

carry out the study required by subsection (a) \$600,000 for the 18-month period beginning October 1, 2000.

SEC. 9. EFFECTIVE PERFORMANCE ASSESSMENT PROGRAM FOR FEDERALLY-FUNDED RESEARCH.

(a) IN GENERAL.—Chapter 11 of title 31, United States Code, is amended by adding at the end thereof the following:

“§ 1120. Accountability for research and development programs

“(a) IDENTIFICATION OF UNSUCCESSFUL PROGRAMS.—Based upon program performance reports for each fiscal year submitted to the President under section 1116, the Director of the Office of Management and Budget shall identify the civilian research and development program activities, or components thereof, which do not meet an acceptable level of success as defined in section 1115(b)(1)(B). Not later than 30 days after the submission of the reports under section 1116, the Director shall furnish a copy of a report listing the program activities or component identified under this subsection to the President and the Congress.

“(b) ACCOUNTABILITY IF NO IMPROVEMENT SHOWN.—For each program activity or component that is identified by the Director under subsection (a) as being below the acceptable level of success for 2 fiscal years in a row, the head of the agency shall no later than 30 days after the Director submits the second report so identifying the program, submit to the appropriate congressional committees of jurisdiction:

“(1) a concise statement of the steps necessary to—

“(A) bring such program into compliance with performance goals; or

“(B) terminate such program should compliance efforts fail; and

“(2) any legislative changes needed to put the steps contained in such statement into effect.”

(b) CONFORMING AMENDMENTS.—

(1) The chapter analysis for chapter 11 of title 31, United States Code, is amended by adding at the end thereof the following:

“1120. Accountability for research and development programs”.

(2) Section 1115(f) of title 31, United States Code, is amended by striking “through 1119,” and inserting “through 1120”.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 2000—Resumed

AMENDMENTS NOS. 1350 THROUGH 1353, EN BLOC

Mr. GORTON. Mr. President, I ask unanimous consent that four amendments at the desk to S. 1217 be agreed to, and that the motion to reconsider be laid upon the table.

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

The amendments (Nos. 1350 through 1353) were agreed to, as follows:

AMENDMENT NO. 1350

(Purpose: To make technical corrections)

On page 21, line 16, delete “\$3,131,895,000” and insert in lieu thereof: “\$3,121,774,000”.

On page 66, line 20, delete “-\$469,000” and insert in lieu thereof: “\$9,652,000”.

On page 66, line 20, delete “-\$3,370,000” and insert in lieu thereof: “\$6,751,000”.

AMENDMENT NO. 1351

(Purpose: To restore funding for United States Sentencing Commission)

On page 21, line 16, strike “\$3,151,895,000” and insert “\$3,146,895,000”.

On page 71, line 22, strike “\$4,743,000” and insert “\$9,743,000”.

Mr. LEAHY. Mr. President, I am delighted that the Senate has agreed to my amendment to restore funding for the United States Sentencing Commission. I am pleased that Senator KENNEDY joined me as a cosponsor of this amendment in support of the Commission.

Our amendment to S. 1217 transfers \$5 million from the Bureau of Prisons account to the U.S. Sentencing Commission account. As a result, the Commission will be funded at \$9,743,000 for FY 2000 instead of the current level of only \$4,743,000. This new funding is an increase of \$300,000 compared to the Commission’s FY 1999 appropriation of \$9,487,000 but still substantially below the President’s request of \$10,800,000 for the Commission.

I understand the Chairman and Ranking Member of the Commerce, Justice, State Appropriations Subcommittee reduced funding for the Commission in part because of their frustration over the vacancy of all seven Commission members since October 31, 1998. I share that frustration, but I am happy to report that the President announced last month his intent to nominate seven highly-qualified individuals to serve as Members of the Commission—Judge Diana E. Murphy, Judge Ruben Castillo, Judge Sterling Johnson, Jr., Judge Joe Kendall, Professor Michael O’Neill, Judge William K. Sessions, III, and Mr. John R. Steer. I am proud to note that Judge Sessions is a Vermonter and dear friend.

