

to protect kids from the lifetime devastation caused by molestation. I suspect that nearly all Americans would desire annual reporting of statistics that measure where their state ranks in comparison with other states for the specific crimes covered in Aimee's Law.

I expect that DOJ will annually compile a national average for the crimes of murder, rape and child molestation. DOJ will also compile the average term of imprisonment for those crimes in each state. If a state is above the national average for a particular crime it will be exempt in cases in which the released offender served 85 percent of his sentence. The numbers that DOJ produces for any given year will be the number used for all convictions that occur during that year. Remember, this section was added at the insistence of the states to protect states that are doing at least an average job of protecting their citizens and neighboring citizens. The original bill contained no such language. There is no need or desire on the part of the author of Aimee's Law to make this section any more complicated than necessary.

As an example, let's say Offender 1 commits a covered offense in state A in 1999 and then is released in 2003 and commits a covered offense in state B in 2005 and is convicted in that same year. DOJ should authorize a fund transfer if State A's term of imprisonment for the covered offense was less than the national average, using the latest sentencing data (probably from 2004). I do not expect DOJ to search back to 1999 to determine whether state A was behind the national average. Again, the national average is simply a benchmark to provide some relief to states, that do at least an average job of keeping certain violent offenders behind bars. Even if this state is average or better on sentences imposed, Aimee's Law would apply in this case if the criminal had failed to serve 85 percent of his sentence for his prior offense in 1999.

I'm more interested in murderers, rapists and child molesters serving appropriately long sentences than serving any particular percentage of their term. Most can agree, however, that a murderer, rapist, or child molester released before 85 percent of the expiration of a (minimum)

As to payment schedule, the Attorney General and the state affected have great latitude in arranging the transfer. Any federal crime funds (excluding funds designated to victims) can be used so long as the funds have not already been distributed. There is also flexibility as to the term of the payment.

As has been the case for administering the truth-in-sentencing grant program and other DOJ programs, the agency will presumably need to issue guidelines. I am confident that the U.S. Department of Justice can implement the law in a manner consistent with congressional intent that is both workable and fair.

Unable to defeat Aimee's Law in the court of public opinion or in Congress, some critics are girding for a constitutional challenge. Again, I would implore them not to spend their time on an effort, that if successful, would be welcomed by the child molester community. In any event, a careful review of Supreme Court decisions suggest that a challenge would be futile.

Some critics contend that Aimee's Law could run afoul of the spending clause be-

cause it coerces states, is not unambiguous and could induce the states to take action that is unconstitutional. The suggestion has also been raised that there could be a violation of the ex post facto clause.

In upholding the spending power of Congress in *South Dakota v. Dole*, the Supreme Court did, indeed, place limits on this power: (1) the requirement must be related to the purpose of the funding; (2) the condition can pressure but not coerce; (3) the condition cannot induce unconstitutional behavior; and (4) the condition must be unambiguous. A careful review exonerates Aimee's Law of all raised constitutional issues.

Aimee's Law is clearly related to the source of funding, dollars to fight crime. No one even contests this point.

While Aimee's Law certainly provides encouragement to states to increase sentences and improve post-incarceration policies, it does not rise to the level of coercion. Some opponents of the measure suggest that Aimee's Law does not create a large enough penalty to encourage states to take this action, since roughly seven out of eight repeat offenses occur in the same state as the first offense. I do believe that the transfer mechanism will result in increased public safety efforts on the part of the states, but the bill does so in a fair and reasonable manner.

Aimee's Law does not pressure states to adopt unconditional means to protect public safety, only reasonable ones. There are several constitutional steps states can take to reduce their potential liability under Aimee's Law. The law will provide a powerful incentive for states to better communicate with each other concerning each other's convicts. It should also provide increased incentive for the states to amend the Interstate Compact to give states the right to reject dangerous out-of-state offenders. States can also do a better job of monitoring their own released prisoners. They may also civilly commit certain offenders. I have never suggested nor would I condone a state that took action that exceeded constitutional boundaries.

Finally, Aimee's Law unambiguously imposes a condition on Federal money that passes constitutional muster. The language only affects federal money not yet distributed. The expectations are clear: A state will lose future federal crime dollars if it fails to protect other states from certain released criminals. The mechanism Aimee's Law uses may be novel. But, it is not constitutionally prohibited. The leading Supreme Court case on this matter, *Pennhurst State School and Hospital v. Halderman*, 451 U.S. 1 (1981) states: "[L]egislation enacted pursuant to the spending power is much in the nature of a contract: in return for federal funds, the States agree to comply with federally imposed conditions. The legitimacy of Congress' power to legislate under the spending power thus rests on whether the State voluntarily and knowingly accepts the terms of the 'contract.'" Again, Aimee's Law only involves federal crime funds not yet distributed.

