].

Mr. NEAL of Massachusetts. Mr. Speaker, the clock is ticking and we still have not increased the debt ceiling. It is time to act responsibly. We should not play chicken with our financial markets and more importantly the good name of our country. We do not want to remember November 15, 1995, or December 13, 1995, as the day the United States defaults. Instead we want to remember November 9, 1995, as the day the 104th Congress came together and acted for the best of the country.

We can end this game of chicken today. We can end the threat of default. This is very simple. All we need to do is pass a clean short-term extension of the debt ceiling. Better yet, we could take the most responsible choice and increase the debt limit to $5.5 trillion and this should keep the Government running well into 1997. Almost every House Republican has improved increasing the debt ceiling to $5.5 trillion three times.

We have no choice but to increase the debt limit. Even if this short term extension passes, we will still need a long-term increase. Mr. Speaker, why don't we enact a long-term increase now? What are you waiting for?

If we fail to increase the debt limit, the Social Security trust funds will not be used for any purpose other than to assure the payment of benefits to Social Security recipients. Social Security has been protected and will continue to be protected. No additional legislation is needed to protect Social Security payments.

The legislation before us adopts a payment priority system for benefits due to various Government trust funds. This type of scheme would not be made effective for many months. Any such prioritization scheme would cause other obligations to be defaulted.

This type of scheme would put Medicare at risk. We would no longer have the funds to make Medicare payments.

Repeatedly, we have heard the debt ceiling should not be increased until we have a balanced budget in place. We all agree deficit reduction is a number one priority. However, we differ on how to do it.

Increasing the debt ceiling should not be held hostage to the budget. Raising the debt ceiling does not increase the deficit. Raising the debt ceiling allows the United States to pay obligations that are due. The debt ceiling is unrelated to the current budget debate. No good comes from failing to increase the debt ceiling.

Let us get over the hurdle of the debt ceiling and pass a clean extension. Then, we can work on a budget to decrease the deficit.

I just do not understand why we want to risk the good name of our country just so we can play a game of political blackmail. Congress should not resort to these types of tactics. This is serious business. We need to stop the rhetoric. We must act responsibly.

Mr. ARCHER. Mr. Speaker, I yield 10 seconds to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, my good colleague from West Springfield should realize under the Reagan-Bush years, his party shut the Government down nine times, and his party had 17 continuing resolutions. So for him to go on and on like this is something new, it is not true.

Mr. GIBBONS. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. BROWN].

(Mr. BROWN of California asked and was given permission to revise and extend his remarks.)

Mr. BROWN of California. Mr. Speaker, I thank the gentleman from Florida for the time.

Mr. Speaker, I am going to speak very briefly about the process involved here, at least as it involves the Walker amendment.

Last night, the gentleman from Pennsylvania [Mr. WALKER] appeared before the Committee on Rules late in the evening and offered his amendment in one version. A different version is printed in the RECORD today. I was not notified that he was proposing to do that, nor was any of the minority staff.

The gentleman from Pennsylvania [Mr. WALKER] represented at that time, and I think I have his statement before

me, that he asked on behalf of the House leadership for this amendment, which is a good-faith combination of the House and Senate bills. Based upon that, the chairman of the Committee on Rules this morning said, describing the amendment, a compromise between the House and Senate already passed regulatory reform.

The fact is, the Senate has not passed any bills. They do not know about this compromise language. They have assured me they are not about to pass it. The 58 votes referred to was a vote on cloture, not on the bill.

I would suggest that in addition to the slight involved to the minority, the procedural slight, that the statement made by Mr. WALKER before the Committee on Rules would at the best be described as a lack of truth in advertising when he describes a procedural vote as implying that it actually passed the Senate by that number of votes and apparently convinced the chairman of the Committee on Rules that that was the case.

Now, this is not the way to conduct business in this institution. We are not engaged in obstructionism, as Mr. WALKER charged. We are asking for our rights as the minority, and I think we are entitled to receive those rights.

Mr. ARCHER. Mr. Speaker, I reserve the balance of my time to close.

Mr. GIBBONS. Mr. Speaker, I yield 1½ minutes to the gentleman from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. Speaker, let me say, to begin with, I cannot speak for the last 40 years. I was not around 40 years ago, and I cannot speak for the time that my ranking member has been in the House or even the time that my good colleague from Texas has been in the House, who I recall first got elected when I was in grade school.

What I can speak to is experience that I brought to this House from the private sector. What we are doing here today is playing a dangerous game of blackmail for legislation, for votes which you do not have.

We are endangering America's credibility in the financial markets which could render us as uncreditworthy as Orange County, CA.

If we default, the markets will never forget. The markets will never forget, but the people of this country will pay forever and ever. If we were a city, a county or a State, this legislation would cause us to be downgraded, which would raise the cost to every citizen of those interests.

This is bad legislation. It is a bad way to do business. It is bad practice. Put this other legislation aside. Bring it to the floor separately. If you do not have the votes, you cannot pass it. But do not blackmail America's credibility and its creditworthiness. That is bad business. It is bad for the country.

Mr. GIBBONS. Mr. Speaker, I yield 1½ minute to the gentleman from Hawaii [Mr. ABERCROMBIE].

(Mr. ABERCROMBIE asked and was given permission to revise and extend his remarks.)

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Mr. ABERCROMBIE. Mr. Speaker, I thank the gentleman from Florida [Mr. GIBBONS] for yielding me time.

Ladies and gentlemen, let us stop the crocodile tears over the Social Security trust fund. The fact of the matter is and everyover knows it here, there will not be a balanced budget in 2002. The balanced budget that is being put forward very simply steals $636 billion from the Social Security trust fund, a so-called surplus. If it really was a surplus then give it back.

I understand that is the program of the majority party. Give back the $636 billion. If nothing went wrong, if nothing went wrong with the budget proposals coming from the Republican Party, in the year 2002 they could announce that there was a budget surplus paid for by $636 billion in Social Security funds.

The young people of this country are saying they do not believe Social Security is going to be there when they need it, and it will not be. The day that this comes out, the Republicans are going to own $636 billion, and now they cry crocodile tears in this debt extension about the trust fund and what the Democrats are doing.

I defy anyone on the other side to deny my allegations. They should read their own budget bill, and they will see that they are going to take the $636 billion out of a so-called surplus.

Finally, may I add, Mr. Speaker, for those who seem confused as to why the habeas corpus bill has been attached to this particular legislation, it is a message. I do not see how the gentleman from Michigan, [Mr. CONYERS] and other people can fail to get it. General Powell is getting a message about his ability to broaden the text in the context of the Republican Party with the habeas corpus attachment to this bill. A message has been sent to the General.

Mr. GIBBONS. Mr. Speaker, may I inquire how much time is remaining on this side?

Mr. SPEAKER pro tempore (Mr. HOBSON). The gentleman from Florida [Mr. GIBBONS] has 1½ minutes remaining.

Mr. GIBBONS. Mr. Speaker, I yield myself the remaining time.

Mr. Speaker, we are here today because of mismanagement by the Speaker of the House of Representatives and by the Republican Party. We are conducting business that should have been conducted in a routine manner back in July, but today it is being used as an attempt to blackmail the President into signing something that he is not going to sign and it is being used as an attempt to get enough votes together, arm twist.

We have heard the Republicans, Mr. Speaker, explain to their constituents why this is such a wonderful bill. Well, this is a debt ceiling bill and they want to disguise their vote so they put all this other material in here, about 400 pages of garbage, just so they can explain to their voters why they are going to vote for a $67 billion increase in the debt.

Now, every one of them on that side has voted three times this year on the record to increase the debt to $5.5 trillion. Why do they need to get up and hoodwink their voters about why they are going to vote for this with all this other garbage? They know that that is never going to become law.

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

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

The SPEAKER pro tempore. The gentleman from Texas is recognized for 6 minutes.

Mr. ARCHER. Mr. Speaker, let us see if we can clear the air about this bill. Next week, on November 15, if there is not settlement on a new issue of Treasury securities, this country will not be able to pay its bills. If we do not pass this measure today, the Treasury will be put in a position to where it cannot pay our bills.

If we pass this measure today, the Treasury will be able to orderly manage our debt and the payment of our bills until December 12. That is what the core of this legislation is all about. It is not about default. If it were about default, the Democrats in our committee on Tuesday evening put all of that issue before the American public. They attempted to scare the markets and to scare the people. And what happened yesterday? The stock market had a booming day, to set an all-time new record, and bonds went up, not down, immediately on the heels of the reporting out of this bill by the Committee on Ways and Means.

Again, they are here today, Mr. Speaker, to try to scare the markets, to try to scare the American people, but it will not work because it is not reality. What is reality, and what has brought down interests rates this year on home mortgages by almost 2 percent, the equivalent of over $2,000 savings for every hundred thousand dollar mortgage, has been because this new Congress has stated to the American people that we will get to a balanced budget.

It is the balanced budget that drives interest rates. The credibility of that effort. And this bill is a downpayment on the effort to balance this budget. When we balance the budget, I say to my colleagues, then we will truly see another decline in the long-term interest rates and more affordable homes for Americans who want to have their dream realized, to get into their own home.

That is what this debate is about. It is about a future for our children. My grandson, who was born last week, came into this world with a debt on his shoulders, a responsibility to pay $187,000 during his lifetime, just for the interest on the debt that has already been accumulated. Not for the increased debt that the Democrats and the President would like to put on his shoulders. We must stop that.

Yes, this bill draws the line on December 12 and says to the President and to the Congress that there will be no more manipulation, there will be no more game playing. We must go to the bargaining table. Both sides must feel the pressure to get to a balanced budget.

My colleagues, I say to the President of the United States, come forward, be a leader, come and meet with the Congress and agree with us before December 12 that we will get to a balanced budget in 7 years by Congressional Budget Office numbers. And we say to the President again, he said CBO was the proper vehicle for us to settle our differences when he stood in this Chamber on February 17, 1993, and to a standing ovation said no longer would OMB numbers be the standard, but the realistic CBO numbers would be the standard. The President sent his first budget to this Congress based on CBO numbers. But they are not a rosy enough scenario for him today, and so he has put Rosy Scenario back on the stage and refused to respect the realistic CBO numbers.

We are ready to negotiate with the President, and we must negotiate, because December 12 will be a drop-dead date. It is that important to force the leverage for a balanced budget. These are not easy decisions, and that is why it is essential that that tool be in this short-term extension.

Now, let me also speak to the question of the trust funds that are vital to the retirement of so many Americans, Social Security recipients, Federal military retirees, Federal civilian retirees, railroad retirees. Their benefits need to be paid and their trust funds need to be protected. That is why we have written into this bill legal protections of those trust funds so that they cannot be disinvested or invaded.

The administration says it has no intention of using the assets of Social Security funds to help the Government to operate during this debt limit interruption, yet Democrats in the Committee on Ways and Means offered amendment, after amendment, endorsed by the Treasury, to strike our trust fund protections. We need these protections to assure the Social Security recipients and Federal retirees that they will not be manipulated by this administration, which intends to do so when it vetoes this debt ceiling bill.

Vote for this debt ceiling bill.

Mr. ORTON. Mr. Speaker, I rise in opposition to the House version of a debt limit extension.

There is not a more serious issue facing this country than a possible default on the full faith and credit of the U.S. Treasury. Our economy and the entire world economy relies on international confidence that we can conduct our fiscal affairs in a responsible manner. The long-term borrowing costs on Treasury securities are directly impacted by investors' confidence that principal and interest will always be paid on time. The stability of our financial markets, interest rates, international exchange rates, and stock markets are all connected to the stability of Treasury securities.

I strongly support a clean extension of the debt limit, which will expire in the next week. During debate on this bill, I will support the motion to recommit, to be offered by Rep. L.F. PAYNE of Virginia. This recommit motion would amend the bill to remove extraneous provisions and simply extend the debt limit temporarily in a manner that accomplishes everything that the majority in the House claims it wants. This motion would extend the debt ceiling for a full 30 days after the Congress presents a balanced budget reconciliation bill to the President. This would provide a fair opportunity for a bipartisan budget agreement, without unnecessarily risking default on U.S. Treasury obligations.

However, I must oppose this badly drafted debt limit extension being offered today, and I call on the House leadership to send back a clean bill.

It is improper to politicize the credit of the United States by including unrelated provisions, which obviously are being attached because they cannot be passed separately through the normal legislative process. The debt extension is too important to condition its passage on support of extraneous measures.

However, the most egregious provisions of this particular resolution are those which would tie the hands of the Secretary of the Treasury, and thereby increase the risk of default. If we were to pass this resolution, we would remove the ability of the President to use cash management techniques to avoid default in the event of short-term debt limit problems. These are the same cash management techniques that have been used by previous Presidents, including Ronald Reagan.

If we pass this resolution, and Congress and the President are unable to reach accommodation next month, the removal of these management techniques would mean almost certain default of the United States of America. This would be a tragedy that would cost the taxpayers billions of dollars over the next decade, and would permanently damage the credit of the United States. We cannot take this risk. We should be doing everything possible to prevent default, not playing this political game of chicken which actually increases the likelihood of default.

Finally, some of my colleagues have attempted to make the case that limitations on our debt limit are critically tied to deficit reduction and balancing our budget. This is simply not the case. The bipartisan Congressional Budget Office's ''Economic and Budget Outlook'' from August 1995, states that, ''Limiting the Treasury's borrowing authority is not a productive method of achieving deficit reduction. Significant deficit reduction can only be accomplished by legislative decisions that reduce outlays or increase revenues.''

I agree with CBO. That is why I have consistently supported and voted for a constitutional amendment to balance the budget. That is why I recently offered a comprehensive budget reconciliation alternative on the House floor which would have made real spending cuts sufficient to balance the budget by 2002.

We should not play partisan games with an explosive issue like the extension of the debt limit. We should not pass a resolution which makes it more likely that we will default on our debt in early December. Instead, we should focus our legislative energies on working together to pass a bipartisan budget reconciliation bill that reaches balance in 7 years.

I urge my colleagues to vote down this convoluted resolution, and immediately bring back a clean debt limit extension which the President stands ready to sign. I urge my colleagues to put the interests of our country ahead of partisan consideration.

Ms. BROWN of Florida. Mr. Speaker, I rise in opposition to H.R. 2586 because it includes legislation to dismantle the Commerce Department. This bill is extremely shortsighted. Frankly, I'm surprised that my colleagues are so willing to throw the baby out with the bath water.

Commerce has a proven track record of providing the maximum bang for the buck. Although Commerce has the smallest budget of any Cabinet department, its services have contributed enormously to our Nation's economic well-being.

For example, for an investment of $250 million in trade promotion programs, Commerce advocated successfully in 1994 for foreign contracts with U.S. export content of almost $20 billion. In addition, our economy is getting a return of 8 to 1 from Commerce's manufacturing extension centers. Similar examples can be found in other programs, from facilitating exports by reducing export control burdens, to spurring investments in telecommunications infrastructure and economic development through matching grants.

This proposal would also eliminate Commerce's minority business development agency [MBDA], the only Federal agency created specifically to foster the establishment and growth of minority owned businesses in America. MBDA provides funding for approximately 100 minority business development centers [MBDC's] located throughout the country in areas with the largest minority populations including Jacksonville and Orlando.

The centers provide minority entrepreneurs with management and technical assistance services to start, expand, or manage a business. They are staffed by business specialists who have the knowledge and practical experience needed to run successful, profitable business. Minority business development centers are making a difference, they should not be eliminated.

While the Republicans propose to terminate a few agencies that are making a difference, the bulk of Commerce's programs would continue but be dispersed to the President, other agencies, and be re-created as Commissions at considerable cost to the taxpayer. Rather than diluted through dispersal, these functions important for American businesses should remain unified at the Commerce Department.

We should not destroy the Commerce Department and all the good that it does for our businesses. That's why the Commerce Department is supported by the U.S. Chamber of Commerce. Let's use common sense. Vote against this antibusiness bill.

Mr. DELAY. Mr. Speaker, I rise in strong support of the Walker amendment,

Earlier this year, the House passed a number of bills which made much needed fundamental changes to the way the Federal Government promulgates regulations. We passed unfunded mandates reform, the Paperwork Reduction Act, and an improved Reg Flex Act so that agencies can be taken to court if they don't take into account the impact of regulations on small businesses, among other reforms.

All of these bills passed with strong bipartisan majorities, and two of these—unfunded mandates and paperwork reduction—have even been signed into law.

The biggest and most fundamental reform the House passed, however, is a requirement that agencies conduct risk assessment and cost-benefit analysis based on sound science prior to promulgating regulations.

Too often regulatory decisions are made without any consideration for the impact they will have or even for whether they will address the problem effectively. The Federal Government must set priorities on how to spend its limited resources. Risk assessment and cost-benefit analysis will both help us focus on those areas that are the greatest threat to the public, and provide the data needed to make those tough budgetary choices.

Unfortunately, the other body has yet to act on these key provisions. That is why we are including this package in this bill—the provisions that make up this package are widely supported by a majority of both Houses, and signify a return to common sense, sound science, regulatory flexibility, and a more effective regulatory system.

Because this regulatory reform package restores balance to our Federal regulatory system, it is being considered a key vote by a large number of organizations. They include: National Federation of Independent Business; U.S. Chamber of Commerce; National Restaurant Association; Americans for Tax Reform; National Association of Home Builders; and National American Wholesale Grocers Association.

The Walker amendment is also strongly supported by Project Relief, the Alliance for Reasonable Regulation Citizens for a Sound Economy, the American Farm Bureau Federation, the Grocery Manufacturers of America, and the National Mining Association, among many others. These groups represent tens of thousands of businesses and individuals that have become involved at the grassroots level to achieve regulatory reform.

Regulatory reform will improve the average American's life in measurable ways—greater consumer choice, lower prices of goods and services, additional job opportunities, along with better economic growth.

I urge my colleagues to help relieve some of the burden placed on the American family by the Federal Government. Support the Walker amendment.

Mr. POMEROY. Mr. Speaker, I rise today to oppose the way this bill is being handled. This is truly a perversion of the process. Rather than bring to the floor a clean debt limit extension, the majority is playing games with the full faith and credit of the U.S. Government. If we don't act quickly, the United States is in danger of default.

Legislation to extend the debt limit should not be a Christmas tree for items that can't make it through the normal legislative process. While I strongly believe the American people could use a good dose of regulatory relief, and my votes on that issue have shown that I support providing that, this is neither the time nor the place for the Walker amendment. Further, the Walker amendment was being drafted this morning and I have not had the opportunity to review the text. While I may be in conceptual agreement with some of the provisions, this is not an appropriate vehicle.

Passage of a clean debt limit extension bill is critical to the American people. It should not be weighed down with extraneous provisions, no matter what the subject. Speaker GINGRICH may think he's playing this game with President Clinton, but he is really playing it with ordinary Americans. Working Americans are the one who will suffer if the Nation defaults on its debt.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 258, the amendment recommended by the Committee on Ways and Means printed in the bill and the amendments specified in House Report 104–328 are adopted.

The text of H.R. 2586, as amended, is as follows:

H.R. 2586

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

SECTION 1. TEMPORARY INCREASE IN PUBLIC DEBT LIMIT.

Subsection (b) of section 3101 of title 31, United States Code, is amended by adding at the end the following new sentence: ''During the period after the date of the enactment of this sentence, the preceding sentence shall be applied by substituting for the dollar amount contained therein—

''(1) '$4,967,000,000,000' for the portion of such period before December 13, 1995, and

''(2) '$4,800,000,000,000' after December 12, 1995.''

SEC. 2. APPLICABILITY OF PUBLIC DEBT LIMIT TO FEDERAL TRUST FUNDS AND OTHER FEDERAL ACCOUNTS.

(a) PROTECTION OF FEDERAL FUNDS.—Notwithstanding any other provision of law—

(1) no officer or employee of the United States may—

(A) delay the deposit of any amount into (or delay the credit of any amount to) any Federal fund or otherwise vary from the normal terms, procedures, or timing for making such deposits or credits, or

(B) refrain from the investment in public debt obligations of amounts in any Federal fund,

if a purpose of such action or inaction is to not increase the amount of outstanding public debt obligations, and

(2) no officer or employee of the United States may disinvest amounts in any Federal fund which are invested in public debt obligations if a purpose of the disinvestment is to reduce the amount of outstanding public debt obligations.

(b) PROTECTION OF BENEFITS AND EXPENDITURES FOR ADMINISTRATIVE EXPENSES.—

(1) IN GENERAL.—Notwithstanding subsection (a), during any period for which cash benefits or administrative expenses would not otherwise be payable from a covered benefits fund by reason of an inability to issue further public debt obligations because of the applicable public debt limit, public debt obligations held by such covered benefits fund shall be sold or redeemed only for the purpose of making payment of such benefits or administrative expenses and only to the extent cash assets of the covered benefits fund are not available from month to month for making payment of such benefits or administrative expenses.

(2) ISSUANCE OF CORRESPONDING DEBT.—For purposes of undertaking the sale or redemption of public debt obligations held by a covered benefits fund pursuant to paragraph (1), the Secretary of the Treasury may issue corresponding public debt obligations to the public, in order to obtain the cash necessary for payment of benefits or administrative expenses from such covered benefits fund, notwithstanding the public debt limit.

(3) ADVANCE NOTICE OF SALE OR REDEMPTION.—Not less than 3 days prior to the date on which, by reason of the public debt limit, the Secretary of the Treasury expects to undertake a sale or redemption authorized under paragraph (1), the Secretary of the Treasury shall report to each House of the Congress and to the Comptroller General of the United States regarding the expected sale or redemption. Upon receipt of such report, the Comptroller General shall review the extent of compliance with subsection (a) and paragraphs (1) and (2) of this subsection and shall issue such findings and recommendations to each House of the Congress as the Comptroller General considers necessary and appropriate.

(c) PUBLIC DEBT OBLIGATION.—For purposes of this section, the term ''public debt obligation'' means any obligation subject to the public debt limit established under section 3101 of title 31, United States Code.

(d) FEDERAL FUND.—For purposes of this section, the term ''Federal fund'' means any Federal trust fund or Government account established pursuant to Federal law to which the Secretary of the Treasury has issued or is expressly authorized by law directly to issue obligations under chapter 31 of title 31, United States Code, in respect of public money, money otherwise required to be deposited in the Treasury, or amounts appropriated.

(e) COVERED BENEFITS FUND.—For purposes of subsection (b), the term ''covered benefits fund'' means any Federal fund from which cash benefits are payable by law in the form of retirement benefits, separation payments, life or disability insurance benefits, or dependent's or survivor's benefits, including (but not limited to) the following:

(1) the Federal Old-Age and Survivors Insurance Trust Fund;

(2) the Federal Disability Insurance Trust Fund;

(3) the Civil Service Retirement and Disability Fund;

(4) the Government Securities Investment Fund;

(5) the Department of Defense Military Retirement Fund;

(6) the Unemployment Trust Fund;

(7) each of the railroad retirement funds and accounts;

(8) the Department of Defense Education Benefits Fund and the Post-Vietnam Era Veterans Education Fund; and

(9) the Black Lung Disability Trust Fund.

SEC. 3. CONFORMING AMENDMENTS.

Subsections (j), (k), and (l) of section 8348 of title 5, United States Code, and subsections (g) and (h) of section 8438 of such title are hereby repealed.

SEC. 4. COMMITMENT TO A SEVEN–YEAR BALANCED BUDGET.

(a) With the enactment of this Act the President and the Congress commit to enacting legislation in calendar year 1995 to achieve a balanced budget, as scored by the non-partisan Congressional Budget Office, not later than the fiscal year 2002.

(b) The Congress affirms that it will not enact legislation providing for a further increase in the permanent statutory limit on the public debt unless the President signs into law the balanced budget legislation referred to in subsection (a).

SEC. 5. MEDICARE COVERAGE OF CERTAIN ANTICANCER DRUG TREATMENTS.

(a) COVERAGE OF CERTAIN SELF-ADMINISTERED ANTICANCER DRUGS.—Section 1861(s)(2)(Q) of the Social Security Act (42 U.S.C. 1395x(s)(2)(Q)) is amended—

(1) by striking ''(Q)'' and inserting ''(Q)(i)''; and

(2) by striking the semicolon at the end and inserting '', and''; and

(3) by adding at the end the following:

''(ii) an oral drug (which is approved by the Federal Food and Drug Administration) prescribed for use as an anticancer nonsteroidal antiestrogen for the treatment of breast cancer or nonsteroidal antiandrogen agent for the treatment of prostate cancer;''.

(b) UNIFORM COVERAGE OF ANTICANCER DRUGS IN ALL SETTINGS.—Section 1861(t)(2)(A) of such Act (42 U.S.C. 1395x(t)(2)(A)) is amended by adding ''(including a nonsteroidal antiestrogen or nonsteroidal antiandrogen regimen)'' after ''regimen''.

(c) CONFORMING AMENDMENT.—Section 1834(j)(5)(F)(iv) of such Act (42 U.S.C. 1395m(j)(5)(F)(iv)) is amended by striking ''prescribed for use'' and all that follows through ''1861(s)(2)(Q))'' and inserting ''described in section 1861(s)(2)(Q))''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to drugs furnished on or after the date of the enactment of this section.

TITLE I—HABEAS CORPUS REFORM

SEC. 101. FILING DEADLINES.

Section 2244 of title 28, United States Code, is amended by adding at the end the following new subsection:

''(d)(1) A 1-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of—

''(A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;

''(B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such State action;

''(C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

''(D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

''(2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim shall not be counted toward any period of limitation under this subsection.''.

SEC. 102. APPEAL.

Section 2253 of title 28, United States Code, is amended to read as follows:

''§ 2253. Appeal

''(a) In a habeas corpus proceeding or a proceeding under section 2255 before a district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit in which the proceeding is held.

''(b) There shall be no right of appeal from a final order in a proceeding to test the validity of a warrant to remove to another district or place for commitment or trial a person charged with a criminal offense against the United States, or to test the validity of such person's detention pending removal proceedings.

''(c)(1) Unless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken to the court of appeals from—

''(A) the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court; or

''(B) the final order in a proceeding under section 2255.

''(2) A certificate of appealability may issue under paragraph (1) only if the applicant has made a substantial showing of the denial of a constitutional right.

''(3) The certificate of appealability under paragraph (1) shall indicate which specific issue or issues satisfy the showing required by paragraph (2).''.

SEC. 103. AMENDMENT OF FEDERAL RULES OF APPELLATE PROCEDURE.

Rule 22 of the Federal Rules of Appellate Procedure is amended to read as follows:

''Rule 22. Habeas corpus and section 2255 proceedings

''(a) APPLICATION FOR THE ORIGINAL WRIT.—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application shall be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge shall not be permitted. The applicant may, pursuant to section 2253 of title 28, United States Code, appeal to the appropriate court of appeals from the order of the district court denying the writ.

''(b) CERTIFICATE OF APPEALABILITY.—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, an appeal by the applicant for the writ may not proceed unless a district or a circuit judge issues a certificate of appealability pursuant to section 2253(c) of title 28, United States Code. If an appeal is taken by the applicant, the district judge who rendered the judgment shall either issue a certificate of appealability or state the reasons why such a certificate should not issue. The certificate or the statement shall be forwarded to the court of appeals with the notice of appeal and the file of the proceedings in the district court. If the district judge has denied the certificate, the applicant for the writ may then request issuance of the certificate by a circuit judge. If such a request is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or its representative, a certificate of appealability is not required.''.

SEC. 104. SECTION 2254 AMENDMENTS.

Section 2254 of title 28, United States Code, is amended—

(1) by amending subsection (b) to read as follows:

''(b)(1) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that—

''(A) the applicant has exhausted the remedies available in the courts of the State; or

''(B)(i) there is an absence of available State corrective process; or

''(ii) circumstances exist that render such process ineffective to protect the rights of the applicant.

''(2) An application for a writ of habeas corpus may be denied on the merits, notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.

''(3) A State shall not be deemed to have waived the exhaustion requirement or be estopped from reliance upon the requirement unless the State, through counsel, expressly waives the requirement.'';

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

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

''(d) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim—

''(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or

''(2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.'';

(4) by amending subsection (e), as redesignated by paragraph (2), to read as follows:

''(e)(1) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a determination of a factual issue made by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting the presumption of correctness by clear and convincing evidence.

''(2) If the applicant has failed to develop the factual basis of a claim in State court proceedings, the court shall not hold an evidentiary hearing on the claim unless the applicant shows that—

''(A) the claim relies on—

''(i) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

''(ii) a factual predicate that could not have been previously discovered through the exercise of due diligence; and

''(B) the facts underlying the claim would be sufficient to establish by clear and convincing evidence that but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.''; and

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

''(h) Except as provided in title 21, United States Code, section 848, in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint counsel for an applicant who is or becomes financially unable to afford counsel, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18.

''(i) The ineffectiveness or incompetence of counsel during Federal or State collateral post-conviction proceedings shall not be a ground for relief in a proceeding arising under section 2254.''.

SEC. 105. SECTION 2255 AMENDMENTS.

Section 2255 of title 28, United States Code, is amended—

(1) by striking the second and fifth undesignated paragraphs; and

(2) by adding at the end the following new undesignated paragraphs:

''A 1-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of—

''(1) the date on which the judgment of conviction becomes final;

''(2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making a motion by such governmental action;

''(3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

''(4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

''Except as provided in title 21, United States Code, section 848, in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint counsel for a movant who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18.

''A second or successive motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals to contain—

''(1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense; or

''(2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.''.

SEC. 106. LIMITS ON SECOND OR SUCCESSIVE APPLICATIONS.

(a) CONFORMING AMENDMENT TO SECTION 2244(a).—Section 2244(a) of title 28, United States Code, is amended by striking ''and the petition'' and all that follows through ''by such inquiry.'' and inserting '', except as provided in section 2255.''.

(b) LIMITS ON SECOND OR SUCCESSIVE APPLICATIONS.—Section 2244(b) of title 28, United States Code, is amended to read as follows:

''(b)(1) A claim presented in a second or successive habeas corpus application under section 2254 that was presented in a prior application shall be dismissed.

''(2) A claim presented in a second or successive habeas corpus application under section 2254 that was not presented in a prior application shall be dismissed unless—

''(A) the applicant shows that the claim relies on a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

''(B)(i) the factual predicate for the claim could not have been discovered previously through the exercise of due diligence; and

''(ii) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

''(3)(A) Before a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.

''(B) A motion in the court of appeals for an order authorizing the district court to consider a second or successive application shall be determined by a three-judge panel of the court of appeals.

''(C) The court of appeals may authorize the filing of a second or successive application only if it determines that the application makes a prima facie showing that the application satisfies the requirements of this subsection.

''(D) The court of appeals shall grant or deny the authorization to file a second or successive application not later than 30 days after the filing of the motion.

''(E) The grant or denial of an authorization by a court of appeals to file a second or successive application shall not be appealable and shall not be the subject of a petition for rehearing or for a writ of certiorari.

''(4) A district court shall dismiss any claim presented in a second or successive application that the court of appeals has authorized to be filed unless the applicant shows that the claim satisfies the requirements of this section.''.

SEC. 107. DEATH PENALTY LITIGATION PROCEDURES.

(a) ADDITION OF CHAPTER TO TITLE 28, UNITED STATES CODE.—Title 28, United States Code, is amended by inserting after chapter 153 the following new chapter:

''CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

''Sec.

''§ 2261. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

''(a) This chapter shall apply to cases arising under section 2254 brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if the provisions of subsections (b) and (c) are satisfied.

''(b) This chapter is applicable if a State establishes by statute, rule of its court of last resort, or by another agency authorized by State law, a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in State post-conviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State or have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

''(c) Any mechanism for the appointment, compensation, and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record—

''(1) appointing one or more counsels to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer;

''(2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or

''(3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

''(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

''(e) The ineffectiveness or incompetence of counsel during State or Federal post-conviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2254. This limitation shall not preclude the appointment of different counsel, on the court's own motion or at the request of the prisoner, at any phase of State or Federal post-conviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

''§ 2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

''(a) Upon the entry in the appropriate State court of record of an order under section 2261(c), a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed under section 2254. The application shall recite that the State has invoked the post-conviction review procedures of this chapter and that the scheduled execution is subject to stay.

''(b) A stay of execution granted pursuant to subsection (a) shall expire if—

''(1) a State prisoner fails to file a habeas corpus application under section 2254 within the time required in section 2263;

''(2) before a court of competent jurisdiction, in the presence of counsel, unless the prisoner has competently and knowingly waived such counsel, and after having been advised of the consequences, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254; or

''(3) a State prisoner files a habeas corpus petition under section 2254 within the time required by section 2263 and fails to make a substantial showing of the denial of a Federal right or is denied relief in the district court or at any subsequent stage of review.

''(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution in the case, unless the court of appeals approves the filing of a second or successive application under section 2244(b).

''§ 2263. Filing of habeas corpus application; time requirements; tolling rules

''(a) Any application under this chapter for habeas corpus relief under section 2254 must be filed in the appropriate district court not later than 180 days after final State court affirmance of the conviction and sentence on direct review or the expiration of the time for seeking such review.

''(b) The time requirements established by subsection (a) shall be tolled—

''(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner files the petition to secure review by the Supreme Court of the affirmance of a capital sentence on direct review by the court of last resort of the State or other final State court decision on direct review;

''(2) from the date on which the first petition for post-conviction review or other collateral relief is filed until the final State court disposition of such petition; and

''(3) during an additional period not to exceed 30 days, if—

''(A) a motion for an extension of time is filed in the Federal district court that would have jurisdiction over the case upon the filing of a habeas corpus application under section 2254; and

''(B) a showing of good cause is made for the failure to file the habeas corpus application within the time period established by this section.

''§ 2264. Scope of Federal review; district court adjudications

''(a) Whenever a State prisoner under capital sentence files a petition for habeas corpus relief to which this chapter applies, the

district court shall only consider a claim or claims that have been raised and decided on the merits in the State courts, unless the failure to raise the claim properly is—

''(1) the result of State action in violation of the Constitution or laws of the United States;

''(2) the result of the Supreme Court recognition of a new Federal right that is made retroactively applicable; or

''(3) based on a factual predicate that could not have been discovered through the exercise of due diligence in time to present the claim for State or Federal post-conviction review.

''(b) Following review subject to subsections (a), (d), and (e) of section 2254, the court shall rule on the claims properly before it.

''§ 2265. Application to State unitary review procedure

''(a) For purposes of this section, a 'unitary review' procedure means a State procedure that authorizes a person under sentence of death to raise, in the course of direct review of the judgment, such claims as could be raised on collateral attack. This chapter shall apply, as provided in this section, in relation to a State unitary review procedure if the State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in the unitary review proceedings, including expenses relating to the litigation of collateral claims in the proceedings. The rule of court or statute must provide standards of competency for the appointment of such counsel.

''(b) To qualify under this section, a unitary review procedure must include an offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2261(c), concerning appointment of counsel or waiver or denial of appointment of counsel for that purpose. No counsel appointed to represent the prisoner in the unitary review proceedings shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

''(c) Sections 2262, 2263, 2264, and 2266 shall apply in relation to cases involving a sentence of death from any State having a unitary review procedure that qualifies under this section. References to State 'post-conviction review' and 'direct review' in such sections shall be understood as referring to unitary review under the State procedure. The reference in section 2262(a) to 'an order under section 2261(c)' shall be understood as referring to the post-trial order under subsection (b) concerning representation in the unitary review proceedings, but if a transcript of the trial proceedings is unavailable at the time of the filing of such an order in the appropriate State court, then the start of the 180-day limitation period under section 2263 shall be deferred until a transcript is made available to the prisoner or counsel of the prisoner.

''§ 2266. Limitation periods for determining applications and motions

''(a) The adjudication of any application under section 2254 that is subject to this chapter, and the adjudication of any motion under section 2255 by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all noncapital matters.

''(b)(1)(A) A district court shall render a final determination and enter a final judgment on any application for a writ of habeas corpus brought under this chapter in a capital case not later than 180 days after the date on which the application is filed.

''(B) A district court shall afford the parties at least 120 days in which to complete all actions, including the preparation of all pleadings and briefs, and if necessary, a hearing, prior to the submission of the case for decision.

''(C)(i) A district court may delay for not more than one additional 30-day period beyond the period specified in subparagraph (A), the rendering of a determination of an application for a writ of habeas corpus if the court issues a written order making a finding, and stating the reasons for the finding, that the ends of justice that would be served by allowing the delay outweigh the best interests of the public and the applicant in a speedy disposition of the application.

''(ii) The factors, among others, that a court shall consider in determining whether a delay in the disposition of an application is warranted are as follows:

''(I) Whether the failure to allow the delay would be likely to result in a miscarriage of justice.

''(II) Whether the case is so unusual or so complex, due to the number of defendants, the nature of the prosecution, or the existence of novel questions of fact or law, that it is unreasonable to expect adequate briefing within the time limitations established by subparagraph (A).

''(III) Whether the failure to allow a delay in a case, that, taken as a whole, is not so unusual or so complex as described in subclause (II), but would otherwise deny the applicant reasonable time to obtain counsel, would unreasonably deny the applicant or the government continuity of counsel, or would deny counsel for the applicant or the government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

''(iii) No delay in disposition shall be permissible because of general congestion of the court's calendar.

''(iv) The court shall transmit a copy of any order issued under clause (i) to the Director of the Administrative Office of the United States Courts for inclusion in the report under paragraph (5).

''(2) The time limitations under paragraph (1) shall apply to—

''(A) an initial application for a writ of habeas corpus;

''(B) any second or successive application for a writ of habeas corpus; and

''(C) any redetermination of an application for a writ of habeas corpus following a remand by the court of appeals or the Supreme Court for further proceedings, in which case the limitation period shall run from the date the remand is ordered.

''(3)(A) The time limitations under this section shall not be construed to entitle an applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.

''(B) No amendment to an application for a writ of habeas corpus under this chapter shall be permitted after the filing of the answer to the application, except on the grounds specified in section 2244(b).

''(4)(A) The failure of a court to meet or comply with a time limitation under this section shall not be a ground for granting relief from a judgment of conviction or sentence.

''(B) The State may enforce a time limitation under this section by petitioning for a writ of mandamus to the court of appeals. The court of appeals shall act on the petition for a writ or mandamus not later than 30 days after the filing of the petition.

''(5)(A) The Administrative Office of United States Courts shall submit to Congress an annual report on the compliance by the district courts with the time limitations under this section.

''(B) The report described in subparagraph (A) shall include copies of the orders submitted by the district courts under paragraph (1)(B)(iv).

''(c)(1)(A) A court of appeals shall hear and render a final determination of any appeal of an order granting or denying, in whole or in part, an application brought under this chapter in a capital case not later than 120 days after the date on which the reply brief is filed, or if no reply brief is filed, not later than 120 days after the date on which the answering brief is filed.

''(B)(i) A court of appeals shall decide whether to grant a petition for rehearing or other request for rehearing en banc not later than 30 days after the date on which the petition for rehearing is filed unless a responsive pleading is required, in which case the court shall decide whether to grant the petition not later than 30 days after the date on which the responsive pleading is filed.

''(ii) If a petition for rehearing or rehearing en banc is granted, the court of appeals shall hear and render a final determination of the appeal not later than 120 days after the date on which the order granting rehearing or rehearing en banc is entered.

''(2) The time limitations under paragraph (1) shall apply to—

''(A) an initial application for a writ of habeas corpus;

''(B) any second or successive application for a writ of habeas corpus; and

''(C) any redetermination of an application for a writ of habeas corpus or related appeal following a remand by the court of appeals en banc or the Supreme Court for further proceedings, in which case the limitation period shall run from the date the remand is ordered.

''(3) The time limitations under this section shall not be construed to entitle an applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.

''(4)(A) The failure of a court to meet or comply with a time limitation under this section shall not be a ground for granting relief from a judgment of conviction or sentence.

''(B) The State may enforce a time limitation under this section by applying for a writ of mandamus to the Supreme Court.

''(5) The Administrative Office of United States Courts shall submit to Congress an annual report on the compliance by the courts of appeals with the time limitations under this section.''.

(b) TECHNICAL AMENDMENT.—The part analysis for part IV of title 28, United States Code, is amended by adding after the item relating to chapter 153 the following new item:

''154. Special habeas corpus procedures in capital cases ..... 2261.''.

(c) EFFECTIVE DATE.—Chapter 154 of title 28, United States Code (as added by subsection (a)) shall apply to cases pending on or after the date of enactment of this Act.

SEC. 108. TECHNICAL AMENDMENT.

Section 408(q) of the Controlled Substances Act (21 U.S.C. 848(q)) is amended by amending paragraph (9) to read as follows:

''(9) Upon a finding that investigative, expert, or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or the sentence, the court may authorize the defendant's attorneys to obtain such services on behalf of the defendant and, if so authorized, shall order the payment of fees and expenses therefor under paragraph (10). No ex parte proceeding, communication, or request may be considered

pursuant to this section unless a proper showing is made concerning the need for confidentiality. Any such proceeding, communication, or request shall be transcribed and made a part of the record available for appellate review.''.

SEC. 109. SEVERABILITY.

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstances shall not be affected thereby.

TITLE II—ABOLISHMENT OF DEPARTMENT OF COMMERCE

SEC. 2001. SHORT TITLE.

This title may be cited as the ''Department of Commerce Dismantling Act''.

SEC. 2002. TABLE OF CONTENTS.

The table of contents for this title is as follows:

Subtitle A—Abolishment of Department of Commerce

SEC. 2101. ABOLISHMENT OF DEPARTMENT OF COMMERCE.

(a) ABOLISHMENT OF DEPARTMENT.—The Department of Commerce is abolished effective on the abolishment date specified in subsection (c).

(b) TRANSFER OF DEPARTMENT FUNCTIONS TO OMB.—Except as otherwise provided in this title, all functions that immediately before the abolishment date specified in subsection (c) are authorized to be performed by the Secretary of Commerce, any other officer or employee of the Department acting in that capacity, or any agency or office of the Department, are transferred to the Director of the Office of Management and Budget effective on that abolishment date.

(c) ABOLISHMENT DATE.—The abolishment date referred to in subsections (a) and (b) is the earlier of—

(1) the last day of the 6-month period beginning on the date of the enactment of this Act; or

(2) September 30, 1996.

SEC. 2102. RESOLUTION AND TERMINATION OF DEPARTMENT FUNCTIONS.

(a) RESOLUTION OF FUNCTIONS.—During the period beginning on the date of enactment of this Act and ending on the functions termination date specified in subsection (c)—

(1) the disposition and resolution of functions of the Department of Commerce shall be completed in accordance with this title; and

(2) the Director shall resolve all functions that are transferred to the Director under section 2101(b) and are not otherwise continued under this title.

(b) TERMINATION OF FUNCTIONS.—All functions that are transferred to the Director under section 2101(b) that are not otherwise continued by this title shall terminate on the functions termination date specified in subsection (c).

(c) FUNCTIONS TERMINATION DATE.—The functions termination date referred to in subsections (a) and (b) is the last day of the 3-year period beginning on the date of the enactment of this Act.

SEC. 2103. RESPONSIBILITIES OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

(a) IN GENERAL.—The Director of the Office of Management and Budget shall be responsible for the implementation of this subtitle, including—

(1) the administration and wind-up, during the wind-up period, of all functions transferred to the Director under section 2101(b);

(2) the administration and wind-up, during the wind-up period, of any outstanding obligations of the Federal Government under any programs terminated by this title; and

(3) taking such other actions as may be necessary to wind-up any outstanding affairs of the Department of Commerce before the end of the wind-up period.

(b) DELEGATION OF FUNCTIONS.—The Director may delegate to any officer of the Office of Management and Budget or to any other Federal department or agency head the performance of the Director's functions under this subtitle, except the Director's planning and reporting responsibilities under section 2105, to the extent that the Director determines that such delegation would further the purposes of this subtitle.

(c) TRANSFER OF ASSETS AND PERSONNEL.—In connection with any delegation of functions under subsection (b), the Director may transfer within the Office or to the department or agency concerned such assets, funds, personnel, records, and other property relating to the delegated function as the Director determines to be appropriate.