The Senate should act promptly to consider and confirm the nominees to the U.S. Sentencing Commission. This Commission has been struggling without a full slate of commissioners for more than a year. We should not only put the Sentencing Commission back into business but we should restore full funding so the Commission is able to fulfill its statutory mandate.

The Commerce, State, Justice Appropriations bill had significantly cut funding for the U.S. Sentencing Commission. In reducing funding for this important commission, the Appropriations Subcommittee stated in its report that “the carriage of justice has continued unabated in the absence of commissioners.” However, that is in direct contradiction to what the Chief Justice of the United States recently stated in his year-end report for the federal judiciary. He stated, “the fact that no appointments have been made to fill any one of these seven vacancies is paralyzing a critical component of the federal criminal justice system.”

The Sentencing Commission is such a critical component of the federal

criminal justice system because it establishes and maintains mandatory sentencing guidelines for over 51,000 criminal cases sentenced in the federal courts each year. The Commission’s most critical responsibility today is to adjust the guidelines to implement the important crime legislation we enact every year. Let me emphasize this point: when we enact legislation that calls for increased criminal penalties, it is the Commission’s job to make sure that convicted defendants suffer the impact. With no Commissioners since last year, the Commission has been unable to do this job, nor will it next year without new Commissioners and sufficient funding.

Let me give you a few examples of increased penalties we enacted that, to this day, have not caused even one convicted defendant to stay in jail even one more day. Last year, in the Protection of Children from Sexual Predators Act, we required increased penalties for heinous sex abuse against our nation’s young. To date, not one sexual predator has been imprisoned for even one day longer. Why? Because the Commission cannot do its job. Nor will it next year without new commissioners and sufficient funding.

Last year, we also passed legislation that required increased penalties for fraudulent telemarketers who prey upon another vulnerable segment of our population, the elderly. Although the outgoing Commission did enact some temporary measures, they are scheduled to expire this Fall. If they do, fraudulent telemarketers, once again, will escape the intended consequences of our legislation. Why? Because the Commission cannot do its job. Nor will it next year without new Commissioners and sufficient funding.

Last Congress, we also passed legislation that required increased penalties for copyright and trademark offenses to protect affected industries from the rampant piracy that threatens job creation and continued economic growth. Once again, not one convicted offender has suffered any increased punishment. Why? Because the Commission cannot do its job. Nor will it next year without new Commissioners and sufficient funding.

So long as the Commission cannot do its job, convicted defendants will also escape the impact of criminal laws we have enacted to combat other serious crimes: methamphetamine trafficking, firearms, phone cloning, and identity theft, just to name a few.

Recently, the Senate approved the juvenile justice legislation, S. 254, that would require the Sentencing Commission to develop comprehensive guidelines for juvenile offenders, so that we can stem the rising tide of juvenile crime. How can the Commission accomplish this vital and historic undertaking without Commissioners and sufficient funding?

We face other unintended, and potentially very costly, consequences of not getting the Commission fully operational soon. I understand that defendants across the country are beginning to mount challenges to the legality of the guidelines in the absence of Commissioners. Regardless of the merits, one can only imagine the paralyzing effects on the criminal justice system if 51,000 defendants start raising this issue. There are better ways to spend limited judicial and prosecutorial resources in fighting crime and enforcing the law than in defending against these claims.

Even in the absence of Commissioners, we should ensure that the Commission is fully funded so that the staff of the Commission may continue to perform its important work. The Commission has an ongoing statutory obligation to amend the sentencing guidelines as necessary to respond to enacted crime legislation, court decisions, and other developments coming to its attention. While the Commission cannot vote to promulgate amendments to the guidelines without commissioners, even in their absence it is essential that Commission staff systematically continue to prepare all supporting material necessary so that incoming commissioners may act to implement the will of Congress in short order.

Apart from the policy decision-making that only Commissioners may perform, the Commission has numerous routine statutory obligations on which Commission staff typically take the lead even when there is a complete slate of Commissioners. The Commission has an ongoing statutory obligation to receive—and federal judges have a corresponding statutory obligation to send—a report from the sentencing court with respect to every sentence imposed under the guidelines, to analyze and share the data in those reports, and use that data to improve the guideline system. Commission staff analyze and enter into our comprehensive database over 50,000 of such cases and extract more than 260 pieces of information from each case annually. Next year, more than 50,000 cases that contain valuable information regarding sentencing practices, offenders, and deterrence will go without analysis if the Commission is not sufficiently funded for fiscal year 2000.