Ex post facto concerns are similarly misplaced, since the clause applies to laws criminalizing behavior after that behavior has already taken place. The Supreme Court recently ruled in *Johnson v. United States*, 120

S. Ct. 1795 (2000) that for a law to have problems with this clause it must apply to conduct completed before its enactment and raise the penalty from whatever the law provided when he acted. Aimee's Law will have no effect on any particular criminal sentence already meted out. Aimee's Law does create an incentive for states to properly monitor those out of prison still under its jurisdiction. The bill should also spur states to develop laws similar to Stephanie's Law that provide for the post-incarceration civil confinement of certain dangerous sexual predators. Additionally, Aimee's Law should encourage states to increase penalties for crimes not yet committed, which is proper, constitutional, and necessary given the outrageously low sentences currently served by the average murderer, rapist, and child molester.

In conclusion, Aimee's Law will make America safer. While the safe harbor provision—added at the insistence of the states—has added complexity to the legislation, Aimee's Law is still a workable, constitutional effort to protect innocent citizens from a completely preventable type of interstate crime. The safe harbor was added as a way to offer relief to states with an above average criminal sanctioning system. If their is concern about its applicability, it could easily be removed. But perhaps we should watch this law in action before we begin tinkering with it. And for those who would seek to undermine, weaken, or repeal it, be warned that victims from around the country, the National Fraternal Order of Police, and the supermajorities in the House and Senate who support the bill stand ready to expose and block any effort to undo the benefits of Aimee's Law.

ENVIRONMENTAL COMPLIANCE

HON. GREG WALDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, December 15, 2000

Mr. WALDEN of Oregon. Mr. Speaker, I would like to share with my colleagues some information about a new approach being explored to transition environmental compliance from what is widely perceived as an adversarial process to a cooperative, results-oriented effort between companies and state regulators.

So far, fourteen states have formed a Multi-State Working Group (MSWG), whose focus is to develop regulatory incentives that get companies to take a more proactive, systematic approach in managing their environmental impacts.

Oregon was one of the first states to implement an incentive-based environmental regulation program, which is uniquely tied to its permitting process. Through its Green Permits Program, Oregon Department of Environmental Quality will be awarding one of its first incentive based permits to a Louisiana Pacific (LP) building products plant in Hines, Oregon.

A key component of the Green Permits program is the adoption of an environmental management system that has enabled LP's facility in Hines to go the extra mile in exceeding the operating standards set by the state of Oregon. The Hines' plant has kept their air emissions to only 10 percent of the total annual

levels allowed by its Oregon Department of Environmental Quality air permit and proactively works with a Community Advisory Council in addressing community concerns. In addition, more than \$90,000 is generated each year through the plant's planer shavings recycling effort. These improvements have led to better cooperation with Oregon Department of Environmental Quality and the U.S. Environmental Protection Agency.

The Green Permits Program has several benefits including addressing a wider range of potential environmental impacts on a regular basis and increasing communication and involvement between environmental agencies, communities and companies. Also, companies can improve credibility with stakeholders in addition to potential cost saving and operational improvements.

MIT AND CALTECH JOIN FORCES TO LAUNCH ELECTION TECHNOLOGY INITIATIVE

HON. WILLIAM D. DELAHUNT

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 15, 2000

Mr. DELAHUNT. Mr. Speaker, as the dust settles over the presidential election of 2000, I hope we will treat our recent experience as an opportunity to adopt long overdue reforms in the way we run our Federal elections. I hope we will enlist our best minds in the effort to develop better systems and procedures that will restore public confidence in the accuracy and integrity of the electoral process.

In this regard, I want to call to the attention of my colleagues an initiative launched just yesterday by the Massachusetts Institute of Technology and Caltech, to develop a new voting machine that will be easy to use, reliable, secure and affordable.

With an initial grant from the Carnegie Corporation, the venture will bring together a team of leading experts in technology, design, and political science to develop technological solutions to the problems that have occurred not only in Florida but throughout the country.

This is a very promising development, Mr. Speaker, and I hope we will do all we can to foster such private sector initiatives. But we must also be sure that State and local election officials have the wherewithal to take advantage of new technologies. That is why when the 107th Congress convenes in January, I will join with Congressman Graham and a number of our colleagues in introducing bipartisan legislation to ensure the accuracy, integrity, and efficiency of future Federal elections.

The "Federal Election Standards Act" would establish a National Advisory Commission on Federal Election Standards to study the accuracy, integrity, and efficiency of Federal election procedures and develop standards of best practice for the conduct of Federal elections. The commission would have one year to complete its work.

Once the commission has issued its report, the bill would authorize Federal grants and technical assistance to States that wish to adopt measures for reform of their election procedures in a manner consistent with the standards.

The Act would not mandate changes in State practices, nor would it federalize election procedures. Rather, it would encourage State election officials to upgrade and modernize their election systems by establishing benchmarks for the conduct of Federal elections and providing the States with the resources needed to meet them.

Mr. Speaker, I hope that the next congress will take prompt action on this legislation, so that the most advanced nation on earth will have an electoral system that is up to the task.