(d) AUTHORITIES OF THE DIRECTOR.—For purposes of performing the functions of the Director under this subtitle and subject to the availability of appropriations, the Director may—

(1) enter into contracts;

(2) employ experts and consultants in accordance with section 3109 of title 5, United States Code, at rates for individuals not to exceed the per diem rate equivalent to the rate for level IV of the Executive Schedule; and

(3) utilize, on a reimbursable basis, the services, facilities, and personnel of other Federal agencies.

SEC. 2104. PERSONNEL.

Effective on the abolishment date specified in section 2101(c), there are transferred to the Office all individuals who—

(1) immediately before the abolishment date, were officers or employees of the Department of Commerce; and

(2) in their capacity as such an officer or employee, performed functions that are transferred to the Director under section 2101(b).

SEC. 2105. PLANS AND REPORTS.

(a) INITIAL IMPLEMENTATION PLAN.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Director shall submit a report, through the President, to the Congress specifying those actions taken and necessary to be taken—

(A) to resolve those programs and functions terminated on the date of enactment of this Act; and

(B) to implement the additional transfers and other program dispositions provided for in this title.

(2) CONTENTS.—The report shall include—

(A) recommendations for additional legislation, if any, needed to reflect or otherwise to implement the abolishments, transfers, terminations, and other dispositions of programs and functions under this title; and

(B) a description of actions planned and taken to comply with limitations imposed by this Act on future spending for continued functions.

(b) ANNUAL STATUS REPORTS.—At the end of each of the first, second, and third years following the date of enactment of this Act, the Director shall submit a report, through the President, to the Congress which—

(1) specifies the status and progress of actions taken to implement this title and to wind-up the affairs of the Department of Commerce by the functions termination date specified in section 2102(c);

(2) includes any recommendations the Director may have for additional legislation; and

(3) describes actions taken to comply with limitations imposed by this Act on future spending for continued functions.

(c) GAO REPORTS.—Not later than 60 days after issuance of each report under subsections (a) and (b), the Comptroller General of the United States shall submit to the Congress a report which—

(1) evaluates the report under that subsection; and

(2) includes any recommendations the Comptroller General considers appropriate.

SEC. 2106. GAO AUDIT AND ACCESS TO RECORDS.

(a) AUDIT OF PERSONS PERFORMING FUNCTIONS PURSUANT TO THIS ACT.—All agencies, corporations, organizations, and other persons of any description which under the authority of the United States perform any function or activity pursuant to this title shall be subject to audit by the Comptroller General of the United States with respect to such function or activity.

(b) AUDIT OF PERSONS PROVIDING CERTAIN GOODS OR SERVICES.—All persons and organizations which, by contract, grant, or otherwise, provide goods or services to, or receive financial assistance from, any agency or other person performing functions or activities under or referred to by this title shall be subject to audit by the Comptroller General of the United States with respect to such provision of goods or services or receipt of financial assistance.

(c) PROVISIONS APPLICABLE TO AUDITS UNDER THIS SECTION.—

(1) NATURE AND SCOPE OF AUDIT.—The Comptroller General of the United States shall determine the nature, scope, terms, and conditions of audits conducted under this section.

(2) COORDINATION WITH OTHER PROVISIONS OF LAW.—The authority of the Comptroller General of the United States under this section shall be in addition to any audit authority available to the Comptroller General under other provisions of this title or any other law.

(3) RIGHTS OF ACCESS, EXAMINATION, AND COPYING.—The Comptroller General of the United States, and any duly authorized representative of the Comptroller General, shall have access to, and the right to examine and copy, all records and other recorded information in any form, and to examine any property within the possession or control of any agency or person which is subject to audit under this section, which the Comptroller General considers relevant to an audit conducted under this section.

(4) ENFORCEMENT OF RIGHT OF ACCESS.—The right of access of the Comptroller General of the United States to information under this section shall be enforceable under section 716 of title 31, United States Code.

(5) MAINTENANCE OF CONFIDENTIAL RECORDS.—Section 716(e) of title 31, United States Code, shall apply to information obtained by the Comptroller General under this section.

SEC. 2107. CONFORMING AMENDMENTS.

(a) PRESIDENTIAL SUCCESSION.—Section 19(d)(1) of title 3, United States Code, is amended by striking ''Secretary of Commerce,''.

(b) EXECUTIVE DEPARTMENTS.—Section 101 of title 5, United States Code, is amended by striking the following item: ''The Department of Commerce.''.

(c) SECRETARY'S COMPENSATION.—Section 5312 of title 5, United States Code, is amended by striking the following item: ''Secretary of Commerce.''.

(d) COMPENSATION FOR POSITIONS AT LEVEL III.—Section 5314 of title 5, United States Code, is amended—

(1) by striking the following item:

''Under Secretary of Commerce, Under Secretary of Commerce for Economic Affairs, Under Secretary of Commerce for Export Administration and Under Secretary of Commerce for Travel and Tourism.'';

(2) by striking the following item:

''Under Secretary of Commerce for Oceans and Atmosphere, the incumbent of which also serves as Administrator of the National Oceanic and Atmospheric Administration.''; and

(3) by striking the following item:

''Under Secretary of Commerce for Technology.''.

(e) COMPENSATION FOR POSITIONS AT LEVEL IV.—Section 5315 of title 5, United States Code, is amended—

(1) by striking the following item:

''Assistant Secretaries of Commerce (11).'';

(2) by striking the following item:

''General Counsel of the Department of Commerce.'';

(3) by striking the following item:

''Assistant Secretary of Commerce for Oceans and Atmosphere, the incumbent of which also serves as Deputy Administrator of the National Oceanic and Atmospheric Administration.'';

(4) by striking the following item:

''Director, National Institute of Standards and Technology, Department of Commerce.'';

(5) by striking the following item:

''Inspector General, Department of Commerce.'';

(6) by striking the following item:

''Chief Financial Officer, Department of Commerce.''; and

(7) in the item relating to the Bureau of the Census, by striking '', Department of Commerce''.

(f) COMPENSATION FOR POSITIONS AT LEVEL V.—Section 5316 of title 5, United States Code, is amended—

(1) by striking the following item:

''Director, United States Travel Service, Department of Commerce.''; and

(2) by striking the following item:

''National Export Expansion Coordinator, Department of Commerce.''.

(g) INSPECTOR GENERAL ACT OF 1978.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 9(a)(1), by striking subparagraph (B);

(2) in section 11(1), by striking ''Commerce,''; and

(3) in section 11(2), by striking ''Commerce,''.

(h) EFFECTIVE DATE.—The amendments made by this section shall be effective on the abolishment date specified in section 2101(c).

SEC. 2108. PRIVATIZATION FRAMEWORK.

(a) IN GENERAL.—The Office of Management and Budget shall privatize each function designated for privatization under subtitle B within 18 months of the date of the transfer of such function to the Office. The Office shall pursue such forms of privatization arrangements as the Office considers appropriate to best serve the interests of the United States. If the Office is unable to privatize a function within 18 months, the Office shall report its inability to the Congress with its recommendations as to the appropriate disposition of the function and its assets.

(b) ROLE OF THE FEDERAL GOVERNMENT.—No privatization arrangement made under subsection (a) shall include any future role for, or accountability to, the Federal Government unless it is necessary to assure the continued accomplishment of a specific Federal objective. The Federal role should be the minimum necessary to accomplish Federal objectives.

(c) ASSETS.—In privatizing a function, the Office of Management and Budget shall take any action necessary to preserve the value of the assets of a function during the period the Office holds such assets and to continue the performance of the function to the extent necessary to preserve the value of the assets or to accomplish core Federal objectives.

SEC. 2109. PRIORITY PLACEMENT PROGRAMS FOR FEDERAL EMPLOYEES AFFECTED BY A REDUCTION IN FORCE ATTRIBUTABLE TO THIS TITLE.

(a) IN GENERAL.—Subchapter I of chapter 33 of title 5, United States Code, is amended by adding at the end the following:

''§ 3329b. Priority placement programs for employees affected by a reduction in force attributable to the Department of Commerce Dismantling Act

''(a)(1) For the purpose of this section, the term 'affected agency'—

''(A) except as provided in subparagraph (B), means an Executive agency to which personnel are transferred in connection with a transfer of function under the Department of Commerce Dismantling Act, and

''(B) with respect to employees of the Department of Commerce in general administration, the Inspector General's office, or the General Counsel's office, or who provided overhead support to other components of the Department on a reimbursable basis, means all agencies to which functions of those employees are transferred under the Department of Commerce Dismantling Act.

''(2) This section applies with respect to any reduction in force that—

''(A) occurs within 12 months after the date of the enactment of this section; and

''(B) is due to—

''(i) the termination of any function of the Department of Commerce; or

''(ii) the agency's having excess personnel as a result of a transfer of function described in paragraph (1), as determined by—

''(I) the Director of the Office of Management and Budget, in the case of a function transferred to the Office of Management and Budget; or

''(II) the head of the agency, in the case of any other function.

''(b) As soon as practicable after the date of the enactment of this section, each affected agency shall establish an agencywide priority placement program to facilitate employment placement for employees who—

''(1) are scheduled to be separated from service due to a reduction in force described in subsection (a)(2); or

''(2) are separated from service due to such a reduction in force.

''(c)(1) Each agencywide priority placement program shall include provisions under which a vacant position shall not be filled by the appointment or transfer of any individual from outside of that agency if—

''(A) there is then available any individual described in paragraph (2) who is qualified for the position; and

''(B) the position—

''(i) is at the same grade (or pay level) or not more than 1 grade (or pay level) below that of the position last held by such individual before placement in the new position; and

''(ii) is within the same commuting area as the individual's last-held position (as referred to in clause (i)) or residence.

''(2) For purposes of an agencywide priority placement program, an individual shall be considered to be described in this paragraph if such individual's most recent performance evaluation was at least fully successful (or the equivalent), and such individual is either—

''(A) an employee of such agency who is scheduled to be separated, as described in subsection (b)(1); or

''(B) an individual who became a former employee of such agency as a result of a separation, as described in subsection (b)(2).

''(d)(1) Nothing in this section shall affect any priority placement program of the Department of Defense which is in operation as of the date of the enactment of this section.

''(2) Nothing in this section shall impair placement programs within agencies subject to reductions in force resulting from causes other than the Department of Commerce Dismantling Act.

''(e) An individual shall cease to be eligible to participate in a program under this section on the earlier of—

''(1) the conclusion of the 12-month period beginning on the date on which that individual first became eligible to participate under subsection (c)(2); or

''(2) the date on which the individual declines a bona fide offer (or if the individual does not act on the offer, the last day for accepting such offer) from the affected agency of a position described in subsection (c)(1)(B).''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Title 5, United States Code, is amended by redesignating the second section which is designated as section 3329 as section 3329a.

(2) The table of sections for chapter 33 of title 5, United States Code, is amended by striking the item relating to the second section which is designated as section 3329 and inserting the following:

''3329a. Government-wide list of vacant positions.

''3329b. Priority placement programs for employees affected by a reduction in force attributable to the Department of Commerce Dismantling Act.''.

SEC. 2110. FUNDING REDUCTIONS FOR TRANSFERRED FUNCTIONS.

(a) FUNDING REDUCTIONS.—Except as provided in subsection (b), the total amount obligated or expended by the United States in performing functions transferred under this title to the Director or to the Office from the Department of Commerce, or any of its officers or components, shall not exceed—

(1) for the first fiscal year that begins after the abolishment date specified in section 2101(c), 75 percent of the total amount appropriated to the Department of Commerce for the performance of such functions in fiscal year 1995; and

(2) for the second fiscal year that begins after the abolishment date specified in section 2101(c) and for each fiscal year thereafter, 65 percent of the total amount appropriated to the Department of Commerce for the performance of such functions in fiscal year 1995.

(b) EXCEPTION.—Subsection (a) shall not apply to obligations or expenditures incurred as a direct consequence of the termination, transfer, or other disposition of functions described in subsection (a) pursuant to this title.

(c) RULE OF CONSTRUCTION.—This section shall take precedence over any other provision of law unless such provision explicitly refers to this section and makes an exception to it.

(d) RESPONSIBILITIES OF THE DIRECTOR.—The Director shall—

(1) ensure compliance with the requirements of this section; and

(2) include in each report under sections 2105(a) and (b) a description of actions taken to comply with such requirements.

SEC. 2111. DEFINITIONS.

For purposes of this subtitle, the following definitions apply:

(1) DIRECTOR.—The term ''Director'' means the Director of the Office of Management and Budget.

(2) OFFICE.—The term ''Office'' means the Office of Management and Budget.

(3) WIND-UP PERIOD.—The term ''wind-up period'' means the period beginning on the date of the enactment of this Act and ending on the functions termination date specified in section 2102(c).

Subtitle B—Disposition of Various Programs, Functions, and Agencies of Department of Commerce

SEC. 2201. ABOLISHMENT OF ECONOMIC DEVELOPMENT ADMINISTRATION AND TRANSFER OF FUNCTIONS.

(a) IN GENERAL.—The Public Works and Economic Development Act of 1965 (40 U.S.C. 3131 et seq.) is amended by striking all after the first section and inserting the following:

''SEC. 2. ADMINISTRATOR DEFINED.

''In this Act, the term 'Administrator' means the Administrator of the Small Business Administration.

''TITLE I—STATEMENT OF PURPOSE

''SEC. 101. FINDINGS AND DECLARATION.

''(a) FINDINGS.—Congress finds that—

''(1) the maintenance of the national economy at a high level is vital to the best interests of the United States, but that some of our regions, counties, and communities are suffering substantial and persistent unemployment and underemployment that cause hardship to many individuals and their families, and waste invaluable human resources;

''(2) to overcome this problem the Federal Government, in cooperation with the States, should help areas and regions of substantial and persistent unemployment and underemployment to take effective steps in planning and financing their public works and economic development;

''(3) Federal financial assistance, including grants for public works and development facilities to communities, industries, enterprises, and individuals in areas needing development should enable such areas to help themselves achieve lasting improvement and enhance the domestic prosperity by the establishment of stable and diversified local economies and improved local conditions, if such assistance is preceded by and consistent with sound, long-range economic planning; and

''(4) under the provisions of this Act, new employment opportunities should be created by developing and expanding new and existing public works and other facilities and resources rather than by merely transferring jobs from one area of the United States to another.

''(b) DECLARATION.—Congress declares that, in furtherance of maintaining the national economy at a high level—

''(1) the assistance authorized by this Act should be made available to both rural and urban areas;

''(2) such assistance should be made available for planning for economic development prior to the actual occurrences of economic distress in order to avoid such condition; and

''(3) such assistance should be used for long-term economic rehabilitation in areas where long-term economic deterioration has occurred or is taking place.

''TITLE II—GRANTS FOR PUBLIC WORKS AND DEVELOPMENT FACILITIES

''SEC. 201. DIRECT AND SUPPLEMENTARY GRANTS.

''(a) IN GENERAL.—Upon the application of any eligible recipient, the Administrator may—

''(1) make direct grants for the acquisition or development of land and improvements for public works, public service, or development facility usage, and the acquisition, design and engineering, construction, rehabilitation, alteration, expansion, or improvement of such facilities, including related machinery and equipment, within an area described in section 502(a), if the Administrator finds that—

''(A) the project for which financial assistance is sought will directly or indirectly—

''(i) tend to improve the opportunities, in the area where such project is or will be located, for the successful establishment or expansion of industrial or commercial plants or facilities;

''(ii) otherwise assist in the creation of additional long-term employment opportunities for such area; or

''(iii) primarily benefit the long-term unemployed and members of low-income families;

''(B) the project for which a grant is requested will fulfill a pressing need of the area, or part thereof, in which it is, or will be, located; and

''(C) the area for which a project is to be undertaken has an approved investment strategy as provided by section 503 and such project is consistent with such strategy;

''(2) make supplementary grants in order to enable the States and other entities within areas described in section 502(a) to take maximum advantage of designated Federal grant-in-aid programs (as defined in subsection (c)(4)), direct grants-in-aid authorized under this section, and Federal grant-in-aid programs authorized by the Watershed Protection and Flood Prevention Act (68 Stat. 666), and the 11 watersheds authorized by the Flood Control Act of December 22, 1944 (58 Stat. 887), for which they are eligible but for which, because of their economic situation, they cannot supply the required matching share.

''(b) COST SHARING.—Subject to subsection (c), the amount of any direct grant under this subsection for any project shall not exceed 50 percent of the cost of such project.

''(c) REQUIREMENTS APPLICABLE TO SUPPLEMENTARY GRANTS.—

''(1) AMOUNT OF SUPPLEMENTARY GRANTS.—

''(A) IN GENERAL.—Except as provided by subparagraph (B), the amount of any supplementary grant under this section for any project shall not exceed the applicable percentage established by regulations promulgated by the Administrator, but in no event shall the non-Federal share of the aggregate cost of any such project (including assumptions of debt) be less than 20 percent of such cost.

''(B) EXCEPTION.—Notwithstanding subparagraph (A), in the case of an Indian tribe, a State (or a political subdivision of the State), or a community development corporation which the Administrator determines has exhausted its effective taxing and borrowing capacity, the Administrator shall reduce the non-Federal share below the percentage specified in subparagraph (A) or shall waive the non-Federal share in the case of such a grant for a project in an area described in section 502(a)(4).

''(2) FORM OF SUPPLEMENTARY GRANTS.—Supplementary grants shall be made by the Administrator, in accordance with such regulations as the Administrator may prescribe, by increasing the amounts of direct grants authorized under this section or by the payment of funds appropriated under this Act to the heads of the departments, agencies, and instrumentalities of the Federal Government responsible for the administration of the applicable Federal programs.

''(3) FEDERAL SHARE LIMITATIONS SPECIFIED IN OTHER LAWS.—Notwithstanding any requirement as to the amount or sources of non-Federal funds that may otherwise be applicable to the Federal program involved, funds provided under this subsection shall be used for the sole purpose of increasing the Federal contribution to specific projects in areas described in section 502(a) under such programs above the fixed maximum portion of the cost of such project otherwise authorized by the applicable law.

''(4) DESIGNATED FEDERAL GRANT-IN-AID PROGRAMS DEFINED.—In this subsection, the term 'designated Federal grant-in-aid programs' means such existing or future Federal grant-in-aid programs assisting in the construction or equipping of facilities as the Administrator may, in furtherance of the purposes of this Act, designate as eligible for allocation of funds under this section.

''(5) CONSIDERATION OF RELATIVE NEED IN DETERMINING AMOUNT.—In determining the amount of any supplementary grant available to any project under this section, the Administrator shall take into consideration the relative needs of the area and the nature of the projects to be assisted.

''(d) REGULATIONS.—The Administrator shall prescribe rules, regulations, and procedures to carry out this section which will assure that adequate consideration is given to the relative needs of eligible areas. In prescribing such rules, regulations, and procedures the Administrator shall consider among other relevant factors—

''(1) the severity of the rates of unemployment in the eligible areas and the duration of such unemployment; and

''(2) the income levels of families and the extent of underemployment in eligible areas.

''(e) REVIEW AND COMMENT UPON PROJECTS BY LOCAL GOVERNMENTAL AUTHORITIES.—The Administrator shall prescribe regulations which will assure that appropriate local governmental authorities have been given a reasonable opportunity to review and comment upon proposed projects under this section.

"SEC. 202. CONSTRUCTION COST INCREASES.

''In any case where a grant (including a supplemental grant) has been made by the Administrator under this title for a project and after such grant has been made but before completion of the project, the cost of such project based upon the designs and specifications which were the basis of the grant has been increased because of increases in costs, the amount of such grant may be increased by an amount equal to the percentage increase, as determined by the Administrator, in such costs, but in no event shall the percentage of the Federal share of such project exceed that originally provided for in such grant.

"SEC. 203. USE OF FUNDS IN PROJECTS CONSTRUCTED UNDER PROJECTED COST.

''In any case where a grant (including a supplemental grant) has been made by the Administrator under this title for a project, and after such grant has been made but before completion of the project, the cost of such project based upon the designs and specifications which were the basis of the grant has decreased because of decreases in costs, such underrun funds may be used to improve the project either directly or indirectly as determined by the Administrator.

"SEC. 204. CHANGED PROJECT CIRCUMSTANCES.

''In any case where a grant (including a supplemental grant) has been made by the Administrator under this title for a project, and after such grant has been made but before completion of the project, the purpose or scope of such project based upon the designs and specifications which were the basis of the grant has changed, the Administrator may approve the use of grant funds on such changed project if the Administrator determines that such changed project meets the requirements of this title and that such changes are necessary to enhance economic development in the area.

"TITLE III—SPECIAL ECONOMIC DEVELOPMENT AND ADJUSTMENT ASSISTANCE

"SEC. 301. STATEMENT OF PURPOSE.

''The purpose of this title to provide special economic development and adjustment assistance programs to help State and local areas meet special needs arising from actual or threatened severe unemployment arising from economic dislocation (including unemployment arising from actions of the Federal Government, from defense base closures and realignments, and from compliance with environmental requirements which remove economic activities from a locality) and economic adjustment problems resulting from severe changes in economic conditions (including long-term economic deterioration), and to encourage cooperative intergovernmental action to prevent or solve economic adjustment problems. Nothing in this title is intended to replace the efforts of the economic adjustment program of the Department of Defense.

"SEC. 302. SPECIAL ECONOMIC DEVELOPMENT AND ADJUSTMENT ASSISTANCE.

''(a) IN GENERAL.—The Administrator is authorized to make grants directly to any eligible recipient in an area which the Administrator determines, in accordance with criteria to be established by the Administrator by regulation—

''(1) has experienced, or may reasonably be foreseen to be about to experience, a special need to meet an expected rise in unemployment, or other economic adjustment problems (including those caused by any action or decision of the Federal Government); or

''(2) has demonstrated long-term economic deterioration.

''(b) PURPOSES.—Amounts from grants under subsection (a) shall be used by an eligible recipient to carry out or develop an investment strategy which—

''(1) meets the requirements of section 503; and

''(2) is approved by the Administrator.

''(c) TYPES OF ASSISTANCE.—In carrying out an investment strategy using amounts from grants under subsection (a), an eligible recipient may provide assistance for any of the following:

''(1) Public facilities.

''(2) Public services.

''(3) Business development.

''(4) Planning.

''(5) Research and technical assistance.

''(6) Administrative expenses.

''(7) Training.

''(8) Relocation of individuals and businesses.

''(9) Other assistance which demonstrably furthers the economic adjustment objectives of this title.

''(d) DIRECT EXPENDITURE OR REDISTRIBUTION BY RECIPIENT.—Amounts from grants under subsection (a) may be used in direct expenditures by the eligible recipient or through redistribution by the eligible recipient to public and private entities in grants, loans, loan guarantees, payments to reduce interest on loan guarantees, or other appropriate assistance, but no grant shall be made by an eligible recipient to a private profit-making entity.

''(e) COORDINATION.—The Administrator to the extent practicable shall coordinate the activities relating to the requirements for investment strategies and making grants and loans under this title with other Federal programs, States, economic development districts, and other appropriate planning and development organizations.

''(f) BASE CLOSINGS AND REALIGNMENTS.—

''(1) LOCATION OF PROJECTS.—In any case in which the Administrator determines a need for assistance under subsection (a) due to the closure or realignment of a military installation, the Administrator may make such assistance available for projects to be carried out on the military installation and for projects to be carried out in communities adversely affected by the closure or realignment.

''(2) INTEREST IN PROPERTY.—Notwithstanding any other provision of law, the Administrator may provide to an eligible recipient any assistance available under this Act for a project to be carried out on a military installation that is closed or scheduled for closure or realignment without requiring that the eligible recipient have title to the property or a leasehold interest in the property for any specified term.

"SEC. 303. ANNUAL REPORTS BY RECIPIENT.

''Each eligible recipient which receives assistance under this title from the Administrator shall annually during the period such assistance continue to make a full and complete report to the Administrator, in such manner as the Administrator shall prescribe, and such report shall contain an evaluation of the effectiveness of the economic assistance provided under this title in meeting the need it was designed to alleviate and the purposes of this title.

"SEC. 304. SALE OF FINANCIAL INSTRUMENTS IN REVOLVING LOAN FUNDS.

''Any loan, loan guarantee, equity, or other financial instrument in the portfolio of a revolving loan fund, including any financial instrument made available using amounts from a grant made before the effective date specified in section 802, may be sold, encumbered, or pledged at the discretion of the grantee of the Fund, to a third party provided that the net proceeds of the transaction—

''(1) shall be deposited into the Fund and may only be used for activities which are consistent with the purposes of this title; and

''(2) shall be subject to the financial management, accounting, reporting, and auditing standards which were originally applicable to the grant.

"SEC. 305. TREATMENT OF REVOLVING LOAN FUNDS.

''(a) IN GENERAL.—Amounts from grants made under this title which are used by an eligible recipient to establish a revolving loan fund shall not be treated, except as provided by subsection (b), as amounts derived from Federal funds for the purposes of any Federal law after such amounts are loaned from the fund to a borrower and repaid to the fund.

''(b) EXCEPTIONS.—Amounts described in subsection (a) which are loaned from a revolving loan fund to a borrower and repaid to the fund—

''(1) may only be used for activities which are consistent with the purposes of this title; and

''(2) shall be subject to the financial management, accounting, reporting, and auditing standards which were originally applicable to the grant.

''(c) REGULATIONS.—Not later than 30 days after the effective date specified in section 802, the Administrator shall issue regulations to carry out subsection (a).

''(d) PUBLIC REVIEW AND COMMENT.—Before issuing any final guidelines or administrative manuals governing the operation of revolving loan funds established using amounts from grants under this title, the Administrator shall provide reasonable opportunity for public review of and comment on such guidelines and administrative manuals.

''(e) APPLICABILITY TO PAST GRANTS.—The requirements of this section applicable to amounts from grants made under this title shall also apply to amounts from grants made, before the effective date specified in section 802, under title I of this Act, as in effect on the day before such effective date.

"TITLE IV—TECHNICAL ASSISTANCE, RESEARCH, AND INFORMATION

"SEC. 401. TECHNICAL ASSISTANCE.

''(a) IN GENERAL.—In carrying out its duties under this Act, the Administrator may provide technical assistance which would be useful in alleviating or preventing conditions of excessive unemployment or underemployment to areas which the Administrator finds have substantial need for such assistance. Such assistance shall include project planning and feasibility studies, management and operational assistance, establishment of business outreach centers, and studies evaluating the needs of, and development potentialities for, economic growth of such areas.

''(b) PROCEDURES AND TERMS.—

''(1) MANNER OF PROVIDING ASSISTANCE.—Assistance may be provided by the Administrator through—

''(A) members of the Administrator's staff;

''(B) the payment of funds authorized for this section to departments or agencies of the Federal Government;

''(C) the employment of private individuals, partnerships, firms, corporations, or suitable institutions under contracts entered into for such purposes; or

''(D) grants-in-aid to appropriate public or private nonprofit State, area, district, or local organizations.

''(2) REPAYMENT TERMS.—The Administrator, in the Administrator's discretion, may require the repayment of assistance provided under this subsection and prescribe the terms and conditions of such repayment.

''(c) GRANTS COVERING ADMINISTRATIVE EXPENSES.—

''(1) IN GENERAL.—The Administrator may make grants to defray not to exceed 50 percent of the administrative expenses of organizations which the Administrator determines to be qualified to receive grants-in-aid under subsections (a) and (b); except that in the case of a grant under this subsection to an Indian tribe, the Administrator is authorized to defray up to 100 percent of such expenses.

''(2) DETERMINATION OF NON-FEDERAL SHARE.—In determining the amount of the non-Federal share of such costs or expenses, the Administrator shall give due consideration to all contributions both in cash and in kind, fairly evaluated, including contributions of space, equipment, and services.

''(3) USE OF GRANTS WITH PLANNING GRANTS.—Where practicable, grants-in-aid authorized under this subsection shall be used in conjunction with other available planning grants to assure adequate and effective planning and economical use of funds.

''(d) AVAILABILITY OF TECHNICAL INFORMATION; FEDERAL PROCUREMENT.—The Administrator shall aid areas described in section 502(a) and other areas by furnishing to interested individuals, communities, industries, and enterprises within such areas any assistance, technical information, market research, or other forms of assistance, information, or advice which would be useful in alleviating or preventing conditions of excessive unemployment or underemployment within such areas. The Administrator may furnish the procurement divisions of the various departments, agencies, and other instrumentalities of the Federal Government with a list containing the names and addresses of business firms which are located in areas described in section 502(a) and which are desirous of obtaining Government contracts for the furnishing of supplies or services, and designating the supplies and services such firms are engaged in providing.

"SEC. 402. ECONOMIC DEVELOPMENT PLANNING.

''(a) DIRECT GRANTS.—

''(1) IN GENERAL.—The Administrator may make, upon application of any State, or city, or other political subdivision of a State, or sub-State planning and development organization (including an area described in section 502(a) or an economic development district), direct grants to such State, city, or other political subdivision, or organization to pay up to 50 percent of the cost for economic development planning.

''(2) PLANNING PROJECTS SPECIFICALLY INCLUDED.—The planning for cities, other political subdivisions, and sub-State planning and development organizations (including areas described in section 502(a) and economic development districts) assisted under this section shall include systematic efforts to reduce unemployment and increase incomes.

''(3) PLANNING PROCESS.—The planning shall be a continuous process involving public officials and private citizens in analyzing local economies, defining development goals, determining project opportunities, and formulating and implementing a development program.

''(4) COORDINATION OF ASSISTANCE UNDER SECTION 401(c).—The assistance available under this section may be provided in addition to assistance available under section 401(c) but shall not supplant such assistance.

''(b) COMPLIANCE WITH REVIEW PROCEDURE.—The planning assistance authorized under this title shall be used in conjunction with any other available Federal planning assistance to assure adequate and effective planning and economical use of funds.

"TITLE V—ELIGIBILITY AND INVESTMENT STRATEGIES

"PART A—ELIGIBILITY

"SEC. 501. ELIGIBLE RECIPIENT DEFINED.

''In this Act, the term 'eligible recipient' means an area described in section 502(a), an economic development district designated under section 510, an Indian tribe, a State, a city or other political subdivision of a State, or a consortium of such political subdivisions, or a public or private nonprofit organization or association acting in cooperation with officials of such political subdivisions.

"SEC. 502. AREA ELIGIBILITY.

''(a) CERTIFICATION.—In order to be eligible for assistance under title II, an applicant seeking assistance to undertake a project in an area shall certify, as part of an application for such assistance, that the area on the date of submission of such application meets 1 or more of the following criteria:

''(1) The area has a per capita income of 80 percent or less of the national average.

''(2) The area has an unemployment rate 1 percent above the national average percentage for the most recent 24-month period for which statistics are available.

''(3) The area has experienced or is about to experience a sudden economic dislocation resulting in job loss that is significant both in terms of the number of jobs eliminated and the effect upon the employment rate of the area.

''(4) The area is a community or neighborhood (defined without regard to political or other subdivisions or boundaries) which the Administrator determines has one or more of the following conditions:

''(A) A large concentration of low-income persons.

''(B) Rural areas having substantial outmigration.

''(C) Substantial unemployment.

''(b) DOCUMENTATION.—A certification made under subsection (a) shall be supported by Federal data, when available, and in other cases by data available through the State government. Such documentation shall be accepted by the Administrator unless it is determined to be inaccurate. The most recent statistics available shall be used.

''(c) PRIOR DESIGNATIONS.—Any designation of a redevelopment area made before the effective date specified in section 802 shall not be effective after such effective date.

"SEC. 503. INVESTMENT STRATEGY.

''The Administrator may provide assistance under titles II and III to an applicant for a project only if the applicant submits to the Administrator, as part of an application for such assistance, and the Administrator approves an investment strategy which—

''(1) identifies the economic development problems to be addressed using such assistance;

''(2) identifies past, present, and projected future economic development investments in the area receiving such assistance and public and private participants and sources of funding for such investments;

''(3) sets forth a strategy for addressing the economic problems identified pursuant to paragraph (1) and describes how the strategy will solve such problems;

''(4) provides a description of the project necessary to implement the strategy, estimates of costs, and timetables; and

''(5) provides a summary of public and private resources expected to be available for the project.

"SEC. 504. APPROVAL OF PROJECTS.

''Only applications for grants or other assistance under this Act for specific projects shall be approved which are certified by the State representing such applicant and determined by the Administrator—

''(1) to be included in a State investment strategy;

''(2) to have adequate assurance that the project will be properly administered, operated, and maintained; and

''(3) to otherwise meet the requirements for assistance under this Act.

"PART B—ECONOMIC DEVELOPMENT DISTRICTS

"SEC. 510. DESIGNATION OF ECONOMIC DEVELOPMENT DISTRICTS AND ECONOMIC DEVELOPMENT CENTERS.

''(a) IN GENERAL.—In order that economic development projects of broader geographic significance may be planned and carried out, the Administrator may—

''(1) designate appropriate 'economic development districts' within the United States with the concurrence of the States in which such districts will be wholly or partially located, if—

''(A) the proposed district is of sufficient size or population, and contains sufficient resources, to foster economic development on a scale involving more than a single area described in section 502(a);

''(B) the proposed district contains at least 1 area described in section 502(a);

''(C) the proposed district contains 1 or more areas described in section 502(a) or economic development centers identified in an approved district investment strategy as having sufficient size and potential to foster the economic growth activities necessary to alleviate the distress of the areas described in section 502(a) within the district; and

''(D) the proposed district has a district investment strategy which includes adequate land use and transportation planning and contains a specific program for district cooperation, self-help, and public investment and is approved by the State or States affected and by the Administrator;

''(2) designate as 'economic development centers', in accordance with such regulations as the Administrator shall prescribe, such areas as the Administrator may deem appropriate, if—

''(A) the proposed center has been identified and included in an approved district investment strategy and recommended by the State or States affected for such special designation;

''(B) the proposed center is geographically and economically so related to the district that its economic growth may reasonably be expected to contribute significantly to the alleviation of distress in the areas described in section 502(a) of the district; and

''(C) the proposed center does not have a population in excess of 250,000 according to the most recent Federal census.

''(3) provide financial assistance in accordance with the criteria of this Act, except as may be herein otherwise provided, for projects in economic development centers designated under subsection (a)(2), if—

''(A) the project will further the objectives of the investment strategy of the district in which it is to be located;

''(B) the project will enhance the economic growth potential of the district or result in additional long-term employment opportunities commensurate with the amount of Federal financial assistance requested; and

''(C) the amount of Federal financial assistance requested is reasonably related to the size, population, and economic needs of the district;

''(4) subject to the 50 percent non-Federal share required for any project by section 201(c), increase the amount of grant assistance authorized by section 201 for projects within areas described in section 502(a), by an amount not to exceed 10 percent of the aggregate cost of any such project, in accordance with such regulations as the Administrator shall prescribe if—

''(A) the area described in section 502(a) is situated within a designated economic development district and is actively participating in the economic development activities of the district; and

''(B) the project is consistent with an approved investment strategy.

''(b) AUTHORITIES.—In designating economic development districts and approving district investment strategies under subsection (a), the Administrator may, under regulations prescribed by the Administrator—

''(1) invite the several States to draw up proposed district boundaries and to identify potential economic development centers;

''(2) cooperate with the several States—

''(A) in sponsoring and assisting district economic planning and development groups; and

''(B) in assisting such district groups to formulate district investment strategies; and

''(3) encourage participation by appropriate local governmental authorities in such economic development districts.

''(c) TERMINATION OR MODIFICATION OF DESIGNATIONS.—The Administrator shall by regulation prescribe standards for the termination or modification of economic development districts and economic development centers designated under the authority of this section.

''(d) DEFINITIONS.—In this Act, the following definitions apply:

''(1) ECONOMIC DEVELOPMENT DISTRICT.—The term 'economic development district' refers to any area within the United States composed of cooperating areas described in section 502(a) and, where appropriate, designated economic development centers and neighboring counties or communities, which has been designated by the Administrator as an economic development district. Such term includes any economic development district designated under section 403 of this Act, as in effect on the day before the effective date specified in section 802.

''(2) ECONOMIC DEVELOPMENT CENTER.—The term 'economic development center' refers to any area within the United States which has been identified as an economic development center in an approved investment strategy and which has been designated by the Administrator as eligible for financial assistance under this Act in accordance with the provisions of this section.

''(3) LOCAL GOVERNMENT.—The term 'local government' means any city, county, town, parish, village, or other general-purpose political subdivision of a State.

''(e) PARTS OF ECONOMIC DEVELOPMENT DISTRICTS NOT WITHIN AREAS DESCRIBED IN SECTION 502(a).—The Administrator is authorized to provide the financial assistance which is available to an area described in section 502(a) under this Act to those parts of an economic development district which are not within an area described in section 502(a), when such assistance will be of a substantial direct benefit to an area described in section 502(a) within such district. Such financial assistance shall be provided in the same manner and to the same extent as is provided in this Act for an area described in section 502(a); except that nothing in this subsection shall be construed to permit such parts to receive the increase in the amount of grant assistance authorized in subsection (a)(4).

"TITLE VI—ADMINISTRATION

"SEC. 601. APPOINTMENT OF ASSOCIATE ADMINISTRATOR; FULL TIME EQUIVALENT EMPLOYEES.

''(a) APPOINTMENT.—The Administrator shall carry out the duties vested in the Administrator by this Act acting through an Associate Administrator of the Small Business Administration, who shall be appointed by the President by and with the advice and consent of the Senate.

''(b) PAY.—The Associate Administrator shall be compensated by the Federal Government at the rate prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

''(c) FULL TIME EQUIVALENT EMPLOYEES.—The Administrator shall assign not to exceed 25 full time equivalent employees of the Small Business Administration (excluding the Associate Administrator) to assist the Administrator in the carrying out the duties vested in the Administrator by this Act.

"SEC. 602. REGIONAL COOPERATIVE AGREEMENTS.

''(a) IN GENERAL.—The Administrator shall make grants and carry out such other functions under this Act as the Administrator considers appropriate by entering into cooperative agreements with 1 or more States on a regional basis. Each State entering into such an agreement shall be represented by the chief executive officer of the State.

''(b) TERMS AND CONDITIONS.—A cooperative agreement entered into under subsection (a) shall include such terms and conditions as the Administrator determines are necessary to carry out the provisions of this Act. Such terms and conditions at a minimum shall provide that no decision concerning regional policies or approval of project or grant applications may be made without the consent of the Administrator and a majority of the States participating in the cooperative agreement.

''(c) PARTICIPATION NOT REQUIRED.—No State shall be required to enter into a cooperative agreement under this section or to participate in any program established by this Act.

"SEC. 603. ADMINISTRATIVE EXPENSES.

''(a) PAYMENT BY STATES.—Fifty percent of the administrative expenses incurred by States in participating in a cooperative agreement entered into under section 602 shall be paid by such States and the remaining 50 percent of such expenses shall be paid by the Federal Government.

''(b) DETERMINATION OF STATE SHARE.—The share of the administrative expenses to be paid by each State participating in a cooperative agreement shall be determined by a

majority vote of such States. The Administrator may not participate or vote in such determination.

''(c) DELINQUENT PAYMENTS.—No assistance authorized by this Act shall be furnished to any State or to any political subdivision or resident of a State, nor shall the State participate or vote in any decision described in section 602(b), while such State is delinquent in the payment of such State's share of the administrative expenses described in subsection (a).

"SEC. 604. FEDERAL SHARE.

''Except as otherwise expressly provided by this Act, the Federal share of the cost of any project funded with amounts made available under this Act shall not exceed 50 percent of such cost.

"SEC. 605. COOPERATION OF FEDERAL AGENCIES.

''Each Federal department and agency, in accordance with applicable laws and within the limits of available funds, shall cooperate with the Administrator in order to assist the Administrator in carrying out the functions of the Administrator.

"SEC. 606. CONSULTATION WITH OTHER PERSONS AND AGENCIES.

''(a) CONSULTATION ON PROBLEMS RELATING TO EMPLOYMENT.—The Administrator is authorized from time to time to call together and confer with any persons, including representatives of labor, management, agriculture, and government, who can assist in meeting the problems of area and regional unemployment or underemployment.

''(b) CONSULTATION ON ADMINISTRATION OF ACT.—The Administrator may make provisions for such consultation with interested departments and agencies as the Administrator may deem appropriate in the performance of the functions vested in the Administrator by this Act.

"SEC. 607. ADMINISTRATION, OPERATION, AND MAINTENANCE.

''No Federal assistance shall be approved under this Act unless the Administrator is satisfied that the project for which Federal assistance is granted will be properly and efficiently administered, operated, and maintained.

"TITLE VII—MISCELLANEOUS

"SEC. 701. POWERS OF ADMINISTRATOR.

''(a) IN GENERAL.—In performing the Administrator's duties under this Act, the Administrator is authorized to—

''(1) adopt, alter, and use a seal, which shall be judicially noticed;

''(2) subject to the civil-service and classification laws, select, employ, appoint, and fix the compensation of such personnel as may be necessary to carry out the provisions of this Act;

''(3) hold such hearings, sit and act at such times and places, and take such testimony, as the Administrator may deem advisable;

''(4) request directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics needed to carry out the purposes of this Act; and each department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized to furnish such information, suggestions, estimates, and statistics directly to the Administrator;

''(5) under regulations prescribed by the Administrator, assign or sell at public or private sale, or otherwise dispose of for cash or credit, in the Administrator's discretion and upon such terms and conditions and for such consideration as the Administrator determines to be reasonable, any evidence of debt, contract, claim, personal property, or security assigned to or held by the Administrator in connection with assistance extended under this Act, and collect or compromise all obligations assigned to or held by the Administrator in connection with such assistance until such time as such obligations may be referred to the Attorney General for suit or collection;

''(6) deal with, complete, renovate, improve, modernize, insure, rent, or sell for cash or credit, upon such terms and conditions and for such consideration as the Administrator determines to be reasonable, any real or personal property conveyed to, or otherwise acquired by the Administrator in connection with assistance extended under this Act;

''(7) pursue to final collection, by way of compromise or other administrative action, prior to reference to the Attorney General, all claims against third parties assigned to the Administrator in connection with assistance extended this Act;

''(8) acquire, in any lawful manner and in accordance with the requirements of the Federal Property and Administrative Services Act of 1949, any property (real, personal, or mixed, tangible or intangible), whenever necessary or appropriate to the conduct of the activities authorized under this Act;

''(9) in addition to any powers, functions, privileges, and immunities otherwise vested in the Administrator, take any action, including the procurement of the services of attorneys by contract, determined by the Administrator to be necessary or desirable in making, purchasing, servicing, compromising, modifying, liquidating, or otherwise administratively dealing with assets held in connection with financial assistance extended under this Act;

''(10) employ experts and consultants or organizations as authorized by section 3109 of title 5, United States Code, compensate individuals so employed at rates not in excess of $100 per diem, including travel time, and allow them, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently, while so employed, except that contracts for such employment may be renewed annually;

''(11) sue and be sued in any court of record of a State having general jurisdiction or in any United States district court, and jurisdiction is conferred upon such district court to determine such controversies without regard to the amount in controversy; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Administrator or the Administrator's property;

''(12) make discretionary grants, pursuant to authorities otherwise available to the Administrator under this Act and without regard to the requirements of section 504, to implement significant regional initiatives, to take advantage of special development opportunities, or to respond to emergency economic distress in a region from the funds withheld from distribution by the Administrator; except that the aggregate amount of such discretionary grants in any fiscal year may not exceed 10 percent of the amounts appropriated under title VIII for such fiscal year;

''(13) allow a State to use not to exceed 5 percent of the total of amounts received by the State in a fiscal year in grants under this Act for reasonable expenses incurred by the State in administering such amounts; and

''(14) establish such rules, regulations, and procedures as the Administrator considers appropriate in carrying out the provisions of this Act.

''(b) DEFICIENCY JUDGMENTS.—The authority under subsection (a)(7) to pursue claims shall include the authority to obtain deficiency judgments or otherwise in the case of mortgages assigned to the Administrator.

''(c) INAPPLICABILITY OF CERTAIN OTHER REQUIREMENTS.—Section 3709 of the Revised Statutes of the United States shall not apply to any contract of hazard insurance or to any purchase or contract for services or supplies on account of property obtained by the Administrator as a result of assistance extended under this Act if the premium for the insurance or the amount of the insurance does not exceed $1,000.