The Commission also has an ongoing statutory obligation to serve as the lead instrumentality for training newly appointed judges and probation officers, as well as prosecuting and defense attorneys, regarding application of the sentencing guidelines and related sentencing issues. Similarly, the Commission has an ongoing responsibility to provide needed continuing education for all those who use the sentencing guidelines to ensure that they are sufficiently informed of recent

amendments to the guidelines and significant court decisions. Commission staff served as lead trainers to more than 2,500 individuals at 47 training programs across the country in fiscal year 1998. Next year, this need for training will go unmet if the Commission is not sufficiently funded for fiscal year 2000.

The Commission also has an ongoing statutory obligation to serve as a clearinghouse of information on sentencing-related topics and to stay current on advancements in the knowledge of human behavior and the degree to which the guidelines are achieving the purposes of sentencing such as deterrence and rehabilitation. Ongoing research on important topics such as federal sentencing for crimes involving firearms, associations between federal appellate decisions and offender race, trends in sentences and offender characteristics in drug trafficking cases, and differing sentencing practices of federal immigration offenders by judicial district will not be completed if the Commission is not sufficiently funded for fiscal year 2000.

Finally, I would like to emphasize what the Chief Justice said. If we are going to have guidelines and require federal judges to impose guideline sentences, the Sentencing Commission must be empowered to do its work. And that means it needs both Commissioners and sufficient funding to fulfill its critical role in the federal criminal justice system.

I appreciate the support of my colleagues to restore funding for the U.S. Sentencing Commission for the next fiscal year.

AMENDMENT NO. 1352

(Purpose: To modify the circumstances under which attorneys' fees in Federal capital cases can be disclosed)

On page 73, between line 12 and 13, insert the following:

SEC. 306.—

(A) Section 3006A(d)(D)(vi) of title 18, United States Code, is amended by adding after the word "require" the following: " , except that the amount of the fees shall not be considered a reason justifying any limited disclosure under 18 U.S.C. Sec. 3006A(d)(4) "

(B) EFFECTIVE DATE.—

This Act shall apply to all disclosures made under 3006A(d) of title 18, United States Code, related to any criminal trial or appeal involving a sentence of death where the underlying alleged criminal conduct took place on or after April 19, 1995.

AMENDMENT NO. 1353

(Purpose: To ensure that current Federal family violence prevention programs are sensitive to the needs of all Americans including seniors and the disabled)

At the appropriate place, insert the following:

SEC. . . PROTECTION OF SENIORS AND THE DISABLED IN FEDERAL FAMILY VIOLENCE PREVENTION PROGRAMS.

(a) FINDINGS.—Congress finds that—

(1) of the estimated more than 1,000,000 persons age 65 and over who are victims of family violence each year, at least ¾ are women;

(2) national statistics are not available on the incidence of domestic or family violence and sexual assault against disabled women, although several studies indicate that abuse of disabled women is of a longer duration compared to abuse suffered by women who are not disabled;

(3) in almost 9 out of 10 incidents of domestic elder abuse and neglect, the perpetrator is a family member, and adult children of the victims are the largest category of perpetrators and spouses are the second largest category of perpetrators;

(4) the number of reports of elder abuse in the United States increased by 150 percent between 1986 and 1996 and is expected to continue increasing;

(5) it is estimated that at least 5 percent of the Nation's elderly are victims of moderate to severe abuse and that the rate for all forms of abuse may be as high as 10 percent;

(6) elder abuse is severely underreported, with 1 in 5 cases being reported in 1980 and only 1 in 8 cases being reported today;

(7) many older and disabled women fail to report abuse because of shame or as a result of prior unsatisfactory experiences with individual agencies or others who lack sensitivity to the concerns or needs of older or disabled individuals;

(8) many older or disabled individuals also fail to report abuse because they are dependent on their abusers and fear being abandoned or institutionalized;

(9) disabled women may fear reporting abuse because they are fearful of losing their children in a custody case;

(10) public and professional awareness and identification of violence against older or disabled Americans may be difficult because these persons are not integrated into many social networks (such as schools or jobs), and may become isolated in their homes, which can increase the risk of domestic abuse; and

(11) older and disabled Americans would greatly benefit from policies that develop, strengthen, and implement programs for the prevention of abuse, including neglect and exploitation, and provide related assistance for victims.