[MIT News Office]

MIT, CALTECH JOIN FORCES TO DEVELOP RELIABLE, UNIFORM US VOTING MACHINE

(By Sarah H. Wright)

CAMBRIDGE, MA, DEC. 14.—The presidents of MIT and Caltech have announced a collaborative project to develop an easy-to-use, reliable, affordable and secure United States voting machine that will prevent a recurrence of the problems that threatened the 2000 presidential election. The announcement was made in a joint video news conferences at MIT and Caltech on Thursday. "It is embarrassing to America when technology fails and puts democracy to such a test as it did this month," said Caltech President David Baltimore, who opened the hour-long live teleconference in Pasadena, California. "Academic institutions have a responsibility to help repair the voting process so that we don't see anything like this again. This project is intended to protect the system from the problems we've seen in the last election," Dr. Baltimore said.

MIT President Charles M. Vest, speaking from Cambridge, echoed Dr. Baltimore's concern for the security and credibility of the voting process. "We must find a solution. Each of us must be confident that his or her vote has been reliably recorded and counted. A country that has put a man on the moon and an ATM machine on every corner has no excuse," said Dr. Vest. "America needs a uniform balloting procedure. This has become painfully obvious in the current national election, but the issue is deeper and broader than one series of events," said Vest and Baltimore in a Dec. 12 letter to President Vartan Gregorian of Carnegie Corporation of New York.

Gregorian said, "I want to congratulate the two presidents of our nation's most distinguished universities for their leadership in this welcome and timely initiative on behalf of our election system. Voting is the fundamental safeguard of our democracy and we have the technological power to ensure that every person's vote does count. MIT and Caltech have assembled a team of America's top technology and political science scholars to deal with an issue no voter wants ignored. This research is certain to ensure that America's voting process is strengthened." Gregorian said he will recommend the Carnegie Corporation board fund the \$250,000 initial phase of the research.

The grant will be used by a team of two professors from each university who are experts in technology, design and political science. The four members of the team are Massachusetts Institute of Technology Professors Stephen Ansolabehere of political science and Nicholas Negroponte, chairman of the MIT Media Lab; and Caltech Professors Thomas Palfrey of political science and economics and Jehoshua Bruck of computation and neural systems and electrical engineering.

LESSEN CONFUSION

Professor Ansolabehere, speaking at the teleconference, said, "We are going to con-

sider voting technologies from the paper ballots of the nineteenth century to the latest. First, we'll look, literally, at what people do in the voting booth. There, our goal is to lower voter confusion. "Second, we'll look at how votes are counted, comparing the precinct level to a central counting agency. We will look at the strengths and weaknesses of voting technologies, find the greatest weakness and work from there. Our goal is to find the most reliable among existing technologies." The first phase of the joint project—surveying existing technologies and setting up criteria—would be complete in about six months, Professor Ansolabehere added.

Professor Palfrey of Caltech noted there were "issues that didn't hit the press in Florida but that are critical, including comparing the cost of existing technologies to the cost of standardization and modernization, which could run into several billions of dollars. "But compare that one-time cost to the \$300 billion annual defense budget. It's a small price to pay for modernizing democracy," he said. Professor Palfrey also noted other issues for the MIT-Caltech team to explore, such as the impact of the current system of election administration, which is "highly decentralized and fragmented," and the role of absentee voting, with its implied concerns of security, liability, privacy, maintenance and software development.

FEEDBACK

Professor Negroponte, chairman of the MIT Media Lab, spoke to his bi-coastal colleagues and the media about the actual interface between people and any voting machine. "Whatever is invented will include some interface with machines, whether we vote by computer, paper or in a voting booth. The Media Lab intends to make that interface as easy as possible," he said.

Professor Negroponte outlined the goals of the joint project from the perspective of design and feedback by comparing the act of voting with the act of pushing a button to summon an elevator. "Right now, there's no feedback at all in voting. You push the button. Nothing happens. It's like when you push the elevator button and nothing happens: you don't know if the elevator is broken or the light is broken. It would be good to have some degree of feedback in voting. For example, you might get some feedback saying, 'you voted for x,'" he noted.

ATM THE MODEL

The MIT-Caltech faculty team took a generally lighthearted view of the alleged challenges to the public of mastering new voting technology, despite months of media attention to voter confusion over the various forms of ballots and punch-card machines that didn't punch. "Beware of the assumption that newer technology is more complicated. The trend is the opposite," said Dr. Vest. "Most people have been able to figure out ATMS. That's our model," remarked Dr. Baltimore.

Vest and Baltimore said the new technology "should minimize the possibility of confusion about how to vote, and offer clear verification of what vote is to be recorded. It should decrease to near zero the probability of miscounting votes... The voting technology should be tamper-resistant and should minimize the prospect of manipulation and fraud." The two university presidents proposed that their institutions give the project high priority for two major reasons:

"First, the technologies in wide use today are unacceptably unreliable. This manifests