''(d) POWERS OF CONVEYANCE AND EXECUTION.—The power to convey and to execute, in the name of the Administrator, deeds of conveyance, deeds of release, assignments and satisfactions of mortgages, and any other written instrument relating to real or personal property or any interest therein acquired by the Administrator pursuant to the provisions of this Act may be exercised by the Administrator, or by any officer or agent appointed by the Administrator for such purpose, without the execution of any express delegation of power or power of attorney.

"SEC. 702. ESTABLISHMENT OF CLEARINGHOUSE.

''In carrying out the Administrator's duties under this Act, the Administrator shall ensure that the Small Business Administration—

''(1) serves as a central information clearinghouse on matters relating to economic development, economic adjustment, disaster recovery, and defense conversion programs and activities of the Federal and State governments, including political subdivisions of the States; and

''(2) helps potential and actual applicants for economic development, economic adjustment, disaster recovery, and defense conversion assistance under Federal, State, and local laws in locating and applying for such assistance, including financial and technical assistance.

"SEC. 703. PERFORMANCE MEASURES.

''The Administrator shall establish performance measures for grants and other assistance provided under this Act. Such performance measures shall be used to evaluate project proposals and conduct evaluations of projects receiving such assistance.

"SEC. 704. MAINTENANCE OF STANDARDS.

''The Administrator shall continue to implement and enforce the provisions of section 712 of this Act, as in effect on the day before the effective date specified in section 802.

"SEC. 705. TRANSFER OF FUNCTIONS.

''The functions, powers, duties, and authorities and the assets, funds, contracts, loans, liabilities, commitments, authorizations, allocations, and records which are vested in or authorized to be transferred to the Secretary of the Treasury under section 29(b) of the Area Redevelopment Act, and all functions, powers, duties, and authorities under section 29(c) of such Act are hereby vested in the Administrator.

"SEC. 706. DEFINITION OF STATE.

''In this Act, the terms 'State', 'States', and 'United States' include the several States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, the Marshall Islands, Micronesia, and the Northern Mariana Islands.

"SEC. 707. ANNUAL REPORT TO CONGRESS.

''The Administrator shall transmit to Congress a comprehensive and detailed annual report of the Administrator's operations under this Act for each fiscal year beginning with the fiscal year ending September 30, 1996. Such report shall be printed and shall be transmitted to Congress not later than April 1 of the year following the fiscal year with respect to which such report is made.

"SEC. 708. USE OF OTHER FACILITIES.

''(a) DELEGATION OF FUNCTIONS TO OTHER FEDERAL DEPARTMENTS AND AGENCIES.—The Administrator may delegate to the heads of other departments and agencies of the Federal Government any of the Administrator's functions, powers, and duties under this Act as the Administrator may deem appropriate, and to authorize the redelegation of such functions, powers, and duties by the heads of such departments and agencies.

''(b) DEPARTMENT AND AGENCY EXECUTION OF DELEGATED AUTHORITY.—Departments and agencies of the Federal Government shall exercise their powers, duties, and functions in such manner as will assist in carrying out the objectives of this Act.

''(c) TRANSFER BETWEEN DEPARTMENTS.—Funds authorized to be appropriated under this Act may be transferred between departments and agencies of the Government, if such funds are used for the purposes for which they are specifically authorized and appropriated.

''(d) FUNDS TRANSFERRED FROM OTHER DEPARTMENTS AND AGENCIES.—In order to carry out the objectives of this Act, the Administrator may accept transfers of funds from other departments and agencies of the Federal Government if the funds are used for the purposes for which (and in accordance with the terms under which) the funds are specifically authorized and appropriated. Such transferred funds shall remain available until expended, and may be transferred to and merged with the appropriations under the heading 'salaries and expenses' by the Administrator to the extent necessary to administer the program.

"SEC. 709. EMPLOYMENT OF EXPEDITERS AND ADMINISTRATIVE EMPLOYEES.

''No financial assistance shall be extended by the Administrator under this Act to any business enterprise unless the owners, partners, or officers of such business enterprise—

''(1) certify to the Administrator the names of any attorneys, agents, and other persons engaged by or on behalf of such business enterprise for the purpose of expediting applications made to the Administrator for assistance of any sort, under this Act, and the fees paid or to be paid to any such person; and

''(2) execute an agreement binding such business enterprise, for a period of 2 years after such assistance is rendered by the Administrator to such business enterprise, to refrain from employing, tendering any office or employment to, or retaining for professional services, any person who, on the date such assistance or any part thereof was rendered, or within the 1-year period ending on such date, shall have served as an officer, attorney, agent, or employee, occupying a position or engaging in activities which the Administrator determines involves discretion with respect to the granting of assistance under this Act.

"SEC. 710. MAINTENANCE OF RECORDS OF APPROVED APPLICATIONS FOR FINANCIAL ASSISTANCE; PUBLIC INSPECTION.

''(a) MAINTENANCE OF RECORD REQUIRED.—The Administrator shall maintain as a permanent part of the records of the Small Business Administration a list of applications approved for financial assistance under this Act, which shall be kept available for public inspection during the regular business hours of the Small Business Administration.

''(b) POSTING TO LIST.—The following information shall be posted in such list as soon as each application is approved:

''(1) The name of the applicant and, in the case of corporate applications, the names of the officers and directors thereof.

''(2) The amount and duration of the financial assistance for which application is made.

''(3) The purposes for which the proceeds of the financial assistance are to be used.

"SEC. 711. RECORDS AND AUDIT.

''(a) RECORDKEEPING AND DISCLOSURE REQUIREMENTS.—Each recipient of assistance under this Act shall keep such records as the Administrator shall prescribe, including records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

''(b) ACCESS TO BOOKS FOR EXAMINATION AND AUDIT.—The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this Act.

"SEC. 712. PROHIBITION AGAINST A STATUTORY CONSTRUCTION WHICH MIGHT CAUSE DIMINUTION IN OTHER FEDERAL ASSISTANCE.

''All financial and technical assistance authorized under this Act shall be in addition to any Federal assistance previously authorized, and no provision of this Act shall be construed as authorizing or permitting any reduction or diminution in the proportional amount of Federal assistance to which any State or other entity eligible under this Act would otherwise be entitled under the provisions of any other Act.

"SEC. 713. ACCEPTANCE OF APPLICANTS' CERTIFICATIONS.

''The Administrator may accept, when deemed appropriate, the applicants' certifications to meet the requirements of this Act.

"TITLE VIII—FUNDING; EFFECTIVE DATE

"SEC. 801. AUTHORIZATION OF APPROPRIATIONS

''There is authorized to be appropriated to carry out this Act $340,000,000 per fiscal year for each of fiscal years 1996, 1997, 1998, 1999, and 2000. Such sums shall remain available until expended.

"SEC. 802. EFFECTIVE DATE.

''The effective date specified in this section is the abolishment date specified in section 2101(c) of the Department of Commerce Dismantling Act.''.

(b) CONFORMING AMENDMENTS TO TITLE 5.—Section 5316 of title 5, United States Code, is amended—

(1) by striking ''Associate Administrators of the Small Business Administration (4)'' and inserting ''Associate Administrators of the Small Business Administration (5)''; and

(2) by striking ''Administrator for Economic Development.''.

(c) GAO STUDY.—On or before December 30, 1996, the Comptroller General shall submit to Congress a plan or plans for consolidating economic development programs throughout the Federal Government. The plan or plans shall focus on, but not be limited to, consolidating programs included in the Catalogue of Federal Domestic Assistance with similar purposes and target populations. The plan or plans shall detail how consolidation can lead to improved grant or program management, improvements in achieving program goals, and reduced costs.

SEC. 2202. TECHNOLOGY ADMINISTRATION.

(a) TECHNOLOGY ADMINISTRATION.—

(1) GENERAL RULE.—Except as otherwise provided in this section, the Technology Administration is terminated.

(2) OFFICE OF TECHNOLOGY POLICY.—The Office of Technology Policy is terminated.

(b) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—

(1) REDESIGNATION.—The National Institute of Standards and Technology is hereby redesignated as the National Bureau of Standards, and all references to the National Institute of Standards and Technology in Federal law or regulations are deemed to be references to the National Bureau of Standards.

(2) GENERAL RULE.—The National Bureau of Standards (in this subsection referred to as the ''Bureau'') is transferred to the National Scientific, Oceanic, and Atmospheric Administration, established under section 2206.

(3) FUNCTIONS OF DIRECTOR.—Except as otherwise provided in this section or section 2207, upon the transfer under paragraph (2), the Director of the Bureau shall perform all functions relating to the Bureau that, immediately before the effective date specified in section 2208(a), were functions of the Secretary of Commerce or the Under Secretary of Commerce for Technology.

(c) NATIONAL TECHNICAL INFORMATION SERVICE.—

(1) PRIVATIZATION.—All functions of the National Technical Information Service are transferred to the Director of Office of Management and Budget for privatization in accordance with section 2108 before the end of the 18-month period beginning on the date of the enactment of this Act.

(2) TRANSFER TO NATIONAL SCIENTIFIC, OCEANIC, AND ATMOSPHERIC ADMINISTRATION.—If an appropriate arrangement for the privatization of functions of the National Technical Information Service under paragraph (1) has not been made before the end of the period described in that paragraph, the National Technical Information Service shall be transferred as of the end of such period to the National Scientific, Oceanic, and Atmospheric Administration established by section 2206.

(3) GOVERNMENT CORPORATION.—If an appropriate arrangement for the privatization of functions of the National Technical Information Service under paragraph (1) has not been made before the end of the period described in that paragraph, the Director of the Office of Management and Budget shall, within 6 months after the end of such period, submit to Congress a proposal for legislation to establish the National Technical Information Service as a wholly owned Government corporation. The proposal should provide for the corporation to perform substantially the same functions that, as of the date of enactment of this Act, are performed by the National Technical Information Service.

(4) FUNDING.—No funds are authorized to be appropriated for the National Technical Information Service or any successor corporation established pursuant to a proposal under paragraph (3).

(d) AMENDMENTS.—

(1) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACT.—The National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.) is amended—

(A) in section 2(b), by striking paragraph (1) and redesignating paragraphs (2) through (11) as paragraphs (1) through (10), respectively;

(B) in section 2(d), by striking '', including the programs established under sections 25, 26, and 28 of this Act'';

(C) in section 10, by striking ''Advanced'' in both the section heading and subsection (a), and inserting in lieu thereof ''Standards and''; and

(D) by striking sections 24, 25, 26, and 28.

(2) STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980.—The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is amended—

(A) in section 3, by striking paragraph (2) and redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively;

(B) in section 4, by striking paragraphs (1), (4), and (13) and redesignating paragraphs (2), (3), (5), (6), (7), (8), (9), (10), (11), and (12) as paragraphs (1) through (10), respectively;

(C) by striking sections 5, 6, 7, 8, 9, and 10;

(D) in section 11—

(i) by striking '', the Federal Laboratory Consortium for Technology Transfer,'' in subsection (c)(3);

(ii) by striking ''and the Federal Laboratory Consortium for Technology Transfer'' in subsection (d)(2);

(iii) by striking '', and refer such requests'' and all that follows through ''available to the Service'' in subsection (d)(3); and

(iv) by striking subsection (e); and

(E) in section 17—

(i) by striking ''Subject to paragraph (2), separate'' in subsection (c)(1) and inserting in lieu thereof ''Separate'';

(ii) by striking paragraph (2) of subsection (c) and redesignating paragraph (3) as paragraph (2);

(iii) by striking ''funds to carry out'' in subsection (f), and inserting in lieu thereof ''funds only to pay the salary of the Director of the Office of Quality Programs, who shall be responsible for carrying out''; and

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

''(h) VOLUNTARY AND UNCOMPENSATED SERVICES.—The Director of the Office of Quality Programs may accept voluntary and uncompensated services notwithstanding the provisions of section 1342 of title 31, United States Code.''.

(3) MISCELLANEOUS AMENDMENTS.—Section 3 of Public Law 94–168 (15 U.S.C. 205b) is amended—

(A) by striking paragraph (2);

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

(C) in paragraph (3), as so redesignated by subparagraph (B) of this paragraph, by striking ''in nonbusiness activities''.

SEC. 2203. REORGANIZATION OF THE BUREAU OF THE CENSUS AND THE BUREAU OF ECONOMIC ANALYSIS.

(a) TRANSFER OF FUNCTIONS.—All functions of the Secretary of Commerce relating to the Bureau of the Census and the Bureau of Economic Analysis of the Department of Commerce are transferred to the Secretary of Labor.

(b) TRANSFER OF BUREAUS.—The Bureau of the Census and Bureau of Economic Analysis of the Department of Commerce are transferred to the Department of Labor.

(c) CONSOLIDATION WITH THE BUREAU OF LABOR STATISTICS.—The Secretary of Labor shall consolidate the Bureaus transferred under subsection (b) with the Bureau of Labor Statistics within the Department of Labor.

(d) REFERENCES TO SECRETARY.—Section 1(2) of the title 13, United States Code, is amended by striking out ''Secretary of Commerce'' and inserting in lieu thereof ''Secretary of Labor''.

(e) REFERENCES TO DEPARTMENT.—Section 2 of title 13, United States Code, is amended by striking out ''Department of Commerce'' and inserting in lieu thereof ''Department of Labor''.

(f) GENERAL REFERENCES TO SECRETARY AND DEPARTMENT.—The provisions of title 13, United States Code, are further amended—

(1) by striking out ''Secretary of Commerce'' each place such term appears and insert in lieu thereof ''Secretary of Labor''; and

(2) by striking out ''Department of Commerce'' each place such term appears and inserting in lieu thereof ''Department of Labor''.

(g) SUBMISSION OF PLAN.—Within 180 days after the date of enactment of this Act, the President shall transmit to the Congress—

(1) a determination of the feasibility and potential savings resulting from the further consolidation of statistical functions throughout the Government into a single agency; and

(2) draft legislation under which the provisions of title 13, United States Code, relating to confidentiality (including offenses and penalties) shall be applied after the consolidation under subsection (c) has been effected.

(h) SENSE OF THE CONGRESS.—It is the sense of the Congress that the Bureau of the Census or the agency established as a result of the consolidation under subsection (c) should—

(1) make appropriate use of any authority afforded to it by the Census Address List Improvement Act of 1994 (Public Law 103–430; 108 Stat. 4393), and take measures to ensure the timely implementation of such Act; and

(2) streamline census questionnaires to promote savings in the collection and tabulation of data.

SEC. 2204. TERMINATED FUNCTIONS OF NTIA.

(a) REPEALS.—The following provisions of law are repealed:

(1) Subpart A of part IV of title III of the Communications Act of 1934 (47 U.S.C. 390 et seq.), relating to assistance for public telecommunications facilities.

(2) Subpart B of part IV of title III of the Communications Act of 1934 (47 U.S.C. 394 et seq.), relating to the Endowment for Children's Educational Television.

(3) Subpart C of part IV of title III of the Communications Act of 1934 (47 U.S.C. 395 et seq.), relating to Telecommunications Demonstration grants.

(b) DISPOSAL OF NTIA LABORATORIES.—

(1) PRIVATIZATION.—All laboratories of the National Telecommunications and Information Administration are transferred to the Director of the Office of Management and Budget for privatization in accordance with section 2108 before the end of the 18-month period beginning on the date of the enactment of this Act.

(2) TRANSFER TO NATIONAL SCIENTIFIC, OCEANIC, AND ATMOSPHERIC ADMINISTRATION.—If an appropriate arrangement for the privatization of functions of the laboratories of the National Telecommunications and Information Administration under paragraph (1) has not been made before the end of the period described in that paragraph, the laboratories of the National Telecommunications and Information Administration shall be transferred as of the end of such period to the National Scientific, Oceanic, and Atmospheric Administration established by section 2206.

(3) TRANSFER OF FUNCTIONS.—The functions of the National Telecommunications and Information Administration concerning research and analysis of the electromagnetic spectrum described in section 5112(b) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 1532) are transferred to the Director of the National Bureau of Standards.

(c) TRANSFER OF NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION FUNCTIONS.—

(1) TRANSFER TO USTR.—Except as provided in subsection (b)(2), the functions of the National Telecommunications and Information Administration, and of the Secretary of Commerce and the Assistant Secretary for Communications and Information of the Department of Commerce with respect to the National Telecommunications and Information Administration, are transferred to the United States Trade Representative. The functions transferred by this paragraph shall be placed in an organizational component that is independent from all USTR functions directly related to the negotiation of trade agreements. Such functions shall be supervised by an individual whose principal professional expertise is in the area of telecommunications. The position to which such individual is appointed shall be graded at a level sufficiently high to attract a highly qualified individual, while ensuring autonomy in the conduct of such functions from all activities and influences associated with trade negotiations.

(2) REFERENCES.—References in any provision of law (including the National Telecommunications and Information Administration Organization Act) to the Secretary of Commerce or the Assistant Secretary for Communications and Information of the Department of Commerce—

(A) with respect to a function vested pursuant to this section in the United States Trade Representative shall be deemed to refer to the United States Trade Representative; and

(B) with respect to a function vested pursuant to this section in the Director of the National Bureau of Standards shall be deemed to refer to the Director of the National Bureau of Standards.

(3) TERMINATION OF NTIA.—Effective on the abolishment date specified in section 2101(c), the National Telecommunications and Information Administration is abolished.

SEC. 2205. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.

(a) TERMINATION OF MISCELLANEOUS RESEARCH PROGRAMS AND ACCOUNTS.—

(1) IN GENERAL.—No funds may be appropriated in any fiscal year for the following programs and accounts of the National Scientific, Oceanic, and Atmospheric Administration:

(A) The National Undersea Research Program.

(B) The Fleet Modernization Program.

(C) The Charleston, South Carolina, Special Management Plan.

(D) Chesapeake Bay Observation Buoys (as of September 30, 1996).

(E) Federal/State Weather Modification Grants.

(F) The Southeast Storm Research Account.

(G) The Southeast United States Caribbean Fisheries Oceanographic Coordinated Investigations Program.

(H) National Institute for Environmental Renewal.

(I) The Lake Champlain Study.

(J) The Maine Marine Research Center.

(K) The South Carolina Cooperative Geodetic Survey Account.

(L) Pacific Island Technical Assistance.

(M) Sea Grant Oyster Disease Account.

(N) Sea Grant Zebra Mussel Account.

(O) VENTS program.

(P) National Weather Service non-Federal, non-wildfire Weather Service.

(Q) National Weather Service Regional Climate Centers.

(R) National Weather Service Samoa Weather Forecast Office Repair and Upgrade Account.

(S) Dissemination of Weather Charts (Marine Facsimile Service).

(T) The Climate and Global Change Account.

(U) The Global Learning and Observations to Benefit the Environment Program.

(V) Great Lakes nearshore research.

(W) Mussel watch.

(2) REPEALS.—The following provisions of law are repealed:

(A) The Ocean Thermal Conversion Act of 1980 (42 U.S.C. 9101 et seq.).

(B) Title IV of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1447 et seq.).

(C) Title V of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 2801 et seq.).

(D) The Great Lakes Shoreline Mapping Act of 1987 (33 U.S.C. 883a note).

(E) The Great Lakes Fish and Wildlife Tissue Bank Act (16 U.S.C. 943 et seq.).

(F) The Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701 et seq.), except for those provisions affecting the Assistant Secretary of the Army (civil works) and the Secretary of the department in which the Coast Guard is operating.

(G) Section 3 of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a).

(H) Section 208(c) of the National Sea Grant College Program Act (33 U.S.C. 1127(c)).

(I) Section 305 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454) is repealed effective October 1, 1998.

(J) The NOAA Fleet Modernization Act (33 U.S.C. 891 et seq.).

(K) Public Law 85–342 (72 Stat. 35; 16 U.S.C. 778 et seq.), relating to fish research and experimentation.

(L) The first section of the Act of August 8, 1956 (70 Stat. 1126; 16 U.S.C. 760d), relating to grants for commercial fishing education.

(M) Public Law 86–359 (16 U.S.C. 760e et seq.), relating to the study of migratory marine gamefish.

(N) The Act of August 15, 1914 (Chapter 253; 38 Stat. 692; 16 U.S.C. 781 et seq.), prohibiting the taking of sponges in the Gulf of Mexico and the Straits of Florida.

(b) AERONAUTICAL MAPPING AND CHARTING.—

(1) IN GENERAL.—The aeronautical mapping and charting functions of the National Oceanic and Atmospheric Administration are transferred to the Defense Mapping Agency.

(2) TERMINATION OF CERTAIN FUNCTIONS.—The Defense Mapping Agency shall terminate any functions transferred under paragraph (1) that are performed by the private sector.

(3) FUNCTIONS REQUESTED BY FEDERAL AVIATION ADMINISTRATION.—(A) Notwithstanding paragraph (2), the Director of the Defense Mapping Agency shall carry out such aeronautical charting functions as may be requested by the Administrator of the Federal Aviation Administration.

(B) In carrying out aeronautical mapping functions requested by the Administrator under subparagraph (A), the Director shall—

(i) publish and distribute to the public and to the Administrator any aeronautical charts requested by the Administrator; and

(ii) provide to the Administrator such other air traffic control products and services as may be requested by the Administrator,

in such manner and including such information as the Administrator determines is necessary for, or will promote, the safe and efficient movement of aircraft in air commerce.

(4) CONTINUING APPLICABILITY.—The requirements of section 1307 of title 44, United States Code, shall continue to apply with respect to all aeronautical products created or published by the Director of the Defense Mapping Agency in carrying out the functions transferred to the Director under this paragraph; except that the prices for such products shall be established jointly by the Director and the Secretary of Transportation on an annual basis.

(c) TRANSFER OF MAPPING, CHARTING, AND GEODESY FUNCTIONS TO THE UNITED STATES GEOLOGICAL SURVEY.—

(1) IN GENERAL.—Except as provided in subsection (b), there are hereby transferred to the Director of the United States Geological Survey the functions relating to mapping, charting, and geodesy authorized under the Act of August 7, 1947 (61 Stat. 787; 33 U.S.C. 883a).

(2) TERMINATION OF CERTAIN FUNCTIONS.—The Director of the United States Geological Survey shall terminate any functions transferred under paragraph (1) that are performed by the private sector.

(d) NESDIS.—There are transferred to the National Scientific, Oceanic, and Atmospheric Administration all functions and assets of the National Oceanic and Atmospheric Administration that on the date immediately before the effective date of this section were authorized to be performed by the National Environmental Satellite, Data, and Information System.

(e) OAR.—There are transferred to the National Scientific, Oceanic, and Atmospheric Administration all functions and assets of the National Oceanic and Atmospheric Administration (including global programs) that on the date immediately before the effective date of this section were authorized to be performed by the Office of Oceanic and Atmospheric Research.

(f) NWS.—

(1) IN GENERAL.—There are transferred to the National Scientific, Oceanic, and Atmospheric Administration all functions and assets of the National Oceanic and Atmospheric Administration that on the date immediately before the effective date of this section were authorized to be performed by the National Weather Service.

(2) DUTIES.—To protect life and property and enhance the national economy, the Administrator of Science, Oceans, and the Atmosphere, through the National Weather Service, except as outlined in paragraph (3), shall be responsible for the following:

(A) Forecasts. The Administrator of Science, Oceans, and the Atmosphere, through the National Weather Service, shall serve as the sole official source of severe weather warnings.

(B) Issuance of storm warnings.

(C) The collection, exchange, and distribution of meteorological, hydrological, climatic, and oceanographic data and information.

(D) The preparation of hydro-meteorological guidance and core forecast information.

(3) LIMITATIONS ON COMPETITION.—The National Weather Service may not compete, or assist other entities to compete, with the private sector to provide a service when that service is currently provided or can be provided by a commercial enterprise unless—

(A) the Administrator of Science, Oceans, and the Atmosphere finds that the private sector is unwilling or unable to provide the service; or

(B) the Administrator of Science, Oceans, and the Atmosphere finds that the service provides vital weather warnings and forecasts for the protection of lives and property of the general public.

(4) ORGANIC ACT AMENDMENTS.—

(A) AMENDMENTS.—The Act of 1890 is amended—

(i) by striking section 3 (15 U.S.C. 313); and

(ii) in section 9 (15 U.S.C. 317), by striking ''Department of'' and all that follows thereafter and inserting ''National Scientific, Oceanic, and Atmospheric Administration.''.

(B) DEFINITION.—For purposes of this paragraph, the term ''Act of 1890'' means the Act entitled ''An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Bureau to the Department of Agriculture'', approved October 1, 1890 (26 Stat. 653).

(5) REPEAL.—Sections 706 and 707 of the Weather Service Modernization Act (15 U.S.C. 313 note) are repealed.

(6) CONFORMING AMENDMENTS.—The Weather Service Modernization Act (15 U.S.C. 313 note) is amended—

(A) in section 702, by striking paragraph (3) and redesignating paragraphs (4) through (10) as paragraphs (3) through (9), respectively; and

(B) in section 703—

(i) by striking ''(a) NATIONAL IMPLEMENTATION PLAN.—'';

(ii) by striking paragraph (3) and redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively; and

(iii) by striking subsections (b) and (c).

(g) TERMINATION OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION CORPS OF COMMISSIONED OFFICERS.—

(1) NUMBER OF OFFICERS.—Notwithstanding section 8 of the Act of June 3, 1948 (33 U.S.C. 853g), the total number of commissioned officers on the active list of the National Scientific, Oceanic, and Atmospheric Administration shall not exceed—

(A) 358 as of September 30, 1996;

(B) 180 as of September 30, 1997; and

(C) 0 for any fiscal year beginning after September 30, 1998.

(2) SEPARATION PAY.—(A) Commissioned officers may be separated from the active list of the National Scientific, Oceanic, and Atmospheric Administration. Any officer so separated because of paragraph (1) shall, subject to subparagraph (B) and the availability of appropriations, be eligible for separation pay under section 9 of the Act of June 3, 1948 (33 U.S.C. 853h) to the same extent as if such officer had been separated under section 8 of such Act (33 U.S.C. 853g).

(B) Any officer who, under paragraph (4), transfers to another of the uniformed services or becomes employed in a civil service position shall not be eligible for separation pay under this paragraph.

(C)(i) Any officer who receives separation pay under this paragraph shall be required to repay the amount received if, within 1 year after the date of the separation on which the payment is based, such officer is reemployed in a civil service position in the National Scientific, Oceanic, and Atmospheric Administration, the duties of which position would formerly have been performed by a commissioned officer, as determined by the Administrator of Science, Oceans, and the Atmosphere.

(ii) A repayment under this subparagraph shall be made in a lump sum or in such installments as the Administrator may specify.

(D) In the case of any officer who makes a repayment under subparagraph (C)—

(i) the National Scientific, Oceanic, and Atmospheric Administration shall pay into the Civil Service Retirement and Disability Fund, on such officer's behalf, any deposit required under section 8422(e)(1) of title 5, United States Code, with respect to any prior service performed by that individual as such an officer; and

(ii) if the amount paid under clause (i) is less than the amount of the repayment under subparagraph (C), the National Scientific, Oceanic, and Atmospheric Administration shall pay into the Government Securities Investment Fund (established under section 8438(b)(1)(A) of title 5, United States Code), on such individual's behalf, an amount equal to the difference.

The provisions of paragraph (5)(C)(iv) shall apply with respect to any contribution to the Thrift Savings Plan made under clause (ii).

(3) PRIORITY PLACEMENT PROGRAM.—A priority placement program similar to the programs described in section 3329b of title 5, United States Code, as amended by section 2109, shall be established by the National Scientific, Oceanic, and Atmospheric Administration to assist commissioned officers who are separated from the active list of the National Scientific, Oceanic, and Atmospheric Administration because of paragraph (1).

(4) TRANSFER.—(A) Subject to the approval of the Secretary of Defense and under terms

and conditions specified by the Secretary, commissioned officers subject to paragraph (1) may transfer to the Armed Forces under section 716 of title 10, United States Code.

(B) Subject to the approval of the Secretary of Transportation and under terms and conditions specified by the Secretary, commissioned officers subject to paragraph (1) may transfer to the United States Coast Guard under section 716 of title 10, United States Code.

(C) Subject to the approval of the Administrator of Science, Oceans, and the Atmosphere and under terms and conditions specified by that Administrator, commissioned officers subject to paragraph (1) may be employed by the National Scientific, Oceanic, and Atmospheric Administration as members of the civil service.

(5) RETIREMENT PROVISIONS.—(A) For commissioned officers who transfer under paragraph (4)(A) to the Armed Forces, the National Scientific, Oceanic, and Atmospheric Administration shall pay into the Department of Defense Military Retirement Fund an amount, to be calculated by the Secretary of Defense in consultation with the Secretary of the Treasury, equal to the actuarial present value of any retired or retainer pay they will draw upon retirement, including full credit for service in the NOAA Corps. Any payment under this subparagraph shall, for purposes of paragraph (2) of section 2206(g), be considered to be an expenditure described in such paragraph.

(B) For commissioned officers who transfer under paragraph (4)(B) to the United States Coast Guard, full credit for service in the NOAA Corps shall be given for purposes of any annuity or other similar benefit under the retirement system for members of the United States Coast Guard, entitlement to which is based on the separation of such officer.

(C)(i) For a commissioned officer who becomes employed in a civil service position pursuant to paragraph (4)(C) and thereupon becomes subject to the Federal Employees' Retirement System, the National Scientific, Oceanic, and Atmospheric Administration shall pay, on such officer's behalf—

(I) into the Civil Service Retirement and Disability Fund, the amounts required under clause (ii); and

(II) into the Government Securities Investment Fund, the amount required under clause (iii).

(ii)(I) The amount required under this subclause is the amount of any deposit required under section 8422(e)(1) of such title 5 with respect to any prior service performed by the individual as a commissioned officer of the National Oceanic and Atmospheric Administration.

(II) To determine the amount required under this subclause, first determine, for each year of service with respect to which the deposit under subclause (I) relates, the product of the normal-cost percentage for such year (as determined under the last sentence of this subclause) multiplied by basic pay received by the individual for any such service performed in such year. Second, take the sum of the amounts determined for the respective years under the first sentence. Finally, subtract from such sum the amount of the deposit under subclause (I). For purposes of the first sentence, the normal-cost percentage for any year shall be as determined for such year under the provisions of section 8423(a)(1) of title 5, United States Code, except that, in the case of any year before the first year for which any normal-cost percentage was determined under such provisions, the normal-cost percentage for such first year shall be used.

(iii) The amount required under this clause is the amount by which the separation pay to which the officer would have been entitled under the second sentence of paragraph (2)(A) (assuming the conditions for receiving such separation pay have been met) exceeds the amount of the deposit under clause (ii)(I), if at all.

(iv)(I) Any contribution made under this subparagraph to the Thrift Savings Plan shall not be subject to any otherwise applicable limitation on contributions contained in the Internal Revenue Code of 1986, and shall not be taken into account in applying any such limitation to other contributions or benefits under the Thrift Savings Plan, with respect to the year in which the contribution is made.

(II) Such plan shall not be treated as failing to meet any nondiscrimination requirement by reason of the making of such contribution.

(6) REPEALS.—(A) The following provisions of law are repealed:

(i) The Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853a–853o, 853p–853u).

(ii) The Act of February 16, 1929 (Chapter 221, section 5; 45 Stat. 1187; 33 U.S.C. 852a).

(iii) The Act of January 19, 1942 (Chapter 6; 56 Stat. 6).

(iv) Section 9 of Public Law 87–649 (76 Stat. 495).

(v) The Act of May 22, 1917 (Chapter 20, section 16; 40 Stat. 87; 33 U.S.C. 854 et seq.).

(vi) The Act of December 3, 1942 (Chapter 670; 56 Stat. 1038.

(vii) Sections 1 through 5 of Public Law 91–621 (84 Stat. 1863; 33 U.S.C. 857–1 et seq.).

(viii) The Act of August 10, 1956 (Chapter 1041, section 3; 70A Stat. 619; 33 U.S.C. 857a).

(ix) The Act of May 18, 1920 (Chapter 190, section 11; 41 Stat. 603; 33 U.S.C. 864).

(x) The Act of July 22, 1947 (Chapter 286; 61 Stat. 400; 33 U.S.C. 873, 874).

(xi) The Act of August 3, 1956 (Chapter 932; 70 Stat. 988; 33 U.S.C. 875, 876).

(xii) All other Acts inconsistent with this subsection.

No repeal under this subparagraph shall affect any annuity or other similar benefit payable, under any provision of law so repealed, based on the separation of any individual from the NOAA Corps or its successor on or before September 30, 1998. Any authority exercised by the Secretary of Commerce or his designee with respect to any such benefits shall be exercised by the Administrator of Science, Oceans, and the Atmosphere, and any authorization of appropriations relating to those benefits, which is in effect as of September 30, 1998, shall be considered to have remained in effect.

(B) The effective date of the repeals under subparagraph (A) shall be October 1, 1998.

(C)(i) All laws relating to the retirement of commissioned officers of the Navy shall apply to commissioned officers of the former Commissioned Officers Corps of the National Oceanic and Atmospheric Administration and its predecessors.

(ii) Active service of officers of the former Commissioned Officers Corps of the National Oceanic and Atmospheric Administration and its predecessors who have retired from the Commissioned Officers Corps shall be deemed to be active military service in the United States Navy for purposes of all rights, privileges, immunities, and benefits provided to retired commissioned officers of the Navy by the laws and regulations of the United States and any agency thereof. In the Administration of those laws and regulations with respect to retired officers of the former Commissioned Officers Corps of the National Oceanic and Atmospheric Administration and its predecessors, the authority of the Secretary of the Navy shall be exercised by the Administrator of Science, Oceans, and the Atmosphere.

(iii) For purposes of this subparagraph, the term ''its predecessors'' means the former Commissioned Officers Corps of the Environmental Science Services Administration and the former Commissioned Officers Corps of the Coast and Geodetic Survey.

(7) CREDITABILITY OF NOAA SERVICE FOR PURPOSES RELATING TO REDUCTIONS IN FORCE.—A commissioned officer who is separated from the active list of the National Oceanic and Atmospheric Administration or its successor because of paragraph (1) shall, for purposes of any subsequent reduction in force, receive credit for any period of service performed as such an officer before separation from such list to the same extent and in the same manner as if it had been a period of active service in the Armed Forces.

(8) ABOLITION.—The Office of the National Oceanic and Atmospheric Administration Corps of Operations or its successor and the Commissioned Personnel Center are abolished effective September 30, 1998.

(h) NOAA FLEET.—

(1) SERVICE CONTRACTS.—Notwithstanding any other provision of law and subject to the availability of appropriations, the Administrator of Science, Oceans, and the Atmosphere shall enter into contracts, including multiyear contracts, subject to paragraph (3), for the use of vessels to conduct oceanographic research and fisheries research, monitoring, enforcement, and management, and to acquire other data necessary to carry out the missions of the National Scientific, Oceanic, and Atmospheric Administration. The Administrator of Science, Oceans, and the Atmosphere shall enter into these contracts unless—

(A) the cost of the contract is more than the cost (including the cost of vessel operation, maintenance, and all personnel) to the National Scientific, Oceanic, and Atmospheric Administration of obtaining those services on vessels of the National Scientific, Oceanic, and Atmospheric Administration;

(B) the contract is for more than 7 years; or

(C) the data is acquired through a vessel agreement pursuant to paragraph (4).

(2) VESSELS.—The Administrator of Science, Oceans, and the Atmosphere may not enter into any contract for the construction, lease-purchase, upgrade, or service life extension of any vessel.

(3) MULTIYEAR CONTRACTS.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), and notwithstanding section 1341 of title 31, United States Code, and section 11 of title 41, United States Code, the Administrator of Science, Oceans, and the Atmosphere may acquire data under multiyear contracts.

(B) REQUIRED FINDINGS.—The Administrator of Science, Oceans, and the Atmosphere may not enter into a contract pursuant to this paragraph unless such Administrator finds with respect to that contract that there is a reasonable expectation that throughout the contemplated contract period the Administrator will request from Congress funding for the contract at the level required to avoid contract termination.

(C) REQUIRED PROVISIONS.—The Administrator of Science, Oceans, and the Atmosphere may not enter into a contract pursuant to this paragraph unless the contract includes—

(i) a provision under which the obligation of the United States to make payments under the contract for any fiscal year is subject to the availability of appropriations provided in advance for those payments;

(ii) a provision that specifies the term of effectiveness of the contract; and

(iii) appropriate provisions under which, in case of any termination of the contract before the end of the term specified pursuant

to clause (ii), the United States shall only be liable for the lesser of—

(I) an amount specified in the contract for such a termination; or

(II) amounts that were appropriated before the date of the termination for the performance of the contract or for procurement of the type of acquisition covered by the contract and are unobligated on the date of the termination.

(4) VESSEL AGREEMENTS.—The Administrator of Science, Oceans, and the Atmosphere shall use excess capacity of University National Oceanographic Laboratory System vessels where appropriate and may enter into memoranda of agreement with the operators of these vessels to carry out this requirement.

(5) TRANSFER OF EXCESS VESSELS.—The Administrator of Science, Oceans, and the Atmosphere shall transfer any vessels over 1,500 gross tons that are excess to the needs of the National Scientific, Oceanic, and Atmospheric Administration to the National Defense Reserve Fleet. Notwithstanding any other provision of law, these vessels may be scrapped in accordance with section 510(i) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1160(i)).

(i) NATIONAL MARINE FISHERIES SERVICE.—(1) There are transferred to the National Scientific, Oceanic, and Atmospheric Administration all functions that on the day before the effective date of this section were authorized by law to be performed by the National Marine Fisheries Service.

(2) Notwithstanding any other provision of law, the National Marine Fisheries Service may not affect on-land activities under the Endangered Species Act of 1973 for salmon recovery in the State of Idaho (16 U.S.C. 1531 et seq.).

(j) NATIONAL OCEAN SERVICE.—Except as otherwise provided in this title, there are transferred to the National Scientific, Oceanic, and Atmospheric Administration all functions and assets of the National Oceanic and Atmospheric Administration that on the date immediately before the effective date of this section were authorized to be performed by the National Ocean Service (including the Coastal Ocean Program).

(k) TRANSFER OF COASTAL NONPOINT POLLUTION CONTROL FUNCTIONS.—There are transferred to the Administrator of the Environmental Protection Agency the functions under section 6217 of the Omnibus Budget Reconciliation Act of 1990 (16 U.S.C. 1455b) that on the day before the effective date of this section were vested in the Secretary of Commerce.

SEC. 2206. NATIONAL SCIENTIFIC, OCEANIC, AND ATMOSPHERIC ADMINISTRATION.

(a) ESTABLISHMENT.—There is established as an independent agency in the Executive Branch the National Scientific, Oceanic, and Atmospheric Administration (in this section referred to as the ''NSOAA''). The NSOAA, and all functions and offices transferred to it under this title, shall be administered under the supervision and direction of an Administrator of Science, Oceans, and the Atmosphere. The Administrator of Science, Oceans, and the Atmosphere shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive basic pay at the rate payable for level II of the Executive Schedule under section 5313 of title 5, United States Code. The Administrator of Science, Oceans, and the Atmosphere shall additionally perform the functions previously performed by the Administrator of the National Oceanic and Atmospheric Administration.

(b) PRINCIPAL OFFICER.—There shall be in the NSOAA, on the transfer of functions and offices under this title, a Director of the National Bureau of Standards, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive basic pay at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(c) ADDITIONAL OFFICERS.—There shall be in the NSOAA—

(1) a Chief Financial Officer of the NSOAA, to be appointed by the President, by and with the advice and consent of the Senate;

(2) a Chief of External Affairs, to be appointed by the President, by and with the advice and consent of the Senate;

(3) a General Counsel, to be appointed by the President, by and with the advice and consent of the Senate; and

(4) an Inspector General, to be appointed in accordance with the Inspector General Act of 1978.

Each Officer appointed under this subsection shall receive basic pay at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(d) TRANSFER OF FUNCTIONS AND OFFICES.—Except as otherwise provided in this title, there are transferred to the NSOAA—

(1) the functions and offices of the National Oceanic and Atmospheric Administration, as provided in section 2205;

(2) the National Bureau of Standards, along with its functions and offices, as provided in section 2202; and

(3) the Office of Space Commerce, along with its functions and offices.

(e) ELIMINATION OF POSITIONS.—The Administrator of Science, Oceans, and the Atmosphere may eliminate positions that are no longer necessary because of the termination of functions under this section, section 2202, and section 2205.

(f) AGENCY TERMINATIONS.—

(1) TERMINATIONS.—On the date specified in section 2208(a), the following shall terminate:

(A) The Office of the Deputy Administrator and Assistant Secretary of the National Oceanic and Atmospheric Administration.

(B) The Office of the Deputy Under Secretary of the National Oceanic and Atmospheric Administration.

(C) The Office of the Chief Scientist of the National Oceanic and Atmospheric Administration.

(D) The position of Deputy Assistant Secretary for Oceans and Atmosphere.

(E) The position of Deputy Assistant Secretary for International Affairs.

(F) Any office of the National Oceanic and Atmospheric Administration or the National Bureau of Standards whose primary purpose is to perform high performance computing communications, legislative, personnel, public relations, budget, constituent, intergovernmental, international, policy and strategic planning, sustainable development, administrative, financial, educational, legal and coordination functions. These functions shall, as necessary, be performed only by officers described in subsection (c).

(G) The position of Associate Director of the National Institute of Standards and Technology.

(2) TERMINATION OF EXECUTIVE SCHEDULE POSITIONS.—Each position which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rate prescribed for levels I through V of the Executive Schedule under sections 5312 through 5315 of title 5, United States Code, in an office terminated pursuant to this section, section 2202, and section 2205 shall also terminate.

(g) FUNDING REDUCTIONS RESULTING FROM REORGANIZATION.—

(1) FUNDING REDUCTIONS.—Notwithstanding the transfer of functions under this subtitle, the total amount obligated or expended by the United States in performing all functions vested in the National Scientific, Oceanic, and Atmospheric Administration pursuant to this subtitle shall not exceed—

(A) for the first fiscal year that begins after the abolishment date specified in section 2101(c), 75 percent of the total amount appropriated for fiscal year 1995 for the performance of all functions vested in the National Oceanic and Atmospheric Administration, the National Institute of Standards and Technology, and the Office of Space Commerce, except for those functions transferred under section 2205 to agencies or departments other than the National Scientific, Oceanic, and Atmospheric Administration; and

(B) for the second fiscal year that begins after the abolishment date specified in section 2101(c) and for each fiscal year thereafter, 65 percent of the total amount appropriated for fiscal year 1995 for the performance of all functions vested in the National Oceanic and Atmospheric Administration, the National Institute of Standards and Technology, and the Office of Space Commerce, except for those functions transferred under section 22045 to agencies or departments other than the National Scientific, Oceanic, and Atmospheric Administration.

(2) EXCEPTION.—Paragraph (1) shall not apply to obligations or expenditures incurred as a direct consequence of the termination, transfer, or other disposition of functions described in paragraph (1) pursuant to this subtitle.

(3) RULE OF CONSTRUCTION.—This subsection shall take precedence over any other provision of law unless such provision explicitly refers to this section and makes an exception to it.

(4) RESPONSIBILITY OF NATIONAL SCIENTIFIC, OCEANIC, AND ATMOSPHERIC ADMINISTRATION.—The National Scientific, Oceanic, and Atmospheric Administration, in consultation with the Director of the Office of Management and Budget, shall make such modifications in programs as are necessary to carry out the reductions in appropriations set forth in subparagraphs (A) and (B) of paragraph (1).

(5) RESPONSIBILITIES OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall include in each report under sections 2105(a) and (b) a description of actions taken to comply with the requirements of this subsection.

SEC. 2207. MISCELLANEOUS TERMINATIONS; MORATORIUM ON PROGRAM ACTIVITIES.

(a) TERMINATIONS.—The following agencies and programs of the Department of Commerce are terminated:

(1) The Minority Business Development Administration.

(2) The United States Travel and Tourism Administration.

(3) The programs and activities of the National Telecommunications and Information Administration referred to in section 2204(a).