(b) IN GENERAL.—Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in section 2001 (42 U.S.C. 3796gg)—

(A) in subsection (a)—

(i) by inserting " , including older women and women with a disability " after " combat violent crimes against women " ; and

(ii) by inserting " , including older women and women with a disability " before the period; and

(B) in subsection (b)—

(i) in the matter preceding paragraph (1), by inserting " , including older women and women with a disability " after " against women " ;

(ii) in paragraph (6), by striking " and " after the semicolon;

(iii) in paragraph (7), by striking the period and inserting " ; and " ; and

(iv) by adding at the end the following:

" (8) developing a curriculum to train and assist law enforcement officers, prosecutors, and relevant officers of the Federal, State, tribal, and local courts in identifying and responding to crimes of domestic violence and sexual assault against older individuals and individuals with a disability and implementing that training and assistance. " ;

(2) in section 2002(c)(2) (42 U.S.C. 3796gg-1) by inserting " and service programs tailored to the needs of older and disabled victims of domestic violence and sexual assault " before the semicolon; and

(3) in section 2003 (42 U.S.C. 3796gg-2)—
 (A) in paragraph (7), by striking “and” after the semicolon;
 (B) in paragraph (8), by striking the period and inserting “; and”; and
 (C) by adding at the end the following:
 “(9) both the term ‘elder’ and the term ‘older individual’ have the meaning given the term ‘older individual’ in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002); and
 “(10) the term ‘disability’ has the meaning given the term in section 3(3) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(3)).”
 (c) EFFECTIVE DATE.—The amendments made by this section shall apply to any grant made beginning with fiscal year 2000.

VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 1999

Mr. GORTON. I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 216, S. 1393.

The PRESIDING OFFICER. The clerk will report the bill by Title.

The legislative clerk read as follows:

A bill (S. 1393) to provide a cost-of-living adjustment in rates of compensation for veterans with service-connected disabilities and dependency and indemnity compensation for survivors of such veterans, to amend title 38, United States Code, to codify the previous cost-of-living adjustment in such rates, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. GORTON. Mr. President, I ask unanimous consent that the bill be read the third time, and the Veterans' Affairs Committee be discharged from further consideration of H.R. 2280. I further ask consent that the Senate proceed to its consideration, all after the enacting clause be stricken, and the text of S. 1393 be inserted in lieu thereof, the bill be read the third time, and passed.

I finally ask that the motions to reconsider be laid upon the table and that any statements relating to the bill be printed in the RECORD and S. 1393 be placed back on the calendar.

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

The bill (H.R. 2280), as amended, was read the third time and passed.

ALL-VOLUNTEER FORCE EDUCATIONAL ASSISTANCE PROGRAMS IMPROVEMENTS ACT OF 1999

Mr. GORTON. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 222, S. 1402.

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

The legislative clerk read as follows:

A bill (S. 1402) to amend title 38, United States Code, to enhance programs providing education benefits for veterans, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. GORTON. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 1402) was read the third time and passed, as follows:

S. 1402

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “All-Volunteer Force Educational Assistance Programs Improvements Act of 1999”.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 3. AVAILABILITY OF MONTGOMERY GI BILL BENEFITS FOR PREPARATORY COURSES FOR COLLEGE AND GRADUATE SCHOOL ENTRANCE EXAMS.

Section 3002(3) is amended—

(1) in subparagraph (A), by striking “and” at the end;

(2) by redesignating subparagraph (B) as subparagraph (C); and

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

“(B) includes—

“(i) a preparatory course for a test that is required or utilized for admission to an institution of higher education; and

“(ii) a preparatory course for a test that is required or utilized for admission to a graduate school; and”.