(4) The Advanced Technology Program under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n).

(5) The Manufacturing Extension Programs under sections 25 and 26 of the National Institute of Standards and Technology Act (15 U.S.C. 278k and 278l).

(6) The National Institute of Standards and Technology METRIC Program.

(b) MORATORIUM ON PROGRAM ACTIVITIES.—The authority to make grants, enter into contracts, provide assistance, incur obligations, or provide commitments (including any enlargement of existing obligations or commitments, except if required by law) with respect to the agencies and programs

described in subsection (a) is terminated effective on the date of the enactment of this title.

SEC. 2208. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this subtitle shall take effect on the abolishment date specified in section 2101(c).

(b) PROVISIONS EFFECTIVE ON DATE OF ENACTMENT.—The following provisions of this subtitle shall take effect on the date of the enactment of this Act:

(1) Section 2201.

(2) Section 2205(g), except as otherwise provided in that section.

(3) Section 2207(b).

(4) This section.

Subtitle C—Office of United States Trade Representative

CHAPTER 1—GENERAL PROVISIONS

SEC. 2301. DEFINITIONS.

For purposes of this subtitle—

(1) the term ''Office'' means the Office of the United States Trade Representative;

(2) the term ''Federal agency'' has the meaning given to the term ''agency'' by section 551(1) of title 5, United States Code; and

(3) the term ''USTR'' means the United States Trade Representative as provided for under section 2311.

CHAPTER 2—OFFICE OF UNITED STATES TRADE REPRESENTATIVE

Subchapter A—Establishment

SEC. 2311. ESTABLISHMENT OF THE OFFICE.

(a) IN GENERAL.—The Office of the United States Trade Representative is established as an independent establishment in the executive branch of Government as defined under section 104 of title 5, United States Code. The United States Trade Representative shall be the head of the Office and shall be appointed by the President, by and with the advice and consent of the Senate.

(b) AMBASSADOR STATUS.—The USTR shall have the rank and status of Ambassador and shall represent the United States in all trade negotiations conducted by the Office.

(c) CONTINUED SERVICE OF CURRENT USTR.—The individual serving as United States Trade Representative on the date immediately preceding the effective date of this subtitle may continue to serve as USTR under subsection (a).

(d) SUCCESSOR TO THE DEPARTMENT OF COMMERCE.—The Office shall be the successor to the Department of Commerce for purposes of protocol.

SEC. 2312. FUNCTIONS OF THE USTR.

(a) IN GENERAL.—In addition to the functions transferred to the USTR by this subtitle, such other functions as the President may assign or delegate to the USTR, and such other functions as the USTR may, after the effective date of this subtitle, be required to carry out by law, the USTR shall—

(1) serve as the principal advisor to the President on international trade policy and advise the President on the impact of other policies of the United States Government on international trade;

(2) exercise primary responsibility, with the advice of the interagency organization established under section 242 of the Trade Expansion Act of 1962, for developing and implementing international trade policy, including commodity matters and, to the extent related to international trade policy, direct investment matters and, in exercising such responsibility, advance and implement, as the primary mandate of the Office, the goals of the United States to—

(A) maintain United States leadership in international trade liberalization and expansion efforts;

(B) reinvigorate the ability of the United States economy to compete in international markets and to respond flexibly to changes in international competition; and

(C) expand United States participation in international trade through aggressive promotion and marketing of goods and services that are products of the United States;

(3) exercise lead responsibility for the conduct of international trade negotiations, including negotiations relating to commodity matters and, to the extent that such negotiations are related to international trade, direct investment negotiations;

(4) exercise lead responsibility for the establishment of a national export strategy, including policies designed to implement such strategy;

(5) with the advice of the interagency organization established under section 242 of the Trade Expansion Act of 1962, issue policy guidance to other Federal agencies on international trade, commodity, and direct investment functions to the extent necessary to assure the coordination of international trade policy;

(6) seek and promote new opportunities for United States products and services to compete in the world marketplace;

(7) assist small businesses in developing export markets;

(8) enforce the laws of the United States relating to trade;

(9) analyze economic trends and developments;

(10) report directly to the Congress—

(A) on the administration of, and matters pertaining to, the trade agreements program under the Omnibus Trade and Competitiveness Act of 1988, the Trade Act of 1974, the Trade Expansion Act of 1962, section 350 of the Tariff Act of 1930, and any other provision of law enacted after this Act; and

(B) with respect to other important issues pertaining to international trade;

(11) keep each official adviser to the United States delegations to international conferences, meetings, and negotiation sessions relating to trade agreements who is appointed from the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives under section 161 of the Trade Act of 1974 currently informed on United States negotiating objectives with respect to trade agreements, the status of negotiations in progress with respect to such agreements, and the nature of any changes in domestic law or the administration thereof which the USTR may recommend to the Congress to carry out any trade agreement;

(12) consult and cooperate with State and local governments and other interested parties on international trade matters of interest to such governments and parties, and to the extent related to international trade matters, on investment matters, and, when appropriate, hold informal public hearings;

(13) serve as the principal advisor to the President on Government policies designed to contribute to enhancing the ability of United States industry and services to compete in international markets;

(14) develop recommendations for national strategies and specific policies intended to enhance the productivity and international competitiveness of United States industries;

(15) serve as the principal advisor to the President in identifying and assessing the consequences of any Government policies that adversely affect, or have the potential to adversely affect, the international competitiveness of United States industries and services;

(16) promote cooperation between business, labor, and Government to improve industrial performance and the ability of United States industries to compete in international markets and to facilitate consultation and communication between the Government and the private sector about domestic industrial performance and prospects and the performance and prospects of foreign competitors; and

(17) monitor and enforce foreign government compliance with international trade agreements to protect United States interests.

(b) INTERAGENCY ORGANIZATION.—The USTR shall be the chairperson of the interagency organization established under section 242 of the Trade Expansion Act of 1962.

(c) NATIONAL SECURITY COUNCIL.—The USTR shall be a member of the National Security Council.

(d) ADVISORY COUNCIL.—The USTR shall be Deputy Chairman of the National Advisory Council on International Monetary and Financial Policies established under Executive Order 11269, issued February 14, 1966.

(e) AGRICULTURE.—(1) The USTR shall consult with the Secretary of Agriculture or the designee of the Secretary of Agriculture on all matters that potentially involve international trade in agricultural products.

(2) If an international meeting for negotiation or consultation includes discussion of international trade in agricultural products, the USTR or the designee of the USTR shall be Chairman of the United States delegation to such meeting and the Secretary of Agriculture or the designee of such Secretary shall be Vice Chairman. The provisions of this paragraph shall not limit the authority of the USTR under subsection (h) to assign to the Secretary of Agriculture responsibility for the conduct of, or participation in, any trade negotiation or meeting.

(f) TRADE PROMOTION.—The USTR shall be the chairperson of the Trade Promotion Coordinating Committee.

(g) NATIONAL ECONOMIC COUNCIL.—The USTR shall be a member of the National Economic Council established under Executive Order No. 12835, issued January 25, 1993.

(h) INTERNATIONAL TRADE NEGOTIATIONS.—Except where expressly prohibited by law, the USTR, at the request or with the concurrence of the head of any other Federal agency, may assign the responsibility for conducting or participating in any specific international trade negotiation or meeting to the head of such agency whenever the USTR determines that the subject matter of such international trade negotiation is related to the functions carried out by such agency.

Subchapter B—Officers

SEC. 2321. DEPUTY ADMINISTRATOR OF THE OFFICE.

(a) ESTABLISHMENT.—There shall be in the Office the Deputy Administrator of the Office of the United States Trade Representative, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) ABSENCE, DISABILITY, OR VACANCY OF USTR.—The Deputy Administrator of the Office of the United States Trade Representative shall act for and exercise the functions of the USTR during the absence or disability of the USTR or in the event the office of the USTR becomes vacant. The Deputy Administrator shall act for and exercise the functions of the USTR until the absence or disability of the USTR no longer exists or a successor to the USTR has been appointed by the President and confirmed by the Senate.

(c) FUNCTIONS OF DEPUTY ADMINISTRATOR.—The Deputy Administrator of the Office of the United States Trade Representative shall exercise all functions, under the direction of the USTR, transferred to or established in the Office, except those functions exercised by the Deputy United States Trade Representatives, the Director General for Export Promotion, the Inspector General, and the General Counsel of the Office, as provided by this subtitle.

SEC. 2322. DEPUTY UNITED STATES TRADE REPRESENTATIVES.

(a) ESTABLISHMENT.—There shall be in the Office 2 Deputy United States Trade Representatives, who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy United States Trade Representatives shall exercise all functions under the direction of the USTR, and shall include—

(1) the Deputy United States Trade Representative for Negotiations; and

(2) the Deputy United States Trade Representative to the World Trade Organization.

(b) FUNCTIONS OF DEPUTY UNITED STATES TRADE REPRESENTATIVES.—(1) The Deputy United States Trade Representative for Negotiations shall exercise all functions transferred under section 2331 and shall have the rank and status of Ambassador.

(2) The Deputy United States Trade Representative to the World Trade Organization shall exercise all functions relating to representation to the World Trade Organization and shall have the rank and status of Ambassador.

SEC. 2323. ASSISTANT ADMINISTRATORS.

(a) ESTABLISHMENT.—There shall be in the Office 3 Assistant Administrators, who shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant Administrators shall exercise all functions under the direction of the Deputy Administrator of the Office of the United States Trade Representative and include—

(1) the Assistant Administrator for Export Administration;

(2) the Assistant Administrator for Import Administration; and

(3) the Assistant Administrator for Trade and Policy Analysis.

(b) FUNCTIONS OF ASSISTANT ADMINISTRATORS.—(1) The Assistant Administrator for Export Administration shall exercise all functions transferred under section 2332(1)(C).

(2) The Assistant Administrator for Import Administration shall exercise all functions transferred under section 2332(1)(D).

(3) The Assistant Administrator for Trade and Policy Analysis shall exercise all functions transferred under section 2332(1)(B) and all functions transferred under section 2332(2).

SEC. 2324. DIRECTOR GENERAL FOR EXPORT PROMOTION.

(a) ESTABLISHMENT.—There shall be a Director General for Export Promotion, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) FUNCTIONS.—The Director General for Export Promotion shall exercise, under the direction of the USTR, all functions transferred under sections 2332(1)(A) (relating to functions of the United States and Foreign Commercial Service) and 2333 and shall have the rank and status of Ambassador.

SEC. 2325. GENERAL COUNSEL.

There shall be in the Office a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall provide legal assistance to the USTR concerning the activities, programs, and policies of the Office.

SEC. 2326. INSPECTOR GENERAL.

There shall be in the Office an Inspector General who shall be appointed in accordance with the Inspector General Act of 1978, as amended by section 2371(b) of this Act.

SEC. 2327. CHIEF FINANCIAL OFFICER.

There shall be in the Office a Chief Financial Officer who shall be appointed in accordance with section 901 of title 31, United States Code, as amended by section 2371(e) of this Act. The Chief Financial Officer shall perform all functions prescribed by the Deputy Administrator of the Office of the United States Trade Representative, under the direction of the Deputy Administrator.

Subchapter C—Transfers to the Office

SEC. 2331. OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.

There are transferred to the USTR all functions of the United States Trade Representative and the Office of the United States Trade Representative in the Executive Office of the President and all functions of any officer or employee of such Office.

SEC. 2332. TRANSFERS FROM THE DEPARTMENT OF COMMERCE.

There are transferred to the USTR the following functions:

(1) All functions of, and all functions performed under the direction of, the following officers and employees of the Department of Commerce:

(A) The Under Secretary of Commerce for International Trade, and the Director General of the United States and Foreign Commercial Service, relating to all functions exercised by the Service.

(B) The Assistant Secretary of Commerce for International Economic Policy and the Assistant Secretary of Commerce for Trade Development.

(C) The Under Secretary of Commerce for Export Administration.

(D) The Assistant Secretary of Commerce for Import Administration.

(2) All functions of the Secretary of Commerce relating to the National Trade Data Bank.

(3) All functions of the Secretary of Commerce under the Tariff Act of 1930, the Uruguay Round Agreements Act, the Trade Act of 1974, and other trade-related Acts for which responsibility is not otherwise assigned under this subtitle.

SEC. 2333. TRADE AND DEVELOPMENT AGENCY.

There are transferred to the Director General for Export Promotion all functions of the Director of the Trade and Development Agency. There are transferred to the Office of the Director General for Export Promotion all functions of the Trade and Development Agency.

SEC. 2334. EXPORT-IMPORT BANK.

(a) IN GENERAL.—(1) There are transferred to the USTR all functions of the Secretary of Commerce relating to the Export-Import Bank of the United States.

(2) Section 3(c)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635a(c)(1)) is amended to read as follows:

''(c)(1) There shall be a Board of Directors of the Bank consisting of the United States Trade Representative (who shall serve as Chairman), the President of the Export-Import Bank of the United States (who shall serve as Vice Chairman), the first Vice President, and 2 additional persons appointed by the President of the United States, by and with the advice and consent of the Senate.''.

(b) EX OFFICIO MEMBER OF EXPORT-IMPORT BANK BOARD OF DIRECTORS.—The Director General for Export Promotion shall serve as an ex officio nonvoting member of the Board of Directors of the Export-Import Bank.

(c) AMENDMENTS TO RELATED BANKING AND TRADE ACTS.—Section 2301(h) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4721(h)) is amended to read as follows:

''(h) ASSISTANCE TO EXPORT-IMPORT BANK.—The Commercial Service shall provide such services as the Director General for Export Promotion of the Office of the United States Trade Representative determines necessary to assist the Export-Import Bank of the United States to carry out the lending, loan guarantee, insurance, and other activities of the Bank.''.

SEC. 2335. OVERSEAS PRIVATE INVESTMENT CORPORATION.

(a) BOARD OF DIRECTORS.—The second and third sentences of section 233(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2193(b)) are amended to read as follows: ''The United States Trade Representative shall be the Chairman of the Board. The Administrator of the Agency for International Development (who shall serve as Vice Chairman) shall serve on the Board.''.

(b) EX OFFICIO MEMBER OF OVERSEAS PRIVATE INVESTMENT CORPORATION BOARD OF DIRECTORS.—The Director General for Export Promotion shall serve as an ex officio nonvoting member of the Board of Directors of the Overseas Private Investment Corporation.

SEC. 2336. CONSOLIDATION OF EXPORT PROMOTION AND FINANCING ACTIVITIES.

(a) SUBMISSION OF PLAN.—Within 180 days after the date of the enactment of this Act, the President shall transmit to the Congress a comprehensive plan to consolidate Federal nonagricultural export promotion activities and export financing activities and to transfer those functions to the Office. The plan shall provide for—

(1) the elimination of the overlap and duplication among all Federal nonagricultural export promotion activities and export financing activities;

(2) a unified budget for Federal nonagricultural export promotion activities which eliminates funding for the areas of overlap and duplication identified under paragraph (1); and

(3) a long-term agenda for developing better cooperation between local, State and Federal programs and activities designed to stimulate or assist United States businesses in exporting nonagricultural goods or services that are products of the United States, including sharing of facilities, costs, and export market research data.

(b) PLAN ELEMENTS.—The plan under subsection (a) shall—

(1) place all Federal nonagricultural export promotion activities and export financing activities within the Office;

(2) provide clear authority for the USTR to use the expertise and assistance of other United States Government agencies;

(3) achieve an overall 25 percent reduction in the amount of funding for all Federal nonagricultural export promotion activities within 2 years after the enactment of this Act;

(4) include any functions of the Department of Commerce not transferred by this subtitle, or of other Federal departments the transfer of which to the Office would be necessary to the competitiveness of the United States in international trade; and

(5) assess the feasibility and potential savings resulting from—

(A) the consolidation of the Export-Import Bank of the United States and the Overseas Private Investment Corporation;

(B) the consolidation of the Boards of Directors of the Export-Import Bank and the Overseas Private Investment Corporation; and

(C) the consolidation of the Trade and Development Agency with the consolidations under subparagraphs (A) and (B).

(c) DEFINITION.—As used in this section, the term ''Federal nonagricultural export promotion activities'' means all programs or activities of any department or agency of the Federal Government (including, but not limited to, departments and agencies with representatives on the Trade Promotion Coordinating Committee established under section 2312 of the Export Enhancement Act of 1988 (15 U.S.C. 4727)) that are designed to stimulate or assist United States businesses in exporting nonagricultural goods or services

that are products of the United States, including trade missions.

SEC. 2337. ADDITIONAL TRADE FUNCTIONS.

(a) TERMINATION OF AUTHORIZATIONS OF APPROPRIATIONS.—

(1) NAFTA SECRETARIAT.—Section 105(b) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3315(b)) is amended by striking ''each fiscal year after fiscal year 1993'' and inserting ''each of fiscal years 1994 and 1995''.

(2) BORDER ENVIRONMENT COOPERATION COMMISSION.—Section 533(a)(2) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3473(a)(2)) is amended by striking ''and each fiscal year thereafter'' and inserting ''fiscal year 1995''.

(b) FUNCTIONS RELATED TO TEXTILE AGREEMENTS.—

(1) FUNCTIONS OF CITA.—(A) Subject to subparagraph (B), those functions delegated to the Committee for the Implementation of Textile Agreements established under Executive Order 11651 (7 U.S.C. 1854 note) (hereafter in this subsection referred to as ''CITA'') are transferred to the USTR.

(B) Those functions delegated to CITA that relate to the assessment of the impact of textile imports on domestic industry are transferred to the International Trade Commission. The International Trade Commission shall make a determination pursuant to the preceding sentence within 60 days after receiving a complaint or request for an investigation.

(2) ABOLITION OF CITA.—CITA is abolished.

Subchapter D—Administrative Provisions

SEC. 2341. PERSONNEL PROVISIONS.

(a) APPOINTMENTS.—The USTR may appoint and fix the compensation of such officers and employees, including investigators, attorneys, and administrative law judges, as may be necessary to carry out the functions of the USTR and the Office. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5, United States Code.

(b) POSITIONS ABOVE GS–15.—(1) At the request of the USTR, the Director of the Office of Personnel Management shall, under section 5108 of title 5, United States Code, provide for the establishment in a grade level above GS–15 of the General Service, and in the Senior Executive Service, of a number of positions in the Office equal to the number of positions in that grade level which were used primarily for the performance of functions and offices transferred by this subtitle and which were assigned and filled on the day before the effective date of this subtitle.

(2) Appointments to positions provided for under this subsection may be made without regard to the provisions of section 3324 of title 5, United States Code, if the individual appointed in such position is an individual who is transferred in connection with the transfer of functions and offices under this subtitle and, on the day before the effective date of this subtitle, holds a position and has duties comparable to those of the position to which appointed under this subsection.

(3) The authority under this subsection with respect to any position established at a grade level above GS–15 shall terminate when the person first appointed to fill such position ceases to hold such position.

(4) For purposes of section 414(a)(3)(A) of the Civil Service Reform Act of 1978, an individual appointed under this subsection shall be deemed to occupy the same position as the individual occupied on the day before the effective date of this subtitle.

(c) EXPERTS AND CONSULTANTS.—The USTR may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, and compensate such experts and consultants for each day (including traveltime) at rates not in excess of the maximum rate of pay for a position above GS–15 of the General Schedule under section 5332 of such title. The USTR may pay experts and consultants who are serving away from their homes or regular place of business travel expenses and per diem in lieu of subsistence at rates authorized by sections 5702 and 5703 of such title for persons in Government service employed intermittently.

(d) VOLUNTARY SERVICES.—(1)(A) The USTR is authorized to accept voluntary and uncompensated services without regard to the provisions of section 1342 of title 31, United States Code, if such services will not be used to displace Federal employees employed on a full-time, part-time, or seasonal basis.

(B) The USTR is authorized to accept volunteer service in accordance with the provisions of section 3111 of title 5, United States Code.

(2) The USTR is authorized to provide for incidental expenses, including but not limited to transportation, lodging, and subsistence for individuals who provide voluntary services under subparagraph (A) or (B) of paragraph (1).

(3) An individual who provides voluntary services under paragraph (1)(A) shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims.

(e) FOREIGN SERVICE POSITIONS.—In order to assure United States representation in trade matters at a level commensurate with the level of representation maintained by industrial nations which are major trade competitors of the United States, the Secretary of State shall classify certain positions at Foreign Service posts as commercial minister positions and shall assign members of the Foreign Service performing functions of the Office, with the concurrence of the USTR, to such positions in nations which are major trade competitors of the United States. The Secretary of State shall obtain and use the recommendations of the USTR with respect to the number of positions to be so classified under this subsection.

SEC. 2342. DELEGATION AND ASSIGNMENT.

Except where otherwise expressly prohibited by law or otherwise provided by this subtitle, the USTR may delegate any of the functions transferred to the USTR by this subtitle and any function transferred or granted to the USTR after the effective date of this subtitle to such officers and employees of the Office as the USTR may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions by the USTR under this section or under any other provision of this subtitle shall relieve the USTR of responsibility for the administration of such functions.

SEC. 2343. SUCCESSION.

(a) ORDER OF SUCCESSION.—Subject to the authority of the President, and except as provided in section 2321(b), the USTR shall prescribe the order by which officers of the Office who are appointed by the President, by and with the advice and consent of the Senate, shall act for, and perform the functions of, the USTR or any other officer of the Office appointed by the President, by and with the advice and consent of the Senate, during the absence or disability of the USTR or such other officer, or in the event of a vacancy in the office of the USTR or such other officer.

(b) CONTINUATION.—Notwithstanding any other provision of law, and unless the President directs otherwise, an individual acting for the USTR or another officer of the Office pursuant to subsection (a) shall continue to serve in that capacity until the absence or disability of the USTR or such other officer no longer exists or a successor to the USTR or such other officer has been appointed by the President and confirmed by the Senate.

SEC. 2344. REORGANIZATION.

(a) IN GENERAL.—Subject to subsection (b), the USTR is authorized to allocate or reallocate functions among the officers of the Office, and to establish, consolidate, alter, or discontinue such organizational entities in the Office as may be necessary or appropriate.

(b) EXCEPTION.—The USTR may not exercise the authority under subsection (a) to establish, consolidate, alter, or discontinue any organizational entity in the Office or allocate or reallocate any function of an officer or employee of the Office that is inconsistent with any specific provision of this subtitle.

SEC. 2345. RULES.

The USTR is authorized to prescribe, in accordance with the provisions of chapters 5 and 6 of title 5, United States Code, such rules and regulations as the USTR determines necessary or appropriate to administer and manage the functions of the USTR or the Office.

SEC. 2346. FUNDS TRANSFER.

The USTR may, when authorized in an appropriation Act in any fiscal year, transfer funds from one appropriation to another within the Office, except that no appropriation for any fiscal year shall be either increased or decreased by more than 10 percent and no such transfer shall result in increasing any such appropriation above the amount authorized to be appropriated therefor.

SEC. 2347. CONTRACTS, GRANTS, AND COOPERATIVE AGREEMENTS.

(a) IN GENERAL.—Subject to the provisions of the Federal Property and Administrative Services Act of 1949, the USTR may make, enter into, and perform such contracts, leases, cooperative agreements, grants, or other similar transactions with public agencies, private organizations, and persons, and make payments (in lump sum or installments, and by way of advance or reimbursement, and, in the case of any grant, with necessary adjustments on account of overpayments and underpayments) as the USTR considers necessary or appropriate to carry out the functions of the USTR or the Office.

(b) EXCEPTION.—Notwithstanding any other provision of this subtitle, the authority to enter into contracts or to make payments under this subchapter shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts. This subsection does not apply with respect to the authority granted under section 2349.

SEC. 2348. USE OF FACILITIES.

(a) USE BY USTR.—With their consent, the USTR, with or without reimbursement, may use the research, services, equipment, and facilities of—

(1) an individual,

(2) any public or private nonprofit agency or organization, including any agency or instrumentality of the United States or of any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States,

(3) any political subdivision of any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, or

(4) any foreign government,

in carrying out any function of the USTR or the Office.

(b) USE OF USTR FACILITIES.—The USTR, under terms, at rates, and for periods that the USTR considers to be in the public interest, may permit the use by public and private agencies, corporations, associations or other organizations, or individuals, of any real property, or any facility, structure or other improvement thereon, under the custody of the USTR. The USTR may require permittees under this section to maintain or recondition, at their own expense, the real property, facilities, structures, and improvements used by such permittees.

SEC. 2349. GIFTS AND BEQUESTS.

(a) IN GENERAL.—The USTR is authorized to accept, hold, administer, and utilize gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Office. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited in the United States Treasury in a separate fund and shall be disbursed on order of the USTR. Property accepted pursuant to this subsection, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest.

(b) TAX TREATMENT.—For the purpose of Federal income, estate, and gift taxes, and State taxes, property accepted under subsection (a) shall be considered a gift or bequest to or for the use of the United States.

(c) INVESTMENT.—Upon the request of the USTR, the Secretary of the Treasury may invest and reinvest in securities of the United States or in securities guaranteed as to principal and interest by the United States any moneys contained in the fund provided for in subsection (a). Income accruing from such securities, and from any other property held by the USTR pursuant to subsection (a), shall be deposited to the credit of the fund, and shall be disbursed upon order of the USTR.

SEC. 2350. WORKING CAPITAL FUND.

(a) ESTABLISHMENT.—The USTR is authorized to establish for the Office a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the USTR shall find to be desirable in the interest of economy and efficiency, including—

(1) a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Office and its components;

(2) central messenger, mail, and telephone service and other communications services;

(3) office space and central services for document reproduction and for graphics and visual aids;

(4) a central library service; and

(5) such other services as may be approved by the Director of the Office of Management and Budget.

(b) OPERATION OF FUND.—The capital of the fund shall consist of any appropriations made for the purpose of providing working capital and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the USTR may transfer to the fund, less the related liabilities and unpaid obligations. The fund shall be reimbursed in advance from available funds of agencies and offices in the Office, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the United States Treasury as miscellaneous receipts any surplus of the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain the fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to those services which the USTR determines will be performed.

SEC. 2351. SERVICE CHARGES.

(a) AUTHORITY.—Notwithstanding any other provision of law, the USTR may establish reasonable fees and commissions with respect to applications, documents, awards, loans, grants, research data, services, and assistance administered by the Office, and the USTR may change and abolish such fees and commissions. Before establishing, changing, or abolishing any schedule of fees or commissions under this section, the USTR may submit such schedule to the Congress.

(b) DEPOSITS.—The USTR is authorized to require a deposit before the USTR provides any item, information, service, or assistance for which a fee or commission is required under this section.

(c) DEPOSIT OF MONEYS.—Moneys received under this section shall be deposited in the Treasury in a special account for use by the USTR and are authorized to be appropriated and made available until expended.

(d) FACTORS IN ESTABLISHING FEES AND COMMISSIONS.—In establishing reasonable fees or commissions under this section, the USTR may take into account—

(1) the actual costs which will be incurred in providing the items, information, services, or assistance concerned;

(2) the efficiency of the Government in providing such items, information, services, or assistance;

(3) the portion of the cost that will be incurred in providing such items, information, services, or assistance which may be attributed to benefits for the general public rather than exclusively for the person to whom the items, information, services, or assistance is provided;

(4) any public service which occurs through the provision of such items, information, services, or assistance; and

(5) such other factors as the USTR considers appropriate.

(e) REFUNDS OF EXCESS PAYMENTS.—In any case in which the USTR determines that any person has made a payment which is not required under this section or has made a payment which is in excess of the amount required under this section, the USTR, upon application or otherwise, may cause a refund to be made from applicable funds.

SEC. 2352. SEAL OF OFFICE.

The USTR shall cause a seal of office to be made for the Office of such design as the USTR shall approve. Judicial notice shall be taken of such seal.

Subchapter E—Related Agencies

SEC. 2361. INTERAGENCY TRADE ORGANIZATION.

Section 242(a)(3) of the Trade Expansion Act of 1962 (19 U.S.C. 1872(a)(3)) is amended to read as follows:

''(3)(A) The interagency organization established under subsection (a) shall be composed of—

''(i) the United States Trade Representative, who shall be the chairperson,

''(ii) the Secretary of Agriculture,

''(iii) the Secretary of the Treasury,

''(iv) the Secretary of Labor,

''(v) the Secretary of State, and

''(vi) the representatives of such other departments and agencies as the United States Trade Representative shall designate.

''(B) The United States Trade Representative may invite representatives from other agencies, as appropriate, to attend particular meetings if subject matters of specific functional interest to such agencies are under consideration. It shall meet at such times and with respect to such matters as the President or the chairperson shall direct.''.

SEC. 2362. NATIONAL SECURITY COUNCIL.

The fourth paragraph of section 101(a) of the National Security Act of 1947 (50 U.S.C. 402(a)) is amended—

(1) by redesignating clauses (5), (6), and (7) as clauses (6), (7), and (8), respectively; and

(2) by inserting after clause (4) the following new clause:

''(5) the United States Trade Representative;''.

SEC. 2363. INTERNATIONAL MONETARY FUND.

Section 3 of the Bretton Woods Agreement Act is amended by adding at the end the following new subsection:

''(e) The United States executive director of the Fund shall consult with the United States Trade Representative with respect to matters under consideration by the Fund which relate to trade.''.

Subchapter F—Conforming Amendments

SEC. 2371. AMENDMENTS TO GENERAL PROVISIONS.

(a) INSPECTOR GENERAL.—The Inspector General Act of 1978 is amended—

(1) in subsection 9(a)(1) by inserting after subparagraph (W) the following:

''(X) of the United States Trade Representative, all functions of the Inspector General of the Department of Commerce and the Office of the Inspector General of the Department of Commerce relating to the functions transferred to the United States Trade Representative by section 2332 of the Department of Commerce Dismantling Act; and''; and

(2) in section 11—

(A) in paragraph (1) by inserting ''the United States Trade Representative;'' after ''the Attorney General;''; and

(B) in paragraph (2) by inserting ''the Office of the United States Trade Representative,'' after ''Treasury;''.

(b) AMENDMENT TO THE TRADE ACT OF 1974.—(1) Chapter 4 of title I of the Trade Act of 1974 is amended to read as follows:

''CHAPTER 4—REPRESENTATION IN TRADE NEGOTIATIONS

''SEC. 141. FUNCTIONS OF THE UNITED STATES TRADE REPRESENTATIVE.

''The United States Trade Representative established under section 2311 of the Department of Commerce Dismantling Act shall—

''(1) be the chief representative of the United States for each trade negotiation under this title or chapter 1 of title III of this Act, or subtitle A of title I of the Omnibus Trade and Competitiveness Act of 1988, or any other provision of law enacted after the Department of Commerce Dismantling Act;

''(2) report directly to the President and the Congress, and be responsible to the President and the Congress for the administration of trade agreements programs under this Act, the Omnibus Trade and Competitiveness Act of 1988, the Trade Expansion Act of 1962, section 350 of the Tariff Act of 1930, and any other provision of law enacted after the Department of Commerce Dismantling Act;

''(3) advise the President and the Congress with respect to nontariff barriers to international trade, international commodity agreements, and other matters which are related to the trade agreements programs; and

''(4) be responsible for making reports to Congress with respect to the matters set forth in paragraphs (1) and (2).''.

(2) The table of contents in the first section of the Trade Act of 1974 is amended by striking the items relating to chapter 4 and section 141 and inserting the following:

''CHAPTER 4—REPRESENTATION IN TRADE NEGOTIATIONS

''Sec. 141. Functions of the United States Trade Representative.''.

(d) FOREIGN SERVICE PERSONNEL.—The Foreign Service Act of 1980 is amended by striking paragraph (3) of section 202(a) (22 U.S.C. 3922(a)) and inserting the following:

''(3) The United States Trade Representative may utilize the Foreign Service personnel system in accordance with this Act—

''(A) with respect to the personnel performing functions—

''(i) which were transferred to the Department of Commerce from the Department of State by Reorganization Plan No. 3 of 1979; and

''(ii) which were subsequently transferred to the United States Trade Representative by section 2332 of the Department of Commerce Dismantling Act; and

''(B) with respect to other personnel of the Office of United States Trade Representative to the extent the President determines to be necessary in order to enable the Office of the United States Trade Representative to carry out functions which require service abroad.''.

(e) CHIEF FINANCIAL OFFICERS.—Section 901(b)(1) of title 31, United States Code, is amended by adding at the end the following:

''(Q) The Office of the United States Trade Representative.''.

SEC. 2372. REPEALS.

Sections 1 and 2 of the Act of June 5, 1939 (15 U.S.C. 1502 and 1503; 53 Stat. 808), relating to the Under Secretary of Commerce, are repealed.

SEC. 2373. CONFORMING AMENDMENTS RELATING TO EXECUTIVE SCHEDULE POSITIONS.

(a) POSITIONS AT LEVEL I.—Section 5312 of title 5, United States Code, is amended by amending the item relating to the United States Trade Representative to read as follows:

''United States Trade Representative, Office of the United States Trade Representative.''.

(b) POSITIONS AT LEVEL II.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

''Deputy Administrator of the Office of the United States Trade Representative.

''Deputy United States Trade Representatives, Office of the United States Trade Representative (2).''.

(c) POSITIONS AT LEVEL III.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

''Assistant Administrators, Office of the United States Trade Representative (3).

''Director General for Export Promotion, Office of the United States Trade Representative.''.

(d) POSITIONS AT LEVEL IV.—Section 5315 of title 5, United States Code, is amended—

(1) by striking the item relating to the Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service; and

(2) by adding at the end the following:

''General Counsel, Office of the United States Trade Representative.

''Inspector General, Office of the United States Trade Representative.

''Chief Financial Officer, Office of the United States Trade Representative.''.

Subchapter G—Miscellaneous

SEC. 2381. EFFECTIVE DATE.

(a) IN GENERAL.—This subtitle shall take effect on the effective date specified in section 2208(a), except that—

(1) section 2336 shall take effect on the date of the enactment of this Act; and

(2) at any time after the date of the enactment of this Act the officers provided for in subchapter B may be nominated and appointed, as provided in such subchapter.

(b) INTERIM COMPENSATION AND EXPENSES.—Funds available to the Department of Commerce or the Office of the United States Trade Representative (or any official or component thereof), with respect to the functions transferred by this subtitle, may be used, with approval of the Director of the Office of Management and Budget, to pay the compensation and expenses of an officer appointed under subsection (a) who will carry out such functions until funds for that purpose are otherwise available.

SEC. 2382. INTERIM APPOINTMENTS.

(a) IN GENERAL.—If one or more officers required by this subtitle to be appointed by and with the advice and consent of the Senate have not entered upon office on the effective date of this subtitle and notwithstanding any other provision of law, the President may designate any officer who was appointed by and with the advice and consent of the Senate, and who was such an officer on the day before the effective date of this subtitle, to act in the office until it is filled as provided by this subtitle.

(b) COMPENSATION.—Any officer acting in an office pursuant to subsection (a) shall receive compensation at the rate prescribed by this subtitle for such office.

SEC. 2383. FUNDING REDUCTIONS RESULTING FROM REORGANIZATION.

(a) FUNDING REDUCTIONS.—Notwithstanding the transfer of functions under this subtitle, and except as provided in subsection (b), the total amount appropriated by the United States in performing all functions vested in the USTR and the Office pursuant to this subtitle shall not exceed—

(1) for the first fiscal year that begins after the abolishment date specified in section 2101(c), 75 percent of the total amount appropriated in fiscal year 1995 for the performance of all such functions; and

(2) for the second fiscal year that begins after the abolishment date specified in section 2101(c) and for each fiscal year thereafter, 65 percent of the total amount appropriated in fiscal year 1995 for the performance of all such functions.

(b) EXCEPTION.—Subsection (a) shall not apply to obligations or expenditures incurred as a direct consequence of the termination, transfer, or other disposition of functions described in subsection (a) pursuant to this title.

(c) RULE OF CONSTRUCTION.—This section shall take precedence over any other provision of law unless such provision explicitly refers to this section and makes an exception to it.

(d) RESPONSIBILITY OF USTR.—The USTR, in consultation with the Director of the Office of Management and Budget, shall make such modifications in programs as are necessary to carry out the reductions in appropriations set forth in paragraph (1) and (2) of subsection (a).

(e) RESPONSIBILITIES OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall include in each report under sections 2105(a) and (b) a description of actions taken to comply with the requirements of this section.

Subtitle D—Patent and Trademark Office Corporation

SEC. 2401. SHORT TITLE.

This subtitle may be cited as the ''Patent and Trademark Office Corporation Act of 1995''.

CHAPTER 1—PATENT AND TRADEMARK OFFICE

SEC. 2411. ESTABLISHMENT OF PATENT AND TRADEMARK OFFICE AS A CORPORATION.

Section 1 of title 35, United States Code, is amended to read as follows:

''§ 1. Establishment

''(a) ESTABLISHMENT.—The Patent and Trademark Office is established as a wholly owned Government corporation subject to chapter 91 of title 31, except as otherwise provided in this title.

''(b) OFFICES.—The Patent and Trademark Office shall maintain an office in the District of Columbia, or the metropolitan area thereof, for the service of process and papers and shall be deemed, for purposes of venue in civil actions, to be a resident of the district in which its principal office is located. The Patent and Trademark Office may establish offices in such other places as it considers necessary or appropriate in the conduct of its business.

''(c) REFERENCE.—For purposes of this title, the Patent and Trademark Office shall also be referred to as the 'Office'.''.

SEC. 2412. POWERS AND DUTIES.

Section 2 of title 35, United States Code, is amended to read as follows:

''§ 2. Powers and Duties

''(a) IN GENERAL.—The Patent and Trademark Office shall be responsible for—

''(1) the granting and issuing of patents and the registration of trademarks;

''(2) conducting studies, programs, or exchanges of items or services regarding domestic and international patent and trademark law or the administration of the Office, including programs to recognize, identify, assess, and forecast the technology of patented inventions and their utility to industry;

''(3) authorizing or conducting studies and programs cooperatively with foreign patent and trademark offices and international organizations, in connection with the granting and issuing of patents and the registration of trademarks; and

''(4) disseminating to the public information with respect to patents and trademarks.

''(b) SPECIFIC POWERS.—The Office—

''(1) shall have perpetual succession;

''(2) shall adopt and use a corporate seal, which shall be judicially noticed and with which letters patent, certificates of trademark registrations, and papers issued by the Office shall be authenticated;

''(3) may sue and be sued in its corporate name and be represented by its own attorneys in all judicial and administrative proceedings, subject to the provisions of section 8 of this title;

''(4) may indemnify the Commissioner of Patents and Trademarks, and other officers, attorneys, agents, and employees (including members of the Management Advisory Board established in section 5) of the Office for liabilities and expenses incurred within the scope of their employment;

''(5) may adopt, amend, and repeal bylaws, rules, and regulations, governing the manner in which its business will be conducted and the powers granted to it by law will be exercised;

''(6) may acquire, construct, purchase, lease, hold, manage, operate, improve, alter, and renovate any real, personal, or mixed property, or any interest therein, as it considers necessary to carry out its functions;

''(7)(A) may make such purchases, contracts for the construction, maintenance, or management and operation of facilities, and contracts for supplies or services, without regard to section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759); and

''(B) may enter into and perform such purchases and contracts for printing services, including the process of composition, platemaking, presswork, silk screen processes, binding, microform, and the products of such processes, as it considers necessary to carry out the functions of the Office, without regard to sections 501 through 517 and 1101 through 1123 of title 44;

''(8) may use, with their consent, services, equipment, personnel, and facilities of other departments, agencies, and instrumentalities of the Federal Government, on a reimbursable basis, and cooperate with such other departments, agencies, and instrumentalities in the establishment and use of services, equipment, and facilities of the Office;

''(9) may obtain from the Administrator of General Services such services as the Administrator is authorized to provide to other agencies of the United States, on the same basis as those services are provided to other agencies of the United States;

''(10) may use, with the consent of the United States and the agency, government, or international organization concerned, the services, records, facilities, or personnel of any State or local government agency or instrumentality or foreign government or international organization to perform functions on its behalf;

''(11) may determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid, subject to the provisions of this title and the Act of July 5, 1946 (commonly referred to as the 'Trademark Act of 1946');

''(12) may retain and use all of its revenues and receipts, including revenues from the sale, lease, or disposal of any real, personal, or mixed property, or any interest therein, of the Office, in carrying out the functions of the Office, including for research and development and capital investment, subject to the provisions of section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note);

''(13) shall have the priority of the United States with respect to the payment of debts from bankrupt, insolvent, and decedents' estates;

''(14) may accept monetary gifts or donations of services, or of real, personal, or mixed property, in order to carry out the functions of the Office;

''(15) may execute, in accordance with its bylaws, rules, and regulations, all instruments necessary and appropriate in the exercise of any of its powers;

''(16) may provide for liability insurance and insurance against any loss in connection with its property, other assets, or operations either by contract or by self-insurance; and

''(17) shall pay any settlement or judgment entered against it from the funds of the Office and not from amounts available under section 1304 of title 31.''.

SEC. 2413. ORGANIZATION AND MANAGEMENT.

Section 3 of title 35, United States Code, is amended to read as follows:

''§ 3. Officers and employees

''(a) COMMISSIONER.—

''(1) IN GENERAL.—The management of the Patent and Trademark Office shall be vested in a Commissioner of Patents and Trademarks (hereafter in this title referred to as the 'Commissioner'), who shall be a citizen of the United States and who shall be appointed by the President, by and with the advice and consent of the Senate. The Commissioner shall be a person who, by reason of professional background and experience in patent and trademark law, is especially qualified to manage the Office.

''(2) DUTIES.—

''(A) IN GENERAL.—The Commissioner shall be responsible for the management and direction of the Office, including the issuance of patents and the registration of trademarks.

''(B) ADVISING THE PRESIDENT.—The Commissioner shall advise the President of all activities of the Patent and Trademark Office undertaken in response to obligations of the United States under treaties and executive agreements, or which relate to cooperative programs with those authorities of foreign governments that are responsible for granting patents or registering trademarks. The Commissioner shall also recommend to the President changes in law or policy which may improve the ability of United States citizens to secure and enforce patent rights or trademark rights in the United States or in foreign countries.

''(C) CONSULTING WITH THE MANAGEMENT ADVISORY BOARD.—The Commissioner shall consult with the Management Advisory Board established in section 5 on a regular basis on matters relating to the operation of the Patent and Trademark Office, and shall consult with the Board before submitting budgetary proposals to the Office of Management and Budget or changing or proposing to change patent or trademark user fees or patent or trademark regulations.

''(D) SECURITY CLEARANCES.—The Commissioner, in consultation with the Director of the Office of Personnel Management, shall maintain a program for identifying national security positions and providing for appropriate security clearances.

''(3) TERM.—The Commissioner shall serve a term of 5 years, and may continue to serve after the expiration of the Commissioner's term until a successor is appointed and assumes office. The Commissioner may be reappointed to subsequent terms.

''(4) OATH.—The Commissioner shall, before taking office, take an oath to discharge faithfully the duties of the Office.

''(5) COMPENSATION.—The Commissioner shall receive compensation at the rate of pay in effect for Level III of the Executive Schedule under section 5314 of title 5.

''(6) REMOVAL.—The Commissioner may be removed from office by the President only for cause.

''(7) DESIGNEE OF COMMISSIONER.—The Commissioner shall designate an officer of the Office who shall be vested with the authority to act in the capacity of the Commissioner in the event of the absence or incapacity of the Commissioner.

''(b) OFFICERS AND EMPLOYEES OF THE OFFICE.—

''(1) DEPUTY COMMISSIONERS.—The Commissioner shall appoint a Deputy Commissioner for Patents and a Deputy Commissioner for Trademarks for terms that shall expire on the date on which the Commissioner's term expires. The Deputy Commissioner for Patents shall be a person with demonstrated experience in patent law and the Deputy Commissioner for Trademarks shall be a person with demonstrated experience in trademark law. The Deputy Commissioner for Patents and the Deputy Commissioner for Trademarks shall be the principal policy advisors to the Commissioner on all aspects of the activities of the Office that affect the administration of patent and trademark operations, respectively.

''(2) OTHER OFFICERS AND EMPLOYEES.—The Commissioner shall—

''(A) appoint an Inspector General and such other officers, employees (including attorneys), and agents of the Office as the Commissioner considers necessary to carry out its functions;

''(B) fix the compensation of such officers and employees; and

''(C) define the authority and duties of such officers and employees and delegate to them such of the powers vested in the Office as the Commissioner may determine.

The Office shall not be subject to any administratively or statutorily imposed limitation on positions or personnel, and no positions or personnel of the Office shall be taken into account for purposes of applying any such limitation, except to the extent otherwise specifically provided by statute with respect to the Office.

''(c) LIMITS ON COMPENSATION.—Except as otherwise provided in this title or any other provision of law, the basic pay of an officer or employee of the Office for any calendar year may not exceed the annual rate of basic pay in effect for level IV of the Executive Schedule under section 5315 of title 5. The Commissioner shall by regulation establish a limitation on the total compensation payable to officers or employees of the Office, which may not exceed the annual rate of basic pay in effect for level I of the Executive Schedule under section 5312 of title 5.

''(d) INAPPLICABILITY OF TITLE 5 GENERALLY.—Except as otherwise provided in this section, officers and employees of the Office shall not be subject to the provisions of title 5 relating to Federal employees.

''(e) CONTINUED APPLICABILITY OF CERTAIN PROVISION OF TITLE 5.—The following provisions of title 5 shall apply to the Office and its officers and employees:

''(1) Section 3110 (relating to employment of relatives; restrictions).

''(2) Subchapter II of chapter 55 (relating to withholding pay).

''(3) Subchapter II of chapter 73 (relating to employment limitations).

''(f) PROVISIONS OF TITLE 5 RELATING TO CERTAIN BENEFITS.—

''(1) RETIREMENT.—(A)(i) Any individual who becomes an officer or employee of the Office pursuant to subsection (h) shall, if such individual has at least 3 years of creditable service (within the meaning of section 8332 or 8411 of title 5) as of the effective date of the Patent and Trademark Office Corporation Act of 1995, remain subject to subchapter III of chapter 83 or chapter 84 of such title, as the case may be, so long as such individual continues to hold an office or position in or under the Office without a break in service.

''(ii)(I) Except as provided in subclause (II), with respect to an individual described in clause (i), the Office shall make the appropriate withholding from pay and shall pay the contributions required of an employing agency into the Civil Service Retirement and Disability Fund and, if applicable, the Thrift Savings Fund in accordance with applicable provisions of subchapter III of chapter 83 or chapter 84 of title 5, as the case may be.

''(II) In the case of an officer or employee who remains subject to subchapter III of chapter 83 of such title by virtue of this subparagraph, the Office shall, instead of the amount which would otherwise be required under the second sentence of section 8334(a)(1) of title 5, contribute an amount equal to the normal-cost percentage (determined with respect to officers and employees of the Office using dynamic assumptions, as defined by section 8401(9) of such title) of the individual's basic pay, minus the amount required to be withheld from such pay under such section 8334(a)(1).

''(B)(i) Notwithstanding subsection (d), the provisions of subchapter III of chapter 83 or chapter 84 of title 5 (as applicable) which relate to disability shall be considered to remain in effect, with respect to an individual who becomes an officer or employee of the Office pursuant to subsection (h), until the

end of the 2-year period beginning on the effective date of the Patent and Trademark Office Corporation Act of 1995 or, if earlier, until such individual satisfies the prerequisites for coverage under any program offered by the Office to replace the disability retirement program under chapter 83 or 84 of title 5.

''(ii) This clause applies with respect to any officer or employee of the Office who is receiving disability coverage under this subparagraph and has completed the service requirement specified in the first sentence of section 8337(a) or 8451(a)(1)(A) of title 5 (as applicable), but who is not described in subparagraph (A)(i). In the case of any individual to whom this clause applies, the Office shall pay into the Civil Service Retirement and Disability Fund an amount equal to that portion of the normal-cost percentage (determined in the same manner as under subparagraph (A)(ii)(II)) of the basic pay of such individual (for service performed during the period during which such individual is receiving such coverage) allocable to such coverage. Any amounts payable under this clause shall be paid at such time and in such manner as mutually agreed to by the Office and the Office of Personnel Management, and shall be in lieu of any individual or agency contributions otherwise required.

''(2) HEALTH BENEFITS.—(A) Officers and employees of the Office shall not become ineligible to participate in the health benefits program under chapter 89 of title 5 by reason of subsection (d) until the effective date of elections made during the first election period (under section 8905(f) of title 5) beginning after the end of the 2-year period beginning on the effective date of the Patent and Trademark Office Corporation Act of 1995.

''(B)(i) With respect to any individual who becomes an officer or employee of the Office pursuant to subsection (h), the eligibility of such individual to participate in such program as an annuitant (or of any other person to participate in such program as an annuitant based on the death of such individual) shall be determined disregarding the requirements of section 8905(b) of title 5. The preceding sentence shall not apply if the individual ceases to be an officer or employee of the Office for any period of time after becoming an officer or employee of the Office pursuant to subsection (h) and before separation.

''(ii) The Government contributions authorized by section 8906 for health benefits for anyone participating in the health benefits program pursuant to this subparagraph shall be made by the Office in the same manner as provided under section 8906(g)(2) of title 5 with respect to the United States Postal Service for individuals associated therewith.

''(iii) For purposes of this subparagraph, the term 'annuitant' has the meaning given such term by section 8901(3) of title 5.

''(3) LIFE INSURANCE.—(A) Officers and employees of the Office shall not become ineligible to participate in the life insurance program under chapter 87 of title 5 by reason of subsection (d) until the first day after the end of the 2-year period beginning on the effective date of the Patent and Trademark Office Corporation Act of 1995.

''(B)(i) Eligibility for life insurance coverage after retirement or while in receipt of compensation under subchapter I of chapter 81 of title 5 shall be determined, in the case of any individual who becomes an officer or employee of the Office pursuant to subsection (h), without regard to the requirements of section 8706(b) (1) or (2), but subject to the condition specified in the last sentence of paragraph (2)(B)(i) of this subsection.

''(ii) Government contributions under section 8708(d) on behalf of any such individual shall be made by the Office in the same manner as provided under paragraph (3) thereof with respect to the United States Postal Service for individuals associated therewith.

''(4) EMPLOYEES' COMPENSATION FUND.—The Office shall remain responsible for reimbursing the Employees' Compensation Fund, pursuant to section 8147 of title 5, for compensation paid or payable after the effective date of the Patent and Trademark Office Corporation Act of 1995 in accordance with chapter 81 of title 5 with regard to any injury, disability, or death due to events arising before such date, whether or not a claim has been filed or is final on such date.

''(5) REQUIREMENT THAT THE OFFICE OFFER CERTAIN MINIMUM NUMBER OF LIFE AND HEALTH INSURANCE POLICIES.—The Office shall offer at least 1 life insurance policy and at least 3 health insurance policies to its officers and employees, comparable to existing Federal benefits, beginning on the first day after the end of the 2-year period beginning on the effective date of the Patent and Trademark Office Corporation Act of 1995.

''(g) LABOR-MANAGEMENT RELATIONS.—

''(1) LABOR RELATIONS AND EMPLOYEE RELATIONS PROGRAMS.—The Office shall develop labor relations and employee relations programs with the objective of improving productivity and efficiency, incorporating the following principles:

''(A) Such programs shall be consistent with the merit principles in section 2301(b) of title 5.

''(B) Such programs shall provide veterans preference protections equivalent to those established by sections 2801, 3308–3318, and 3320 of title 5.

''(C)(i) In order to maximize individual freedom of choice in the pursuit of employment and to encourage an economic climate conducive to economic growth, the right to work shall not be subject to undue restraint or coercion. The right to work shall not be infringed or restricted in any way based on membership in, affiliation with, or financial support of a labor organization.

''(ii) No person shall be required, as a condition of employment or continuation of employment:

''(I) To resign or refrain from voluntary membership in, voluntary affiliation with, or voluntary financial support of a labor organization.

''(II) To become or remain a member of a labor organization.

''(III) To pay any dues, fees, assessments, or other charges of any kind or amount to a labor organization.

''(IV) To pay to any charity or other third party, in lieu of such payments, any amount equivalent to or a pro-rata portion of dues, fees, assessments, or other charges regularly required of members of a labor organization.

''(V) To be recommended, approved, referred, or cleared by or through a labor organization.

''(iii) This subparagraph shall not apply to a person described in section 7103(a)(2)(v) of title 5 or a 'supervisor', 'management official', or 'confidential employee' as those terms are defined in 7103(a)(10), (11), and (13) of such title.

''(iv) Any labor organization recognized by the Office as the exclusive representative of a unit of employees of the Office shall represent the interests of all employees in that unit without discrimination and without regard to labor organization membership.

''(2) ADOPTION OF EXISTING LABOR AGREEMENTS.—The Office shall adopt all labor agreements which are in effect, as of the day before the effective date of the Patent and Trademark Office Corporation Act of 1995, with respect to such Office (as then in effect). Each such agreement shall remain in effect for the 2-year period commencing on such date, unless the agreement provides for a shorter duration or the parties agree otherwise before such period ends.

''(h) CARRYOVER OF PERSONNEL.—

''(1) FROM PTO.—Effective as of the effective date of the Patent and Trademark Office Corporation Act of 1995, all officers and employees of the Patent and Trademark Office on the day before such effective date shall become officers and employees of the Office, without a break in service.

''(2) OTHER PERSONNEL.—Any individual who, on the day before the effective date of the Patent and Trademark Office Corporation Act of 1995, is an officer or employee of the Department of Commerce (other than an officer or employee under paragraph (1)) shall be transferred to the Office if—

''(A) such individual serves in a position for which a major function is the performance of work reimbursed by the Patent and Trademark Office, as determined by the Secretary of Commerce;

''(B) such individual serves in a position that performed work in support of the Patent and Trademark Office during at least half of the incumbent's work time, as determined by the Secretary of Commerce; or

''(C) such transfer would be in the interest of the Office, as determined by the Secretary of Commerce in consultation with the Commissioner of Patents and Trademarks.

Any transfer under this paragraph shall be effective as of the same effective date as referred to in paragraph (1), and shall be made without a break in service.

''(3) ACCUMULATED LEAVE.—The amount of sick and annual leave and compensatory time accumulated under title 5 before the effective date described in paragraph (1), by officers or employees of the Patent and Trademark Office who so become officers or employees of the Office, are obligations of the Office.

''(4) TERMINATION RIGHTS.—Any employee referred to in paragraph (1) or (2) of this subsection whose employment with the Office is terminated during the 2-year period beginning on the effective date of the Patent and Trademark Office Corporation Act of 1995 shall be entitled to rights and benefits, to be afforded by the Office, similar to those such employee would have had under Federal law if termination had occurred immediately before such date. An employee who would have been entitled to appeal any such termination to the Merit Systems Protection Board, if such termination had occurred immediately before such effective date, may appeal any such termination occurring within this 2-year period to the Board under such procedures as it may prescribe.

''(5) CONTINUATION IN OFFICE OF CERTAIN OFFICERS.—(A) The individual serving as the Commissioner of Patents and Trademarks on the day before the effective date of the Patent and Trademark Office Corporation Act of 1995 may serve as the Commissioner until the earlier of 1 year after the effective date of that Act or the date on which a Commissioner is appointed under subsection (a).

''(B) The individual serving as the Assistant Commissioner for Patents on the day before the effective date of the Patent and Trademark Office Corporation Act of 1995 may serve as the Deputy Commissioner for Patents until the earlier of 1 year after the effective date of that Act or the date on which a Deputy Commissioner for Patents is appointed under subsection (b).

''(C) The individual serving as the Assistant Commissioner for Trademarks on the day before the effective date of the Patent and Trademark Office Corporation Act of 1995 may serve as the Deputy Commissioner

for Trademarks until the earlier of 1 year after the effective date of that Act or the date on which a Deputy Commissioner for Trademarks is appointed under subsection (b).

''(i) COMPETITIVE STATUS.—For purposes of appointment to a position in the competitive service for which an officer or employee of the Office is qualified, such officer or employee shall not forfeit any competitive status, acquired by such officer or employee before the effective date of the Patent and Trademark Office Corporation Act of 1995, by reason of becoming an officer or employee of the Office pursuant to subsection (h).

''(j) SAVINGS PROVISIONS.—All orders, determinations, rules, and regulations regarding compensation and benefits and other terms and conditions of employment, in effect for the Office and its officers and employees immediately before the effective date of the Patent and Trademark Office Corporation Act of 1995, shall continue in effect with respect to the Office and its officers and employees until modified, superseded, or set aside by the Office or a court of appropriate jurisdiction or by operation of law.''.

SEC. 2414. MANAGEMENT ADVISORY BOARD.

Chapter 1 of part I of title 35, United States Code, is amended by inserting after section 4 the following:

''§ 5. Patent and Trademark Office Management Advisory Board

''(a) ESTABLISHMENT OF MANAGEMENT ADVISORY BOARD.—

''(1) APPOINTMENT.—The Patent and Trademark Office shall have a Management Advisory Board (hereafter in this title referred to as the 'Board') of 12 members, 4 of whom shall be appointed by the President, 4 of whom shall be appointed by the Speaker of the House of Representatives, and 4 of whom shall be appointed by the President pro tempore of the Senate. Not more than 3 of the 4 members appointed by each appointing authority shall be members of the same political party.

''(2) TERMS.—Members of the Board shall be appointed for a term of 4 years each, except that of the members first appointed by each appointing authority, 1 shall be for a term of 1 year, 1 shall be for a term of 2 years, and 1 shall be for a term of 3 years. No member may serve more than 1 term.

''(3) CHAIR.—The President shall designate the chair of the Board, whose term as chair shall be for 3 years.

''(4) TIMING OF APPOINTMENTS.—Initial appointments to the Board shall be made within 3 months after the effective date of the Patent and Trademark Office Corporation Act of 1995, and vacancies shall be filled within 3 months after they occur.

''(5) VACANCIES.—Vacancies shall be filled in the manner in which the original appointment was made under this subsection. Members appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor is appointed.

''(b) BASIS FOR APPOINTMENTS.—Members of the Board shall be citizens of the United States who shall be chosen so as to represent the interests of diverse users of the Patent and Trademark Office, and shall include individuals with substantial background and achievement in corporate finance and management.

''(c) APPLICABILITY OF CERTAIN ETHICS LAWS.—Members of the Board shall be special Government employees within the meaning of section 202 of title 18.

''(d) MEETINGS.—The Board shall meet at the call of the chair to consider an agenda set by the chair.

''(e) DUTIES.—The Board shall—

''(1) review the policies, goals, performance, budget, and user fees of the Patent and Trademark Office, and advise the Commissioner on these matters; and

''(2) within 60 days after the end of each fiscal year, prepare an annual report on the matters referred to in paragraph (1), transmit the report to the President and the Committees on the Judiciary of the Senate and the House of Representatives, and publish the report in the Patent and Trademark Office Official Gazette.

''(f) STAFF.—The Board shall employ a staff of not more than 10 members and shall procure support services for the staff adequate to enable the Board to carry out its functions, using funds available to the Commissioner under section 42 of this title. The Board shall ensure that members of the staff, other than clerical staff, are especially qualified in the areas of patents, trademarks, or management of public agencies. Persons employed by the Board shall receive compensation as determined by the Board, which may not exceed the limitations set forth in section 3(c) of this title, shall serve in accordance with terms and conditions of employment established by the Board, and shall be subject solely to the direction of the Board, notwithstanding any other provision of law.

''(g) COMPENSATION.—Members of the Board shall be compensated for each day (including travel time) during which they are attending meetings or conferences of the Board or otherwise engaged in the business of the Board, at the rate which is the daily equivalent of the annual rate of basic pay in effect for level III of the Executive Schedule under section 5314 of title 5, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5.

''(h) ACCESS TO INFORMATION.—Members of the Board shall be provided access to records and information in the Patent and Trademark Office, except for personnel or other privileged information and information concerning patent applications required to be kept in confidence by section 122 of this title.''.

SEC. 2415. INDEPENDENCE FROM DEPARTMENT OF COMMERCE.

(a) DUTIES OF COMMISSIONER.—Section 6 of title 35, United States Code, is amended—

(1) by striking '', under the direction of the Secretary of Commerce,'' each place it appears; and

(2) by striking '', subject to the approval of the Secretary of Commerce,''.

(b) REGULATIONS FOR AGENTS AND ATTORNEYS.—Section 31 of title 35, United States Code, is amended by striking '', subject to the approval of the Secretary of Commerce,''.

SEC. 2416. TRADEMARK TRIAL AND APPEAL BOARD.

Section 17 of the Act of July 5, 1946 (commonly referred to as the ''Trademark Act of 1946'') (15 U.S.C. 1067) is amended to read as follows:

''SEC. 17. (a) In every case of interference, opposition to registration, application to register as a lawful concurrent user, or application to cancel the registration of a mark, the Commissioner shall give notice to all parties and shall direct a Trademark Trial and Appeal Board to determine and decide the respective rights of registration.

''(b) The Trademark Trial and Appeal Board shall include the Commissioner, the Deputy Commissioner for Patents, the Deputy Commissioner for Trademarks, and members competent in trademark law who are appointed by the Commissioner.''.

SEC. 2417. BOARD OF PATENT APPEALS AND INTERFERENCES.

Section 7 of title 35, United States Code, is amended to read as follows:

''§ 7. Board of Patent Appeals and Interferences

''(a) ESTABLISHMENT AND COMPOSITION.—There shall be in the Patent and Trademark Office a Board of Patent Appeals and Interferences. The Commissioner, the Deputy Commissioner for Patents, the Deputy Commissioner for Trademarks, and the examiners-in-chief shall constitute the Board. The examiners-in-chief shall be persons of competent legal knowledge and scientific ability.

''(b) DUTIES.—The Board of Patent Appeals and Interferences shall, on written appeal of an applicant, review adverse decisions of examiners upon applications for patents and shall determine priority and patentability of invention in interferences declared under section 135(a) of this title. Each appeal and interference shall be heard by at least 3 members of the Board, who shall be designated by the Commissioner. Only the Board of Patent Appeals and Interferences may grant rehearings.''.

SEC. 2418. SUITS BY AND AGAINST THE CORPORATION.

Chapter 1 of part I of title 35, United States Code, is amended—

(1) by redesignating sections 8 through 14 as sections 9 through 15; and

(2) by inserting after section 7 the following new section:

''§ 8. Suits by and against the Corporation

''(a) IN GENERAL.—

''(1) ACTIONS UNDER UNITED STATES LAW.—Any civil action or proceeding to which the Patent and Trademark Office is a party is deemed to arise under the laws of the United States. The Federal courts shall have exclusive jurisdiction over all civil actions by or against the Office.

''(2) CONTRACT CLAIMS.—Any action or proceeding against the Office in which any claim is cognizable under the Contract Disputes Act of 1978 (41 U.S.C. 601 and following) shall be subject to that Act. For purposes of that Act, the Commissioner shall be deemed to be the agency head with respect to contract claims arising with respect to the Office. Any other action or proceeding against the Office founded upon contract may be brought in an appropriate district court, notwithstanding any provision of title 28.

''(3) TORT CLAIMS.—(A) Any action or proceeding against the Office in which any claim is cognizable under the provisions of section 1346(b) and chapter 171 of title 28, shall be governed by those provisions.

''(B) Any other action or proceeding against the Office founded upon tort may be brought in an appropriate district court without regard to the provisions of section 1346(b) and chapter 171 of title 28.

''(4) PROHIBITION ON ATTACHMENT, LIENS, ETC.—No attachment, garnishment, lien, or similar process, intermediate or final, in law or equity, may be issued against property of the Office.

''(5) SUBSTITUTION OF OFFICE AS PARTY.—The Office shall be substituted as defendant in any civil action or proceeding against an officer or employee of the Office, if the Office determines that the officer or employee was acting within the scope of his or her employment with the Office. If the Office refuses to certify scope of employment, the officer or employee may at any time before trial petition the court to find and certify that the officer or employee was acting within the scope of his or her employment. Upon certification by the court, the Office shall be substituted as the party defendant. A copy of the petition shall be served upon the Office. In any such civil action or proceeding to

which paragraph (3)(A) applies, the provisions of section 1346(b) and chapter 171 of title 28 shall apply in lieu of this paragraph.

''(b) RELATIONSHIP WITH JUSTICE DEPARTMENT.—

''(1) EXERCISE BY OFFICE OF ATTORNEY GENERAL'S AUTHORITIES.—Except as provided in this section, with respect to any action or proceeding in which the Office is a party or an officer or employee thereof is a party in his or her official capacity, the Office, officer, or employee may exercise, without prior authorization from the Attorney General, the authorities and duties that otherwise would be exercised by the Attorney General on behalf of the Office, officer, or employee under title 28 and other laws.

''(2) APPEARANCES BY ATTORNEY GENERAL.—Notwithstanding paragraph (1), at any time the Attorney General may, in any action or proceeding described in paragraph (1), file an appearance on behalf of the Office or the officer or employee involved, without the consent of the Office or the officer or employee. Upon such filing, the Attorney General shall represent the Office or such officer or employee with exclusive authority in the conduct, settlement, or compromise of that action or proceeding.

''(3) CONSULTATIONS WITH AND ASSISTANCE BY ATTORNEY GENERAL.—The Office may consult with the Attorney General concerning any legal matter, and the Attorney General shall provide advice and assistance to the Office, including representing the Office in litigation, if requested by the Office.

''(4) REPRESENTATION BEFORE SUPREME COURT.—The Attorney General shall represent the Office in all cases before the United States Supreme Court.

''(5) QUALIFICATIONS OF ATTORNEYS.—An attorney admitted to practice to the bar of the highest court of at least one State in the United States or the District of Columbia and employed by the Office may represent the Office in any legal proceeding in which the Office or an officer or employee of the Office is a party or interested, regardless of whether the attorney is a resident of the jurisdiction in which the proceeding is held and notwithstanding any other prerequisites of qualification or appearance required by the court or administrative body before which the proceeding is conducted.''.

SEC. 2419. ANNUAL REPORT OF COMMISSIONER.

Section 15 of title 35, United States Code, as redesignated by section 2418 of this Act, is amended to read as follows:

''§ 15. Annual report to Congress

''The Commissioner shall report to the Congress, not later than 180 days after the end of each fiscal year, the moneys received and expended by the Office, the purposes for which the moneys were spent, the quality and quantity of the work of the Office, and other information relating to the Office. The report under this section shall also meet the requirements of section 9106 of title 31, to the extent that such requirements are not inconsistent with the preceding sentence. The report required under this section shall be deemed to be the report of the Patent and Trademark Office under section 9106 of title 31, and the Commissioner shall not file a separate report under such section.''.

SEC. 2420. SUSPENSION OR EXCLUSION FROM PRACTICE.

Section 32 of title 35, United States Code, is amended by inserting before the last sentence the following: ''The Commissioner shall have the discretion to designate any attorney who is an officer or employee of the Patent and Trademark Office to conduct the hearing required by this section.''.

SEC. 2421. FUNDING.

Section 42 of title 35, United States Code, is amended to read as follows:

''§ 42. Patent and Trademark Office funding

''(a) FEES PAYABLE TO THE OFFICE.—All fees for services performed by or materials furnished by the Patent and Trademark Office shall be payable to the Office.

''(b) USE OF MONEYS.—Moneys of the Patent and Trademark Office not otherwise used to carry out the functions of the Office shall be kept in cash on hand or on deposit, or invested in obligations of the United States or guaranteed by the United States, or in obligations or other instruments which are lawful investments for fiduciary, trust, or public funds. Fees available to the Commissioner under this title shall be used exclusively for the processing of patent applications and for other services and materials relating to patents. Fees available to the Commissioner under section 31 of the Act of July 5, 1946 (commonly referred to as the 'Trademark Act of 1946'; 15 U.S.C. 1113), shall be used exclusively for the processing of trademark registrations and for other services and materials relating to trademarks.

''(c) BORROWING AUTHORITY.—The Patent and Trademark Office is authorized to issue from time to time for purchase by the Secretary of the Treasury its debentures, bonds, notes, and other evidences of indebtedness (hereafter in this subsection referred to as 'obligations') to assist in financing its activities. Borrowing under this subsection shall be subject to prior approval in appropriation Acts. Such borrowing shall not exceed amounts approved in appropriation Acts. Any such borrowing shall be repaid only from fees paid to the Office and surcharges appropriated by the Congress. Such obligations shall be redeemable at the option of the Office before maturity in the manner stipulated in such obligations and shall have such maturity as is determined by the Office with the approval of the Secretary of the Treasury. Each such obligation issued to the Treasury shall bear interest at a rate not less than the current yield on outstanding marketable obligations of the United States of comparable maturity during the month preceding the issuance of the obligation as determined by the Secretary of the Treasury. The Secretary of the Treasury shall purchase any obligations of the Office issued under this subsection and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under that chapter are extended to include such purpose. Payment under this subsection of the purchase price of such obligations of the Patent and Trademark Office shall be treated as public debt transactions of the United States.''.

SEC. 2422. AUDITS.

Chapter 4 of part I of title 35, United States Code, is amended by adding at the end the following new section:

''§ 43. Audits

''(a) IN GENERAL.—Financial statements of the Patent and Trademark Office shall be prepared on an annual basis in accordance with generally accepted accounting principles. Such statements shall be audited by an independent certified public accountant chosen by the Commissioner. The audit shall be conducted in accordance with standards that are consistent with generally accepted Government auditing standards and other standards established by the Comptroller General, and with the generally accepted auditing standards of the private sector, to the extent feasible. The Commissioner shall transmit to the Committees on the Judiciary of the House of Representatives and the Senate the results of each audit under this subsection.

''(b) REVIEW BY COMPTROLLER GENERAL.—The Comptroller General may review any audit of the financial statement of the Patent and Trademark Office that is conducted under subsection (a). The Comptroller General shall report to the Congress and the Office the results of any such review and shall include in such report appropriate recommendations.

''(c) AUDIT BY COMPTROLLER GENERAL.—The Comptroller General may audit the financial statements of the Office and such audit shall be in lieu of the audit required by subsection (a). The Office shall reimburse the Comptroller General for the cost of any audit conducted under this subsection.

''(d) ACCESS TO OFFICE RECORDS.—All books, financial records, report files, memoranda, and other property that the Comptroller General deems necessary for the performance of any audit shall be made available to the Comptroller General.

''(e) APPLICABILITY IN LIEU OF TITLE 31 PROVISIONS.—This section applies to the Office in lieu of the provisions of section 9105 of title 31.''.

SEC. 2423. TRANSFERS.

(a) TRANSFER OF FUNCTIONS.—Except as otherwise provided in this Act, there are transferred to, and vested in, the Patent and Trademark Office all functions, powers, and duties vested by law in the Secretary of Commerce or the Department of Commerce or in the officers or components in the Department of Commerce with respect to the authority to grant patents and register trademarks, and in the Patent and Trademark Office, as in effect on the day before the effective date of this subtitle, and in the officers and components of such Office.

(b) TRANSFER OF FUNDS AND PROPERTY.—The Secretary of Commerce shall transfer to the Patent and Trademark Office, on the effective date of this subtitle, so much of the assets, liabilities, contracts, property, records, and unexpended and unobligated balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to the Department of Commerce, including funds set aside for accounts receivable which are related to functions, powers, and duties which are vested in the Patent and Trademark Office by this subtitle.

CHAPTER 2—EFFECTIVE DATE; TECHNICAL AMENDMENTS

SEC. 2431. EFFECTIVE DATE.

This subtitle shall take effect 6 months after the date of the enactment of this Act.

SEC. 2432. TECHNICAL AND CONFORMING AMENDMENTS.

(a) AMENDMENTS TO TITLE 35.—

(1) The table of contents for part I of title 35, United States Code, is amended by amending the item relating to chapter 1 to read as follows:

''1. Establishment, Officers and Employees, Functions ..... 1.''

(2) The table of sections for chapter 1 of title 35, United States Code, is amended to read as follows:

''CHAPTER 1—ESTABLISHMENT, OFFICERS AND EMPLOYEES, FUNCTIONS

''Sec.
''1. Establishment.
''2. Powers and duties.
''3. Officers and employees.
''4. Restrictions on officers and employees as to interest in patents.
''5. Patent and Trademark Office Management Advisory Board.
''6. Duties of Commissioner.
''7. Board of Patent Appeals and Interferences.
''8. Suits by and against the Corporation.
''9. Library.
''10. Classification of patents.

''11. Certified copies of records.
''12. Publications.
''13. Exchange of copies of patents with foreign countries.
''14. Copies of patents for public libraries.
''15. Annual report to Congress.''.

(3) The table of contents for chapter 4 of part I of title 35, United States Code, is amended by adding at the end the following new item:

''43. Audits.''.

(b) OTHER PROVISIONS OF LAW.—

(1) Section 9101(3) of title 31, United States Code, is amended by adding at the end the following:

''(O) the Patent and Trademark Office.''.

(2) Section 500(e) of title 5, United States Code, is amended by striking ''Patent Office'' and inserting ''Patent and Trademark Office''.

(3) Section 5102(c)(23) of title 5, United States Code, is amended by striking '', Department of Commerce''.

(4) Section 5316 of title 5, United States Code, is amended by striking ''Commissioner of Patents, Department of Commerce.'', ''Deputy Commissioner of Patents and Trademarks.'', ''Assistant Commissioner for Patents.'', and ''Assistant Commissioner for Trademarks.''.

(5) Section 12 of the Act of February 14, 1903 (15 U.S.C. 1511) is amended by striking ''(d) Patent and Trademark Office;'' and redesignating subsections (a) through (g) as paragraphs (1) through (6), respectively.

(6) The Act of April 12, 1892 (27 Stat. 395; 20 U.S.C. 91) is amended by striking ''Patent Office'' and inserting ''Patent and Trademark Office''.

(7) Sections 505(m) and 512(o) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(m) and 360b(o)) are each amended by striking ''of the Department of Commerce''.

(8) Section 105(e) of the Federal Alcohol Administration Act (27 U.S.C. 205(e)) is amended by striking ''Patent Office'' and inserting ''Patent and Trademark Office''.

(9) Section 1744 of title 28, United States Code is amended—

(A) by striking ''Patent Office'' each place it appears and inserting ''Patent and Trademark Office''; and

(B) by striking ''Commissioner of Patents'' and inserting ''Commissioner of Patents and Trademarks''.

(10) Section 1745 of title 28, United States Code, is amended by striking ''United States Patent Office'' and inserting ''Patent and Trademark Office''.

(11) Section 1928 of title 28, United States Code, is amended by striking ''Patent Office'' and inserting ''Patent and Trademark Office''.

(12) Section 160 of the Atomic Energy Act of 1954 (42 U.S.C. 2190) is amended—

(A) by striking ''United States Patent Office'' and inserting ''Patent and Trademark Office''; and

(B) by striking ''Commissioner of Patents'' and inserting ''Commissioner of Patents and Trademarks''.

(13) Section 305(c) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457(c)) is amended by striking ''Commissioner of Patents'' and inserting ''Commissioner of Patents and Trademarks''.

(14) Section 12(a) of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5510(a)) is amended by striking ''Commissioner of the Patent Office'' and inserting ''Commissioner of Patents and Trademarks''.

(15) Section 1111 of title 44, United States Code, is amended by striking ''the Commissioner of Patents,''.

(16) Section 1114 of title 44, United States Code, is amended by striking ''the Commissioner of Patents,''.

(17) Section 1123 of title 44, United States Code, is amended by striking ''the Patent Office,''.

(18) Sections 1337 and 1338 of title 44, United States Code, and the items relating to those sections in the table of contents for chapter 13 of such title, are repealed.

(19) Section 10(i) of the Trading With the Enemy Act (50 U.S.C. App. 10(i)) is amended by striking ''Commissioner of Patents'' and inserting ''Commissioner of Patents and Trademarks''.

(20) Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting ''the Patent and Trademark Office,'', after ''the Panama Canal Commission,''.

Subtitle E—Miscellaneous Provisions

SEC. 2501. REFERENCES.

Any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a department or office from which a function is transferred by this title—

(1) to the head of such department or office is deemed to refer to the head of the department or office to which such function is transferred; or

(2) to such department or office is deemed to refer to the department or office to which such function is transferred.

SEC. 2502. EXERCISE OF AUTHORITIES.

Except as otherwise provided by law, a Federal official to whom a function is transferred by this title may, for purposes of performing the function, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this title.

SEC. 2503. SAVINGS PROVISIONS.

(a) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the President, the Secretary of Commerce, the United States Trade Representative, any officer or employee of any office transferred by this title, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred by this title, and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date),

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law.

(b) PROCEEDINGS.—This title shall not affect any proceedings or any application for any benefits, service, license, permit, certificate, or financial assistance pending on the date of the enactment of this Act before an office transferred by this title, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

(c) SUITS.—This title shall not affect suits commenced before the date of the enactment of this Act, and in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of Commerce or the Secretary of Commerce, or by or against any individual in the official capacity of such individual as an officer or employee of an office transferred by this title, shall abate by reason of the enactment of this title.

(e) CONTINUANCE OF SUITS.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and under this title such function is transferred to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(f) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this title, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred by this title shall apply to the exercise of such function by the head of the Federal agency, and other officers of the agency, to which such function is transferred by this title.

SEC. 2504. TRANSFER OF ASSETS.

Except as otherwise provided in this title, so much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with a function transferred to an official or agency by this title shall be available to the official or the head of that agency, respectively, at such time or times as the Director of the Office of Management and Budget directs for use in connection with the functions transferred.

SEC. 2505. DELEGATION AND ASSIGNMENT.

Except as otherwise expressly prohibited by law or otherwise provided in this title, an official to whom functions are transferred under this title (including the head of any office to which functions are transferred under this title) may delegate any of the functions so transferred to such officers and employees of the office of the official as the official may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions under this section or under any other provision of this title shall relieve the official to whom a function is transferred under this title of responsibility for the administration of the function.

SEC. 2506. AUTHORITY OF DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET WITH RESPECT TO FUNCTIONS TRANSFERRED.

(a) DETERMINATIONS.—If necessary, the Director shall make any determination of the functions that are transferred under this title.

(b) INCIDENTAL TRANSFERS.—The Director, at such time or times as the Director shall provide, may make such determinations as may be necessary with regard to the functions transferred by this title, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions

of this title. The Director shall provide for the termination of the affairs of all entities terminated by this title and for such further measures and dispositions as may be necessary to effectuate the purposes of this title.

SEC. 2507. CERTAIN VESTING OF FUNCTIONS CONSIDERED TRANSFERS.

For purposes of this title, the vesting of a function in a department or office pursuant to reestablishment of an office shall be considered to be the transfer of the function.

SEC. 2508. AVAILABILITY OF EXISTING FUNDS.

Existing appropriations and funds available for the performance of functions, programs, and activities terminated pursuant to this title shall remain available, for the duration of their period of availability, for necessary expenses in connection with the termination and resolution of such functions, programs, and activities.

SEC. 2509. DEFINITIONS.

For purposes of this title—

(1) the term ''function'' includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

(2) the term 'office' includes any office, administration, agency, bureau, institute, council, unit, organizational entity, or component thereof.

Subtitle F—Citizens Commission on 21st Century Government

SEC. 2601. SHORT TITLE AND PURPOSE.

(a) SHORT TITLE.—This subtitle may be cited as the ''21st Century Government Act''.

(b) PURPOSE.—The purpose of this subtitle is to establish a bipartisan commission to—

(1) identify and analyze the current functions and missions of the Federal Government; and

(2) based on that analysis, develop recommendations to restructure the executive branch of the Federal Government, in order to—

(A) focus Federal efforts on those core functions and missions that the Federal Government must perform in the 21st Century;

(B) ensure that the Federal Government performs those functions as effectively and efficiently as possible;

(C) consolidate executive organizations around clear, specific missions reflecting current national priorities;

(D) eliminate functions that do not advance current national priorities;

(E) eliminate duplication of functions and activities within and among departments and agencies;

(F) streamline organizational hierarchy so as to reduce costs and increase accountability for performance; and

(G) provide a basis for—

(i) the subsequent implementation of operational reforms for Federal agencies, including administrative consolidation and the provision of 1-stop services for citizens; and

(ii) more detailed structural improvements within each agency.

SEC. 2602. CITIZENS COMMISSION ON 21ST CENTURY GOVERNMENT.

(a) ESTABLISHMENT.—There is established in the legislative branch an independent commission to be known as the Citizens Commission on 21st Century Government (in this subtitle referred to as the ''Commission'').

(b) APPOINTMENT OF COMMISSIONERS.—

(1) COMPOSITION.—The Commission shall be a bipartisan body composed of 11 members, who shall be appointed as follows:

(A) Three members shall be appointed by the Speaker of the House of Representatives.

(B) Three members shall be appointed by the majority leader of the Senate.

(C) Two members shall be appointed by the minority leader of the House of Representatives.

(D) Two members shall be appointed by the minority leader of the Senate.

(E) One member appointed jointly by the Speaker of the House of Representatives and the majority leader of the Senate, in consultation with the minority leaders of the House of Representatives and the Senate, who shall be the Chairman of the Commission.

(2) MEMBERSHIP QUALIFICATIONS.—Any citizen of the United States is eligible to be appointed as a member of the Commission, except an individual serving as a Member of Congress or an elected or appointed official of the executive branch of the Federal Government.

(3) CONFLICT OF INTERESTS.—For purposes of chapter 11 of title 18, United States Code, a member of the Commission shall be a special Government employee.

(4) DATE OF APPOINTMENTS.—All members of the Commission shall be appointed no later than 30 days after the date of the enactment of this Act.

(c) TERMS.—Each member of the Commission shall serve until the termination of the Commission.

(d) VACANCIES.—A vacancy on the Commission shall be filled in the same manner as was the original appointment.

(e) MEETINGS.—The Commission shall meet as necessary to carry out its responsibilities.

(f) TRAVEL EXPENSES.—Members of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(g) DIRECTOR.—

(1) APPOINTMENT.—The Chairman, in consultation with the other members of the Commission, shall appoint a Director of the Commission.

(2) PAY.—The Director shall be paid at the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(h) STAFF.—

(1) APPOINTMENT.—The Director may, with the approval of the Chairman, appoint and fix the pay of employees of the Commission without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and any Commission employee may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that a Commission employee may not receive pay in excess of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) DETAIL.—(A) Upon request of the Director, the head of any Federal department or agency may detail any of the personnel of the department or agency to the Commission to assist the Commission in carrying out its duties under this subtitle. Such details may be made with or without reimbursement, and shall be without interruption or loss of civil service status or privilege.

(B) Upon request of the Director, a Member of Congress or an officer who is the head of an office or committee of the Senate or House of Representatives or of an agency within the legislative branch may detail an employee of the office or committee of which such Member or officer is the head to the Commission to assist the Commission in carrying out its duties under this subtitle.

(i) SUPPORT SERVICES.—The Comptroller General of the United States shall provide support services to the Commission in accordance with an agreement entered into with the Commission.

(j) OTHER AUTHORITIES.—The Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code. The Commission shall give public notice of any such contract before entering into such contract.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission $1,250,000 for fiscal year 1996 to carry out its responsibilities under this subtitle, to remain available until December 31, 1996.

(l) TERMINATION.—The Commission shall terminate December 31, 1996.

SEC. 2603. DEPARTMENT AND AGENCY COOPERATION.

All Federal agencies and employees of all Federal agencies shall cooperate fully with all requests for information from the Commission and shall respond to any such request for information within 30 days or such other time as is agreed upon by the requesting and requested persons.

SEC. 2604. HEARINGS.

The Commission shall hold such hearings as it considers appropriate. The Chairman of the Commission shall designate a member of the Commission to preside at any hearing in the absence of the Chairman.

SEC. 2605. COMMISSION PROCEDURES.

(a) STARTUP.—The Commission may conduct business at any time after at least 6 of its members have been appointed in accordance with section 2602.

(b) VOTING.—A majority of those members of the Commission who have been appointed in accordance with section 2602 shall constitute a quorum for purposes of conducting Commission business. Any recommendation of the Commission shall require an affirmative vote of a majority of Commission members who have been appointed in accordance with section 2602. Members of the Commission may not vote by proxy.

SEC. 2606. FRAMEWORK FOR THE FEDERAL GOVERNMENT IN THE 21ST CENTURY.

(a) ANALYSIS OF CURRENT FEDERAL FUNCTIONS.—The Commission shall conduct a comprehensive review of the functions currently performed by the Federal Government, and shall analyze each such function under the following criteria:

(1) Does the function have clearly defined missions and objectives.

(2) Do those missions and objectives serve a currently valid and important Federal role, including analysis of whether—

(A) there is a need for governmental action;

(B) the Federal Government has exclusive constitutional authority to perform the function;

(C) the Federal Government is otherwise uniquely positioned to perform the function; and

(D) there is a clear need for or advantage to performing the function at the Federal level versus at the State or local level.

(3) Does the current Federal role constitute the most effective and efficient means of achieving the objectives of the function.

(4) Does the current Federal role constitute the least intrusive means of achieving the objectives with respect to individual liberty and principles of Federalism.

(5) Is there a need to enhance Federal performance of the function, including analysis of whether—

(A) the Federal Government requires greater resources or authority to perform that function;

(B) there are other ways of consolidating Federal resources and activities directed to the function; and

(C) there are opportunities for participation by the private sector or other levels of government.

(b) COMMISSION REPORTS AND RECOMMENDATIONS.—

(1) IN GENERAL.—The Commission shall prepare and submit to the Congress a report or reports on the results of its analysis. Each report shall be made public and shall include—

(A) the Commission's findings and conclusions;

(B) the Commission's recommendations for the restructuring or termination of current functions;

(C) the reasons for such findings, conclusions, and recommendations; and

(D) a complete description of the Commission's deliberations, including a discussion of any major points on which the members had significant disagreements.

(2) REPORT ON MATTERS OF HIGHEST PRIORITY.—Not later than July 31, 1996, the Commission shall submit a report containing those findings, conclusions, and recommendations that the Commission considers to be of highest priority.

(3) ADDITIONAL REPORTS.—The Commission may submit such additional reports under this section as it considers appropriate, and at such times on or before December 31, 1996, as it considers appropriate.

SEC. 2607. PROPOSAL FOR REORGANIZING THE EXECUTIVE BRANCH.

(a) IN GENERAL.—The Commission shall—

(1) examine all significant issues related to the organization of the executive branch of the Federal Government; and

(2) develop organizational recommendations to eliminate duplication, reduce costs, streamline operations, and improve performance and accountability in Federal departments and agencies.

(b) LEGISLATIVE PROPOSAL.—The recommendations of the Commission under this section shall be encompassed in a single legislative proposal under section 2608 which implements a comprehensive reorganization and restructuring plan for the executive branch and which addresses, among other issues, the following:

(1) Whether the Federal Government should include fewer departments, each with clear, specific missions and goals, and if so, what those departments should be.

(2) Whether and how to ensure that similar functions of Government, such as statistical, science, or trade functions, are consolidated within a single department or agency.

(3) Whether and how significant common administrative functions should be consolidated within one executive organization.

(4) Whether a single department-level office should be designated with responsibility for representation and oversight within the White House of all independent agencies of the executive branch.

(5) Whether and how a streamlined hierarchical structure can be provided within each department and agency.

(c) OTHER RECOMMENDATIONS.—The Commission may also make additional recommendations which it determines will enhance the operational effectiveness of the organizational recommendations. Such recommendations shall not be included in any draft implementation bill to be considered under section 2609, but may be submitted separately to the Congress.

SEC. 2608. PROCEDURES FOR MAKING RECOMMENDATIONS.

(a) COMMISSION REPORT.—No later than December 31, 1996, the Commission shall prepare and submit to the Congress a single report, which shall be made public, and which shall include—

(1) a description of the Commission's findings and recommendations pursuant to section 2607;

(2) the reasons for such recommendations; and

(3) a single proposal consisting of draft legislation to implement those recommendations for which legislation is appropriate.

(b) REVIEW AND COMMENT BY THE PRESIDENT.—No later than March 31, 1997, the President shall submit to the Congress an evaluation of the Commission's report under this section, together with any recommendations that the President considers appropriate.