SEC. 4. INCREASE IN BASIC BENEFIT OF ACTIVE DUTY EDUCATIONAL ASSISTANCE.

(a) INCREASE IN BASIC BENEFIT.—Section 3015 is amended—

(1) in subsection (a)(1), by striking “\$528” and inserting “\$600”; and

(2) in subsection (b)(1), by striking “\$429” and inserting “\$488”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1999, and shall apply with respect to educational assistance allowances paid for months after September 1999. However, no adjustment in rates of educational assistance shall be made under section 3015(g) of title 38, United States Code, for fiscal year 2000.

SEC. 5. INCREASE IN RATES OF SURVIVORS AND DEPENDENTS EDUCATIONAL ASSISTANCE.

(a) SURVIVORS AND DEPENDENTS EDUCATIONAL ASSISTANCE.—Section 3532 is amended—

(1) in subsection (a)(1)—

(A) by striking “\$485” and inserting “\$550”; and

(B) by striking “\$365” and inserting “\$414”; and

(C) by striking “\$242” and inserting “\$274”; and

(2) in subsection (a)(2), by striking “\$485” and inserting “\$550”; and

(3) in subsection (b), by striking “\$485” and inserting “\$550”; and

(4) in subsection (c)(2)—

(A) by striking “\$392” and inserting “\$445”; and

(B) by striking “\$294” and inserting “\$333”; and

(C) by striking “\$196” and inserting “\$222”.

(b) CORRESPONDENCE COURSE.—Section 3534(b) is amended by striking “\$485” and inserting “\$550”.

(c) SPECIAL RESTORATIVE TRAINING.—Section 3542(a) is amended—

(1) by striking “\$485” and inserting “\$550”; and

(2) by striking “\$152” each place it appears and inserting “\$172”; and

(3) by striking “\$16.16” and inserting “\$18.35”.

(d) APPRENTICESHIP TRAINING.—Section 3687(b)(2) is amended—

(1) by striking “\$353” and inserting “\$401”; and

(2) by striking “\$264” and inserting “\$299”; and

(3) by striking “\$175” and inserting “\$198”; and

(4) by striking “\$88” and inserting “\$99”.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1999, and shall apply with respect to educational assistance paid for months after September 1999.

SEC. 6. INCREASED ACTIVE DUTY EDUCATIONAL ASSISTANCE BENEFIT FOR CONTRIBUTING MEMBERS.

(a) AUTHORITY TO MAKE CONTRIBUTIONS FOR INCREASED ASSISTANCE AMOUNT.—(1) Section 3011 is amended—

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

(B) by inserting after subsection (h) the following new subsection (i):

“(i)(1) Any individual eligible for educational assistance under this section who does not make an election under subsection (c)(1) may contribute amounts for purposes of receiving an increased amount of basic educational assistance as provided for under section 3015(g) of this title. Such contributions shall be in addition to any reductions in the basic pay of such individual under subsection (b).
 “(2) An individual covered by paragraph (1) may make the contributions authorized by that paragraph at any time while on active duty.
 “(3) The total amount of the contributions made by an individual under paragraph (1) may not exceed \$600. Such contributions shall be made in multiples of \$4.
 “(4) Contributions under this subsection shall be made to the Secretary. The Secretary shall deposit any amounts received by the Secretary as contributions under this subsection into the Treasury as miscellaneous receipts.”

(2) Section 3012 is amended—

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

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

“(g)(1) Any individual eligible for educational assistance under this section who does not make an election under subsection (d)(1) may contribute amounts for purposes of receiving an increased amount of basic educational assistance as provided for under section 3015(g) of this title. Such contributions shall be in addition to any reductions in the basic pay of such individual under subsection (c).
 “(2) An individual covered by paragraph (1) may make the contributions authorized by that paragraph at any time while on active duty.
 “(3) The total amount of the contributions made by an individual under paragraph (1) may not exceed \$600. Such contributions shall be made in multiples of \$4.
 “(4) Contributions under this subsection shall be made to the Secretary. The Secretary shall deposit any amounts received by the Secretary as contributions under this