SEC. 2609. CONGRESSIONAL CONSIDERATION OF REFORM PROPOSALS.

(a) DEFINITIONS.—For purposes of this section—

(1) the term ''implementation bill'' means only a bill which is introduced as provided under subsection (b), and consists of the draft legislation contained in the report submitted to Congress under section 2608; and

(2) the term ''calendar day of session'' means a calendar day other than one on which either House is not in session because of an adjournment of more than 3 days to a date certain.

(b) INTRODUCTION, REFERRAL, AND REPORT OR DISCHARGE.—

(1) INTRODUCTION.—On the first calendar day of session on which both Houses are in session immediately following April 15, 1997, a bill consisting of the draft legislation contained in the report submitted to Congress under section 2608 shall be introduced (by request)—

(A) in the Senate by the majority leader or by any Member designated by the majority leader; and

(B) in the House of Representatives by the majority leader or by any Member designated by the majority.

If such a bill is not introduced in either House as provided in the preceding session within 3 calendar days of session after such first calendar day of session, then any Member of that House may introduce such a bill.

(2) REFERRAL.—The implementation bill introduced in the Senate under paragraph (1) shall be referred concurrently to the Committee on Governmental Affairs of the Senate and other committees with jurisdiction.

(3) REPORT OR DISCHARGE.—If any committee to which an implementation bill is referred has not reported such bill by the end of the 15th calendar day of session after the date of introduction of such bill, such committee shall be immediately discharged from further consideration of such bill, and upon being reported or discharged from all committees, such bill shall be placed on the appropriate calendar of the House involved.

(c) PROCEDURES FOR CONSIDERATION BY THE SENATE.—

(1) IN GENERAL.—On or after the second calendar day of session after the date on which an implementation bill is placed on the Senate calendar, it is in order (even though a previous motion to the same effect has been disagreed to) for any Senator to move to proceed to the consideration of the implementation bill (but only on the day after the calendar day of session on which such Senator announces on the floor of the Senate the Senator's intention to do so). All points of order against the implementation bill (and against consideration of the implementation bill) are waived. The motion is privileged and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the implementation bill is agreed to, the Senate shall immediately proceed to consideration of the implementation bill without intervening motion, order, or other business, and the implementation bill shall remain the unfinished business of the Senate until disposed of.

(2) DEBATE.—Debate on the implementation bill, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between the majority leader and the minority leader or their designees. An amendment to the implementation bill is not in order. A motion further to limit debate is in order and not debatable. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the implementation bill is not in order. A motion to reconsider the vote by which the implementation bill is agreed to or disagreed to is not in order.

(3) MOTION TO SUSPEND OR WAIVE APPLICATION.—No motion to suspend or waive the application of this subsection shall be in order, except by unanimous consent.

(4) APPEALS FROM CHAIR.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to an implementation bill shall be decided without debate.

(5) FINAL PASSAGE.—Immediately following the conclusion of the debate on an implementation bill and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, the vote on final passage of the implementation bill shall occur.

(d) CONSIDERATION BY OTHER HOUSE.—

(1) IN GENERAL.—If, before the passage by the Senate of an implementation bill, the Senate receives from the House of Representatives an implementation bill, then the following procedures shall apply:

(A) The implementation bill of the House of Representatives shall not be referred to a committee and may not be considered in the Senate except in the case of final passage as provided in subparagraph (B)(ii).

(B) With respect to an implementation bill of the Senate—

(i) the procedure in the Senate shall be the same as if no implementation bill had been received from the House of Representatives; but

(ii) the vote on final passage shall be on the implementation bill of the House of Representatives.

(2) FINAL DISPOSITION.—Upon disposition of the implementation bill received from the House of Representatives, it shall no longer be in order to consider the implementation bill that originated in the Senate.

(f) RULES OF THE SENATE AND HOUSE.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of an implementation bill, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change its rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 2610. DISTRIBUTION OF ASSETS.

Any proceeds from the sale of assets of any department or agency resulting from the enactment of an implementation bill under section 2609 shall be—

(1) applied to reduce the Federal deficit; and

(2) deposited in the Treasury and treated as general receipts.

SEC. 2611. AGENCY DEFINED.

For purposes of this subtitle, the term ''agency'' means each authority of the Federal Government, including all departments, independent agencies, government-sponsored enterprises, and Government corporations, except the legislative branch, judicial branch, the governments of the territories or possessions of the United States, or the District of Columbia.

The SPEAKER pro tempore. Pursuant to the rule, it shall be in order for the chairman of the Committee on Ways and Means or his designee to offer one motion to amend, which shall be considered read and shall be debatable for 20 minutes, equally divided and controlled by the proponent and an opponent.

Further, it shall be in order to consider one motion to amend by the gentleman from Pennsylvania [Mr. WALKER], or his designee, which shall be considered read and shall be debatable for 40 minutes, equally divided and controlled by the proponent and an opponent.

The Chair understands that the gentleman from Texas will not offer an amendment.

Mr. ARCHER. The Speaker is correct and the gentleman from Pennsylvania [Mr. WALKER], will offer that amendment.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Speaker, I offer an amendment made in order under the rule.

The SPEAKER pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. WALKER:

At the appropriate place in the bill, add the following:

TITLE III-REGULATORY REFORM

SEC. 3001. SHORT TITLE.

This title may be cited as the ''Comprehensive Regulatory Reform Act of 1995''.

SEC. 3002. ANALYSIS OF AGENCY RULES.

(a) IN GENERAL.—(1) Section 551 of title 5, United States Code, is amended by striking ''and'' at the end of paragraph (13), by striking the period at the end of paragraph (14) and inserting a semicolon, and by adding at the end the following:

''(15) 'major rule' means any rule subject to section 553(c) that is likely to result in—

''(A) an annual effect on the economy of $100,000,000 or more;

''(B) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or

''(C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets;

''(16) 'Director' means the Director of the Office of Management and Budget;

''(17) 'cost' means the reasonably identifiable significant adverse effects, quantifiable and nonquantifiable, including social, environmental, health, and economic effects that are expected to result directly or indirectly from implementation of a rule or other agency action;

''(18) 'cost-benefit analysis' means an evaluation of the costs and benefits of a rule, quantified to the extent feasible and appropriate and otherwise qualitatively described, that is prepared in accordance with the requirements of this subchapter at the level of detail appropriate and practicable for reasoned decision making on the matter involved, taking into consideration the significance and complexity of the decision and any need for expedition; and

''(19) 'reasonable alternatives' means the range of reasonable regulatory options that the agency has authority to consider under the statute granting rulemaking authority, including flexible regulatory options, unless precluded by the statute granting the rulemaking authority.''.

(2) Section 553 of title 5, United States Code, is amended by adding at the end the following:

''(f)(1) Each agency shall for a proposed major rule publish in the Federal Register, at least 90 days before the date of publication of the general notice required under subsection (b), a notice of intent to engage in rulemaking.

''(2) A notice under paragraph (1) for a proposed major rule shall include, to the extent possible, the information required to be included in a regulatory impact analysis for the rule under subsection (i)(4)(B) and (D).

''(3) For a major rule proposed by an agency, the head of the agency shall include in a general notice under subsection (b), a preliminary regulatory impact analysis for the rule prepared in accordance with subsection (i).

''(4) For a final major rule, the agency shall include with the statement of basis and purpose—

''(A) a summary of a final regulatory impact analysis of the rule in accordance with subsection (i); and

''(B) a clear delineation of all changes in the information included in the final regulatory impact analysis under subsection (i) from any such information that was included in the notice for the rule under subsection (b).

The agency shall provide the complete text of a final regulatory impact analysis upon request.

''(5) The issuance of a notice of intent to engage in rulemaking under paragraph (1) and the issuance of a preliminary regulatory impact analysis under paragraph (3) shall not be considered final agency action for purposes of section 704.

''(6) In a rulemaking involving a major rule, the agency conducting the rulemaking shall make a written record describing the subject of all contacts the agency made with persons outside the agency relating to such rulemaking. If the contact was made with a non-governmental person, the written record of such contact shall be made available, upon request to the public.''.

(3)(A) HEARING REQUIREMENT.—Section 553 of title 5, United States Code, is further amended by adding after subsection (f) the following:

''(g) If more than 100 interested persons acting individually submit requests for a hearing to an agency regarding any major rule proposed by the agency, the agency shall hold such a hearing on the proposed rule.''.

(B) EXTENSION OF COMMENT PERIOD.—Section 553 of title 5, United States Code is further amended by adding after subsection (g) the following:

''(h) If during the 90-day period beginning on the date of publication of a notice under subsection (f) for a proposed major rule, or if during the period beginning on the date of publication or service of notice required by subsection (b) for a proposed major rule, more than 100 persons individually contact the agency to request an extension of the period for making submissions under subsection (c) pursuant to the notice, the agency—

''(1) shall provide an additional 30-day period for making those submissions; and

''(2) may not adopt the rule until after the additional period.''.

(C) RESPONSE TO COMMENTS.—Section 553(c) of title 5, United States Code, is amended—

(i) by inserting ''(1)'' after ''(c)''; and

(ii) by adding at the end the following:

''(2) Each agency shall publish in the Federal Register, with each rule published under section 552(a)(1)(D), responses to the substance of the comments received by the agency regarding the rule.''.

(4) Section 553 of title 5, United States Code, is further amended by adding after subsection (h) the following:

''(i)(1) Each agency shall, in connection with every major rule, prepare, and, to the extent permitted by law, consider, a regulatory impact analysis. Such analysis may be combined with any regulatory flexibility analysis performed under sections 603 and 604.

''(2) Each agency shall initially determine whether a rule it intends to propose or issue is a major rule. The Director shall have authority to order a rule to be treated as a major rule and to require any set of related rules to be considered together as a major rule.

''(3) Except as provided in subsection (j), agencies shall prepare—

''(A) a preliminary regulatory impact analysis, which shall be transmitted, along with a notice of proposed rulemaking, to the Director at least 60 days prior to the publication of notice of proposed rulemaking, and

''(B) a final regulatory impact analysis, which shall be transmitted along with the final rule at least 30 days prior to the publication of a major rule.

''(4) Each preliminary and final regulatory impact analysis shall contain the following information:

''(A) A description of the potential benefits of the rule, including any beneficial effects that cannot be quantified in monetary terms and the identification of those likely to receive the benefits.

''(B) An explanation of the necessity, legal authority, and reasonableness of the rule and a description of the condition that the rule is to address.

''(C) A description of the potential costs of the rule, including any adverse effects that cannot be quantified in monetary terms, and the identification of those likely to bear the costs.

''(D) An analysis of alternative approaches, including market based mechanisms or other flexible regulatory options that could substantially achieve the same regulatory goal at a lower cost and an explanation of the reasons why such alternative approaches were not adopted, together with a demonstration that the rule provides for the least costly approach.

''(E) A statement that the rule does not conflict with, or duplicate, any other rule or a statement of the reasons why such a conflict or duplication exists.

''(F) A statement of whether the rule will require on-site inspections or whether persons will be required by the rule to maintain any records which will be subject to inspection, and a statement of whether the rule will require persons to obtain licenses, permits, or other certifications, including specification of any associated fees or fines.

''(G) An estimate of the costs to the agency for implementation and enforcement of the rule and of whether the agency can be reasonably expected to implement the rule with the current level of appropriations.

''(5)(A) the Director is authorized to review and prepare comments on any preliminary or

final regulatory impact analysis, notice of proposed rulemaking, or final rule based on the requirements of this subsection.

''(B) Upon the request of the Director, an agency shall consult with the Director concerning the review of a preliminary impact analysis or notice of proposed rulemaking and shall refrain from publishing its preliminary regulatory impact analysis or notice of proposed rulemaking until such review is concluded. The Director's review may not take longer than 90 days after the date of the request of the Director.

''(6)(A) An agency may not adopt a major rule unless the final regulatory impact analysis for the rule is approved or commented upon in writing by the Director or by an individual designated by the Director for that purpose.

''(B) Upon receiving notice that the Director intends to comment in writing with respect to any final regulatory impact analysis or final rule, the agency shall refrain from publishing its final regulatory impact analysis or final rule until the agency has responded to the Director's comments and incorporated those comments in the agency's response in the rulemaking file.

''(7)(A) Except as provided in subparagrph (B), no final major rule subject to this section shall be promulgated unless the agency head publishes in the Federal Register a finding that—

''(i) the benefits of the rule justify the costs of the rule; and

''(ii) the rule employs to the extent practicable flexible alternatives as set forth in paragraph (4)(D) and adopts the reasonable alternative which has the greater net benefits and achieves the objectives of the statute.

''(B) If, applying the statutory requirements upon which the rule is based, a rule cannot satisfy the criteria of subparagraph (A), the agency head may promulgate the rule if the agency head finds that—

''(i) the rule employs to the extent practicable flexible reasonable alternatives of the type described in paragraph (4)(D); and

''(ii) the rule adopts the alternative with the least net cost of the reasonable alternatives that achieve the objectives of the statute.

''(8) Notwithstanding section 551(16), for purposes of this subsection with regard to any rule proposed or issued by an appropriate Federal banking agency (as that term is defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), the National Credit Union Administration, or the Office of Federal Housing Enterprise Oversight, the term 'Director' means the head of such agency, Administration, or Office.''.

(5) Section 553 of title 5, United States Code, is further amended by adding after subsection (i) the following:

''(j) To the extent practicable, the head of an agency shall seek to ensure that any proposed major rule or regulatory impact analysis of such a rule is written in a reasonably simple and understandable manner and provides adequate notice of the content of the rule to affected persons.''.

(6) Section 553 of title 5, United States Code, is further amended by adding after subsection (j) the following:

''(k)(1) The provisions of this section regarding major rules shall not apply if—

''(A) the agency for good cause finds that conducting cost-benefit analysis is impracticable due to an emergency, or health or safety threat, or a food safety threat that is likely to result in significant harm to the public or natural resources; and

''(B) the agency publishes in the Federal Register, together with such finding, a succinct statement of the basis for the finding.

''(2) Not later than one year after the promulgation of a final major rule to which paragraph (1) applies, the agency shall comply with the provisions of this subchapter and, as thereafter necessary, revise the rule.

(7) Section 553 of title 5, United States Code, is further amended by adding after subsection (k) the following:

''(l) The provisions of this section regarding major rules shall not apply to—

''(1) any regulation proposed or issued in connection with the implementation of monetary policy or to ensure the safety and soundness of federally insured depository institutions, any affiliate of such institution, credit unions, or government sponsored housing enterprises regulated by the Office of Federal Housing Enterprise Oversight;

''(2) any agency action that the head of the agency certifies is limited to interpreting, implementing, or administering the internal revenue laws of the United States, including any regulation proposed or issued in connection with ensuring the collection of taxes from a subsidiary of a foreign company doing business in the United States; and

''(3) any regulation proposed or issued pursuant to section 553 of title 5, United States Code, in connection with imposing trade sanctions against any country that engages in illegal trade activities against the United States that are injurious to American technology, jobs, pensions, or general economic well-being.''.

(8) The Director of the Office of Management and Budget shall submit a report to the Congress no later than 24 months after the date of the enactment of this Act containing an analysis of rulemaking procedures of Federal agencies and an analysis of the impact of those rulemaking procedures on the regulated public and regulatory process.

(9) The amendments made by this subsection shall apply only to final agency rules issued after rulemaking begun after the date of enactment of this Act.

SEC. 3003. RISK ASSESSMENT.

(a) IN GENERAL.—Chapter 6 of title 5, United States Code, is amended by adding at the end the following:

''SUBCHAPTER III—RISK ASSESSMENTS

''§ 631. Short title

''This subchapter may be cited as the 'Risk Assessment and Communication Act of 1995'.

''§ 632. Purposes

''The purposes of this subchapter are—

''(1) to present the public and executive branch with the most scientifically objective and unbiased information concerning the nature and magnitude of health, safety, and environmental risks in order to provide for sound regulatory decisions and public education;

''(2) to provide for full consideration and discussion of relevant data and potential methodologies;

''(3) to require explanation of significant choices in the risk assessment process which will allow for better peer review and public understanding; and

''(4) to improve consistency within the executive branch in preparing risk assessments and risk characterizations.

''§ 633. Effective date; applicability; savings provisions

''(a) EFFECTIVE DATE.—Except as otherwise specifically provided in this subchapter, the provisions of this subchapter shall take effect 18 months after the date of enactment of this subchapter.

''(b) APPLICABILITY.—

''(1) IN GENERAL.—Except as provided in paragraph (3), this subchapter applies to all significant risk assessment documents and significant risk characterization documents, as defined in paragraph (2).

''(2) SIGNIFICANT RISK ASSESSMENT DOCUMENT OR SIGNIFICANT RISK CHARACTERIZATION DOCUMENT.—(A) As used in this subchapter, the terms 'significant risk assessment document' and 'significant risk characterization document' include, at a minimum, risk assessment documents or risk characterization documents prepared by or on behalf of a covered Federal agency in the implementation of a regulatory program designed to protect human health, safety, or the environment, used as a basis for one of the items referred to in subparagraph (B), and—

''(i) included by the agency in that item; or

''(ii) inserted by the agency in the administrative record for that item.

''(B) The items referred to in subparagraph (A) are the following:

''(i) Any proposed or final major rule, including any analysis or certification under subchapter II, promulgated as part of any Federal regulatory program designed to protect human health, safety, or the environment.

''(ii) Any proposed or final environmental clean-up plan for a facility or Federal guidelines for the issuance of any such plan. As used in this clause, the term 'environmental clean-up' means a corrective action under the Solid Waste Disposal Act, a removal or remedial action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and any other environmental restoration and waste management carried out by or on behalf of a covered Federal agency with respect to any substance other than municipal waste.

''(iii) Any proposed or final permit condition placing a restriction on facility siting or operation under Federal laws administered by the Environmental Protection Agency or the Department of the Interior. Nothing in this section (iii) shall apply to the requirements of section 404 of the Clean Water Act.

''(iv) Any report to Congress.

''(v) Any regulatory action to place a substance on any official list of carcinogens or toxic or hazardous substances or to place a new health effects value on such list, including the Integrated Risk Information System Database maintained by the Environmental Protection Agency.

''(vi) Any guidance, including protocols of general applicability, establishing policy regarding risk assessment or risk characterization.

''(C) The terms 'significant risk assessment document' and 'significant risk characterization document' shall also include the following:

''(i) Any such risk assessment and risk characterization documents provided by a covered Federal agency to the public and which are likely to result in an annual effect on the economy of $75,000,000 or more.

''(ii) Environmental restoration and waste management carried out by or on behalf of the Department of Defense with respect to any substance other than municipal waste.

''(D) Within 15 months after the date of the enactment of this subchapter, each covered Federal agency administering a regulatory program designed to protect human health, safety, or the environment shall promulgate a rule establishing those additional categories, if any, of risk assessment and risk characterization documents prepared by or on behalf of the covered Federal agency that the agency will consider significant risk assessment documents or significant risk characterization documents for purposes of this subchapter. In establishing such categories, the head of the agency shall consider each of the following:

''(i) The benefits of consistent compliance by documents of the covered Federal agency in the categories.

''(ii) The administrative burdens of including documents in the categories.

''(iii) The need to make expeditious administrative decisions regarding documents in the categories.

''(iv) The possible use of a risk assessment or risk characterization in any compilation of risk hazards or health or environmental effects prepared by an agency and commonly made available to, or used by, any Federal, State, or local government agency.

''(v) Such other factors as may be appropriate.

''(E)(i) Not later than 18 months after the date of the enactment of this subchapter, the President, acting through the Director of the Office of Management and Budget, shall determine whether any other Federal agencies should be considered covered Federal agencies for purposes of this subchapter. Such determination, with respect to a particular Federal agency, shall be based on the impact of risk assessment documents and risk characterization documents on—

''(I) regulatory programs administered by that agency; and

''(II) the communication of risk information by that agency to the public.

The effective date of such a determination shall be no later than 6 months after the date of the determination.

''(ii) Not later than 15 months after the President, acting through the Director of the Office of Management and Budget, determines pursuant to clause (i) that a Federal agency should be considered a covered Federal agency for purposes of this subchapter, the head of that agency shall promulgate a rule pursuant to subparagraph (D) to establish additional categories of risk assessment and risk characterization documents described in that subparagraph.

''(3) EXCEPTIONS.—(A) This subchapter does not apply to risk assessment or risk characterization documents containing risk assessments or risk characterizations performed with respect to the following:

''(i) A screening analysis, where appropriately labeled as such, including a screening analysis for purposes of product regulation or premanufacturing notices.

''(ii) Any health, safety, or environmental inspections.

''(iii) The sale or lease of Federal resources or regulatory activities that directly result in the collection of Federal receipts.

''(B) No analysis shall be treated as a screening analysis for purposes of subparagraph (A) if the results of such analysis are used as the basis for imposing restrictions on substances or activities.

''(C) The risk assessment principle set forth in this 634(b)(1) need not apply to any risk assessment or risk characterization document described in clause (iii) of paragraph (2)(B). The risk characterization and communication principle set forth in section 635(4) need not apply to any risk assessment or risk characterization document described in clause (v) or (vi) of paragraph (2)(B).

''(c) SAVINGS PROVISIONS.—The provisions of this subchapter shall be supplemental to any other provisions of law relating to risk assessments and risk characterizations, except that nothing in this subchapter shall be construed to modify any statutory standard or statutory requirement designed to protect health, safety, or the environment. Nothing in this subchapter shall be interpreted to preclude the consideration of any data or the calculation of any estimate to more fully describe risk or provide examples of scientific uncertainty or variability. Nothing in this subchapter shall be construed to require the disclosure of any trade secret or other confidential information.

''§ 634. Principles for risk assessment

''(a) IN GENERAL.—The head of each covered Federal agency shall apply the principles set forth in subsection (b) in order to assure that significant risk assessment documents and all of their components distinguish scientific findings from other considerations and are, to the extent feasible, scientifically objective, unbiased, and inclusive of all relevant data and rely, to the extent available and practicable, on scientific findings. Discussions or explanations required under this section need not be repeated in each risk assessment document as long as there is a reference to the relevant discussion or explanation in another agency document which is available to the public.

''(b) PRINCIPLES.—The principles to be applied are as follows:

''(1) When discussing human health risks, a significant risk assessment document shall contain a discussion of both relevant laboratory and relevant epidemiological data of sufficient quality which finds, or fails to find, a correlation between health risks and a potential toxin or activity. Where conflicts among such data appear to exist, or where animal data is used as a basis to assess human health, the significant risk assessment document shall, to the extent feasible and appropriate, include discussion of possible reconciliation of conflicting information, and as relevant, differences in study designs, comparative physiology, routes of exposure, bioavailability, pharmacokinetics, and any other relevant factor, including the sufficiency of basic data for review. The discussion of possible reconciliation should indicate whether there is a biological basis to assume a resulting harm in humans. Animal data shall be reviewed with regard to its relevancy to humans.

''(2) Where a significant risk assessment document involves selection of any significant assumption, inference, or model, the document shall, to the extent feasible—

''(A) present a representative list and explanation of plausible and alternative assumptions, inferences, or models;

''(B) explain the basis for any choices;

''(C) identify any policy or value judgments;

''(D) fully describe any model used in the risk assessment and make explicit the assumptions incorporated in the model; and

''(E) indicate the extent to which any significant model has been validated by, or conflicts with, empirical data.

''§ 635. Principles for risk characterization and communication

''Each significant risk characterization document shall meet each of the following requirements:

''(1) ESTIMATES OF RISK.—The risk characterization shall describe the populations or natural resources which are the subject of the risk characterization. If a numerical estimate of risk is provided, the agency shall, to the extent feasible, provide—

''(A) the best estimate or estimates for the specific populations or natural resources which are the subject of the characterization (based on the information available to the Federal agency); and

''(B) a statement of the reasonable range of scientific uncertainties.

In addition to such best estimate or estimates, the risk characterization document may present plausible upper-bound or conservative estimates in conjunction with plausible lower bound estimates. Where appropriate, the risk characterization document may present, in lieu of a single best estimate, multiple best estimates based on assumptions, inferences, or models which are equally plausible, given current scientific understanding. To the extent practical and appropriate, the document shall provide descriptions of the distribution and probability of risk estimates to reflect differences in exposure variability or sensitivity in populations and attendant uncertainties. Sensitive subpopulations or highly exposed subpopulations include, where relevant and appropriate, children, the elderly, pregnant women, and disabled persons.

''(2) EXPOSURE SCENARIOS.—The risk characterization document shall explain the exposure scenarios used in any risk assessment, and, to the extent feasible, provide a statement of the size of the corresponding population at risk and the likelihood of such exposure scenarios.

''(3) COMPARISONS.—The document shall contain a statement that places the nature and magnitude of risks to human health, safety, or the environment in context. Such statement shall, to the extent feasible, provide comparisons with estimates of greater, lesser, and substantially equivalent risks that are familiar to and routinely encountered by the general public as well as other risks, and, where appropriate and meaningful, comparisons of those risks with other similar risks regulated by the Federal agency resulting from comparable activities and exposure pathways. Such comparisons should consider relevant distinctions among risks, such as the voluntary or involuntary nature of risks and the preventability or nonpreventability of risks.

''(4) SUBSTITUTION RISKS.—Each significant risk assessment or risk characterization document shall include a statement of any significant substitution risks to human health, where information on such risks has been provided to the agency.

''(5) SUMMARIES OF OTHER RISK ESTIMATES.—If—

''(A) a commenter provides a covered Federal agency with a relevant risk assessment document or a risk characterization document, and a summary thereof, during a public comment provided by the agency for a significant risk assessment document or a significant risk characterization document, or, where no comment period is provided but a commenter provides the covered Federal agency with the relevant risk assessment document or risk characterization document, and a summary thereof, in a timely fashion, and

''(B) the risk assessment document or risk characterization document is consistent with the principles and the guidance provided under this subchapter,

the agency shall, to the extent feasible, present such summary in connection with the presentation of the agency's significant risk assessment document or significant risk characterization document. Nothing in this paragraph shall be construed to limit the inclusion of any comments or material supplied by any person to the administrative record of any proceeding.

A document may satisfy the requirements of paragraph (3), (4) or (5) by reference to information or material otherwise available to the public if the document provides a brief summary of such information or material.

''§ 636. Recommendations or classifications by a non-United States-based entity

''No covered Federal agency shall automatically incorporate or adopt any recommendation or classification made by a non-United States-based entity concerning the health effects value of a substance without an opportunity for notice and comment, and any risk assessment document or risk characterization document adopted by a covered Federal agency on the basis of such a recommendation or classification shall comply with the provisions of this subchapter.

For the purposes of this section, the term 'non-United States-based entity' means—

''(1) any foreign government and its agencies;

''(2) the United Nations or any of its subsidiary organizations;

''(3) any other international governmental body or international standards-making organization; or

''(4) any other organization or private entity without a place of business located in the United States or its territories.

"§ 637. Guidelines and report

''(a) GUIDELINES.—Within 15 months after the date of enactment of this subchapter, the President shall issue guidelines for Federal agencies consistent with the risk assessment and characterization principles set forth in sections 634 and 635 and shall provide a format for summarizing risk assessment results. In addition, such guidelines shall include guidance on at least the following subjects: criteria for scaling animal studies to assess risks to human health; use of different types of dose-response models; thresholds; definitions, use, and interpretations of the maximum tolerated dose; weighting of evidence with respect to extrapolating human health risks from sensitive species; evaluation of benign tumors, and evaluation of different human health endpoints.

''(b) REPORT.—Within 3 years after the date of the enactment of this subchapter, each covered Federal agency shall provide a report to the Congress evaluating the categories of policy and value judgments identified under subparagraph (C) of section 634(b)(2).

''(c) PUBLIC COMMENT AND CONSULTATION.—The guidelines and report under this section, shall be developed after notice and opportunity for public comment, and after consultation with representatives of appropriate State, local, and tribal governments, and such other departments and agencies, offices, organizations, or persons as may be advisable.

''(d) REVIEW.—The President shall review and, where appropriate, revise the guidelines published under this section at least every 4 years.

"§ 638. Research and training in risk assessment

''(a) EVALUATION.—The head of each covered agency shall regularly and systematically evaluate risk assessment research and training needs of the agency, including, where relevant and appropriate, the following:

''(1) Research to reduce generic data gaps, to address modelling needs (including improved model sensitivity), and to validate default options, particularly those common to multiple risk assessments.

''(2) Research leading to improvement of methods to quantify and communicate uncertainty and variability among individuals, species, populations, and, in the case of ecological risk assessment, ecological communities.

''(3) Emerging and future areas of research, including research on comparative risk analysis, exposure to multiple chemicals and other stressors, noncancer endpoints, biological markers of exposure and effect, mechanisms of action in both mammalian and nonmammalian species, dynamics and probabilities of physiological and ecosystem exposures, and prediction of ecosystem-level responses.

''(4) Long-term needs to adequately train individuals in risk assessment and risk assessment application. Evaluations under this paragraph shall include an estimate of the resources needed to provide necessary training.

''(b) STRATEGY AND ACTIONS TO MEET IDENTIFIED NEEDS.—The head of each covered agency shall develop a strategy and schedule for carrying out research and training to meet the needs identified in subsection (a).

''(c) REPORT.—Not later than 6 months after the date of the enactment of this subchapter, the head of each covered agency shall submit to the Congress a report on the evaluations conducted under subsection ''(a) and the strategy and schedule developed under subsection ''(b). The head of each covered agency shall report to the Congress periodically on the evaluations, strategy, and schedule.

"§ 639. Study of comparative risk analysis

''(a) IN GENERAL.—(1) The Director of the Office of Management and Budget, in consultation with the Office of Science and Technology Policy, shall conduct, or provide for the conduct of, a study using comparative risk analysis to rank health, safety, and environmental risks and to provide a common basis for evaluating strategies for reducing or preventing those risks. The goal of the study shall be to improve methods of comparative risk analysis.

''(2) Not later than 90 days after the date of the enactment of this subchapter, the Director, in collaboration with the heads of appropriate Federal agencies, shall enter into a contract with the National Research Council to provide technical guidance on approaches to using comparative risk analysis and other considerations in setting health, safety, and environmental risk reduction priorities.

''(b) SCOPE OF STUDY.—The study shall have sufficient scope and breadth to evaluate comparative risk analysis and to test approaches for improving comparative risk analysis and its use in setting priorities for health, safety, and environmental risk reduction. The study shall compare and evaluate a range of diverse health, safety, and environmental risks.

''(c) STUDY PARTICIPANTS.—In conducting the study, the Director shall provide for the participation of a range of individuals with varying backgrounds and expertise, both technical and nontechnical, comprising broad representation of the public and private sectors.

''(d) DURATION.—The study shall begin within 180 days after the date of the enactment of this subchapter and terminate within 2 years after the date on which it began.

''(e) RECOMMENDATIONS FOR IMPROVING COMPARATIVE RISK ANALYSIS AND ITS USE.—Not later than 90 days after the termination of the study, the Director shall submit to the Congress the report of the National Research Council with recommendations regarding the use of comparative risk analysis and ways to improve the use of comparative risk analysis for decision-making in appropriate Federal agencies.

"§ 639a. Definitions

''For purposes of this subchapter:

''(1) RISK ASSESSMENT DOCUMENT.—The term 'risk assessment document' means a document containing the explanation of how hazards associated with a substance, activity, or condition have been identified, quantified, and assessed. The term also includes a written statement accepting the findings of any such document.

''(2) RISK CHARACTERIZATION DOCUMENT.—The term 'risk characterization document' means a document quantifying or describing the degree of toxicity, exposure, or other risk posed by hazards associated with a substance, activity, or condition to which individuals, populations, or resources are exposed. The term also includes a written statement accepting the findings of any such document.

''(3) BEST ESTIMATE.—The term 'best estimate' means a scientifically appropriate estimate which is based, to the extent feasible, on one of the following:

''(A) Central estimates of risk using the most plausible assumptions.

''(B) An approach which combines multiple estimates based on different scenarios and weighs the probability of each scenario.

''(C) Any other methodology designed to provide the most unbiased representation of the most plausible level of risk, given the current scientific information available to the Federal agency concerned.

''(4) SUBSTITUTION RISK.—The term 'substitution risk' means a potential risk to human health, safety, or the environment from a regulatory alternative designed to decrease other risks.

''(5) COVERED FEDERAL AGENCY.—The term 'covered Federal agency' means each of the following:

''(A) The Environmental Protection Agency.

''(B) The Occupational Safety and Health Administration.

''(C) The Department of Transportation (including the National Highway Transportation Safety Administration).

''(D) The Food and Drug Administration.

''(E) The Department of Energy.

''(F) The Department of the Interior.

''(G) The Department of Agriculture.

''(H) The Consumer Product Safety Commission.

''(I) The National Oceanic and Atmospheric Administration.

''(J) The United States Army Corps of Engineers.

''(K) The Mine Safety and Health Administration.

''(L) The Nuclear Regulatory Commission.

''(M) Any other Federal agency considered a covered Federal agency pursuant to section 413(b)(2)(E).

''(6) FEDERAL AGENCY.—The term 'Federal agency' means an executive department, military department, or independent establishment as defined in part I of title 5 of the United States Code, except that such term also includes the Office of Technology Assessment.

''(7) DOCUMENT.—The term 'document' includes material stored in electronic or digital form.

"§ 639b. Peer review program

''(a) ESTABLISHMENT.—For regulatory programs designed to protect human health, safety, or the environment, the head of each Federal agency shall develop a systematic program for independent and external peer review required by subsection (b). Such program shall be applicable across the agency and—

''(1) shall provide for the creation of peer review panels consisting of experts and shall be broadly representative and balanced and to the extent relevant and appropriate, may include representatives of State, local, and tribal governments, small businesses, other representatives of industry, universities, agriculture, labor, consumers, conservation organizations, or other public interest groups and organizations;

''(2) may provide for differing levels of peer review and differing numbers of experts on peer review panels, depending on the significance or the complexity of the problems or the need for expeditiousness;

''(3) shall not exclude peer reviewers with substantial and relevant expertise merely because they represent entities that may have a potential interest in the outcome, provided that interest is fully disclosed to the agency and in the case of a regulatory decision affecting a single entity, no peer reviewer representing such entity may be included on the panel;

''(4) may provide specific and reasonable deadlines for peer review panels to submit reports under subsection (c); and

''(5) shall provide adequate protections for confidential business information and trade secrets, including requiring peer reviewers to enter into confidentiality agreements.

''(b) REQUIREMENT FOR PEER REVIEW.—In connection with any rule that is likely to result in an annual increase in costs of $100,000,000 or more (other than any rule or other action taken by an agency to authorize or approve any individual substance or product), each Federal agency shall provide for peer review in accordance with this section of any risk assessment or cost analysis which forms the basis for such rule or of any analysis under section 431(a). In addition, the Director of the Office of Management and Budget may order that peer review be provided for any major risk assessment or cost assessment that is likely to have a significant impact on public policy decisions.

''(c) CONTENTS.—Each peer review under this section shall include a report to the Federal agency concerned with respect to the scientific and economic merit of data and methods used for the assessments and analyses.

''(d) RESPONSE TO PEER REVIEW.—The head of the Federal agency shall provide a written response to all significant peer review comments.

''(e) AVAILABILITY TO PUBLIC.—All peer review comments or conclusions and the agency's responses shall be made available to the public and shall be made part of the administrative record.

''(f) PREVIOUSLY REVIEWED DATA AND ANALYSIS.—No peer review shall be required under this section for any data or method which has been previously subjected to peer review or for any component of any analysis or assessment previously subjected to peer review.

''(g) NATIONAL PANELS.—The President shall appoint National Peer Review Panels to annually review the risk assessment and cost assessment practices of each Federal agency for programs designed to protect human health, safety, or the environment. The Panel shall submit a report to the Congress no less frequently than annually containing the results of such review.

''§ 639c. Petition for review of a major free-standing risk assessment

''(a) Any interested person may petition an agency to conduct a scientific review of a risk assessment conducted or adopted by the agency, except for a risk assessment used as the basis for a major rule or a site-specific risk assessment.

''(b) The agency shall utilize external peer review, as appropriate, to evaluate the claims and analyses in the petition, and shall consider such review in making its determination of whether to grant the petition.

''(c) The agency shall grant the petition if the petition establishes that there is a reasonable likelihood that—

''(1)(A) the risk assessment that is the subject of the petition was carried out in a manner substantially inconsistent with the principles in section 633; or

''(B) the risk assessment that is the subject of the petition does not take into account material significant new scientific data and scientific understanding;

''(2) the risk assessment that is the subject of the petition contains significantly different results than if it had been properly conducted pursuant to subchapter III; and

''(3) a revised risk assessment will provide the basis for reevaluating an agency determination of risk, and such determination currently has an effect on the United States economy equivalent to that of major rule.

''(d) A decision to grant, or final action to deny, a petition under this subsection shall be made not later than 180 days after the petition is submitted.

''(e) If the agency grants the petition, it shall complete its review of the risk assessment not later than 1 year after its decision to grant the petition. If the agency revises the risk assessment, in response to its review, it shall do so in accordance with section 633.

''§ 639d. Risk-based priorities

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

''(1) encourage Federal agencies engaged in regulating risks to human health, safety, and the environment to achieve the greatest risk reduction at the least cost practical;

''(2) promote the coordination of policies and programs to reduce risks to human health, safety, and the environment; and

''(3) promote open communication among Federal agencies, the public, the President, and Congress regarding environmental, health, and safety risks, and the prevention and management of those risks.

''(b) DEFINITIONS.—For the purposes of this section:

''(1) COMPARATIVE RISK ANALYSIS.—The term 'comparative risk analysis' means a process to systematically estimate, compare, and rank the size and severity of risks to provide a common basis for evaluating strategies for reducing or preventing those risks.

''(2) COVERED AGENCY.—The term 'covered agency' means each of the following:

''(A) The Environmental Protection Agency.

''(B) The Department of Labor.

''(C) The Department of Transportation.

''(D) The Food and Drug Administration.

''(E) The Department of Energy.

''(F) The Department of the Interior.

''(G) The Department of Agriculture.

''(H) The Consumer Product Safety Commission.

''(I) The National Oceanic and Atmospheric Administration.

''(J) The United States Army Corps of Engineers.

''(K) The Nuclear Regulatory Commission.

''(3) EFFECT.—The term 'effect' means a deleterious change in the condition of—

''(A) a human or other living thing (including death, cancer, or other chronic illness, decreased reproductive capacity, or disfigurement); or

''(B) an inanimate thing important to human welfare (including destruction, degeneration, the loss of intended function, and increased costs for maintenance).

''(4) IRREVERSIBILITY.—The term 'irreversibility' means the extent to which a return to conditions before the occurrence of an effect are either very slow or will never occur.

''(5) LIKELIHOOD.—The term 'likelihood' means the estimated probability that an effect will occur.

''(6) MAGNITUDE.—The term 'magnitude' means the number of individuals or the quantity of ecological resources or other resources that contribute to human welfare that are affected by exposure to a stressor.

''(7) SERIOUSNESS.—The term 'seriousness' means the intensity of effect, the likelihood, the irreversibility, and the magnitude.

''(c) DEPARTMENT AND AGENCY PROGRAM GOALS.—

''(1) SETTING PRIORITIES.—In exercising authority under applicable laws protecting human health, safety, or the environment, the head of each covered agency shall set priorities for the use of resources available under those laws to address those risks to human health, safety, and the environment that—

''(A) the covered agency determines to be most serious; and

''(B) can be addressed in a cost-effective manner, with the goal of achieving the greatest overall net reduction in risks with the public and private sector resources expended.

''(2) DETERMINING THE MOST SERIOUS RISKS.—In identifying the greatest risks under paragraph (1) of this subsection, each covered agency shall consider, at a minimum—

''(A) the likelihood, irreversibility, and severity of the effect; and

''(B) the number and classes of individuals potentially affected,

and shall explicitly take into account the results of the comparative risk analysis conducted under subsection (d) of this section.

''(3) OMB REVIEW.—The covered agency's determinations of the most serious risks for purposes of setting priorities shall be reviewed and approved by the Director of the Office of Management and Budget before submission of the covered agency's annual budget requests to Congress.

''(4) INCORPORATING RISK-BASED PRIORITIES INTO BUDGET AND PLANNING.—The head of each covered agency shall incorporate the priorities identified under paragraph (1) into the agency budget, strategic planning, regulatory agenda, enforcement, and research activities. When submitting its budget request to Congress and when announcing its regulatory agenda in the Federal Register, each covered agency shall identify the risks that the covered agency head has determined are the most serious and can be addressed in a cost-effective manner under paragraph (1), the basis for that determination, and explicitly identify how the covered agency's requested budget and regulatory agenda reflect those priorities.

''(5) EFFECTIVE DATE.—This subsection shall take effect 12 months after the date of enactment of this Act.

''(d) COMPARATIVE RISK ANALYSIS.—

''(1) REQUIREMENT.—

''(A)(i) No later than 6 months after the effective date of this Act, the Director of the Office of Management and Budget shall enter into appropriate arrangements with a nationally recognized scientific institution or scholarly organization—

''(I) to conduct a study of the methodologies for using comparative risk to rank dissimilar human health, safety, and environmental risks; and

''(II) to conduct a comparative risk analysis.

''(ii) The comparative risk analysis shall compare and rank, to the extent feasible, human health, safety, and environmental risks potentially regulated across the spectrum of programs administered by all covered agencies.

''(B) The Director shall consult with the Office of Science and Technology Policy regarding the scope of the study and the conduct of the comparative risk analysis.

''(C) Nothing in this subsection should be construed to prevent the Director from entering into a sole-source arrangement with a nationally recognized scientific institution or scholarly organization.

''(2) CRITERIA.—The Director shall ensure that the arrangement under paragraph (1) provides that—

''(A) the scope and specificity of the analysis are sufficient to provide the President and agency heads guidance in allocating resources across agencies and among programs in agencies to achieve the greatest degree of risk prevention and reduction for the public and private resources expended;

''(B) the analysis is conducted through an open process, including opportunities for the public to submit views, data, and analyses and to provide public comment on the results before making them final;

''(C) the analysis is conducted by a balanced group of individuals with relevant expertise, including toxicologists, biologists, engineers, and experts in medicine, industrial hygiene, and environmental effects, and the selection of members for such study shall be at the sole discretion of the scientific institution or scholarly organization;

''(D) the analysis is conducted, to the extent feasible and relevant, consistent with the risk assessment and risk characterization principles in section 633 of this subchapter;

''(E) the methodologies and principal scientific determinations made in the analysis are subjected to independent peer review consistent with section 633(g), and the conclusions of the peer review are made publicly available as part of the final report required under subsection (e); and

''(F) the results are presented in a manner that distinguishes between the scientific conclusions and any policy or value judgments embodied in the comparisons.

''(3) COMPLETION AND REVIEW.—No later than 3 years after the effective date of this Act, the comparative risk analysis required under paragraph (1) shall be completed. The comparative risk analysis shall be reviewed and revised at least every 5 years thereafter for a minimum of 15 years following the release of the first analysis. The Director shall arrange for such review and revision by an accredited scientific body in the same manner as provided under paragraphs (1) and (2).

''(4) STUDY.—The study of methodologies provided under paragraph (1) shall be conducted as part of the first comparative risk analysis and shall be completed no later than 180 days after the completion of that analysis. The goal of the study shall be to develop and rigorously test methods of comparative risk analysis. The study shall have sufficient scope and breadth to test approaches for improving comparative risk analysis and its use in setting priorities for human health, safety, and environmental risk prevention and reduction.

''(5) TECHNICAL GUIDANCE.—No later than 180 days after the effective date of this Act, the Director, in collaboration with other heads of covered agencies shall enter into a contract with the National Research Council to provide technical guidance to agencies on approaches to using comparative risk analysis in setting human health, safety, and environmental priorities to assist agencies in complying with subsection (c) of this section.

''(e) REPORTS AND RECOMMENDATIONS TO CONGRESS AND THE PRESIDENT.—No later than 24 months after the effective date of this Act, each covered agency shall submit a report to Congress and the President—

''(1) detailing how the agency has complied with subsection (c) and describing the reason for any departure from the requirement to establish priorities to achieve the greatest overall net reduction in risk;

''(2) recommending—

''(A) modification, repeal, or enactment of laws to reform, eliminate, or enhance programs or mandates relating to human health, safety, or the environment; and

''(B) modification or elimination of statutory or judicially mandated deadlines,that would assist the covered agency to set priorities in activities to address the risks to human health, safety, or the environment in a manner consistent with the requirements of subsection (c)(1);

''(3) evaluating the categories of policy and value judgment used in risk assessment, risk characterization, or cost-benefit analysis; and

''(4) discussing risk assessment research and training needs, and the agency's strategy and schedule for meeting those needs.

''(f) SAVINGS PROVISION AND JUDICIAL REVIEW.—

''(1) IN GENERAL.—Nothing in this section shall be construed to modify any statutory standard or requirement designed to protect human health, safety, or the environment.

''(2) JUDICIAL REVIEW.—Compliance or noncompliance by an agency with the provisions of this section shall not be subject to judicial review.

''(3) AGENCY ANALYSIS.—Any analysis prepared under this section shall not be subject to judicial consideration separate or apart from the requirement, rule, program, or law to which it relates. When an action for judicial review of a covered agency action is instituted, any analysis for, or relating to, the action shall constitute part of the whole record of agency action for the purpose of judicial review of the action and shall, to the extent relevant, be considered by a court in determining the legality of the covered agency action.''.

(b) CLERICAL AMENDMENT.—The table of sections appearing at the beginning of chapter 6 of title 5, United States Code, is amended—

(1) by inserting immediately below the chapter heading the following:

''SUBCHAPTER I—REGULATORY ANALYSIS''; and

(2) by adding at the end the following:

''SUBCHAPTER III—RISK ASSESSMENTS

''631. Short title.
''632. Purposes.
''633. Effective date; applicability; savings provisions.
''634. Principles for risk assessment.
''635. Principles for risk characterization and communication.
''636. Recommendations or classifications by a non-United States-based entity.
''637. Guidelines and report.
''638. Research and training in risk assessment.
''639. Study of comparative risk analysis.
''639a. Definitions.
''639b. Peer review program.
''639c. Petition for review of a major free-standing risk assessment.
''639d. Risk-based priorities.''.

SEC. 3004. REGULATORY FLEXIBILITY ANALYSIS.

(a) IN GENERAL.—

(1) JUDICIAL REVIEW.—

(A) AMENDMENT.—Section 611 of title 5, United States Code, is amended to read as follows:

''§ 611. Judicial review

''(a)(1) Not later than one year, notwithstanding any other provision of law, after the effective date of a final rule with respect to which an agency—

''(A) certified, pursuant to section 605(b), that such rule would not have a significant economic impact on a substantial number of small entities; or

''(B) prepared a final regulatory flexibility analysis pursuant to section 604,

an affected small entity may petition for the judicial review of such certification or analysis in accordance with the terms of this subsection. A court having jurisdiction to review such rule for compliance with the provisions of section 553 or under any other provision of law shall have jurisdiction to review such certification or analysis. In the case where an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b), a petition for judicial review under this subsection shall be filed not later than one year, notwithstanding any other provision of law, after the date the analysis is made available to the public.

''(2) For purposes of this subsection, the term 'affected small entity' means a small entity that is or will be adversely affected by the final rule.

''(3) Nothing in this subsection shall be construed to affect the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law.

''(4)(A) In the case where the agency certified that such rule would not have a significant economic impact on a substantial number of small entities, the court may order the agency to prepare a final regulatory flexibility analysis pursuant to section 604 if the court determines, on the basis of the rulemaking record, that the certification was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

''(B) In the case where the agency prepared a final regulatory flexibility analysis, the court may order the agency to take corrective action consistent with the requirements of section 604 if the court determines, on the basis of the rulemaking record, that the final regulatory flexibility analysis was prepared by the agency without observance of procedure required by section 604.

''(5) If, by the end of the 90-day period beginning on the date of the order of the court pursuant to paragraph (4) (or such longer period as the court may provide), the agency fails, as appropriate—

''(A) to prepare the analysis required by section 604; or

''(B) to take corrective action consistent with the requirements of section 604,

the court may stay the rule or grant such other relief as it deems appropriate.

''(6) In making any determination or granting any relief authorized by this subsection, the court shall take due account of the rule of prejudicial error.

''(b) In an action for the judicial review of a rule, any regulatory flexibility analysis for such rule (including an analysis prepared or corrected pursuant to subsection (a)(4)) shall constitute part of the whole record of agency action in connection with such review.

''(c) Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise provided by law.''.

(B) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply only to final agency rules issued after the date of enactment of this Act.

(2) RULES COMMENTED ON BY SBA CHIEF COUNSEL FOR ADVOCACY.—

(A) IN GENERAL.—Section 612 of title 5, United States Code, is amended by adding at the end the following new subsection:

''(d) ACTION BY THE SBA CHIEF COUNSEL FOR ADVOCACY.—

''(1) TRANSMITTAL OF PROPOSED RULES AND INITIAL REGULATORY FLEXIBILITY ANALYSIS TO SBA CHIEF COUNSEL FOR ADVOCACY.—On or before the 30th day preceding the date of publication by an agency of general notice of proposed rulemaking for a rule, the agency shall transmit to the Chief Counsel for Advocacy of the Small Business Administration—

''(A) a copy of the proposed rule; and

''(B)(i) a copy of the initial regulatory flexibility analysis for the rule if required under section 603; or

''(ii) a determination by the agency that an initial regulatory flexibility analysis is not required for the proposed rule under section 603 and an explanation for the determination.

''(2) STATEMENT OF EFFECT.—On or before the 15th day following receipt of a proposed rule and initial regulatory flexibility analysis from an agency under paragraph (1), the Chief Counsel for Advocacy may transmit to the agency a written statement of the effect of the proposed rule on small entities.

''(3) RESPONSE.—If the Chief Counsel for Advocacy transmits to an agency a statement of effect on a proposed rule in accordance with paragraph (2), the agency shall publish the statement, together with the response of the agency to the statement, in the Federal Register at the time of publication of general notice of proposed rulemaking for the rule.

''(4) SPECIAL RULE.—Any proposed rules issued by an appropriate Federal banking agency (as that term is defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), the National Credit Union Administration, or the Office of Federal Housing Enterprise Oversight, in connection with the implementation of monetary policy or to ensure the safety and soundness of federally insured depository institutions, any affiliate of such an institution, credit unions, or government sponsored housing enterprises or to protect the Federal deposit insurance funds shall not be subject to the requirements of this subsection.''.

(B) CONFORMING AMENDMENT.—Section 603(a) of title 5, United States Code, is amended by inserting ''in accordance with section 612(d)'' before the period at the end of the last sentence.

(3) SENSE OF CONGRESS REGARDING SBA CHIEF COUNSEL FOR ADVOCACY.—It is the sense of Congress that the Chief Counsel for Advocacy of the Small Business Administration should be permitted to appear as amicus curiae in any action or case brought in a court of the United States for the purpose of reviewing a rule.

(b) SUBCHAPTER HEADING.—Chapter 6 of title 5, United States Code, is amended by inserting immediately before section 601, the following subchapter heading:

''SUBCHAPTER I—REGULATORY ANALYSIS''.

SEC. 3005. GUIDANCE FOR JUDICIAL INTERPRETATION.

(a) IN GENERAL.—Chapter 7 of title 5, United States Code, is amended—

(1) by striking section 706; and

(2) by adding at the end the following new sections:

''§ 706. Scope of review

''(a) To the extent necessary to reach a decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall—

''(1) compel agency action unlawfully withheld or unreasonably delayed; and

''(2) hold unlawful and set aside agency action, findings and conclusions found to be—

''(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

''(B) contrary to constitutional right, power, privilege, or immunity;

''(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

''(D) without observance of procedure required by law;

''(E) unsupported by substantial evidence in a proceeding subject to sections 556 and 557 or otherwise reviewed on the record of an agency hearing provided by statute; or

''(F) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

''(b) In making the determinations set forth in subsection (a), the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

''§ 707. Consent decrees

''In interpreting any consent decree in effect on or after the date of enactment of this section that imposes on an agency an obligation to initiate, continue, or complete rulemaking proceedings, the court shall not enforce the decree in a way that divests the agency of discretion clearly granted to the agency by statute to respond to changing circumstances, make policy or managerial choices, or protect the rights of third parties.

''§ 708. Affirmative defense

''Notwithstanding any other provision of law, it shall be an affirmative defense in any enforcement action brought by an agency that the regulated person or entity reasonably relied on and is complying with a rule, regulation, adjudication, directive, or order of such agency or any other agency that is incompatible, contradictory, or otherwise cannot be reconciled with the agency rule, regulation, adjudication, directive, or order being enforced.

''§ 709. Agency interpretations in civil and criminal actions

''(a) No civil or criminal penalty shall be imposed by a court, and no civil administrative penalty shall be imposed by an agency, for the violation of a rule—

''(1) if the court or agency, as appropriate, finds that the rule failed to give the defendant fair warning of the conduct that the rule prohibits or requires; or

''(2) if the court or agency, as appropriate, finds that the defendant acted reasonably in good faith based upon the language of the rule as published in the Federal Register.

''(b) Nothing in this section shall be construed to preclude an agency:

''(1) from revising a rule or changing its interpretation of a rule in accordance with sections 552 and 553 of this title, and subject to the provisions of this section, prospectively enforcing the requirements of such rule as revised or reinterpreted and imposing or seeking a civil or criminal penalty for any subsequent violation of such rule as revised or reinterpreted;

''(2) from making a new determination of fact, and based upon such determination, prospectively applying a particular legal requirement.

''(c) This section shall apply to any action filed after the date of the enactment of the Comprehensive Regulatory Reform Act of 1995.''.

(b) TECHNICAL AMENDMENT.—The analysis for chapter 7 of title 5, United States Code, is amended by striking the item relating to section 706 and inserting the following new items:

''706. Scope of review.
''707. Consent decrees.
''708. Affirmative defense.
''709. Agency interpretations in civil and criminal actions.''.

SEC. 3006. CONGRESSIONAL REVIEW.

(a) FINDING.—The Congress finds that effective steps for improving the efficiency and proper management of Government operations will be promoted if a moratorium on the implementation of certain major final and proposed rules is imposed in order to provide Congress an opportunity for review.

(b) IN GENERAL.—Title 5, United States Code, is amended by inserting immediately after chapter 7 the following new chapter:''

CHAPTER 8—CONGRESSIONAL REVIEW OF AGENCY RULEMAKING

''Sec.
''801. Congressional review.
''802. Congressional disapproval procedure.
''803. Special rule on statutory, regulatory, and judicial deadlines.
''804. Definitions.
''805. Judicial review.
''806. Applicability; severability.
''807. Exemption for monetary policy.

''§ 801. Congressional review

''(a)(1)(A) Before a rule can take effect as a final rule, the Federal agency promulgating such rule shall submit to each House of the Congress and to the Comptroller General a report containing—

''(i) a copy of the rule;

''(ii) a concise general statement relating to the rule; and

''(iii) the proposed effective date of the rule.

''(B) The Federal agency promulgating the rule shall make available to each House of Congress and the Comptroller General, upon request—

''(i) a complete copy of the cost-benefit analysis of the rule, if any;

''(ii) the agency's actions relevant to sections 603, 604, 605, 607, and 609;

''(iii) the agency's actions relevant to sections 202, 203, 204, and 205 of the Unfunded Mandates Reform Act of 1995; and

''(iv) any other relevant information or requirements under any other Act and any relevant Executive orders, such as Executive Order No. 12866.

''(C) Upon receipt, each House shall provide copies to the Chairman and Ranking Member of each committee with jurisdiction.

''(2)(A) The Comptroller General shall provide a report on each major rule to the committees of jurisdiction to each House of the Congress by the end of 12 calendar days after the submission or publication date as provided in section 802(b)(2). The report of the Comptroller General shall include an assessment of the agency's compliance with procedural steps required by paragraph (1)(B).

''(B) Federal agencies shall cooperate with the Comptroller General by providing information relevant to the Comptroller General's report under subparagraph (A).

''(3) A major rule relating to a report submitted under paragraph (1) shall take effect as a final rule, the latest of—

''(A) the later of the date occurring 60 days (excluding days either House of Congress is adjourned for more than 3 days during a session of Congress) after the date on which—

''(i) the Congress receives the report submitted under paragraph (1); or

''(ii) the rule is published in the Federal Register;

''(B) if the Congress passes a joint resolution of disapproval described under section 802 relating to the rule, and the President signs a veto of such resolution, the earlier date—

''(i) on which either House of Congress votes and fails to override the veto of the President; or

''(ii) occurring 30 session days after the date on which the Congress received the veto and objections of the President; or

''(C) the date the rule would have otherwise taken effect, if not for this section (unless a joint resolution of disapproval under section 802 is enacted).

''(4) Except for a major rule, a rule shall take effect as otherwise provided by law after submission to Congress under paragraph (1).

''(5) Notwithstanding paragraph (3), the effective date of a rule shall not be delayed by operation of this chapter beyond the date on which either House of Congress votes to reject a joint resolution of disapproval under section 802.

''(b)(1) A rule or proposed rule shall not take effect (or continue) as a final rule, if the Congress passes a joint resolution of disapproval described under section 802.

''(2) A rule or proposed rule that does not take effect (or does not continue) under paragraph (1) may not be reissued in substantially the same form, and a new rule that is substantially the same as such a rule

or proposed rule may not be issued, unless the reissued or new rule is specifically authorized by a law enacted after the date of the joint resolution disapproving the original rule.

''(c)(1) Notwithstanding any other provision of this section (except subject to paragraph (3)), a rule that would not take effect by reason of this chapter may take effect, if the President makes a determination under paragraph (2) and submits written notice of such determination to the Congress.

''(2) Paragraph (1) applies to a determination made by the President by Executive order that the rule should take effect because such rule is—

''(A) necessary because of an imminent threat to health or safety or other emergency;

''(B) necessary for the enforcement of criminal laws;

''(C) necessary for national security; or

''(D) issued pursuant to a statute implementing an international trade agreement.

''(3) An exercise by the President of the authority under this subsection shall have no effect on the procedures under section 802 or the effect of a joint resolution of disapproval under this section.

''(d)(1) In addition to the opportunity for review otherwise provided under this chapter, in the case of any rule that is published in the Federal Register (as a rule that shall take effect as a final rule) during the period beginning on the date occurring 60 days before the date the Congress adjourns a session of Congress through the date on which the same or succeeding Congress first convenes its next session, section 802 shall apply to such rule in the succeeding session of Congress.

''(2)(A) In applying section 802 for purposes of such additional review, a rule described under paragraph (1) shall be treated as though—

''(i) such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the 15th session day after the succeeding Congress first convenes; and

''(ii) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

''(B) Nothing in this paragraph shall be construed to affect the requirement under subsection (a)(1) that a report shall be submitted to Congress before a final rule can take effect.

''(3) A rule described under paragraph (1) shall take effect as a final rule as otherwise provided by law (including other subsections of this section).

''(e)(1) Section 802 shall apply in accordance with its terms to any major rule that was published in the Federal Register (as a rule that shall take effect as a final rule) in the period beginning on November 20, 1994, through the date of enactment of the Comprehensive Regulatory Reform Act of 1995.

''(2) In applying section 802 for purposes of Congressional review, a rule described under paragraph (1) shall be treated as though—

''(A) such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the date of enactment of the Comprehensive Regulatory Reform Act of 1995; and

''(B) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

''(3) The effectiveness of a rule described under paragraph (1) shall be as otherwise provided by law, unless the rule is made of no force or effect under section 802.

''(f) Any rule that takes effect and later is made of no force or effect by enactment of a joint resolution under section 802 shall be treated as though such rule had never taken effect.

''(g) If the Congress does not enact a joint resolution of disapproval under section 802, no court or agency may infer any intent of the Congress from any action or inaction of the Congress with regard to such rule, related statute, or joint resolution of disapproval.

''§ 802. Congressional disapproval procedure

''(a) JOINT RESOLUTION DEFINED.—For purposes of this section, the term 'joint resolution' means only—

''(1) a joint resolution introduced in the period beginning on the date on which the report referred to in section 801(a) is received by Congress and ending 60 days thereafter (excluding days either House of Congress is adjourned for more than 3 days during a session of Congress), the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule submitted by the ___ relating to ___, and such rule shall have no force or effect.' (The blank spaces being appropriately filled in); or

''(2) a joint resolution the matter after the resolving clause of which is as follows: 'That the Congress disapproves the proposed rule published by the _____ relating to _____, and such proposed rule shall not be issued or take effect as a final rule.' (the blank spaces being appropriately filled in)

''(b)(1) A joint resolution described in subsection (a) shall be referred to the committees in each House of Congress with jurisdiction.

''(2) For purposes of this section, the term 'submission or publication date' means—

''(A) in the case of a joint resolution described in subsection (a)(1) the later of the date on which—

''(i) the Congress receives the report submitted under section 801(a)(1); or

''(ii) the rule is published in the Federal Register; or

''(B) in the case of a joint resolution described in subsection (a)(2), the date of introduction of the joint resolution.

''(c) In the Senate, if the committee to which is referred a joint resolution described in subsection (a) has not reported such joint resolution (or an identical joint resolution) at the end of 20 calendar days after the submission or publication date defined under subsection (b)(2), such committee may be discharged from further consideration of such joint resolution upon a petition supported in writing by 30 Members of the Senate, and such joint resolution shall be placed on the appropriate calendar.

''(d)(1) In the Senate, when the committee to which a joint resolution is referred has reported, or when a committee is discharged (under subsection (c)) from further consideration of, a joint resolution described in subsection (a), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for a motion to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the Senate until disposed of.

''(2) In the Senate, debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the joint resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order.

''(3) In the Senate, immediately following the conclusion of the debate on a joint resolution described in subsection (a), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, the vote on final passage of the joint resolution shall occur.

''(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a joint resolution described in subsection (a) shall be decided without debate.

''(e) If, before the passage by one House of a joint resolution of that House described in subsection (a), that House receives from the other House a joint resolution described in subsection (a), then the following procedures shall apply:

''(1) The joint resolution of the other House shall not be referred to a committee.

''(2) With respect to a joint resolution described in subsection (a) of the House receiving the joint resolution—

''(A) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

''(B) the vote on final passage shall be on the joint resolution of the other House.

''(f) This section is enacted by Congress—

''(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

''(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

''§ 803. Special rule on statutory, regulatory, and judicial deadlines

''(a) In the case of any deadline for, relating to, or involving any rule which does not take effect (or the effectiveness of which is terminated) because of enactment of a joint resolution under section 802, that deadline is extended until the date 1 year after the date of the joint resolution. Nothing in this subsection shall be construed to affect a deadline merely by reason of the postponement of a rule's effective date under section 801(a).

''(b) The term 'deadline' means any date certain for fulfilling any obligation or exercising any authority established by or under any Federal statute or regulation, or by or under any court order implementing any Federal statute or regulation.

''§ 804. Definitions

''(a) For purposes of this chapter—

''(1) the term 'Federal agency' means any agency as that term is defined in section 551(1) (relating to administrative procedure);

''(2) the term 'major rule' has the same meaning given such term in section 621(5); and

''(3) the term 'final rule' means any final rule or interim final rule.

''(b) As used in subsection (a)(3), the term 'rule' has the meaning given such term in section 551, except that such term does not include any rule of particular applicability including a rule that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing or any rule of agency organization,

personnel, procedure, practice or any routine matter.

"§ 805. Judicial review

''No determination, finding, action, or omission under this chapter shall be subject to judicial review.

"§ 806. Applicability; severability

''(a) This chapter shall apply notwithstanding any other provision of law.

''(b) If any provision of this chapter or the application of any provision of this chapter to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this chapter, shall not be affected thereby.

"§ 807. Exemption for monetary policy

''Nothing in this chapter shall apply to rules that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.''.

(c) EFFECTIVE DATE.—The amendment made by subsection (b) shall take effect on the date of enactment of this Act.

(d) TECHNICAL AMENDMENT.—The table of chapters for part I of title 5, United States Code, is amended by inserting immediately after the item relating to chapter 7 the following:

"8. Congressional Review of Agency Rulemaking ..... **801".**

SEC. 3007. REGULATORY ACCOUNTING STATEMENT.

(a) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) MAJOR RULE.—The term ''major rule'' has the same meaning as defined in section 621(5)(A)(i) of title 5, United States Code. The term shall not include—

(A) administrative actions governed by sections 556 and 557 of title 5, United States Code;

(B) regulations issued with respect to a military or foreign affairs function of the United States or a statute implementing an international trade agreement; or

(C) regulations related to agency organization, management, or personnel.

(2) AGENCY.—The term ''agency'' means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but shall not include—

(A) the General Accounting Office;

(B) the Federal Election Commission;

(C) the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions; or

(D) Government-owned contractor-operated facilities, including laboratories engaged in national defense research and production activities.

(b) ACCOUNTING STATEMENT.—

(1) IN GENERAL.—

(A) The President shall be responsible for implementing and administering the requirements of this section.

(B) Not later than June 1, 1997, and each June 1 thereafter, the President shall prepare and submit to Congress an accounting statement that estimates the annual costs of major rules and corresponding benefits in accordance with this subsection.

(2) YEARS COVERED BY ACCOUNTING STATEMENT.—Each accounting statement shall cover, at a minimum, the 5 fiscal years beginning on October 1 of the year in which the report is submitted and may cover any fiscal year preceding such fiscal years for purpose of revising previous estimates.

(3) TIMING AND PROCEDURES.—

(A) The President shall provide notice and opportunity for comment for each accounting statement. The President may delegate to an agency the requirement to provide notice and opportunity to comment for the portion of the accounting statement relating to that agency.

(B) The President shall propose the first accounting statement under this subsection not later than 2 years after the date of enactment of this Act and shall issue the first accounting statement in final form not later than 3 years after such effective date. Such statement shall cover, at a minimum, each of the fiscal years beginning after the date of enactment of this Act.

(4) CONTENT OF ACCOUNTING STATEMENT.—

(A) Each accounting statement shall contain estimates of costs and benefits with respect to each fiscal year covered by the statement in accordance with this paragraph. For each such fiscal year for which estimates were made in a previous accounting statement, the statement shall revise those estimates and state the reasons for the revisions.

(B)(i) An accounting statement shall estimate the costs of major rules by setting forth, for each year covered by the statement—

(I) the annual expenditure of national economic resources for major rules, grouped by regulatory program; and

(II) such other quantitative and qualitative measures of costs as the President considers appropriate.

(ii) For purposes of the estimate of costs in the accounting statement, national economic resources shall include, and shall be listed under, at least the following categories:

(I) Private sector costs.

(II) Federal sector costs.

(III) State and local government administrative costs.

(C) An accounting statement shall estimate the benefits of major rules by setting forth, for each year covered by the statement, such quantitative and qualitative measures of benefits as the President considers appropriate. Any estimates of benefits concerning reduction in health, safety, or environmental risks shall present the most plausible level of risk practical, along with a statement of the reasonable degree of scientific certainty.

(c) ASSOCIATED REPORT TO CONGRESS.—

(1) IN GENERAL.—At the same time as the President submits an accounting statement under subsection (b), the President, acting through the Director of the Office of Management and Budget, shall submit to Congress a report associated with the accounting statement (hereinafter referred to as an ''associated report''). The associated report shall contain, in accordance with this subsection—

(A) analyses of impacts; and

(B) recommendations for reform.

(2) ANALYSES OF IMPACTS.—The President shall include in the associated report the following:

(A) Analyses prepared by the President of the cumulative impact of major rules in Federal regulatory programs covered in the accounting statement on the following:

(i) The ability of State and local governments to provide essential services, including police, fire protection, and education.

(ii) Small business.

(iii) Productivity.

(iv) Wages.

(v) Economic growth.

(vi) Technological innovation.

(vii) Consumer prices for goods and services.

(viii) Such other factors considered appropriate by the President.

(B) A summary of any independent analyses of impacts prepared by persons commenting during the comment period on the accounting statement.

(3) RECOMMENDATIONS FOR REFORM.—The President shall include in the associated report the following:

(A) A summary of recommendations of the President for reform or elimination of any Federal regulatory program or program element that does not represent sound use of national economic resources or otherwise is inefficient.

(B) A summary of any recommendations for such reform or elimination of Federal regulatory programs or program elements prepared by persons commenting during the comment period on the accounting statement.

(d) GUIDANCE FROM OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall, in consultation with the Council of Economic Advisers, provide guidance to agencies—

(1) to standardize measures of costs and benefits in accounting statements prepared pursuant to sections 3 and 7 of this Act, including—

(A) detailed guidance on estimating the costs and benefits of major rules; and

(B) general guidance on estimating the costs and benefits of all other rules that do not meet the thresholds for major rules; and

(2) to standardize the format of the accounting statements.

(e) RECOMMENDATIONS FROM CONGRESSIONAL BUDGET OFFICE.—After each accounting statement and associated report submitted to Congress, the Director of the Congressional Budget Office shall make recommendations to the President—

(1) for improving accounting statements prepared pursuant to this section, including recommendations on level of detail and accuracy; and

(2) for improving associated reports prepared pursuant to this section, including recommendations on the quality of analysis.

(f) JUDICIAL REVIEW.—No requirements under this section shall be subject to judicial review in any manner.

SEC. 3008. STUDIES AND REPORTS.

(a) RISK ASSESSMENTS.—The Administrative Conference of the United States shall—

(1) develop and carry out an ongoing study of the operation of the risk assessment requirements of subchapter III of chapter 6 of title 5, United States Code (as added by section 4 of this Act); and

(2) submit an annual report to the Congress on the findings of the study.

(b) ADMINISTRATIVE PROCEDURE ACT.—Not later than December 31, 1996, the Administrative Conference of the United States shall—

(1) carry out a study of the operation of the Administrative Procedure Act (as amended by section 3 of this Act); and

(2) submit a report to the Congress on the findings of the study, including proposals for revision, if any.

SEC. 3009. MISCELLANEOUS PROVISIONS.

(a) EFFECTIVE DATE.—Except as otherwise provided, this Act and the amendments made by this Act shall take effect on the date of enactment.

(b) SEVERABILITY.—If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from

Pennsylvania [Mr. WALKER] and a Member opposed each will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I include for the RECORD letters from the National Federation of Independent Business, the Chamber of Commerce, and the American Farm Bureau in favor of the amendment.

The information referred to follows:

PENDING VOTE MEMBER'S IMMEDIATE ATTENTION PLEASE

NFIB KEY SMALL-BUSINESS VOTE

Support the Walker Regulatory Reform Amendment.

DEAR REPRESENTATIVE: On behalf of the more than 600,000 members of the National Federation of Independent Business (NFIB), I am writing to express NFIB's strong support for Rep. Walker's regulatory reform amendment to the debt limit extension legislation.

Since regulatory reform legislation was passed in late February, small business owners have been waiting for regulatory relief, but to no avail. NFIB members continue to call and write with their horror stories of regulation that is still strangling their business.

Rep. Walker's amendment would address small business concerns by including provisions dealing with Cost-Benefit Analysis/Risk Assessment; Judicial Review of the Regulatory Flexibility Act; Regulatory Impact Requirements; and, Congressional Review.

NFIB urges a YES VOTE on the Walker Amendment to the debt limit extension legislation. This vote will be considered a Key Small Business Vote for the 104th Congress.

Sincerely,

DONALD A. DANNER,
Vice President,
Federal Governmental Relations.

CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA,
Washington, DC, November 9, 1995.

MEMBERS OF THE HOUSE OF REPRESENTATIVES: The House of Representatives will consider shortly an amendment to the debt extension bill, H.R. 2586, which provides an opportunity to enact real regulatory reform this year. The U.S. Chamber of Commerce Federation of 215,000 businesses, 3,000 state and local chambers of commerce, 1,200 trade and professional associations, and 75 American Chambers of Commerce abroad urges your support for the Walker amendment on regulatory reform.

The Walker regulatory reform amendment has been carefully crafted to encompass provisions from the House and Senate regulatory reform bills. It includes provisions to require the Federal government to conduct a risk assessment and cost/benefit analysis for major regulations effecting environment, health and safety. These were important components of the Contract With America that received overwhelming support in the House earlier this year.

Now is the time to reform the regulatory system. We need to streamline, modernize, and update our regulatory system and direct limited resources to the most serious problems first. Business supports a clean and healthy environment and a safe workplace for employees, but is also concerned about making sure the money spent by business addresses the most serious problems in the most cost-effective manner.

We urge your support for the Walker amendment which provides an important opportunity to move critically needed regulatory reform legislation forward this year. The U.S. Chamber of Commerce will score this as a key vote in its annual ''How They Voted'' ratings.

Sincerely,

R. BRUCE JOSTEN.

AMERICAN FARM BUREAU FEDERATION,
Washington, DC, November 9, 1995.

DEAR CONGRESSMAN: The American Farm Bureau strongly supports an amendment to be offered this afternoon by Rep. Bob Walker (R–PA) to H.R. 2586, the debt ceiling extension bill.

The Walker amendment adds to H.R. 2586 the risk assessment and cost-benefit analysis requirements for federal regulations similar to those approved overwhelmingly by the House last February. This will provide important relief for farmers and ranchers from unnecessary regulatory burdens.

The nation's farmers and ranchers have seen their regulatory burden explode over the past decade. Virtually every activity and aspect of farming is regulated by the Federal government. Many young farmers and ranchers see the burden of unchecked government regulation as a major impediment to continuing in agriculture. To some of the best and brightest in agriculture, the risks and uncertainty now imposed by government rivals that of the markets and the weather.

Of utmost importance to agriculture, the Walker amendment also reforms the zero-tolerance Delaney Clause provision. Under strict interpretation, the Delaney Clause prohibits the presence of food additives in any concentration if they can be shown to cause cancer in laboratory animals. Today, scientists are able to detect these substances in much smaller concentrations than were detectable 37 years ago, when the Delaney Clause was written. Although there is a consensus among regulators, health experts and scientists that these small concentrations may present no real risk to health, many crop protection products are now scheduled to be canceled because they are detectable, not because they are unsafe. Important crops in virtually every state will be affected.

We strongly urge your support for the Walker amendment to H.R. 2586.

RICHARD W. NEWPHER,
Executive Director, Washington Office.

Mr. Speaker, the amendment I am now offering on behalf of myself, Commerce Chairman BLILEY and the House leadership is a good-faith compromise between the House and Senate regulatory reform bills.

The Walker-Bliley amendment uses S. 343, the Dole-Johnston bill, as its base text. That version garnered 58 votes in the Senate in July. The House version received 277 votes as H.R. 9 of the Contract With America.

Mr. Speaker, the most important thing this Congress can do is to balance the budget so we can stop having to keep heaping even more Federal debt on our children. To accomplish this paramount goal, we have to cut unnecessary spending and costs. This goes for the private sector as well, which is what this amendment addresses.

Mr. Speaker, in an era of tough budget realities which the bill before us brings home to roost, policymakers need to make choices and set priorities—to concentrate scarce dollars where they will do the most good, and analyze alternatives to achieve the goal of public safety at the lowest possible cost. At this critical point in our effort to change the way Washington works, we believe that we have a unique opportunity to move this consensus reform now. After 10 years of lipservice by the Democrat Congress to U.S. competitiveness, but no action except for even more Federal spending in the form of industrial policy subsidies, we now have the chance to do something really big.

President Clinton says he has to raise the debt ceiling. Well, at the same time we can give him the opportunity to remove the need for so much wasteful Federal corporate welfare spending which combats the unnecessary costs of unjustified regulations. This landmark competitiveness initiative, perhaps the most important we can enact, is worth 100 advanced technology programs.

Mr. Speaker, the purpose of this amendment is to provide uniform guidance for all Federal agencies to conduct scientifically objective and unbiased risk assessments in an economically sensible way. The amendment includes the following:

It raises the threshold of regulations requiring the new cost-benefit analysis to $75 million of economic cost per year. This is a softening amendment—the House threshold was $25 million.

It uses the House-passed risk-assessment title which passed by a veto proof 286 to 141 with 226 Republicans and 60 Democrats voting in favor. It provides the public and the Government with the most reasonable, realistic information by requiring the most plausible level of risk or best estimates instead of worst case scenario or upper bound estimates. This section also changes the face of risk assessment by requiring the nature and magnitude of risks to human health, safety, or the environment be put into context for the public with realistic comparisons to everyday risks commonly experienced and understood. In cases where one or more hazards results because of reduction of a targeted risk, the risk of the substitution must be communicated clearly to the public.

It requires that new regulations not be issued unless the costs are reasonably related to the benefits. If current law calls for a regulation which cannot be justified by cost-benefit analysis, that statutory standard is superseded—the so-called super mandate. This also passed by that same 286 to 141 with all but 2 Republicans and 60 Democrats voting in favor.

It creates a systematic program for peer review. For regulations which have an economic impact of $100 million or more, groups of experts would be brought together to independently evaluate the manner in which the risk assessments are conducted. This language is verbatim the House bill.

This amendment exempts certain activities such as military readiness and emergencies. This allows Federal agencies to continue to use their emergency authority, which is consistent with current law.

This reform is prospective. It does not include the petition process for retroactive review of existing regulations, which was rejected by this House.

Judicial review of compliance with the requirements of this bill is available under the Administrative Procedures Act for final agency actions. There is no two bites of the apple possible allowing for increased litigation. This is fully consistent with the House-passed bill.

It includes a top priority of the small business community and the National Federation of Independent Businesses. This reg flex provision allows small business the right of judicial review to enforce the Regulatory Flexibility Act. The Regulatory Flexibility Act calls for small business to be exempted from onerous agency regulations. There is virtual unanimous support for this legislation in both Houses.

The amendment updates the 1950's Delaney clause to prohibit all but ''negligible threat to human health'' amounts of chemicals in food.

The bill includes the House-passed regulatory impact analysis requirement. Like environment impact statements, this requires agencies to estimate the economic impact of their regulations before issuing them.

The amendment requires the President to issue a biennial regulatory budget. This is a 2-year accounting of the total regulatory costs on the economy and people's lives. The so-called Nickles amendment is included instead of the regulatory moratorium that passed the House. This is a softening amendment. Nickles allows Congress 60 days to disapprove any regulation issued after November 20, 1994, if the President signs such disapproval or his veto is overridden.

Mr. Speaker, as you can see this is a reasonable merging of what's best, most reasonable and workable in the House and Senate bills. It is not as tough as the House bill, nor as loose as the Senate bill—in short, a good compromise. Every Member who voted for the House bill earlier this year can and should support this amendment today. Doing so will make it reality.

□ 1530

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

The SPEAKER pro tempore (Mr. HOBSON). Is the gentleman from Virginia [Mr. SCOTT] opposed to the bill?

Mr. SCOTT. Mr. Speaker, I am opposed to the bill and am representing the Committee on the Judiciary.

The SPEAKER pro tempore. The gentleman from Virginia [Mr. SCOTT] is recognized for 10 minutes.

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

Mr. Speaker, this is a complex legislation and has no place in the debt ceiling resolution. It has been sprung on the minority party at 9:30 this morning. I understand there have been three different versions, so it is unclear exactly what is being presented to us at this time. It is unfair to have such complex legislation even being considered in this format.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. BROWN], the ranking member on the Committee on Science.

(Mr. BROWN of California asked and was given permission to revise and extend his remarks.)

Mr. BROWN of California. Mr. Chairman, I am in very strong objection to the content of this bill, but as I said earlier during general debate, I think I will spend most of my time speaking with regard to the process involved in this bill.

Mr. Speaker, I want to commend the gentleman from Pennsylvania [Mr. WALKER] for the many years that he has spent working with me in most cases on this type of legislation. We do badly need to improve the processes by which we make risk assessments, do regulatory impact analysis and cost-benefit studies, and this bill does contain a response to that need.

Mr. Speaker, I did not support the bill in the House when it was originally passed because I did not like the content or the form of the response that the bill contained, but that is not to belittle the need for constructive change.

This position is one that the Democratic administration shared when the bill was originally on the floor. They indicated in a letter than they were strongly opposed and that, while the recognized the need to improve risk assessment and cost-benefit legislation, they did not feel that this bill met that criteria.

The bill was passed, nevertheless, and went over to the Senate, and it remains in the Senate and has not been passed. I said during general debate that the statement of the gentleman from Pennsylvania to the Committee on Rules last night, which implied that it had received 58 votes in the Senate, constituted a falsehood in advertising because there was never a vote taken in the Senate, except on a motion to cloture, which failed because it requires 60 votes and it only had 58.

Mr. Speaker, I am sure the gentleman from Pennsylvania would say that all those 58 who voted for cloture would have voted for the bill and, hence, his statement that implied they had was essentially correct. From long experience, I know how able the gentleman is to defend these kinds of statements and I look forward to whatever defense the gentleman may have.

But, Mr. Speaker, as a matter of fact, this is not a consolidation or compromise or an effort to reach agreement between the House- and Senate-passed bill. To the best of my information, there has been no compromise process with the Senate. The Senate staff and Members that we have spoken to know of no such effort, and that includes Senator CHAFEE and Senator ROBB.

Mr. Speaker, I am at a loss to understand what has taken place that leads the gentleman from Pennsylvania to state that this is a compromise between the House- and the Senate-passed bills.

Now, I know there are a lot of strange things taking place here. The gentleman is a devotee of improved efficiency in almost everything, and I share that with him. I think he has found new shortcuts to reach agreement between the appropriate people in the House and in the Senate. The gentleman has not revealed to me yet what those shortcuts are, and he, I think, would imply that when I raise this issue I am being, in the words that the gentleman used earlier today, engaged in obstruction, obfuscation, and some other words that I did not quite get down here.

Mr. Speaker, let me assure the gentleman that I respect his point of view, because it comes from a master in this field. Anything that I have learned about how to do that, I learned from the gentleman from Pennsylvania in earlier years. I have not become nearly as proficient as the gentleman, but I am trying to improve and, with his help, I am sure that I will.

Mr. Speaker, I would have appreciated it if the gentleman could have let me know that he was going to appear before the Committee on Rules last night and submit a bill, 132 pages, I believe it is, that the gentleman knew I was vitally interested in.

Frankly, I would be glad to work constructively with the gentleman in securing a proper version of that bill, but I was not notified. We received a version of the bill, I think the second version, at about 10 o'clock this morning.

Now, the gentleman from Michigan [Mr. CONYERS] complained that the portions of the bill that he was concerned about, he only received this morning at 11 o'clock. I would say to the gentleman from Michigan, ''Have no fear. You are not being discriminated against. We all are in the same position.''

Mr. Speaker, I think that that is common to all of the Members on our side. We are receiving very little, if any, notice, and if we object to that, we are accused of obfuscating and obstructing the smooth process by which this efficient organization is proceeding.

Mr. Speaker, I think history will record that we are seeing new records in smoothness and efficiency here.

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

Mr. BROWN of California. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, in some quarters we are accused of dialectal materialism as well.

Mr. BROWN of California. Mr. Speaker, reclaiming my time, I heard that remark, too, from a gentleman that I have high respect and admiration for.

Mr. Speaker, to confuse the matter more, I have a version of the bill which I understand was sent to the desk that

is marked as having been received from the counsel's office at 2:23 p.m. today. It is now 3:30, so this third version of the bill which has major changes over the first two which was received after we entered into debate on this amendment.

Now, I indicated earlier that I do not want to discuss content. I cannot discuss content. I have not had a chance to read the content. I do not know what is in the bill. My staff counsel informs me that there were three different versions of the definition of ''major rule.'' The first definition had a $50 million cap; the second one had a $75 million cap; and the one we just received has a $100 million cap. Mr. Speaker, I would be prepared to debate any one of those, if I knew what it is the gentleman from Pennsylvania really wanted to have in the final version. However, having spent all of my time debating those three versions, I would probably not have the time to debate the many other provisions which have been likewise changed in the three different versions of the bill.

That, Mr. Speaker, is a total collapse of reasonable legislative process, and I do not think that the Congress of the United States ought to allow it to happen.

I know that most of us on both sides know that this is a little bit of game playing, and none of this bill is going to be enacted into law and that we are using this time in order to make points. I am using this time in order to make points. I admit it. I am making a point that this system has totally disintegrated.

Mr. Speaker, there is no communication between majority and minority. There is no effort to let us know what is going on. There is a disregard for the truth in telling us what is happening, and I object very strongly to that.

Mr. Speaker, today, we reach the heights of farce in the legislative process. I suppose it is inevitable that all fervent revolutionaries believe that the ends justify the means. Apparently, the Republican leadership believes that the principles in the Contract With America are somehow more important than the democratic process.

Mr. Speaker, in a sweeping gesture of generosity, the Rules Committee has permitted us 40 minutes of debate on a 112 page nongermane amendment which we first saw this morning at 11 a.m. We were not even given the courtesy of being informed that the Rules Committee would be meeting late last night to consider making this amendment in order.

How much debate does the Republican leadership really expect under these circumstances?

The fact is that the rules of this House have been twisted to prevent any intelligent or informed consideration of this amendment. Under the rules of the House, of course, this amendment would ordinarily be entirely out of order as a nongermane amendment to the debt limit extension bill. But by virtue of the orders of the Republican leadership, that rule and all other rules guaranteeing Members adequate notice and an orderly considered process have been brushed aside. Not that it makes any difference, since even if we had an adequate opportunity to understand what we are considering, we are barred from offering amendments in any case.

Where did this amendment come from? According to the majority, it represents a compromise. But with whom? The Senate has never passed its regulatory reform legislation, so it cannot be a compromise with the Senate. So why are we passing this bill again when the problem appears to be in the other body?

The question, of course, is what are the Republicans trying to hide? The regulatory reform bill passed by the House as part of the Contract With America was so extreme that even the Speaker publicly acknowledged that changes would have to be made. As it passed the House, H.R. 9 would not have reformed the regulatory system. Instead, the intention was to kill the regulatory system through a slow strangulation of red tape and needless litigation.

If the majority was serious about improving regulatory reform, they would have supported increased resources for the regulatory agencies to carry out the scientific research, risk assessments, and cost-benefit analysis needed to improve regulatory decisionmaking. Instead, the Republicans have slashed agency budgets.

Mr. Speaker, we have stated on this side of the aisle over and over again that we support reasonable regulatory reform which promotes risk assessment and cost-benefit analysis. But we are talking to ourselves. The other side appears more interested in slogans than in real solutions, as today's actions all too early demonstrate.

I urge a ''no'' vote on the amendment, and reserve the balance of my time.

Mr. WALKER. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. CLINGER].

(Mr. CLINGER asked and was given permission to revise and extend his remarks.)

Mr. CLINGER. Mr. Speaker, I rise in very strong support of my Pennsylvania colleague's amendment. This is a regulatory reform amendment which is based upon legislation passed earlier this year in the House and received very strong bipartisan support. Let's not forget that H.R. 1022, the cost-benefit and risk assessment legislation, passed 286–141.

This amendment combines some of the best features of the House bills, along with some similar provisions considered by the Senate, in order to achieve comprehensive regulatory reform. It includes risk assessment and cost-benefit analysis along with a review process for Congress to look at proposed and final rules. There are several House and Senate Members that should be commended for their hard work in this reform area, but I would specifically like to commend two other House chairmen, Chairmen BLILEY and WALKER, Majority Leader DICK ARMEY, Majority Whip TOM DELAY, Congressmen MCINTOSH, CONDIT, PETERSON, along with Senators DOLE, JOHNSTON, and NICKLES, for their never-ending efforts to try and get regulatory reforms enacted.

Mr. Speaker, a major platform of this Congress is to eliminate as much redtape as possible to help small businesses, and ease the economic burdens on society. We have all heard the horror stories that abound outside the beltway and the cries from our constituents—the homebuilders, consumers, farmers, and small business owners as they plead to be rescued from this sea of redtape. It is incumbent upon us to reassess the size and scope of the impact that the government has in the daily lives of our citizens. And regulatory reform is the key to achieving this goal.

It is no secret that the costs of regulation to our economy are high. According to President Clinton's National Performance Review, it is estimated that the cost of regulation is about $430 billion per year, 9 percent of our gross domestic product, or roughly $6,000 per household. This should make us take pause. We simply cannot expect the economy to grow while trying to withstand this burden.

Federal agencies need to carefully assess their regulatory programs and prioritize very limited Federal resources. Regulatory reform, such as the risk assessment and cost-benefit provisions included in this amendment, require this prioritization. We cannot continue along the path we are on and expect society to continue to shoulder the burdens of overregulation. We must start to reverse the trend of years of overregulation.

Mr. Speaker, we are looking for a balance. No one disagrees that some of these regulations are necessary and even beneficial. We all want clean air, clean water, and safe working environments. But we must balance adequate protection for our citizens and a healthy environment along with a healthy economy and less government intrusion. The pendulum has swung too far the other way. This legislation corrects that circumstance. It is our only hope.

I close by urging my colleagues to support this amendment and the Senate to pass this much needed legislation in an expeditious fashion.

Mr. SCOTT. Mr. Speaker, may I inquire as to the time remaining?

The SPEAKER pro tempore. The gentleman from Virginia [Mr. SCOTT] has 12 minutes remaining, and the gentleman from Pennsylvania [Mr. WALKER] has 13½ minutes remaining.

Mr. SCOTT. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. CONYERS], ranking member of the Committee on the Judiciary.

(Mr. CONYERS asked and was given permission to revise and extend his remarks.).

Mr. CONYERS. Mr. Speaker, I congratulate the gentleman from Virginia [Mr. SCOTT], my colleague from the Committee on the Judiciary.

Mr. Speaker, I would like to just point out to the gentleman from Pennsylvania [Mr. WALKER] that we have really hit a new low here today. It is an insult to this legislative body to do what we are doing in rewriting the Nation's regulatory laws. Mr. Speaker, I

say to my colleagues on the other side of the aisle, You are the majority. Why do we have to pervert the process so obscenely to arrive at this point?

Mr. Speaker, here is 112 pages, a second version that has just arrived. No notice to the ranking minority member, and what is involved? What is the hidden bottom line in this? Risk assessment and cost-benefit analysis. Face it. That is what it is all about. That is why they cannot debate it. That is why they cannot bring it through the regular committee process. That is why they cannot notify the ranking Democrats on all these committees.

□ 1545

This process that the gentleman from Pennsylvania brings to our attention, adding on to a 300-plus-page bill now, would tie up the regulatory system in hopeless bureaucracy and redtape; the gentleman, of all Members, who has lectured us about redtape and bureaucracy for lo these many years. It sets an absurdly low-limit threshold for applying cost-benefit and regulatory-impact analysis and would tie the courts up in endless litigation.

Congratulations, sir. You really got it over this time. It really worked. We are ramming this baby through 100 miles an hour. What difference that there is a little process trampled on?

I mean, that is the majority and this is the way it is going to be. But history will record.

It is an insult to this legislative body that we are even debating this broad ranging rewrite of the Nation's regulatory laws.

We in minority have gotten use to voting on matters without having had the opportunity to conduct hearings or hold committee markups. But today the Republicans have taken their distortion of the legislative process to new heights. Today we will be forced to vote on a complete rewrite of our regulatory laws without having had a chance to even review the language.

The legislation appears to be some Frankenstein combination of a number of separate bills which have been considered by a number of different committees, including the Judiciary Committee. No one seems to know what is in the final version. None of the Senators who has been working on this issue knows what is in it, the Administration does not know what is in it, and I would doubt a single Member who will vote on this amendment has any detailed knowledge of what is in this amendment. We cannot call it a compromise, because it has not been negotiated with anyone.

If it is anything like some of the previous incantations we have seen this Congress we can be sure it constitutes an unprecedented assault on our regulations. Sure, we all want to streamline the regulatory system, but this would take a meat ax to our environmental protections, our protections against cancer, our airline safety laws and other similar protections.

The amendment would tie up our regulatory system in needless bureaucracy and redtape. It would set an absurdly low-limit threshold for applying cost-benefit and regulatory-impact analyses. It would tie up the courts in endless litigation.

Whether or not one agrees with the goals of the legislation, surely we can agree that the amendment should not be considered under these high-pressure procedures, and should not be attached to a debt limit in an effort to blackmail the President and the American people into accepting the Contract With America.

I urge my colleagues to oppose this amendment, and restore sanity back to the legislative process.

Mr. WALKER. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. BLILEY] who is a cosponsor.

(Mr. BLILEY asked and was given permission to revise and extend his remarks.)

Mr. BLILEY. Mr. Speaker, the Walker-Bliley amendment on regulatory reform is critical to the Nation's economic future. Today we consider yet another increase in the Nation's debt. This Congress must make clear that the decades long growth of taxing, spending and increasing regulatory burdens must change. Economic reality has caught up. For years, many of us have argued the critical need for regulatory reform to ensure our economic future.

As part of the Contract With America, the House of Representatives passed H.R. 1022, the Risk Assessment and Cost-Benefit Act of 1995 by a vote of 286 to 141. Sixty Democrats joined House Republicans in supporting this legislation. Chairman WALKER and I introduced H.R. 1022 to ensure Federal regulatory programs are based on sound science and common sense assessment of the cost and benefits of new regulations. The bill was supported by a sweeping array of small businesses, industry groups, States and local governments.

Local governments and American businesses literally spend billions of dollars on often unnecessary or poorly considered Federal regulations. We must take a firm stand that we value the contribution of these groups to our society and must not needlessly add to their burdens. Responsible Government must ensure that regulations are justified and reasonable on the facts.

The Nation's regulatory burden is projected at between $450 and $850 billion a year and growing. Just as we take steps to assure that the rate of growth of the budget is held in check by the year 2002, we must also take steps to ensure that unnecessary regulations do not shackle the economic engine that will be critical to improving the quality of life for ourselves and our children.

A Washington Post editorial this year states:

The United States has become an over-regulated society. The government too often seems to be battling major and minor risks, widespread and narrow, real and negligible with equal zeal. The underlying statutes are not a coherent body of law but a kind of archaeologic pile, each layer a reflection of headlines and political impulses of the day. Too little attention is paid to the cost of the whole and the relation of cost to benefit.

This amendment would be a solid step for responsible regulatory reform to put our regulatory programs on a more sound footing. The Walker-Bliley amendment includes the House risk assessment and cost-benefit reforms passed overwhelmingly by the House earlier this year. Compromises in some areas have been made. For example, H.R. 1022 defined a major rule as a rule which costs over $25 million in annual compliance costs.

I believe that is the appropriate definition. In a compromise with the Senate effort, however, this amendment defines major rules as those costing $75 million in annual compliance costs.

Despite this compromise, the Walker-Bliley amendment represents strong reform to assure risk assessments are objective, and unbiased and that there is a reasonable relationship between the costs and benefits of the regulations.

In addition, the amendment provides reform under the Regulatory Flexibility Act, and provides for congressional review of regulations. The amendment also contains portions of the Regulatory Accounting Act of 1995, which I introduced along with Mr. MCINTOSH, CONDIT, and STENHOLM. This provision is also a part of the Senate legislation. This provision would, for the first time, require a biennial accounting statement of Federal regulatory costs.

We cannot wait forever for these reforms. Those who continue to resort to fearmongering, mischaracterization, delay, and obstructionism to prevent this reform must understand the resolve of the proponents of real change.

I ask my colleagues to support this amendment and make a real difference for local governments and businesses across the country.

Mr. SCOTT. Mr. Speaker, I yield 3 minutes to the gentlewoman from Illinois [Mrs. COLLINS], ranking member of the Committee on Government Reform and Oversight.

(Mrs. COLLINS of Illinois asked and was given permission to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Speaker, I rise in opposition to the amendment of the gentleman from Pennsylvania.

Mr. Speaker, it is astounding that the gentleman's amendment is portrayed as a compromise between the House and the Senate regulatory reform proposals. We all know that the Senate has yet to vote on regulatory reform. How can the amendment be a compromise when there is no Senate regulatory reform bill with which to compromise?

Furthermore, the gentleman did not make his amendment available to Members on this side of the aisle. The one copy he left at the Rules Committee late last night was copied an hour or so ago and given to us. However, I understand the version of the amendment we are considering now is different from the amendment discussed at Rules Committee and printed in the RECORD today.

This amendment is 112 pages long and while we have started reviewing it, I have no idea even now whether the regulatory reform issues that the Committee on Government Reform and Oversight considered are in it, or not. I do understand, however, that the amendment is very different than the regulatory reform bill that passed this House.

Mr. Speaker, this kind of sneaky action makes a farce out of the legislative process.

The House has already passed its regulatory reform bill. It is now up to the Senate to act. If and when the Senate does act, then and only then can a compromise be reached.

Mr. Speaker, there is a place for the consideration of regulatory reform proposals, but the debt limit bill is not one of them. I strongly urge my colleagues to vote "no" on this Mickey Mouse amendment.

Mr. WALKER. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

(Mr. GEKAS asked and was given permission to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, my role here today is to reemphasize that the provisions of this amendment have been favorably met by the House of Representatives in an overwhelming vote, 415 to 15, in two portions about which we speak. In regulatory flexibility, which is the heart of the legislation that we passed out of the Committee on the Judiciary, we add to it a feature that the business community, small and large, I must tell my colleagues, have been yearning for for years. That is the ability to have judicial review of an adverse impact that visits them in the conduct of their business.

The Regulatory Flexibility Act, with which we have been living for generations now, never had that feature. Here now for the first time we offer all the disaffected entrepreneurs in our country the right to ask for an appeal from, a review of an adverse regulatory decision. That by itself should prompt us to support this amendment. The gentlewoman from Kansas [Mrs. MEYERS] was able to in her subcommittee, as well as in mine, to reach an overwhelming consensus among the membership of those committees which we transferred to in the House here.

The same is true of regulatory impact analysis where we were able to fine tune that portion of the businessman's entanglements in Washington. We produced legislation that, as I say, gained that overwhelming support which we now claim is important enough for Members to support this amendment.

We are going to have, one way or another, we are going to have reform in regulatory flexibility and in regulatory impact analysis. But here is our chance to stick the tongue in the fire and leave it there to make sure that our goals are met.

The SPEAKER pro tempore (Mr. HOBSON). The Chair would inform the gentleman from Virginia [Mr. SCOTT] that he has 7 minutes remaining, and the gentleman from Pennsylvania [Mr. WALKER] has 8½ minutes remaining.

Mr. SCOTT. Mr. Speaker, I yield 3 minutes to the gentlewoman from Michigan [Ms. RIVERS].

Ms. RIVERS. Mr. Speaker, I watched this process with interest throughout the afternoon, and I am reminded of one time when I went to the grocery store and I was looking for apples. When I looked at the apples I found that the apples available that day were spoiled. I did not want any. So the next day I went back and I took another look at the apples, and there were more bad apples. So I went home.

The third day I came back and I finally found some good apples. They were perfect for what I wanted them for. Imagine my surprise when the grocer said to me, you can only have the good apples if you will buy all my bad apples. You must take everything that is here, the bad with the good, in order to get what you have come shopping for.

Frankly, Mr. Speaker, that is what we are telling the American people, that they must buy everything that the majority party is selling, including the bad apples. Clearly, the other body, the President and the American people are not interested in what the majority is selling. If they were, moving these issues on freestanding bills would not be a problem.

The American people understand what is going on today. They do not want partisan rancor. They do not want legislative blackmail. They want us to pass a clean bill. They want us to get on with the work of running this Nation, and they do not want us to let the bad apples spoil the barrel.

Mr. WALKER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Kansas [Mrs. MEYERS].

(Mrs. MEYERS of Kansas asked and was given permission to revise and extend her remarks.)

Mrs. MEYERS of Kansas. Mr. Speaker, I rise today in strong support of the Walker amendment to H.R. 2586 and urge my colleagues to vote yes on its passage because of its importance to small business rules and regulations have greater economic impact on small business.

Mr. Speaker, one of the most important reasons to vote yes on the Walker amendment is that it contains needed improvements to the Regulatory Flexibility Act. These improvements, which include judicial review of agency compliance with the Regulatory Flexibility Act, are overwhelmingly supported by this Nation's small businesses. At the recently concluded national White House Conference on Small Business, small business representatives from throughout this country made regulatory flexibility judicial review their No. 3 recommendation. That is clear evidence of strong support for this kind of regulatory reform that is contained in the Walker amendment.

Moreover, Mr. Speaker, on March 1 of this year, in this very Chamber, we passed the amendments to the Regulatory Flexibility Act now contained in the Walker amendment by an overwhelmingly bipartisan vote of 415 to 15.

Just last week, the House Committee on Small Business, which I chair, held a joint hearing with the Senate Committee on Small Business which focused on the very issue of the disproportionate burden that small businesses endure because of overregulation.

Providing judicial review for agency compliance with the Regulatory Flexibility Act is something that this Nation's small businesses have worked for for years, and it is something they clearly deserve. Small businesses desperately need regulatory reform now—please vote yes on the Walker amendment.

PARLIAMENTARY INQUIRY

Mr. SCOTT. Mr. Speaker, we are the committee of jurisdiction. Do we have the right to close?

The SPEAKER pro tempore. In the perception of the Chair, there is no reporting committee. Therefore, the proponent, the gentleman from Pennsylvania [Mr. WALKER], has the right to close.

Mr. SCOTT. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. SCOTT. Mr. Speaker, we are supporting the printed bill that is before us. Would we not have the ability to close? We are defending the reported bill.

The SPEAKER pro tempore. The prerogative of closing is to the manager of the bill, otherwise to the proponent of the amendment. The prerogative to close only goes to the amendment's opponent if he is a manager of the bill.

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

The SPEAKER pro tempore. So there is no misunderstanding, the gentleman from Virginia [Mr. SCOTT] has 5½ minutes remaining, and the gentleman from Pennsylvania [Mr. WALKER] has 6½ minutes.

Mr. WALKER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. MICA].

(Mr. MICA asked and was given permission to revise and extend his remarks.)

Mr. MICA. Mr. Speaker, again, I want to try to bring this debate into perspective. I have my $270 here that I took out of my savings account. What we are going to do today is we are going to extend the debt limit for every man, woman, and child in the United States for a total of $67 billion between today and December 12. That costs every man, woman, and child $269 of their hard-earned money just for that short period of time.

□ 1600

Now we have heard about regulatory reform. The gentleman from Pennsylvania [Mr. WALKER] and I stood on this floor in the past Congress and debated regulatory reform, and we passed regulatory reform by overwhelming margins, but we have not seen regulatory reform.

Now the other side has bought votes for three decades. They have paid for them with IOU's, and they have created a national debt of $1½ trillion, and we are asking today that, if we increase the national debt, we want reforms, we want regulatory reform, we want risk assessment, we want to look

at the cost and benefit of imposition of a new regulation, we want the reorganization of the Department of Commerce, and talk about supporting a trade policy. The United States has he most disorganized trade effort in the world with the highest, we are running the highest, trade deficit that we have ever had in the history of this Nation, and we are asking to reorganize it in this bill.

So these are the downpayments we are asking for as we raise this debt up, as we obligate every citizen in this country for just the next 34 days to $269 per person. By Thanksgiving it will be $118 per person for every person in this country.

Mr. Speaker, I am telling my colleagues the other side will not be happy until every American is dependent on some kind of government program.

Mr. WALKER. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. SCARBOROUGH].

Mr. SCARBOROUGH. Mr. Speaker, we saw the gentleman from Florida [Mr. MICA] hold up his dollars. Let us talk about real money though because this has been labeled a Mickey Mouse idea.

Fact of the matter is that the cost of regulations on the American people are estimated anywhere between $500 and $700 billion a year. There is nothing Mickey Mouse about the growing price of regulations and the death of common sense that has swept across America and especially swept across the bureaucracies in Washington, DC. For too long we have had unelected bureaucrats in Washington, DC, passing rules and regulations that have tied the hands of Americans, small American business people and property owners.

Mr. Speaker, this is a good, commonsense first step in moving in that direction, and I certainly look forward to supporting it, and I think the chairman for bringing this bill to the floor.

Mr. SCOTT. Mr. Speaker, I yield 4 minutes to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, I must say that I disagree with the gentleman yielding to me and some of my other Democratic colleagues concerning the appropriateness of having habeas corpus and regulatory reform in this debt measure because I cannot think of two more fitting examples of what the Republican Party is doing than with these two measures. See, habeas corpus in Latin means, ''You have the body,'' and when the American people have the body of this Republican Party and what they are doing to America, they are going to see it for all that it is. They are going to know that they can take the stiffest old wire brush, and they cannot scrub the dirtiness and the ugliness of what they are doing to this country out with that wire brush.

And what about regulatory reform? Mr. Speaker, what they believe in is regulatory short circuit. They have got it short-circuited to the point that we do not need a committee system in the Congress, we do not need to involve the America people in the decisions of the Congress. No, we can have regulatory and lawmaking reform; just get a cluster of the strongest, most powerful lobbyists in the country to get together in the closet with the Speaker. He will take a little time out of his campaign to be President of the United States, a campaign based on the theory that the American people want someone meaner than PHIL GRAMM as a candidate, and the Speaker will take a little time away from signing book autographs and running for President, and he will sit down, and he will resolve the lawmaking and the regulation of the United States in exactly the same way that he cut Medicare.

Mr. Speaker, we have what is referred to as a Christmas party offering special deals to various lobby groups to get what they want.

It is appropriate that the gentleman from Pennsylvania would begin the presentation on this amendment by citing letters from two lobby groups. Who else would this group that has contracted out the Contract on America, subcontracted it, if my colleagues will, to the lobby to write the bills, to use the committee computers, to turn to the lobbyists during the committee hearings to provide all the answers? Of course, they start with letters from lobbyists saying that this measure is OK.

But what about the American people? Why do they not have a say in this process? Why shortcut it in this fashion when even the Members of this body do not get to see the bills that are passed?

I am not just talking about the Democrats. We could not find 10 Republicans in this entire body that had the slightest idea what is in this amendment. It is not even the same amendment that was presented in the sneak attack last night.

See, the problem is that our Republican colleagues are so used to having a party that is exclusive, that does not include people in the decision-making process that they decide to use a sneak attack instead of including the people in a process of decision making with committee hearings, with people coming in, hearing what good science is from the experts, instead of relying only on the lobbyists.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HOBSON). The Chair would admonish all Members that they are not to make personal references to Members of the other body.

Mr. DOGGETT. Mr. Speaker, we had a chance to look at the specifics of this regulatory reform measure earlier in the year, and one of the things we found is that it required, before any new rule to protect the public health, and welfare, and safety of the people of the United States could be adopted, it had to be peer reviewed, and we were not talking about a peer review of people of science. We were really talking about a peer review that could include lobbyists, the same kind of people that cluster up with the Speaker in the back room to write legislation like this, and they would not accept an amendment to delete the power of lobbyists to review these pieces of legislation and to roadblock them to gum up the process, and that same language, I am advised, is buried somewhere in these pages, is mixed in there at present, so that we will rely on the tobacco companies to decide the future of any regulation concerning tobacco in this country. We will rely on the polluters to decide on any regulation about water and air purity.

Yes, this is in this particular amendment simply a question of whether we want to have unilateral disarmament of the ability to protect the health and welfare of the people of the United States to assure that we have water we can drink and air that we can breathe, whether we want to do that or whether we want to involve the people in a reasonable process that is not some backroom deal to provide in the dead of night one amendment and then come out here on the floor without any hearing, without any input, and do another.

See, I think the problem is basically that some of our Republican colleagues confuse arrogance of power with leadership. They have not given us much of the latter. They have given us little else than arrogance and power.

Mr. WALKER. Mr. Speaker, always good to get the liberal extremist point of view brought to bear.

Mr. Speaker, I yield 1½ minutes to the gentleman from Indiana [Mr. MCINTOSH].

Mr. MCINTOSH. Mr. Speaker, I commend my colleagues for their excellent job, along with the gentleman from Virginia [Mr. BLILEY], in bringing this forward to the House floor and letting us complete one of the promises we made the American people in the Contract With America. Before I mention some of the substantive part of this, I would like to point out to Members that this vote is now a key vote for various organizations who represent working men and women across this country:

The National Federation of Independent Business, the U.S. Chamber of Commerce, the National Restaurant Association, Americans for Tax Reform, National Association of Home Builders, National American Wholesale Grocers Association have all key-voted this very important regulatory relief bill.

When my colleagues stop to think of it, it is particularly appropriate that we have this in the debt-ceiling extension. The average family pays $2,300 in interest on the American debt each year. They pay $6,000 in the costs of Federal regulations, 2½ times what they pay for the interest on the debt.

This bill will help to pull back the regulatory debt that the Federal Government has placed on the American working family for the last 40 years.

Mr. Speaker, this is vitally important for our competitiveness. It will help keep jobs here in America, and it will allow us to go back home and tell workers we have lifted the redtape that has sent their jobs overseas to China, to Mexico, and to around the world because they do not impose that type of regulatory burdens on companies. We are going to be competitive and create good jobs right here at home in America.

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

Mr. Speaker, we previously heard about the deficit. We can remind everyone that most of the national debt was run up during the Reagan and Bush administrations. Congress actually cut most of their budgets.

Mr. Speaker, this is not the House-passed regulatory reform bill. It has not been negotiated by the Senate. The Senate has never passed the regulatory reform bill, and some Senate Republicans will object to its inclusion in the debt bill.

This is a 122-page amendment which was written last night without consultation with the Senate or House Democrats. It overrides existing laws to protect public health, safety, and environment. It will lead to regulatory gridlock and a litigation explosion and will cripple the cleanup efforts at our military bases.

We have had a bad process, it is a bad amendment. Please vote no on this amendment.

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

Mr. Speaker, we have had an interesting debate, and obviously it is very difficult to debate the substance for the other side because all they want to do is talk about process. But that is fine. As my colleagues know, that is the way in which the process goes forward I guess. But the bottom line is that what we ought to be talking about is how we balance the budget and get the burden of regulations off the back of the American people.

Mr. Speaker, the most important thing this Congress can do is to balance the budget so we can stop having to keep heaping even more Federal debt on our children. To accomplish this paramount goal, we have to cut unnecessary spending and costs. This goes for the competitiveness of the private sector as well, which is what this amendment addresses.

Mr. Speaker, in an era of tough budget realities which the bill before us brings home to roost, policy-makers need to make choices and set priorities—to concentrate scarce dollars where they will do the most good, and analyze alternatives to achieve the goal of public safety at the lowest possible cost. At this critical point in our effort to change the way Washington works, we believe that we have a unique opportunity to move this consensus reform right now. After 10 years of lip service by the Democrat congresses before this to the whole question of U.S. competitiveness, but no action except for even more Federal spending in the form of industrial policy subsidies, we now have the chance to do something really big. We now have a chance to speak to the 450 to 800 billion dollars' worth of regulations imposed upon the economy every year.

President Clinton says he has to raise the debt ceiling. Well, at the same time we can give him the opportunity to remove the need for so much wasteful Federal corporate welfare spending which combats the unnecessary costs of unjustified regulations. This landmark competitiveness initiative, will be worth more than about 100 Advanced Technology programs or other Government spending programs.

What we can begin to do is deal with the issue of regulation. Here is that chance. Here is an opportunity to use a consensus approach to begin to wipe out the regulations that so far undermine the economy by asking the Members of this body to do as they have done before, support regulatory reform.

Vote for the Walker-Bliley amendment.

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

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

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

Mr. WALKER. Mr. Chairman, on that demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 257, nays 165, not voting 10, as follows:

[Roll No. 779]

YEAS—257

Allard	Calvert	Duncan
Archer	Camp	Dunn
Armey	Canady	Edwards
Bachus	Castle	Ehlers
Baesler	Chabot	Ehrlich
Baker (CA)	Chambliss	Emerson
Baker (LA)	Chenoweth	English
Ballenger	Christensen	Ensign
Barcia	Chrysler	Everett
Barr	Clement	Ewing
Barrett (NE)	Clinger	Fawell
Bartlett	Coble	Fazio
Barton	Coburn	Fields (TX)
Bass	Collins (GA)	Flanagan
Bateman	Combest	Foley
Bereuter	Condit	Fowler
Bevill	Cooley	Fox
Bilbray	Cox	Franks (CT)
Bilirakis	Cramer	Franks (NJ)
Bishop	Crane	Frelinghuysen
Bliley	Crapo	Frisa
Blute	Cremeans	Funderburk
Boehner	Cubin	Gallegly
Bonilla	Cunningham	Ganske
Brewster	Danner	Gekas
Browder	Davis	Geren
Brownback	Deal	Gilchrest
Bryant (TN)	DeLay	Gillmor
Bunn	Diaz-Balart	Gilman
Bunning	Dickey	Goodlatte
Burr	Dooley	Goodling
Burton	Doolittle	Gordon
Buyer	Dornan	Goss
Callahan	Dreier	Graham
Greenwood	Martini	Sanford
Gunderson	McCollum	Saxton
Gutknecht	McCrery	Scarborough
Hall (TX)	McDade	Schaefer
Hancock	McHugh	Seastrand
Hansen	McInnis	Sensenbrenner
Hastert	McIntosh	Shadegg
Hastings (WA)	McKeon	Shaw
Hayes	Metcalf	Shuster
Hayworth	Meyers	Sisisky
Hefley	Mica	Skeen
Heineman	Miller (FL)	Skelton
Herger	Minge	Smith (NJ)
Hilleary	Molinari	Smith (TX)
Hobson	Montgomery	Smith (WA)
Hoekstra	Moorhead	Solomon
Hoke	Morella	Souder
Horn	Myers	Spence
Hostettler	Myrick	Stearns
Houghton	Nethercutt	Stenholm
Hunter	Neumann	Stockman
Hutchinson	Ney	Stump
Hyde	Norwood	Talent
Inglis	Nussle	Tanner
Istook	Orton	Tate
Jacobs	Oxley	Tauzin
Johnson, Sam	Packard	Taylor (MS)
Jones	Parker	Taylor (NC)
Kasich	Paxon	Thomas
Kelly	Payne (VA)	Thornberry
Kim	Peterson (MN)	Thurman
King	Petri	Tiahrt
Kingston	Pickett	Torkildsen
Klug	Pombo	Traficant
Knollenberg	Porter	Upton
Kolbe	Portman	Vucanovich
LaHood	Pryce	Waldholtz
Largent	Quillen	Walker
Latham	Quinn	Walsh
LaTourette	Radanovich	Wamp
Laughlin	Ramstad	Watts (OK)
Lazio	Regula	Weldon (FL)
Leach	Riggs	Weller
Lewis (KY)	Roberts	White
Lightfoot	Rogers	Whitfield
Lincoln	Rohrabacher	Wicker
Linder	Ros-Lehtinen	Wolf
Livingston	Rose	Young (AK)
LoBiondo	Roth	Young (FL)
Longley	Royce	Zeliff
Lucas	Rush	Zimmer
Manzullo	Salmon	

NAYS—165

Abercrombie	Foglietta	Markey
Ackerman	Forbes	Martinez
Andrews	Ford	Mascara
Baldacci	Frank (MA)	Matsui
Barrett (WI)	Frost	McCarthy
Becerra	Furse	McDermott
Beilenson	Gejdenson	McHale
Bentsen	Gephardt	McKinney
Berman	Gibbons	McNulty
Boehlert	Gonzalez	Meehan
Bonior	Green	Meek
Borski	Gutierrez	Menendez
Boucher	Hall (OH)	Mfume
Brown (CA)	Hamilton	Miller (CA)
Brown (FL)	Harman	Mink
Brown (OH)	Hastings (FL)	Moakley
Bryant (TX)	Hefner	Mollohan
Cardin	Hilliard	Moran
Clay	Hinchey	Murtha
Clayton	Holden	Nadler
Clyburn	Hoyer	Neal
Coleman	Jackson-Lee	Oberstar
Collins (IL)	Jefferson	Obey
Collins (MI)	Johnson (CT)	Olver
Conyers	Johnson (SD)	Ortiz
Costello	Johnson, E. B.	Pallone
Coyne	Johnston	Pastor
de la Garza	Kanjorski	Payne (NJ)
DeFazio	Kaptur	Pelosi
DeLauro	Kennedy (MA)	Pomeroy
Dellums	Kennedy (RI)	Poshard
Deutsch	Kennelly	Rahall
Dicks	Kildee	Rangel
Dingell	Kleczka	Reed
Dixon	Klink	Richardson
Doggett	LaFalce	Rivers
Doyle	Lantos	Roemer
Durbin	Levin	Roukema
Engel	Lewis (GA)	Roybal-Allard
Eshoo	Lipinski	Sabo
Evans	Lofgren	Sanders
Farr	Lowey	Sawyer
Fattah	Luther	Schiff
Filner	Maloney	Schroeder
Flake	Manton	Schumer

Scott	Tejeda	Waters
Serrano	Thompson	Watt (NC)
Shays	Torres	Waxman
Skaggs	Torricelli	Williams
Slaughter	Towns	Wilson
Smith (MI)	Velazquez	Wise
Spratt	Vento	Woolsey
Stark	Visclosky	Wyden
Stokes	Volkmer	Wynn
Stupak	Ward	Yates

NOT VOTING—10

Bono	Owens	Tucker
Chapman	Peterson (FL)	Weldon (PA)
Fields (LA)	Studds	
Lewis (CA)	Thornton	

□ 1634

Mr. HILLIARD and Mr. MCNULTY changed their vote from ''yea'' to ''nay.''

Messrs. BAESLER, DOOLEY, and ROSE changed their vote from ''nay'' to ''yea.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. BONO. Mr. Speaker, on rollcall No. 779, I was unavoidably detained at a White House meeting.

Had I been present, I would have voted ''yea.''

The SPEAKER pro tempore (Mr. HOBSON). Pursuant to the rule, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2539, THE ICC TERMINATION ACT OF 1995

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–329) on the resolution (H. Res. 259), providing for the consideration of the bill (H.R. 2539) to abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulation of transportation, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING PROVISIONS OF CLAUSE 4(B) OF HOUSE RULE XI AGAINST CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED FROM THE COMMITTEE ON RULES

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–330) on the resolution (H. Res. 260), waiving a requirement of clause 4(b) of rule XI with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

MOTION TO RECOMMIT OFFERED BY MR. PAYNE OF VIRGINIA

Mr. GIBBONS. Mr. Speaker, under the rule, I am the minority leader's designee to present the motion to recommit.

Mr. Speaker, I offer a motion to recommit. I am opposed to the bill and I ask unanimous consent that the gentleman from Virginia [Mr. PAYNE], the author of the amendment, be allowed to present it, and to control all of the time and yield time.

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

There was no objection.

The SPEAKER pro tempore. Is the gentleman from Virginia opposed to the bill?

Mr. PAYNE of Virginia. I am opposed to the bill in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. PAYNE of Virginia moves to recommit the bill H.R. 2586 to the Committee on Ways and Means with instructions to report the same back to the House forthwith with an amendment:

Strile all after the enacting clause and insert the following:

SECTION 1. TEMPORARY INCREASE IN PUBLIC DEBT LIMIT.

During the period beginning on the date of the enactment of this Act and ending on the later of—

(1) December 12, 1995, or

(2) the 30th day after the date on which a budget reconciliation bill is presented to the President for his signature,

the public debt limit set forth in subsection (b) of section 3101 of title 31, United States Code, shall be temporarily increased to $4,967,000,000,000, or, if greater, the amount reasonably necessary to meet all current spending requirements of the United States (and to ensure full investment of amounts credited to trust funds or similar accounts as required by law) through such period.

Amend the title by striking '', and for other purposes''.

The SPEAKER pro tempore. The gentleman from Virginia [Mr. PAYNE] is recognized for 5 minutes on his motion to recommit.

Mr. PAYNE of Virginia. Mr. Speaker, this motion to recommit is very simple: it alters the debt limit to provide for a 30-day time period from the time a reconciliation bill hits the President's desk until we reach the debt limit. These 30 days will allow us to work in a bipartisan way to develop a plan that will balance the Federal budget as well as avoid a default by the Federal Government.

This is also a clean motion.

This motion raises the debt limit in the same manner we have raised the debt limit in the past, for short periods of time, for both Democratic and Republican Presidents. Without partisan riders. Without putting the country in danger of default. This motion to recommit allows us to continue this bipartisan tradition.

The motion to recommit is identical to the amendment offered at the Rules Committee last night. The Rules Committee rejected this commonsense proposal in favor of one weighed down by partisan distractions. The motion to recommit brings the debate back to where it ought to be: How do we protect the creditworthiness of the United States of America while we work to balance the Federal budget.

A balanced budget is a goal that has bipartisan backing. And the motion to recommit will give us the time we need to do it. This proposal is fair, it is rational, and it is about doing what the American people sent us here to do. Thirty days from the time the reconciliation bill hits the President's desk is not too long when we are talking about a credit record our country has built over 200 years. And it's not too long to consider how best to balance our budget and put our fiscal house in order for ourselves and for future generations.

I urge my colleagues to vote for the motion to recommit.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. PAYNE of Virginia. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I wish to commend the gentleman for this motion. It appears to me that unless this motion is adopted, this House, along with the Senate, is headed for a train wreck, deliberately led by Speaker GINGRICH and the Republican majority, to try to force the President to do something when they know the President will not do it. They are not going to be able to shove it down the President's throat, and he, being a reasonable person, is going to request that they do exactly as you propose.

□ 1645

If we want to keep the country on a good course of economy that we need to have through this fall and going into next year, we do not need this type of activity that is envisioned by the original bill. That will lead to the train wreck that is going to occur, the default that is going to occur in the economy of this country.

I want to commend highly the gentleman for his thoughtfulness and willingness in order to work this whole thing out. I know the gentleman strongly believes in a balanced budget, has voted for a balanced budget and wants to get there, just like I do. I want to commend the gentleman for using a little sense in this whole activity.

Mr. PAYNE of Virginia. I thank the gentleman from Missouri.

Mr. Speaker, I yield the balance of my time to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, I thank the gentleman from Virginia for yielding.

Mr. Speaker, the gentleman's motion is an effort for us to work in a bipartisan manner on dealing with this budget.

Let me explain this. It is the preference of the President, it is my preference, that we have a long-term extension of the debt ceiling. That is not to be the case. The Republicans want to have leverage on the debt ceiling in dealing with the budget.

I think that is wrong. I do not think we should jeopardize the credit of this Nation. I do not think we should jeopardize interest rates that consumers have to pay. But if we are going to

have a short-term extension, it should be one that both Democrats and Republicans can support.

It is not the President's fault that we are here tonight asking for an extension of the debt ceiling. It is the failure of the leadership to pass the appropriation bills, to pass the budget by the October 1 deadline. We are well past that.

Democrats are willing to work with Republicans on a debt extension so we do not jeopardize the credit of the Nation, but let us make it a clean extension. Let us not put these extra issues in there to make it impossible for Democrats to support and guarantee a Presidential veto. It is our fault, the Republican leadership's fault, for not meeting the deadlines. Give us a debt extension that Democrats and Republicans can support so we do not run the risk of the credit of this Nation. That is the choice we have.

The gentleman's motion will extend the debt ceiling until we pass the budget bills and have sent them to the President. It is a clean extension.

I urge my colleagues in a bipartisan manner to support the motion.

Mr. ARCHER. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore (Mr. HOBSON). The gentleman from Texas [Mr. ARCHER] is recognized for 5 minutes.

Mr. ARCHER. Mr Speaker, this body has just heard what on the surface appears to be a plausible, responsible colloquy by two members of the Committee on Ways and Means who are, I believe, very genuine, very responsible people

The difficulty with it is that it opens the door for an unlimited period of time for the President to stall, to make excuses and to fail to bargain in a responsible, genuine way for a balanced budget in 7 years, based on CBO numbers, without new taxes. That is what we are about. That is what the American people want by an overwhelming margin, and that is what we have been working to all year, with a President who at first said we do not need a balanced budget, we do not need one at all, and defended that position and then reluctantly came to the dance floor and said, well, maybe 10 years is OK, but not by CBO numbers.

By CBO numbers, his so-called balanced budget never balances. It is $200 billion a year in deficit as far as the eye can see. We have had a whole year for the President to come forward and do what the American people want.

The motion to recommit would create a debt ceiling provision that gives a blank check to the Treasury to increase the debt to whatever level it wishes. That is not what the American people want. It permits the Treasury to raid the retirement trust funds of this country, so vital to beneficiaries who depend upon them, as a means of keeping the Government afloat, instead of letting us go through an orderly management of debt, which our bill permits, until December 12.

We have had excuses, excuses and delays, We cannot wait, to go into January and February and March, to resolve a balanced budget. That is what this motion to recommit would do, because it eliminates the protection of the trust funds from invasion or incursion, and it would most certainly be used by the Treasury because they are right now planning to begin to do it next week when they cannot meet our obligations on November 15 if this bill does not pass.

Our plan will permit the orderly management of the debt next week and until December 12, but, yes, make no question about it, that on December 12 we mean business. It is a drop-dead date, and it is adequate time for the President to come forward with his hand of negotiation.

We all know the pieces of this puzzle. We have talked about them over and over again this year. It is not difficult, knowing the pieces of the puzzle, for the President to come forward and negotiate with us in good faith and resolve this by December 12.

We also know that in every democracy you do not make tough decisions until you face a cliff or a stone wall. It is true in the legislatures. It is true here.

Your motion to recommit, I would say to the gentleman from Virginia, leaves an open door for the President indefinitely to put off the decisionmaking to get to a balanced budget as he raids and invades the trust funds of this Nation.

That is what will begin next week if he vetoes this bill, and they plan to do it, I am told, and it will, under your proposal, continue to be an option beyond December, January, February, March. That is not in the best interests of this country. It is time now to set a date, to stick to it, and to get this balanced budget passed in 7 years, by CBO numbers, without tax increases, and this is the down payment on that. This is the first step.

Vote against the motion to recommit and for the bill.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

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

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

Mr. GIBBONS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 186, nays 235, not voting 11, as follows:

[Roll No. 780]

YEAS—186

Abercrombie	Becerra	Borski
Ackerman	Beilenson	Boucher
Andrews	Bentsen	Browder
Baesler	Berman	Brown (CA)
Baldacci	Bevill	Brown (FL)
Barcia	Bishop	Brown (OH)
Barrett (WI)	Bonior	Bryant (TX)
Cardin	Hilliard	Ortiz
Clay	Hinchey	Orton
Clayton	Holden	Pallone
Clement	Hoyer	Pastor
Clyburn	Jackson-Lee	Payne (NJ)
Coleman	Jacobs	Payne (VA)
Collins (IL)	Jefferson	Pelosi
Collins (MI)	Johnson (SD)	Peterson (MN)
Condit	Johnson, E. B.	Pomeroy
Conyers	Johnston	Poshard
Costello	Kanjorski	Rahall
Coyne	Kaptur	Rangel
Cramer	Kennedy (MA)	Reed
Danner	Kennedy (RI)	Richardson
de la Garza	Kennelly	Rivers
DeFazio	Kildee	Rose
DeLauro	Kleczka	Roybal-Allard
Dellums	Klink	Rush
Deutsch	LaFalce	Sabo
Dicks	Lantos	Sanders
Dingell	Levin	Sawyer
Dixon	Lewis (GA)	Schroeder
Doggett	Lincoln	Schumer
Dooley	Lipinski	Scott
Doyle	Lofgren	Serrano
Durbin	Lowey	Sisisky
Edwards	Luther	Skaggs
Engel	Maloney	Skelton
Eshoo	Manton	Slaughter
Evans	Markey	Spratt
Farr	Martinez	Stark
Fattah	Mascara	Stenholm
Fazio	Matsui	Stokes
Filner	McCarthy	Stupak
Flake	McDermott	Tanner
Foglietta	McHale	Tejeda
Ford	McKinney	Thompson
Frank (MA)	McNulty	Thurman
Frost	Meehan	Torres
Furse	Meek	Torricelli
Gejdenson	Menendez	Towns
Gephardt	Mfume	Velazquez
Geren	Miller (CA)	Vento
Gibbons	Minge	Visclosky
Gonzalez	Mink	Volkmer
Gordon	Moakley	Ward
Green	Mollohan	Waters
Gutierrez	Montgomery	Watt (NC)
Hall (OH)	Moran	Williams
Hall (TX)	Murtha	Wilson
Hamilton	Nadler	Wise
Harman	Neal	Woolsey
Hastings (FL)	Oberstar	Wyden
Hayes	Obey	Wynn
Hefner	Olver	Yates

NAYS—235

Allard	Coburn	Gillmor
Archer	Collins (GA)	Gilman
Armey	Combest	Goodlatte
Bachus	Cooley	Goodling
Baker (CA)	Cox	Goss
Baker (LA)	Crane	Graham
Ballenger	Crapo	Greenwood
Barr	Cremeans	Gunderson
Barrett (NE)	Cubin	Gutknecht
Bartlett	Cunningham	Hancock
Barton	Davis	Hansen
Bass	Deal	Hastert
Bateman	DeLay	Hastings (WA)
Bereuter	Diaz-Balart	Hayworth
Bilbray	Doolittle	Hefley
Bilirakis	Dornan	Heineman
Bliley	Dreier	Herger
Blute	Duncan	Hilleary
Boehlert	Dunn	Hobson
Boehner	Ehlers	Hoekstra
Bonilla	Ehrlich	Hoke
Bono	Emerson	Horn
Brewster	English	Hostettler
Brownback	Ensign	Houghton
Bryant (TN)	Everett	Hunter
Bunn	Ewing	Hutchinson
Bunning	Fawell	Hyde
Burr	Fields (TX)	Inglis
Burton	Flanagan	Istook
Buyer	Foley	Johnson (CT)
Callahan	Forbes	Johnson, Sam
Calvert	Fowler	Jones
Camp	Fox	Kasich
Canady	Franks (CT)	Kelly
Castle	Franks (NJ)	Kim
Chabot	Frelinghuysen	King
Chambliss	Frisa	Kingston
Chenoweth	Funderburk	Klug
Christensen	Gallegly	Knollenberg
Chrysler	Ganske	Kolbe
Clinger	Gekas	LaHood
Coble	Gilchrest	Largent

Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—11

Chapman
Dickey
Fields (LA)
Lewis (CA)
Owens
Peterson (FL)
Studds
Thornton
Tucker
Waxman
Weldon (PA)

☐ 1712

The Clerk announced the following pair:

On this vote:

Mr. Chapman for, with Mr. Lewis of California against.

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. HOBSON). The question is on the passage of the bill.

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

RECORDED VOTE

Mr. ARCHER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 227, noes 194, not voting 12, as follows:

[Roll No. 781]

AYES—227

Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shaw
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—194

Abercrombie
Ackerman
Allard
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Bunn
Burr
Cardin
Christensen
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Forbes
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Shadegg
Shays
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—12

Chapman
Doggett
Fields (LA)
Lewis (CA)
Owens
Peterson (FL)
Studds
Thornton
Torkildsen
Tucker
Waxman
Weldon (PA)

☐ 1730

The Clerk announced the following pair:

On this vote:

Mr. Lewis of California for, with Mr. Chapman against.

Mr. DORNAN changed his vote from ''no'' to ''aye''.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

Mr. BONIOR. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER pro tempore (Mr. HOBSON). Without objection, the gentleman is recognized for 1 minute.

There was no objection.

Mr. BONIOR. Mr. Speaker, I rise for purposes of engaging the gentleman from Texas [Mr. ARMEY], the distinguished majority leader, in a colloquy.

I ask my friend from Texas what he foresees for this evening and tomorrow.

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

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

Mr. ARMEY. I thank the gentleman.

Mr. Speaker, this is the last vote tonight. Hopefully, the Senate will pass both the continuing resolution and the debt ceiling extension tonight. The Committee on Rules will meet tonight to grant rules on both of these measures so that they can be considered on the House floor tomorrow in accordance with the usual House procedures.

I intend in just a moment to ask unanimous consent that we reconvene the House at 9 a.m. tomorrow so that we can take up both these measures, and it would be my hope that, of course depending upon how things go, that we would be able, given that earlier beginning, to adjourn the week's work at 2 o'clock or perhaps even earlier, depending on what we receive back from the Senate and how we must deal with it.

I can state, Mr. Speaker, that we will have no more votes tonight, and that